

**Committee on the Application of Standards**

CAN/PV General discussion

**Commission de l'application des normes**

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**Second sitting, 3 June 2021, 1 p.m.****Deuxième séance, 3 juin 2021, 13 heures****Segunda sesión, 3 de junio de 2021, 13 horas**

Chairperson: Ms Mvondo

Présidente: M<sup>me</sup> Mvondo

Presidenta: Sra. Mvondo

**Présidente** – Je suis ravie de vous retrouver après cette interruption de quelques jours. J'espère que c'est avec un état d'esprit positif et constructif et beaucoup d'enthousiasme que nous entamons nos deux semaines et demie de discussions. Avant de poursuivre nos travaux prévus pour la séance d'aujourd'hui, je voudrais tout d'abord vous informer de la disponibilité sur la page Web de notre commission d'un certain nombre de documents très importants.

Il s'agit notamment du document CAN/D.0(Rev.2) – nouveau programme de travail provisoire indiquant les dates pour l'examen de chacun des 19 cas individuels. Un certain nombre de gouvernements sur la liste des cas individuels ont envoyé des informations écrites à la commission. Le Bureau procède actuellement à la traduction de ces

documents dans les trois langues et publiera les documents au fur et à mesure sur la page Web de la commission. Sont d'ores et déjà disponibles les documents D comportant les informations écrites reçues des gouvernements suivants: Tadjikistan pour la convention n° 81 et Ghana pour la convention n° 182.

Enfin, le procès-verbal de la séance d'ouverture du vendredi 28 mai est disponible également. À cet égard, je vous informe que vous avez jusqu'à demain, vendredi 4 juin, 13 heures, pour déposer les amendements que vous souhaiteriez apporter à la transcription de la déclaration que vous avez formulée.

## **General discussion**

### **Discussion générale**

### **Discusión general**

**Présidente** – Passons à notre ordre du jour de cet après-midi. Nous avons trois points inscrits à l'ordre du jour. Premièrement, les déclarations de la présidente de la commission d'experts, Madame la juge Graciela Dixon Caton, et du président du Comité de la liberté syndicale, le professeur Evance Kalula. Deuxièmement, nous aurons la discussion générale sur le rapport général. Et troisièmement, la discussion sur l'application des normes internationales du travail dans le contexte de la pandémie de COVID-19.

Je vous rappelle également que, juste après notre séance, à 16 h 15, les deux vice-présidents de notre commission organiseront une séance informelle d'information pour les gouvernements. Les gouvernements qui se sont inscrits pour participer à cette réunion ont déjà reçu une invitation sur Zoom.

Je souhaite que les travaux de cet après-midi se déroulent dans un esprit empreint de convivialité, de collaboration et de respect mutuel, pour que vive le dialogue social.

Cet esprit a toujours prévalu dans les relations de notre commission avec la commission d'experts.

## **Statements by the Chairperson of the Committee of Experts and by the Chairperson of the Committee on Freedom of Association**

## **Déclarations de la présidente de la commission d'experts et du président du Comité de la liberté syndicale**

## **Declaraciones de la Presidenta de la Comisión de Expertos y del Presidente del Comité de Libertad Sindical**

**Sra. DIXON CATON (Presidenta de la Comisión de Expertos en Aplicación de Convenios y Recomendaciones)** — Es un placer para mí participar en esta sesión de la Comisión de Aplicación de Normas que de manera distinta y realmente especial se celebra, no en la sede de Ginebra como cada año, sino por vía virtual, esta reunión tiene una relevancia muy especial por las circunstancias que atraviesa el mundo entero y particularmente el impacto que estas circunstancias han tenido sobre el mundo del trabajo.

Deseo, en primer lugar, saludar a todos los asistentes y participantes de esta reunión de la Conferencia, y particularmente sus esfuerzos. Saludar los esfuerzos que se han desarrollado a fin de procurar que efectivamente, a pesar de las circunstancias, la reunión pueda celebrarse, como en efecto, se celebra en este día. Este es el motivo por el cual para la Comisión de Expertos, a quien represento muy dignamente, resulta de especial trascendencia el poder participar en la Comisión de Aplicación de Normas.

En mi presentación de esta mañana, quisiera que tuvieran la indulgencia de permitirme abordar, aunque sea de manera muy general, debido a las limitaciones que nos imponen las circunstancias, algunos puntos muy específicos.

En primer lugar, quisiera que pudiésemos conversar un poco, conocer un poco la reflexión que hace la Comisión de Expertos en torno a las excepcionales y dramáticas

circunstancias que impactaron a millones de seres humanos y consecuentemente la actividad productiva a escala global, así como las relaciones del trabajo. También quisiera que en el recorrido de mi presentación y saludo, esta mañana, viésemos un poco la prevalencia y la importancia que tienen las normas internacionales del trabajo y su ratificada trascendencia en el contexto histórico de la pandemia de COVID-19, lo cual es indispensable para garantizar los derechos mínimos que supone proteger a los trabajadores, así como para mantener la operatividad y funcionalidad de la economía en todos los Estados del mundo y, particularmente, los Estados de los convenios ratificados en materia del trabajo. Este recorrido intentará resaltar algunos desafíos generados por la referida crisis global, que además de haber puesto a prueba la solidez de los principios e instituciones que se crearon y se fundamentaron desde hace más de cien años, ciertamente ratifican la importancia del respeto, del Estado de Derecho por cuanto que la crisis, de modo alguno, implica la suspensión de las obligaciones contraídas en virtud de las normas internacionales del trabajo que han sido ratificadas por los Estados Miembros de la Organización.

Igualmente, además de destacar los desafíos, haremos un esfuerzo por abordar aspectos que consideramos positivos, es decir, las oportunidades que, no obstante la devastación ocurrida en distintos órdenes de la vida tanto en lo atinente a la salud pública como en el ámbito de las economías de todos los países del orbe, se constituyeron o se abrieron creando nuevos escenarios que han de ser aprovechados por todos los que participamos o estamos de alguna manera comprometidos precisamente con ese orden y esos valores, así como con el Estado de Derecho en el concierto internacional.

Es importante para mí empezar destacando que la Comisión de Expertos se reúne todos los años, de noviembre a diciembre, de acuerdo con el mandato que nos ha sido

conferido por el Consejo de Administración. En el año 2020, a pesar del reto que representó la crisis mundial causada por la pandemia de COVID-19, la Comisión de Expertos llevó a cabo su reunión, que por primera vez fue de manera virtual, lo cual representó un extraordinario reto que fue acometido y ejecutado con éxito. Participamos todos los 20 expertos desde todas nuestras respectivas localidades y pudimos desarrollar un trabajo consistente que nos permitió llegar a las resoluciones y examinar las memorias presentadas por los Estados. En el año 2020, las memorias anuales fueron examinadas por la Comisión de Expertos, a despecho de las circunstancias, y se hubo una memoria que nos permitió hacer una síntesis de la crisis, esto en cumplimiento del artículo 22 de la Constitución que nos indica las medidas adoptadas que los Estados deben señalar. En otras palabras, en nuestros informes recogimos las memorias y los análisis de las memorias presentadas por los Estados en cuanto a las medidas adoptadas para dar efecto a esta disposición constitucional que es el artículo 22. Igualmente, nuestros informes deben recoger los informes y las memorias relativas a los convenios y las recomendaciones que comunican los Estados Miembros de conformidad con el artículo 19 de la Constitución. Y finalmente también nuestro informe debe recoger las informaciones y memorias sobre las medidas adoptadas por estos miembros con arreglo al artículo 35 de la Constitución.

Como se podrá comprender, el año 2020 fue un año *sui generis*, es decir un año difícil para todos, particularmente para los Estados Miembros que tenían la responsabilidad de presentar estas memorias. La Comisión de Expertos, comprendiendo las limitaciones y dificultades consideró prudente revisar las memorias que habían sido presentadas en el periodo anterior pero que no pudieron ser examinadas ni discutidas e igualmente trabajar sobre las nuevas memorias que se recibieron a principios del año pasado, justo antes de que se iniciara la crisis.

Reconocimos el esfuerzo extraordinario que realizaron los Estados para poder cumplir con la presentación de sus memorias. Entendimos la complejidad de las dificultades para el cumplimiento de algunos de los mandatos contenidos en los convenios internacionales y en las recomendaciones. Sin embargo, pudimos constatar que efectivamente hubo Estados que, a pesar de las circunstancias, lograron poner en marcha y cumplir con algunas de estas obligaciones. Es más, también reconocimos los esfuerzos realizados a pesar de las dificultades para presentar memorias ante la Comisión de Expertos a fin de que pudiésemos realizar nuestra labor.

Dicho esto, y entendiendo las limitaciones que hemos mencionado, sin embargo, la Comisión de Expertos realizó la tarea que le correspondía a pesar de dichas limitaciones.

En su informe, a saber el Informe General del año 2020, la Comisión de Expertos resolvió realizar una adenda para este año, y esa adenda es lo que nosotros hemos considerado que vamos a presentar y vamos a discutir. Igualmente, consideramos prudente realizar una adenda al Estudio General de 2020 y ambos documentos presentados por la Comisión de Expertos, luego de su reunión de trabajo de noviembre-diciembre, fueron sometidos a esta Comisión de Aplicación de Normas, para su examen en la reunión que estamos celebrando en este momento. En esos documentos la Comisión de Expertos destacó tres pilares fundamentales.

Las circunstancias excepcionales y dramáticas impactaron a millones de seres humanos y consecuentemente también tuvieron un impacto sobre la actividad productiva a escala global, así como sobre las relaciones de trabajo. Destacamos igualmente la prevalencia e importancia de las normas internacionales del trabajo y su ratificada transcendencia en el contexto histórico de la pandemia de COVID-19, lo cual para garantizar derechos mínimos supone, sin lugar a dudas, proteger a los trabajadores, así como mantener las economías.

Los desafíos generados por la crisis son otro de los aspectos que destacamos en estos documentos, a saber el Informe General y el Estudio General. En ese sentido, además de haber puesto a prueba la solidez de los principios instituidos y las instituciones creadas, como dijimos, hace cien años, destacamos, la importancia del respeto del Estado de derecho y finalmente, destacamos lo correspondiente a las oportunidades, que no obstante la devastación se consideran oportunidades por cuanto que abrieron nuevos escenarios tanto en lo atinente a la salud como en el ámbito de las economías de todos los países del orbe.

El trabajo de la Comisión de Expertos en lo que respecta a los desafíos que hemos enfrentado en el contexto de la pandemia de COVID-19 lo resumimos de la siguiente manera: por un lado, la Comisión reconoció como un desafío la necesidad de mantener el respeto y la preservación de los derechos fundamentales en un escenario de estrictas restricciones, de medidas de confinamiento social y de cierre de las actividades económicas. A pesar de esto, a pesar de estas circunstancias limitantes y entendiendo que se pusieron en práctica medidas rigurosas orientadas a asegurar la salud pública, la Comisión entendió y entiende que el desafío mayor consistió en mantener la prevalencia de los derechos fundamentales a pesar del escenario de crisis sanitaria global imperante.

Otro desafío importante que reconocimos y así lo hemos sintetizado en nuestro informe fueron las complejidades en la aplicación de las normas internacionales en materia de seguridad y salud en el trabajo, así como en las circunstancias de contracción súbita y severa de la economía del mundo y el impacto en los modelos de seguridad social desarrollados por los Estados.

La crisis sanitaria mundial puso a prueba los modelos de seguridad social que se habían desarrollado o han sido desarrollados por los Estados. En muchas sociedades y

muchas economías estos modelos de seguridad social revelaron su fragilidad, sus debilidades y la necesidad de incorporar importantes modificaciones para adecuarlos en cumplimiento de los convenios internacionales orientados a garantizar y proveer condiciones mínimas de salud y seguridad social a la población y a los trabajadores en particular.

Otro de los desafíos importantes ha sido la identificación de prioridades y la evaluación de las realidades emergentes para los Gobiernos, así como su incidencia en el cumplimiento de su obligación de presentar memorias.

La Comisión de Expertos entendió que aun cuando estamos confrontando esta crisis, que aún no termina, era importante identificar las prioridades para poder establecer una evaluación precisa del cumplimiento de las obligaciones que tienen los Estados de presentar sus memorias, en ese sentido se invitó a los Estados a incorporar en sus informes información relativa al manejo que se daba a las condiciones de trabajo existentes, evidentemente, entendiendo las limitaciones y las presiones que sufrían. No obstante, este desafío requería una atención particular y especialmente relevante.

En este orden, la Comisión recibió algunas memorias en las cuales se presentó una descripción de las circunstancias. No fueron muchas, pero ciertamente nos sirvieron para ilustrar particularmente algunos escenarios que se daban en el contexto de aquellas economías. Destacamos como uno de los desafíos más grandes, la difícil situación que se enfrentó en el sector marítimo. En este sentido, en el contexto de la pandemia, como es conocido por todos los actores sociales y los participantes de esta Conferencia y esta reunión de la Comisión de Aplicación de Normas, el mundo de los trabajadores del mar en el sector marítimo representó, quizás, uno de los focos más dramáticos de crisis. En ese orden, la Comisión de Expertos concentró una labor de atención muy particular que desembocó en la observación general sobre el Convenio



marítimo, MLC, destacando y subrayando en particular la importancia de que toda la gente de mar que trabaje en buques, que enarbolan el pabellón de un Estado, esté cubierta por medidas adecuadas para la protección de su salud y que, además, se le conceda acceso rápido y adecuado a la atención médica mientras estén trabajando a bordo, así como, que se le proveyese de la vacunación. La crisis sanitaria que afectó al mundo del trabajo marítimo impactó a más de 400 mil trabajadores del mar que se vieron atrapados en alta mar sin poder desembarcar por más de un año. Igualmente impactó a los trabajadores que no pudieron abordar las naves para poder, no solo relevar a aquellos que ya estaban, sino asegurar su propio sustento por la vía del trabajo. Esta crisis en el área o en el sector marítimo tuvo un impacto sobre la propia actividad desde el punto de vista económico en la medida en que se reconoce que más del 90 por ciento del comercio mundial se desplaza por mar. Este sector de la economía, el sector marítimo fue uno de los más afectados dentro del escenario de la crisis de la pandemia. Por ese motivo el tema particular del impacto de la crisis sanitaria de la pandemia de COVID-19 sobre el sector marítimo mereció una observación general, sobre la necesidad del cumplimiento del Convenio marítimo internacional por cuanto que, no obstante, esa circunstancia en modo alguno podía desconocerse o debía desconocerse la prevalencia de los derechos de los trabajadores.

Es importante destacar y lo haremos más adelante la relevancia que tuvo el diálogo social como mecanismo fundamental para la recuperación de la economía. En este contexto cabe señalar que es en el sector marítimo donde justamente el diálogo social demostró ser una herramienta fundamental que permitió la atención rápida, la atención positiva de una crisis que pudo haber tenido una escalada aún más devastadora pero que gracias a que, en efecto, los sectores involucrados se concertaron para participar y producir una respuesta y una solución, en la cual estaban convocados, no solamente trabajadores del mar sino el sector empresarial y los propios Estados obtuvimos o se

conoció de pronunciamientos claves, determinaciones claves orientadas a superar el impacto negativo que la crisis había generado o estaba generando y continúa generando sobre los trabajadores del mundo marítimo.

Igualmente, en el contexto de la relevancia del diálogo social queremos destacar que la crisis permitió corroborar que este mecanismo es fundamental para la recuperación de la economía. La superación de la crisis de una manera sostenible y centrada en las personas, no es posible sin que haya un adecuado diálogo social. Sin embargo, y precisamente como consecuencia de la crisis provocada por esta pandemia para hacer frente de manera sostenida a estos fenómenos se generaron situaciones muy complejas: se dio un nivel de exacerbación de la tensión social, igualmente, y lamentablemente se experimentó un debilitamiento de la confianza entre los mandantes. Estas circunstancias delicadas impactaron sobre el diálogo social y su efectividad. Sin embargo, hoy día la Comisión de Expertos puede sostener que no debe constituir un impedimento para el fortalecimiento del diálogo. La exacerbación de la tensión social solo es abordable en positivo y solo es superable en la medida en que los mandantes se sienten y puedan conversar y producir un encuentro de soluciones concertado.

Asimismo, el contexto que genera la desconfianza demanda del fortalecimiento del diálogo social como mecanismo eficaz precisamente para superar los retos y las circunstancias negativas que nos impone esta realidad dramática que afecta a toda la humanidad.

De acuerdo con los datos recabados por la OIT el impacto de esta crisis ha comprometido a más de 495 millones de puestos de trabajo. Estos puestos de trabajo equivalentes a tiempo completo. Este escenario ha puesto en riesgo la estabilidad de los niveles de desarrollo que había alcanzado la humanidad después de cien años de

fundada y constituida la Organización Internacional del Trabajo. Se trata de una situación que, de acuerdo con los cálculos realizados por la Organización Internacional del Trabajo, ha causado un impacto que ha acabado con el empleo y los medios de subsistencia de alrededor de 1 600 millones de trabajadores de la economía informal. No solamente los trabajos de tiempo completo han sido afectados sino incluso y de manera muy sensitiva los trabajadores de la economía informal, que lo representan el 76 por ciento del empleo a escala mundial.

Las medidas adoptadas, por su parte, para contener la propagación de la pandemia mediante cuarentenas, restricciones de viajes y confinamiento, han dado lugar a una recesión mundial y a niveles sin precedentes de desempleo. Dadas las repercusiones de la pandemia puede que el número de personas que viven en pobreza extrema aumente a más de 150 millones de seres humanos antes de que concluya el presente año. Se trata de un impacto dramático a escala mundial que desborda los márgenes de pobreza que ha conocido la humanidad hasta el año 1998. El fenómeno del hambre extrema, de acuerdo con los cálculos que se han dado, puede duplicarse antes de que concluya este presente año y, es por eso que el diálogo social constituye una de las herramientas, uno de los mecanismos esenciales y fundamentales para mantener el estado de los derechos humanos.

Además de los desafíos existen limitaciones del tiempo que imponen una abreviación del análisis de los planteamientos que nos hubiera gustado compartir en esta Conferencia en la mañana de hoy.

Quisiera me permitan hacer una breve descripción de, por lo menos, lo que reconoce la Comisión como las oportunidades emergentes de la crisis socioeconómica que hemos experimentado a escala global. Porque, es cierto, no todo ha sido devastador y negativo, visto en positivo en una lectura positiva de toda la experiencia dramática.

Podemos destacar que han surgido oportunidades. Hay oportunidades que han emergido de esta crisis y que creemos importante compartir: por ejemplo, nosotros, esta Presidenta considera que una oportunidad importante ha sido la de generar políticas de empleo más inclusivas sobre la sólida plataforma de las normas internacionales del trabajo, las cuales contienen los principios que la Comisión de Expertos consideró en el Estudio General elaborado para el año 2020. Estas oportunidades, que nosotros identificamos como la oportunidad de generar nuevas políticas de empleo, se visibilizaron de manera mucho más precisa justamente como consecuencia del impacto provocado por la pandemia COVID-19. Además, las conclusiones y recomendaciones sobre la aplicación efectiva de las normas internacionales del trabajo contenidas en el Estudio General del 2020, elaborado por la Comisión de Expertos consideramos que constituyen o pueden ser una oportunidad para que los Estados pongan en marcha nuevas políticas de empleo a la luz de las necesidades que demanda el mundo del trabajo hoy día.

Otra oportunidad destacada por esta Comisión ha sido el aceleramiento que la crisis ha provocado en cuanto a la creación de un nuevo marco normativo integrado pero a la vez amplio. Un marco normativo que permite o asegure y proteja los derechos laborales tanto de los trabajadores en las nuevas formas y modalidades en que se incorporan a la actividad productiva como a las modalidades tradicionales.

En el caso de las nuevas formas y modalidades de trabajo que conoce la humanidad se ha dado un aceleramiento, un proceso al que se había dado inicio años antes y que incluso había merecido la consideración de la Comisión de Expertos, cuando en estudios anteriores hablamos de los nuevos retos en los nuevos escenarios en el mundo del trabajo a partir del desarrollo de la tecnología y la ciencia. En esta oportunidad, como consecuencia del impacto se vivió un aceleramiento sin precedente. En la actividad

productiva se ampliaron modelos de trabajo a domicilio, modelos de trabajo a distancia, incluso modelos de trabajo mediante plataformas tecnológicas fueron expandidos y acelerados en el contexto de la realidad que nos impuso la pandemia de COVID-19. También en términos de las oportunidades emergentes esta pandemia ha brindado a la comunidad internacional, así como a los actores sociales, la oportunidad de corroborar la utilidad de las normas internacionales del trabajo, corroborar su vigencia y sutilidad como herramientas útiles y como punto de referencia para la generación de respuestas efectivas a la crisis que ha sido desencadenada por esta pandemia. De manera tal que en el contexto descrito y tan solo a manera de ejemplo, consideramos importante destacar y compartir que las normas como por ejemplo la Recomendación relativa a los pisos nacionales de protección social, 2012 (núm. 202) y la Recomendación sobre el empleo y el trabajo decente para la paz y la resiliencia, 2017 (núm. 205), así como aquellas normas vinculadas con la seguridad social y la seguridad en el trabajo han cobrado una importancia fundamental. Ante el desafío comentado en donde describimos o enunciamos las crisis que experimentaron los modelos de seguridad social en muchos Estados como consecuencia del impacto de la crisis sanitaria mundial, justamente se pone de relevancia su importancia.

De hecho, es oportuno recordar que para el presente Estudio General, la Comisión de Expertos se va a enfocar en la cuestión del trabajo decente para los trabajadores de la economía del cuidado de las personas en el contexto de una economía cambiante. Consideramos importante y con esto voy concluyendo, entender o visualizar la oportunidad que tenemos de estructurar mecanismos que hagan viables y faciliten la transición de la economía informal hacia la economía formal, así como el recorte de la brecha tecnológica y la preparación o calificación de trabajadores a fin de que su incorporación a la actividad productiva se facilite mediante el diseño de una nueva generación de políticas y programas de empleo que garanticen trabajo decente

centrado en las personas, además de trabajo inclusivo teniendo en cuenta las cuestiones de género y no discriminatorias.

Concluyo destacando que tenemos la oportunidad para generar una sinergia de los Estados internamente pero también a nivel de la comunidad internacional para la construcción, el fortalecimiento y la ampliación productiva de todos los sistemas de protección social.

**Mr EVANS KALULA, Chairperson of the Committee on Freedom of Association (CFA)** – It is again an honour and a privilege for me to come before your esteemed Committee to report on the activity of the Committee on Freedom of Association, as reflected in its annual reports since we last met in 2019.

At that time, the idea for the CFA to report annually and present its report to the Committee emanated from workers and employers with a view to ensuring the complementarity of both Committees and avoiding duplication of procedures.

The role of the CFA is to examine the complaints brought before it of violations of freedom of association regardless of ratification of the relevant freedom of association Conventions.

As freedom of association can only be exercised in conditions in which fundamental human rights and civil liberties are fully respected and granted, the CFA is also empowered within its mandate to examine to what extent the exercise of trade-union rights may be affected in cases of allegations of infringement of civil liberties and human rights, generally.

Judging from about 150 cases that the CFA examines every year, and the governments in cooperation with the CFA procedures, it is clear that the CFA's work is well known and appreciated and is seen as an authoritative voice for identifying

shortcomings and finding workable solutions through social dialogue at the national level in order to address pending concerns that may have otherwise been raised in your global public forum.

The CFA's annual reports present information on its work and include relevant statistics within a given period. In particular, they outline the types of allegations that come before it most often. In 2019 and 2020, these were: (i) inadequate protection against acts of interference and union discrimination; and (ii) violation of collective bargaining rights, trade-union rights and civil liberties.

While a lot remains to be done, it is my pleasure to inform you that there has been important progress noted by the CFA with interest or satisfaction during this period. In this respect, I would like to draw the attention of your Committee to the 2020 annual report, which contains visual statistics on the cases of progress by type of allegations as well as on the cases of progress by region. Aware of the fact that the ILO technical assistance is a critically important tool for governments and social partners alike to resolve outstanding issues, particularly those related to capacity, the office has made available in the last two years technical assistance in 17 cases.

Since their adoption and the beginnings of the CFA, Conventions Nos 87 and 98 have been ratified by 157 and 168 Member States, respectively. In cases where the government has ratified the relevant Convention, the CFA often transmits the legislative aspects to the Committee of Experts. In the period covered by the two reports before your honourable Committee, this practice was used in 16 cases, ensuring complementarity in the system through follow-up by regular supervision while also importantly avoiding duplication in examination, as well as the constant engagement between the CFA which is a complaint-based procedure on the one hand, and the Committee of Experts and your honourable Committee, on the other.

This also demonstrates the importance of ratification for ensuring sustainable progress in respect of freedom of association around the globe.

I would like to take this opportunity to remind your honourable Committee that this year represents the 70th anniversary of the creation of the CFA. Its success lies, no doubt, in the way it conducts its work. The CFA is not a tribunal. It does not punish, it does not blame, but engages in a constructive dialogue with the experience and expertise that its members, drawn from the tripartite constituencies of the ILO, bring to bear from the real economy to promote respect for freedom of association, both in law and in practice.

I am very honoured to chair this Committee and, in that role, to make my own modest contribution to its work. As you begin your important work, I wish your Committee constructive and fruitful discussions.

**Présidente** – À la suite de votre rapport, nous nous félicitons pour les progrès que vous avez bien voulu observer au cours de vos travaux au cours de l'année. Et joyeux anniversaire, pour les 70 ans du Comité de la liberté syndicale!

La discussion générale s'articulera autour de deux segments, à savoir la discussion générale, puis une discussion sur l'application des normes internationales du travail dans le contexte de la pandémie de COVID-19. Les orateurs ont été invités à s'inscrire pour ces deux thèmes de manière distincte. Nous aurons donc une liste d'orateurs pour la discussion générale, puis une autre liste d'orateurs pour la deuxième partie de la discussion à l'ordre du jour. Je souhaite également rappeler que la commission a décidé, lors de l'adoption du document D.1 sur ses méthodes de travail, de limiter les temps de parole pour chacun des deux segments de la discussion générale comme suit: 15 minutes pour les porte-parole du groupe des employeurs et du groupe des travailleurs; 5 minutes pour les déclarations des groupes gouvernementaux; 3 minutes pour les autres membres.



Et je voudrais rappeler aux délégués qui souhaitent faire une déclaration et qui n'ont pas pu s'inscrire sur la liste des orateurs de bien vouloir, à titre exceptionnel, faire cette demande à travers la «boîte de discussion» – ou encore «chat box» – de la plateforme virtuelle. Ils devront adresser un message à l'administrateur de la plateforme qui leur répondra en privé.

En outre, je vous rappelle que la «boîte de discussion» ne peut être utilisée que pour soulever un point d'ordre ou exercer un droit de réponse ou, exceptionnellement, pour demander la parole lorsque l'orateur n'aura pas pu préalablement s'inscrire sur la liste des orateurs. En aucun cas, la «chat box» ne doit être utilisée pour soulever des questions de fond.

**Employer members** – The Employers' group would like to welcome Judge Dixon Caton, the Chair of the Committee of Experts and Mr Evans Kalula, the Chair of the CFA to the first ever virtual CAS session.

I also want to take this opportunity to thank Judge Abdul Koroma and Mr Lelio Bentes Correa, who are completing their mandates this year, for their knowledgeable contribution to the Committee of Experts and the Committee on the Application of Standards during the past 15 years. We wish them well in their future endeavours. We very much appreciate the work of the Committee of Experts in its technical observations as part of the supervisory system and as part of the preparatory work for the work of our Committee, the Committee on the Application of Standards.

We appreciate the CFA's work regarding the articulation of principles regarding freedom of association and collective bargaining.

I would now like to turn to some of the points that the Employer members consider important for the work on the Committee on the Application of Standards.

First, I would like to recall the ILO's Centenary Declaration which clearly states that international labour standards also need to respond to the changing patterns of the world of work, protect workers and take into account the needs of sustainable enterprises and be subject to authoritative and effective supervision.

We believe that the needs of sustainable enterprises should also become more visible in ILO standards supervision, which, in our view, could contribute to more balanced application of international labour standards globally.

In that regard, we would be interested in hearing from Judge Dixon Caton, how the Experts can take into account the needs of sustainable enterprises in their supervisory work, in a more substantive and meaningful way. This seems to be of particular relevance in the current context where Member States are designing or implementing COVID-19 recovery strategies in which sustainable enterprises are expected to play a key role.

Second, the discussion this year takes place against the backdrop of the ongoing pandemic which has left its mark, both on the application and supervision of ILO standards.

While application of ratified Conventions has generally not been suspended during the COVID-19 crisis, temporary modification of the application has likely had to be made in order to safeguard business continuation and employment, or to prevent more serious negative consequences. Such modifications may also be necessary in the recovery process where governments, employers and workers need the necessary space and flexibility for getting economies back up and running.

Having said that, the Employers wish to stress that the crisis must not be used as an excuse for not complying with ILO fundamental Conventions.

Third, we note that the Experts this year, once again expressed concerns at the low number of government reports reviewed by the 1 October deadline. While we do understand difficulties and challenges governments have been facing, we count on them to continue complying with their reporting obligations under articles 19, 22 and 35 in a timely manner and to do so in consultation with the most representative employers' and workers' organizations. This is important because it is government reports that provide the core basis for the ILO supervisory work.

Fourth, we must discuss the distinction between direct requests and observations in the Experts' report. We observe the explanations provided by the Experts in paragraph 117 of its 2021 report. In particular, that direct requests can be used for the clarification of certain points when the information available does not enable a full appreciation of the extent to which obligations are fulfilled.

The Employers' group is concerned that the Experts, despite this explanation, make numerous substantial assessments of compliance in the form of bilateral direct requests. By doing so, given that direct requests are not discussed in the Committee on the Application of Standards, the Experts exclude a major part of their standards supervisory work from tripartite scrutiny and discussion within this Committee.

According to this year's Addendum to their report, the experts in 2020 made as many as 1,110 direct requests compared to 556 observations, this is not therefore a minor issue. The Employer members as a result request the Committee of Experts to make comments that contain assessments of compliance, whether based on a first or supplemental government report in the form of observations and that only matters that deal with requests for information or clarification be included in direct requests.

Fifth, the Employers' group takes note of the criteria that the Experts established for determining double-footnoted cases in paragraph 125 of the report.

We would like to reiterate our early request to the Experts to provide clear explanations for each double-footnoted case in the report as to why it has been categorized as such.

We believe that giving additional context in this way will be helpful to increasing the transparency of the identification of these cases.

Sixth, the Employer Members note with concern that the Experts this year in their technical observation of the application of Convention No. 144 on tripartite consultation requested a number of governments to provide information not only on the application of Convention No. 144, but also on Recommendation No. 152. It should be recalled that Member States have an obligation under article 22 of the ILO Constitution, to provide information on the application of ratified Conventions but do not have a corresponding obligation to provide information on related Recommendations.

It is important that the Experts do not give the impression that Member States are obliged to provide information on the application of Recommendations within the context of article 22.

Now, I would like to turn to some comments that are related to the Experts' observations on the promotion of collective bargaining under Article 4 of Convention No. 98.

Given the controversial discussions that have taken place in recent years on this provision, the Employer members take this opportunity to clarify their views on several key issues in this context.

First, this concerns the question – who has a right of collective bargaining? According to Article 4, this is employers or employers' organizations and workers' organizations, organizations of other persons, for example, organizations of

independent contractors, or organizations of self-employed individuals are not workers' organizations and therefore not entitled to collective bargaining.

It is therefore important that clear criteria and procedures be put in place that allow the determination of who is a worker versus who is a self-employed person or an independent contractor. In the absence of rules in this regard in Article 4, the competence for establishing such criteria and procedures lies exclusively with governments.

Our second point in respect of the promotion of collective bargaining under Article 4 of Convention No. 98, concerns the level of collective bargaining. Article 4 does not specify or prioritize a particular level, in other words collective bargaining at every level is equally protected by Article 4, including at the national level, the sectoral level or the company level. Therefore, while governments have an obligation to promote collective bargaining under this Convention, the choice of the level for bargaining is up to the social partners involved.

Another rather controversial issue which has emerged is whether Article 4 provides for a hierarchy of norms in which collective agreements cannot depart from applicable legislation, and individual labour contracts cannot depart from applicable collective agreements. Article 4 does not address this issue at all. Therefore, as long as governments comply with their obligation to promote collective bargaining, it is at their discretion to establish a hierarchy of norms or a framework, and modify that as necessary.

A question has also emerged in a number of observations in this year's report as to whether a legal obligation to negotiate for employers is compatible with Article 4. The experts seem to answer this question in the affirmative, as long as there is no obligation

to conclude a collective agreement. The Employer members do not agree to this, given that Article 4 clearly refers to “voluntary negotiation”.

Finally, in certain circumstances, the Experts have considered compulsory arbitration on the initiative of a workers’ organization to be in line with Article 4, where this is meant to achieve the conclusion of a first collective agreement. The Employer members cannot see or understand the justification for this view, given that Article 4 is solely based on the voluntary nature of collective bargaining, and compulsory arbitration sits in diametric opposition to that concept.

In conclusion, the Employer members request the Committee of Experts, and the Office that supports their work, to fully respect the wording of Article 4 of Convention No. 98 and the flexibility afforded by this provision, in order to recognize that governments and social partners in Member States must find ways of implementation that are in line with their national circumstances and business and worker-protection realities in the Member State.

In addition, in light of the many technical observations of the Experts on Convention No. 87, freedom of association, the Employer members must question the Experts’ assessment on the question of the “right to strike” within the context of Convention No. 87.

We note that in the 2020 report, 58 observations were made on Convention No. 87, out of which 42 (which is 72 per cent of the observations) concern the right to strike. Furthermore, the Committee of Experts made 52 direct requests on Convention No. 87 and 83 per cent of those direct requests have right to strike elements or questions.

Moreover, the figures in the 2021 Addendum report are quite similar. The Committee of Experts made 50 observations on Convention No. 87 and out of which 38

(which equals 76 per cent) concern the right to strike. There are also 39 direct requests, and 36 of them (which is the equivalent of 92 per cent) have right to strike elements.

It is important to note that apart from the Employers, the Government group in the Governing Body expressed its view also about the conditions and practices of the right to strike to be defined at national level. The legislative history is clear that the proposed Convention relates to freedom of association and not the right to strike.

Therefore, the Employer members must note that we find the repeated insistence of the experts on extensive articulation regarding the right to strike as increasingly divisive, which in our view divides and weakens the ILO standards supervisory system.

Let me just close my comments by reiterating our firm support and commitment to social dialogue and our firm commitment and support to the ILO standards supervisory system, as a key and important governance institution in international labour and social policy.

**Membres travailleurs** – Permettez-moi d'abord de remercier les présidents de la commission d'experts et du Comité de la liberté syndicale pour leur présence et participation à nos discussions. Ceci témoigne du dialogue fructueux entre les différents mécanismes permanents de contrôle de l'OIT. Ce dialogue plus poussé entre notre commission et la commission d'experts illustre le caractère complémentaire des deux mécanismes dès lors que le rapport des experts constitue la base des travaux de notre commission.

Cette complémentarité est conditionnée par l'indépendance des deux organes, qui sont animés par le même objectif, et qui, pour ce faire, décident de s'engager dans un dialogue continu sur un pied d'égalité. Pour dissiper tout malentendu, nous souhaitons préciser que ces échanges ne sont pas des moments pour tenter d'influencer le travail des experts et encore moins pour leur donner des instructions. Outre le fait que notre

commission n'a aucun mandat pour ce faire, une telle approche minerait l'indépendance des experts et saperait leur autorité.

Pour les membres travailleurs, ces discussions ont uniquement pour but de permettre aux deux commissions de mieux comprendre leurs méthodes respectives et de constater, le cas échéant, des points de convergence. À ce titre, il y a lieu de préciser que, si un des groupes ou certains États ont une divergence avec les experts, cela n'engage en rien la Commission de l'application des normes dans son entièreté.

Nous avons entendu à plusieurs reprises que nos deux commissions devraient aller vers davantage de synergie. Il est vrai qu'elles ont un objectif commun, c'est-à-dire assurer le contrôle et la bonne application des normes. Toutefois, par leurs composition et mandat, elles ont chacune des spécificités qui doivent être respectées et maintenues. Cela garantit notamment que les différences d'approche entre les employeurs et les travailleurs sur certaines questions n'impactent pas le travail de la commission d'experts. Celle-ci, et de manière indépendante, doit continuer à contrôler le respect des normes de l'OIT.

Le droit de grève est à cet égard un exemple très concret. Pour rappel, le groupe des travailleurs considère que le droit de grève fait partie intégrante de la liberté syndicale et qu'il est couvert par la convention n° 87. Malgré la position isolée des employeurs sur cette question, cela n'a pas du tout empêché la commission d'experts de continuer à émettre des commentaires à ce propos. Ceci démontre son indépendance et sa capacité à travailler de manière efficace.

Les travaux de la commission d'experts se distinguent par leur exhaustivité. Celle-ci permet de traiter de nombreux cas et d'examiner tous les aspects, en ce compris ceux qui font l'objet d'un progrès. En raison des limites de temps, notre commission ne peut examiner que quelques cas, 19 cette année-ci, et, comme je l'ai déjà indiqué, la liste



adoptée cette année ne contient aucun cas de progrès. Je rappelle au passage que la qualification d'un cas de progrès par la commission d'experts répond à une définition précise et ne peut pas être extrapolée de manière hasardeuse. Un progrès sur un aspect ne signifie pas que d'autres problèmes ne continuent pas à se poser sur d'autres aspects. Je rappelle aussi que, au sein de notre commission, pour qu'un cas soit considéré en progrès, il doit être identifié comme tel et de manière explicite par les deux porte-parole.

Sur une autre question, les membres travailleurs ont noté avec attention la demande faite par les membres employeurs à la commission d'experts de tenir davantage compte des besoins des entreprises durables lors de l'évaluation du respect des normes. Nous souhaitons à ce propos exprimer trois observations.

Premièrement: les travailleurs sont les principaux intéressés par le sort des entreprises. En effet, ce sont eux qui, par leur travail, permettent à l'activité économique d'exister. Comme l'a illustré cette pandémie, sans travailleurs il n'est pas possible de produire des biens et des services. Par conséquent, ils ont autant à dire sur les entreprises que le groupe des employeurs.

Deuxièmement, le mandat de l'OIT est centré sur les droits des travailleurs. Une entreprise n'est durable que si elle est en mesure de respecter les droits – tous les droits – des travailleurs. Force est de constater qu'aucun instrument de l'OIT faisant autorité ne définit ce qu'il faut comprendre ou entendre par entreprise durable. On peut néanmoins rappeler que, lors de la discussion consacrée à cette question lors de la 90<sup>e</sup> session de la Conférence internationale du Travail, il a été clairement rappelé de manière tripartite qu'un environnement propice aux entreprises durables se caractérise par le respect des normes internationales du travail.

La troisième observation, et peut-être la plus importante, est que le mandat de la commission d'experts porte sur le contrôle du degré de conformité de la législation et

de la pratique des États avec les conventions et recommandations. À ce titre, l'indépendance et la rigueur de leurs commentaires, exprimés sur base de leur interprétation des textes, sont des éléments essentiels aux yeux du groupe des travailleurs.

Il résulte de ce qui précède que cette suggestion du groupe des employeurs est totalement inappropriée et que le groupe des travailleurs la rejette catégoriquement. Au lieu de s'égarer dans ce genre de discussions, il est nécessaire de se recentrer sur l'essentiel. Partout dans le monde et dans de nombreux pays, les normes internationales du travail ne sont pas mises en œuvre ou sont bafouées. Notre rôle ainsi que celui de la commission d'experts est d'œuvrer pour changer cette triste réalité. Il en va de l'intérêt des travailleurs mais aussi des employeurs et bien sûr aussi des gouvernements.

**Government member, Portugal (Ms COUTO DE OLIM)** – I have the honour to speak on behalf of the European Union and its Member States. The candidate countries in the Republic of North Macedonia, Montenegro, Serbia and Albania and EFTA country Norway, member of the European Economic Area, as well as Armenia, the Republic of Moldova and Georgia, align themselves with this statement.

We welcome not only with immense satisfaction, but also with relief, that the discussion of the Committee on the Application of Standards finally takes place after a one-year deferral. We strongly believe in the fundamental importance of international labour standards and their effective and authoritative supervision, especially during crises such as the one resulting from the COVID-19 pandemic.

We highly appreciate the analysis of the Committee of Experts in the General Report, in particular the guidance offered with regard to the path to recovery and resilience. This report provides a solid basis for the work of our Committee. All EU Member States have ratified all fundamental ILO Conventions and we truly believe that

ratification, implementation of and compliance with these Conventions not only contributes to the protection and promotion of human rights, including labour rights, but also to the larger objectives of building social and economic stability, as well as inclusive societies all over the world.

This commitment is reaffirmed in the EU's trade agreements and unilateral trade preferences, as well as support for ILO technical assistance in the field.

We fully share the report's premise that international labour standards have a central role in preventing further regression and in putting recovery efforts on a more stable footing. International labour standards, their full implementation and their effective and authoritative supervision are a fundamental part of the recovery from the crisis. This is also in line with the Centenary Declaration on the Future of Work.

As pointed out by the report, the crisis poses a risk that labour conditions deteriorate globally. However, the crisis situation does not authorize to suspend obligations under ratified international labour standards. More importantly, it stresses the need for living up to them and any derogations should be exercised within clearly defined limits of legality, necessity, proportionality and non-discrimination. We share the Committee of Experts' view that recovery measures should never weaken the protection afforded by labour laws as that would only further undermine social cohesion and stability and erode citizens' trust in public policies.

We therefore underline the critical importance of effective forms of social dialogue to elaborate and implement responses grounded in respect for rights at work. Similarly, the continued support and provision of comprehensive policy guidance and technical assistance from the ILO cannot be overstated.

The EU and its Member States are convinced that a well-functioning supervisory system is also critical to ensure the credibility of the Organization's work as a whole. The

ILO's leadership has proven crucial in addressing challenges identified by the report, such as poverty, inequalities, discrimination and marginalization, especially of those most vulnerable. We note with regret that there are immense challenges to ensure the safety and health of workers around the world. The pressures on creating robust, flexible and shock-resilient social security systems; the questioning of the value of employment policies; as well as the use of the COVID-19 crisis as a pretext for acts of anti-union discrimination. In this regard, international labour standards provide guidance to lay the foundations for an inclusive and sustainable recovery.

The EU and its Member States are particularly worried that child labour, especially in its worst forms, as well as forced labour, are exacerbated by the COVID-19 pandemic. We must ensure that the progress made towards eliminating forced labour and child labour over recent years is not reversed. The EU and its Member States will continue to fully support the ILO's supervisory system and the promotion of international labour standards. We remain convinced that it is one of the most valuable examples of a multilateral rules-based order which has gained even more importance during the crisis.

We are looking forward to constructive engagement with all constituents during the debate in this committee.

**Employer member, New Zealand (Mr MACKAY)** – While the ongoing pandemic has created significant challenges for the application of labour standards, it must not become an excuse for not complying with ILO fundamental Conventions. Sadly, it seems that this thought is not shared by all. At the heart of Convention No. 98 is the right to bargain freely and voluntarily, free from compulsory arbitration and government interference. Equally important is the right of the social partners to determine the level of collective bargaining.

Article 4 of Convention No. 98 does not specify or prioritize a particular level for collective bargaining. Bargaining at every level is equally protected, including at the national level, the sectoral level or the company level. While governments have an obligation to promote collective bargaining, the choice of the concrete level for bargaining is actually up to the social partners. However, this is not always the case when it comes to observations on Convention No. 98. While bargaining for national industry or occupational collective documents covering all workers and employers in that industry or occupation is within the ambit of Convention No. 98, restricting how the level may be determined, is not. Similarly, permitting only one party to initiate bargaining for an agreement and to decide whether or not the document is to be an industry-based or occupationally-based one, as well as deciding the document's scope and coverage, falls well outside any accepted interpretation of Article 4. Exactly the same can be said about rules that prohibit the ability of the parties to opt out of collective bargaining and require an agreement to be concluded either by agreement or through compulsory arbitration. Indeed, countries that enforce systems of compulsory arbitration, which, in the absence of agreement ultimately fix the terms of the agreement, cannot be said to be compliant with the principle of free and voluntary negotiation. A failure to ratify a settlement that results in the terms of the agreement being fixed by arbitration, with no right of appeal against the terms that are fixed, is similarly non-compliant.

Equally challenging is the situation of a government that chooses to oversee the bargaining process, ensure compliance and turn settlements, be they agreed or arbitrated, into legislation. While all of these actions singly or collectively are not unknown, they cannot and must not go unchallenged by this house less the failure to do so weakens the very fabric of the supervisory system served by this Committee. In this regard, I echo our spokesperson's earlier statement regarding whether or not a legal obligation for employers to negotiate is compatible with Article 4 of Convention No. 98.

To conclude, the New Zealand employers believe implicitly in the ILO standards supervisory system and do not want to see it being openly abused anywhere. We respectfully request that the Committee of Experts and the Office not only fully respect the wording of and the principles enshrined in Article 4 of Convention No. 98 but also take prompt and effective action to address clear instances of departure from these. In our view, a failure to do so undermines the supervisory system and by extension, undermines all of us. Please do not let this happen.

*Interpretation from Russian: **Worker member, Belarus (Ms VARFALAMEYEVA) –***

I would like to reaffirm our commitment to the fundamental principles of the Standards Committee, primarily objectivity and equal access for all countries. We consider that when considering questions, there is no room for divergent interpretations of labour standards and we support the Committee's position that any assessment needs to be based on an objective, factual basis not on suppositions or ulterior motives. That guarantees the fairness of our work.

Our federation is making efforts to ensure the implementation of labour standards in our country and despite all difficulties brought about by the pandemic, we are moving towards the necessary protection of workers' rights thanks to a system of social dialogue. In the difficult conditions of the pandemic we have been able to resolve pressing issues for workers at the legislative level and in the area of practical application by the social partners. All workers, for example, who have fallen ill or might be infected receive full sick pay. Furthermore, we have managed to work at the legislative level to provide for additional holiday days for workers for health checks. We have also achieved agreements between the social partners to prevent mass redundancies. First steps have been made to ensure legislation is in place to protect workers working remotely. There has been a significant increase in pay for medical workers. Furthermore, additional material support

is being provided to those who have fallen ill as a result of carrying out their professional activities. All this demonstrates commitment to the principles of ILO Conventions, in particular those relating to collective bargaining, employment, social protection, health and safety in the workplace and other issues.

*Interpretation from Arabic:* **Government member, Saudi Arabia (Ms ALDAHAM)** – I am honored to speak before your distinguished Committee on behalf of the Government of the Kingdom of Saudi Arabia. I am pleased to congratulate your Excellency on your election as a Chairperson of the Committee on the Application of Standards this year.

I would like also to extend my congratulations to the Vice-Chairpersons on their respective elections. Wishing you every success in steering the work of this Committee.

We thank the Committee of Experts on the Application of Conventions and Recommendations which confirmed in its report the satisfaction with the measures taken by our Government on the Application of the ILO Convention No. 138 and noted with interest the different measures taken by the Kingdom on the application of the ILO Convention No. 111.

We commend the Committee's role in supporting the Member States in enhancing the compliance to international labour standards and for facilitating an easy access to their reports and ensuring the transparency of information and clarity of guidelines and observations.

We also congratulate the ILO on the universal ratification of Convention No. 182 which came as a result of the cooperation on the international community and the unified efforts to abolish the worst forms of child labour.

We faced great challenges in Saudi Arabia during the COVID-19 pandemic as did the rest of the world. Our Government took many measures to respond to the pandemic in

order to mitigate its negative impact on the labour markets under the Government's national and international obligations.

The Government of Saudi Arabia confirms its commitment to take effective actions toward the labour market recovery from the pandemic's negative impact and it continues to endeavour to ensure the stability of the contractual and labour relations in the midst of the constant changes in the labour market.

The Saudi Government has reaffirmed its obligation to the ILO's normative system late last year through the ratification of the ILO Conventions Nos 120 and 95, especially given their particular significance during the current crisis.

Earlier this year, the Saudi Government also adopted the National Policy on Occupational Safety and Health and the National Policy to Prevent Child Labour including the implementation of its respective action plan.

We deposited last week the formal ratification instrument of the Protocol of 2014 to the Forced Labour Convention and we are fully aware that the work does not end there. We will maximize our efforts to ensure the required measures are taken for their enforcement, as well as their follow-up and we perform the required monitoring to guarantee the protection of workers' rights and further develop the working conditions in cooperation with the ILO and in consultation with the relevant social partners.

Finally, I would like to reiterate our appreciation for the Committee on the Application of Standards and the Committee of Experts for being the two pillars of the ILO's supervisory system and for their efficient role in ensuring and following up on the optimal application of international labour standards.

**Employer member, Argentina (Ms GIMENEZ)** – We thank the experts for their reports of 2020 and Addendum 2021. In a constructive spirit and always aiming at



improving the regularization of international labour standards we would like to add some comments.

First, we would like to reinforce the proposal that we made previously for the Committee of Experts to consider that the information in the next report is presented by country and not by subject matter. We believe this will allow the users to get a more comprehensive understanding of the progress made and identify the persisting application issues in a given country. This would also be more coherent with the way the information and the case profiles are presented in the ILO NormLex database.

Second, we appreciate the efforts made to present consolidated comments in the experts' report. We think that expanding this practice could help the ILO constituents by making information more accessible. However, we are interested in having some clarification on the reasons for not doing it more systematically and including all subject areas.

Third, and in the same spirit, we would like to request the Committee of Experts to systematically insert hyperlinks to comments made in previous General Surveys in their report. This will avoid repetition and provide easier access to previous comments.

We trust these measures will help to increase transparency and also the efficiency of the work of this Committee and help to build sustained dialogue and constructive cooperation with the Committee of Experts.

**Government member, Brazil (Mr RAVAGNANI DUARTE SILVA)** – Brazil attaches great importance to the continued discussion and development of the ILO supervisory bodies and their working methods. We therefore take note with interest of the exchange between the Committee of Experts and the Committee on the Application of Standards that took place in a special sitting last year. However, we deeply regret that only the Worker and the Employer Vice-Chairpersons of the CAS were invited to participate in the

sitting. The absence of a representative from the Government group is a symptom of serious disregard to one of the most fundamental principles of this Organization, namely tripartism.

Brazil is convinced that further improvement of the synergies between the two Committees is needed. Their work has been inter-dependent since the establishment of the system in 1926 by the International Labour Conference. The Committee of Experts plays an important role in providing observations on the application of standards which are then considered by the CAS. The conclusions of the CAS, as adopted by the International Labour Conference, are based on extensive discussions by tripartite constituents. As such, the Committee of Experts should consider them as the main reference for their future observations and refrain from reopening discussions that have already been decided upon by the CAS.

Finally, we reaffirm our call for the discussion and adoption of an improved procedure for selection of Committee of Experts members. The procedure currently carried out as a matter of practice is far away from the best practices and rules adopted in similar procedures in other international organizations. In the wake of the ILO Centenary, it is time for its constituents to engage in a serious and open debate on this issue so as to render the selection procedure up to date with the best recognized practices of good governance that takes due account of the need for impartiality, transparency, efficiency, accountability, regional balance and tripartism.

**Miembro empleadora, Colombia (Sra. MANRIQUE)** — Quiero referirme a la importancia de mantener una coordinación entre los diferentes sistemas de supervisión de las normas y el adecuado balance que debe mantenerse entre estos mecanismos de supervisión. Mientras el sistema de supervisión de las normas está concentrado en la Comisión de Expertos y en la Comisión de Normas como órganos regulares, así como en

las reclamaciones basadas en los artículos 24 y 26 de la Constitución de la OIT, como órganos especiales, por otro lado, el Comité de Libertad Sindical no se fundamenta en los convenios sino en dos principios: el de la libertad de asociación y el del efectivo reconocimiento de la negociación colectiva. El primero, emanado de la Constitución de la OIT y el segundo, de la Declaración de Filadelfia. Estos mecanismos deben tener en cuenta además la importancia del nivel de autonomía que debe tener cada Estado para poder determinar, de conformidad con sus propias realidades y circunstancias nacionales, el marco con el cual se le da desarrollo a las normas internacionales del trabajo, y para ello, la elaboración legislativa y su aplicación práctica debe ser construida con los actores sociales.

En segundo lugar, quiero hacerme eco del llamado de nuestra portavoz frente a la importancia a la transparencia que se requiere de la Comisión de Expertos frente al uso de las observaciones y solicitudes directas realizadas a los Gobiernos. Esto, con la finalidad de evitar que a través del uso de estas figuras se escape el análisis del cumplimiento de las normas al escrutinio tripartito, más, si se tiene en cuenta que en asuntos como el derecho de huelga no hay un consenso en esta casa sobre su contenido en los convenios internacionales del trabajo.

En tercer lugar, frente a la aplicación de las normas internacionales del trabajo, en el contexto de la pandemia de COVID-19, quiero resaltar la importancia de profundizar en el contenido y el concepto de empresas sostenibles y la necesidad de incluir este concepto en los análisis que realiza la Comisión de Expertos.

Retomando lo indicado por nuestra portavoz, la inclusión de las empresas sostenibles en los análisis que realizan los sistemas de supervisión de la OIT, permitirá contar con un balance adecuado en la aplicación de las normas internacionales del trabajo.

Finalmente, consideramos importante que la Comisión de Expertos destaque las experiencias positivas de los Estados en la implementación de medidas para salvaguardar la vida y la salud de la población sin menoscabo de los principios fundamentales del trabajo contenidos en los convenios.

**Employer member, South Africa (Mr MOYANE)** – We recall that the ILO Centenary Declaration clearly states that the international labour standards also need to respond to the changing patterns of the world of work, protect workers and to take into account the needs of sustainable enterprises and be subject to authoritative and effective supervision.

We believe that the needs of sustainable enterprises should become more visible in the ILO standards supervision, which would contribute to more balance and acceptance in the application of ILO standards. In this regard, we would be interested in understanding how the experts take into account the needs of sustainable enterprises in their supervisory work, especially concerning the African continent.

This is particularly relevant in the current context for us. Member States in Africa are designing or implementing COVID-19 recovery strategies in which sustainable enterprises are expected to play a key role.

We note the experts' observation that the rule of law should always be upheld, even in pandemic circumstances. We do not take issue with this; however, we believe that a level of pragmatism is necessary. There is no doubt that the pandemic has worsened the employment situation and the ability of enterprises to remain viable and sustain jobs. Some countries have sought tripartite solutions to assist enterprises to survive in order to sustain employment levels.

In the case of South Africa, the Government and the social partners have sought a package of measures called COVID-19 temporary employment relief scheme which

essentially provided a temporary relief to firms that struggled to pay workers for a few months. While these schemes are helpful they are not always sustainable. What could and should be considered is the impact of standards on the ability of enterprises to swiftly adapt to crisis in order to remain viable and sustain jobs. And, the views of experts in this regard will be particularly useful. It is our view that the case of Mozambique, on Convention No. 122, which in many perspectives should be considered a case of progress will provide this Committee with a great opportunity to consider what we are suggesting.

**Présidente** – Nous remercions tous les orateurs pour leur contribution enrichissante à ce débat. Nous allons passer à présent à la discussion sur l'application des normes internationales du travail.

**Membre gouvernemental, Belgique (M. PECSTEEN DE BUYTSWERVE)** – La Belgique s'associe à la déclaration de l'Union européenne et de ses États membres.

Je me réjouis de voir que cette commission se réunit à nouveau après le report de la Conférence internationale du Travail l'an dernier. L'OIT est une organisation normative et la Commission de l'application des normes en est la colonne vertébrale. La Belgique est un des pays qui a ratifié le plus grand nombre de conventions, les met en œuvre et en fait rapport à l'OIT.

Depuis 2012, le mécanisme de contrôle des normes subit diverses pressions. Certes, ce mécanisme est également assuré par d'autres organes de l'Organisation, mais la Commission de l'application des normes, comme commission permanente de cette assemblée mondiale du travail, est essentielle. Pour atteindre la justice sociale, objectif constitutionnel de notre organisation, le mécanisme de contrôle des normes est indispensable.

Les travaux qui y seront menés se fonderont sur le rapport réalisé par la commission d'experts dont la Belgique souligne l'analyse indépendante et impartiale.

Nous adhérons aux déclarations qui tendent à affirmer qu'aucune situation de crise ne peut faire exception à l'état de droit. L'adhésion à l'OIT n'est pas un acte déclaratoire, c'est un engagement pour la promotion des normes, des objectifs stratégiques et des valeurs de l'OIT, et leur mise en œuvre.

Pourtant, comme en témoignent les récents travaux, la crise sanitaire a eu pour conséquences l'augmentation des inégalités, l'accroissement du travail des enfants. Les atteintes aux droits fondamentaux, dont ceux liés à la liberté syndicale, se sont multipliées. Certains acquis en matière d'égalité entre les femmes et les hommes s'effritent. La crise du COVID a donc des conséquences indéniables sur le monde du travail.

Dans ce contexte difficile, il est donc essentiel de redoubler d'efforts pour mettre en œuvre les normes auxquelles nous avons souscrit. La Belgique appelle en particulier les États qui se trouvent à l'ordre du jour de cette commission à prendre les mesures qui s'imposent, sans délai, afin d'améliorer la situation. Madame la présidente, vous avez compris que la Belgique entend poursuivre avec détermination son engagement au sein de cette commission et de l'Organisation.

## **Discussion on the impact of COVID-19 on international labour standards**

## **Discussion sur l'impact de la COVID-19 sur les normes internationales du travail**

## **Discusión sobre el impacto del COVID-19 en las normas internacionales del trabajo**

**Présidente** – Nous allons passer au prochain point de notre ordre du jour. Il s'agit de la discussion sur l'application des normes internationales du travail dans le contexte de la pandémie de COVID-19. Nous avons dix orateurs inscrits et, avant de donner la parole à M. Leemans pour ses remarques liminaires, j'informe la commission que les

informations écrites ont été reçues de la part de M. Leemans, vice-président travailleur, et sont disponibles sur la page de la commission dans la section Discussion générale.

**Membres travailleurs** – La pandémie de COVID-19 a considérablement impacté le monde du travail. Selon l’Observatoire de l’OIT, les heures de travail prestées ont connu un effondrement jamais vu auparavant au niveau mondial. Derrière ces chiffres, il est indéniable que les travailleurs ont fortement souffert de cette crise. Il y avait, d’un côté, tous ceux qui ont dû cesser leur activité professionnelle et ont été confrontés à la perte ou la diminution de leurs revenus et, de l’autre côté, tous les travailleurs de première ligne qui ont continué à fournir des biens et des services essentiels tout au long de la pandémie, au péril de leur santé.

Si on intègre à ce tableau l’impact de la crise sur les travailleurs du secteur informel, l’image s’avère encore plus désastreuse. Nous ne pourrions probablement jamais saisir pleinement l’ampleur du séisme provoqué par la pandémie du COVID-19.

Ce qui est par contre évident, c’est que la situation aurait été bien pire sans l’existence et la bonne application des normes internationales du travail. Illustrons notre propos en citant l’exemple des soins de santé qui sont une branche de la sécurité sociale et sont couverts par la convention n° 102 et la recommandation n° 202. L’impact de la pandémie sur ce secteur en a révélé toute son importance mais également toute sa fragilité. En effet, même les systèmes de santé réputés robustes ont été poussés aux limites de leur capacité. Les systèmes de santé plus fragiles se sont malheureusement révélés incapables de faire face à cette crise. Il est donc fondamental que les États Membres investissent et continuent d’investir dans des systèmes de soins de santé de qualité et capables de faire face à une crise sanitaire de cette ampleur. De même, nous avons pu voir comment les pays dotés d’un système de protection sociale suffisamment

solide ont pu assurer un soutien à leur population privée de travail et ont été en mesure de mieux stabiliser leur économie.

Ces deux exemples illustrent à quel point la bonne implémentation et le respect des normes sont essentiels. Mais cette dimension mériterait d'être complétée par une approche plus proactive.

À ce titre, l'idée d'un traité sur les pandémies, promu notamment par l'OMS, mérite d'être étudiée. Au vu de l'impact de cette pandémie sur le monde du travail, il est nécessaire que l'OIT s'associe pleinement à cette réflexion en y apportant sa spécificité et ses moyens d'action.

Ensuite, on ne peut évidemment pas éluder la question de la sécurité et de la santé au travail. Nous l'avons vu tout au long de cette pandémie: de nombreux travailleurs sont exposés au risque d'être infectés par le coronavirus dans le cadre de leur activité professionnelle. Trop souvent, ces règles de santé et sécurité ont été ignorées pour préserver l'activité des entreprises, au détriment du droit fondamental des travailleurs à la santé. À cette occasion, nous avons pu observer à quel point la mise en danger de la santé des travailleurs met également en péril la santé publique.

Les membres travailleurs le demandent depuis longtemps, et cette pandémie devrait finir de convaincre les plus réticents. Il est désormais temps d'intégrer les instruments relatifs à la santé et la sécurité au travail au sein des principes et droits fondamentaux de l'OIT. Il y a lieu de se réjouir de l'étape franchie en ce sens lors du dernier Conseil d'administration avec la révision et l'adoption du plan de travail. Par ailleurs, il convient de continuer à promouvoir la ratification de la convention n° 155 qui offre le cadre nécessaire aux politiques en la matière.

Pour assurer l'efficacité de ces normes, il est indispensable d'avoir un système d'inspection du travail solide. Nous avons dû constater au cours de la pandémie une forte



diminution du nombre des contrôles effectués par les services d'inspection. Il est vrai que le bon fonctionnement des services d'inspection a lui-même été impacté par la crise sanitaire. Nous devons toutefois déplorer que certains États Membres soient allés jusqu'à introduire un moratoire sur les inspections pendant la pandémie. Cela équivaut à donner un chèque en blanc aux employeurs qui ne respectent pas les règles et à désavantager ceux qui font tout pour en assurer la bonne application. C'est évidemment inacceptable et contraire à la convention n° 81.

La pandémie a vu exploser le recours aux modes d'organisation du travail tels que le recours au télétravail, au travail de plateforme, au travail à domicile et bien d'autres encore. Les travailleurs occupés dans de tels modes d'organisation du travail doivent également, au même titre que n'importe quel autre travailleur, pouvoir bénéficier des protections garanties par les normes internationales du travail, notamment en ce qui concerne le respect de leurs droits fondamentaux, le droit à un salaire minimum adéquat, une limitation de leur temps de travail et le droit à la santé et sécurité au travail.

Les nombreuses difficultés causées par la pandémie ont poussé les organisations syndicales à formuler des revendications légitimes pour améliorer le sort des travailleurs dans le cadre de la pandémie et pour reconstruire une société post-COVID plus juste et inclusive. Nous devons toutefois déplorer que cette période de crise ait fortement, et encore plus que d'habitude, mis sous pression la liberté syndicale et le droit à la négociation collective. Les mesures sanitaires prises par les gouvernements pour lutter contre le coronavirus entravent, de par leur nature, l'exercice de la liberté syndicale et du droit à la négociation collective.

Si ces mesures s'avèrent parfois légitimes, nécessaires et proportionnées d'un point de vue sanitaire, il faut également pouvoir interpellier et questionner les États qui utilisent la crise sanitaire comme prétexte pour réprimer toute forme d'action syndicale

et entraver le libre exercice du droit à la négociation collective. Nous l'avons relevé dans notre discours d'introduction: là où le dialogue social est le plus fort, les réponses les plus fortes à la crise ont pu être apportées. Plus que jamais, il faut insister sur le fait que les conventions n<sup>os</sup> 87 et 98 ne sont pas le problème mais font partie intégrante de la solution.

En dépit de ces constats amers, nous pouvons noter avec satisfaction que, partout où les normes ont été respectées, elles ont permis d'atténuer fortement les conséquences de la pandémie sur le monde du travail. Toutefois, il ne faut pas perdre de vue la nécessité de poursuivre la promotion de ces instruments, d'en assurer le contrôle, de poursuivre leur renforcement et de rechercher constamment les domaines dans lesquels de nouvelles initiatives de l'OIT peuvent être prises.

Ce dernier élément est fondamental afin d'améliorer davantage la résilience du monde du travail face aux perturbations telles que celles engendrées par cette pandémie, mais aussi celles que beaucoup de pays rencontrent déjà en raison d'autres défis qu'ils sont amenés à affronter. À ce titre, la recommandation n<sup>o</sup> 205, en tant que cadre permettant de prévenir ces situations de crise et d'y apporter les réponses appropriées, doit en tout temps faire l'objet d'une attention particulière et pas uniquement lorsqu'une crise éclate, parce qu'il sera alors malheureusement déjà trop tard.

En outre, les membres travailleurs proposent que chaque État procède à une évaluation de sa réponse aux défis qu'a posés la pandémie dans le pays et établisse un plan d'action afin de bâtir une plus grande résilience pour le futur, et ce de manière tripartite sur base de la recommandation n<sup>o</sup> 205.

De même, nous proposons que les gouvernements qui ont pris des mesures dérogatoires aux normes internationales soient invités à faire rapport sur ces aspects auprès de la commission d'experts et qu'un suivi spécifique soit assuré sur ces aspects.

Permettez-moi de remercier les experts pour leurs nombreuses observations pertinentes au sujet de l'importance des normes internationales du travail dans le cadre de la crise du COVID. Dans un monde interconnecté et interdépendant, nous ne pouvons pas faire l'économie d'instruments normatifs qui ont vocation à s'appliquer de manière universelle. Nous ne pouvons pas non plus prétexter un contexte de crise pour suspendre leur application alors qu'une sortie de crise rapide et durable dépend en grande partie de leur respect.

Il est indéniable que leur ratification et leur mise en œuvre concrète représentent un énorme défi pour l'ensemble des parties prenantes. Ce défi est toutefois bien plus réalisable qu'on ne le croit s'il est mis en perspective avec les lourdes conséquences et les difficultés auxquelles seront inévitablement confrontés les États qui feraient le choix de mettre ces instruments de côté.

Nous invitons les États qui ont emprunté cette voie à tirer les leçons de cette pandémie et à s'engager avec nous, conformément à la Déclaration du centenaire de l'OIT, dans la construction d'un avenir du travail juste, inclusif, sûr et centré sur l'humain. La Déclaration de Philadelphie a rappelé qu'une paix durable ne peut être basée que sur la justice sociale. Le respect des normes internationales du travail, la protection sociale et le dialogue social font partie intégrante de cette notion telle qu'établie dans la Déclaration sur la justice sociale de 2008 de l'OIT.

Je souhaite dès lors qu'au terme de nos discussions nous soyons tous en mesure de rappeler que les normes internationales du travail constituent assurément un moyen

efficace pour répondre aux crises et sont des instruments indispensables pour réaliser ces objectifs de justice sociale.

**Employer members** – Clearly the COVID pandemic has had a profound impact on the world of work around the globe. Millions of people across the world have been exposed to the Coronavirus and to date more than 3.5 million people have died. Many governments in addressing the health crisis have adopted containment measures including lockdowns and related restrictions in an effort to prevent the spread of the virus. These measures, although necessary for public health, have had devastating consequences for labour markets.

While demand has increased in certain sectors, other sectors have completely collapsed. Millions of enterprises have been closed and millions of jobs have been lost. In addition, the crisis has affected enterprises of all sectors and sizes in some way or another, micro, small, medium-sized enterprises, many of which lack the necessary human and financial resources to weather the crisis of this magnitude have been severely affected and many have closed their doors.

In some regions of the world, the percentage of companies that will have to close their businesses will be up to 20 per cent, and at this moment we are far from being out of the crisis. The numbers of infections continue to rise in certain regions and have recently surpassed 170 million worldwide.

Employers have made massive efforts in the last 12 months to adapt to the global pandemic to ensure that businesses survive and health and well-being is protected.

In these turbulent times, employers have been a trusted partner for governments and workers and become a key resource for information for their employees.

The pandemic has had severe effects on both the application and supervision of ILO standards. Many governments of Member States directed their primary attention to coping with the crisis and mitigating its effect and, we have heard, have not been able to send their reports to the ILO.

Similarly, many workers' and employers' organizations have not been able to send comments under article 23(2) of the Constitution on standards application issues. The application of many ratified Conventions has had to be temporarily altered to respond to crisis needs.

While application of ratified Conventions have not been suspended during the crisis, the Employers' group is of the view that temporary modification of the application must in some circumstances be considered unavoidable to safeguard business continuation and employment and to try to mitigate the very serious labour market consequences.

Such modifications may also be necessary in the recovery process where employers need the necessary flexibility to focus on getting businesses back up and running.

The Employer members agree with the three key challenges identified by the Committee of Experts, identified on pages 13–22 of the 2021 Addendum, namely the limitations on rights and freedoms, maintaining the universality, indivisibility, interdependence and interrelation of all human rights and the comments regarding discrimination and marginalization of vulnerable groups.

The Employer members also stressed the challenges that the COVID-19 pandemic imposed on economic activity, job creation and productivity, as various public health measures were implemented to contain the spread of the virus.

The global pandemic has accelerated the digital transformation of the world of work. There are serious concerns that unless much more is done to invest in digital skills and respect of training opportunities, the world may be heading to a jobless recovery and a bigger gap in the digital divide.

The Employers' group have stressed the importance of sustainable enterprises in creating more income-generating opportunities, including for the vulnerable and in increasing prosperity and quality of life for all.

We consider that sustainable enterprises are part of the solution in tackling the impacts of the pandemic in addressing long-term sustainability, challenges and seeking positive responses for a resilient recovery.

We need more enhanced strategic and determined collaboration between the public and private sector in order to pave the path for an efficient, strong, resilient private sector-led recovery to build back a better and more sustainable future.

Therefore, in our view, the supervisory system must adopt a balanced, pragmatic and mindful approach in the promotion, consideration of ratification, application and supervision on international labour standards, that takes into account the needs of sustainable enterprises in line with the Centenary Declaration.

The supervisory system must also, in the Employers view, pay greater attention to the needs of sustainable enterprises when assessing compliance with international labour standards.

The COVID-19 pandemic has demonstrated the importance of occupational health and safety for all workers and employers. We consider that the application in law and practice of the ratified OSH Conventions should remain a priority and be done in a

balance manner recognizing the joint responsibility of governments, employers and workers to make safe and healthy working conditions a reality for all.

We would like to call the Committee's attention particularly to the Promotional Framework for Occupational Safety and Health Convention, 2006 (No. 187), which recalls the need to promote continuous improvement of occupational safety and health to prevent occupational injuries, diseases and death through the development, in consultation with the most representative organizations of employers and workers of a national policy, a national system and a national programme.

This Convention highlights the importance of a national preventative strategy and culture surrounding health and safety. A culture in which the right of a safe and healthy working environment is respected at all times and where government, employers and workers actively participate in securing safe and healthy work environments for a system of defined rights, responsibilities and duties and where the principle of prevention is afforded the highest priority.

The COVID-19 pandemic has also exposed the vulnerability of our existing social protection systems. At our last CAS session, we examined during the General Survey discussion, ILO Recommendation No. 202, a tripartite consensus standard on the development of social protection floors.

In particular, the Employers' group has emphasized that social protection should follow the following key principles: first, sustainable financial basis: social protection systems need to be sustainably financed; second, addressing the informal sector: the development of a national social protection system needs to go hand-in-hand with policies to address the plight of a number of informal sector operators who are neither covered nor contributing to those social systems; third, respect for primacy of national specificities and traditions: in our view, social protection systems need to respond to the

specific needs and to be coherent with the socio-economic traditions and culture in respective countries.

Social protection systems also are not a one-size-fits-all policy, they can vary greatly among countries and regions depending on national culture, law and practice.

In addition, the COVID-19 pandemic has highlighted the importance of strong employment policies. Employment policies at this time have had to constantly maintain a proper balance between public health restrictions and prevention on the one hand, and maintaining, promoting and incentivizing full, productive and freely chosen employment as called for by Convention No. 122.

If public health restrictions and preventative measures are disproportionate, the damage for enterprises, employment and the well-being of workers may be more severe than the damage to public health.

The world of work post COVID-19 is forcing governments and the tripartite constituents more than ever to focus on the employability of workers instead of the right to work and job security. How to ensure productive employment? This can only be done if the right mix of policies is in place and adequate coordination is ensured. In line with this, government action must focus on labour market policies that are able to support employment creation and employability, activate untapped labour force resources by making work pay and providing labour market mobility. The linchpin for this determination is to ensure an enabling environment for business and entrepreneurship so that productive employment can be created.

Freedom of association is also engaged in light of the COVID pandemic and it is worth reminding the tripartite constituents of the fundamental nature of Convention No. 87 guaranteeing freedom of association both for workers and employers. The Employers' group also welcomes the universal ratification of the Worst Forms of Child



Labour Convention, 1999 (No. 182) this year. This is a historic achievement, committing ILO Members to prohibiting and eliminating all worst forms of child labour, including slavery, forced labour and trafficking. What is required now, as COVID-19 threatens to potentially reverse these achievements, is increased vigilance to ensure that the negative impact of the pandemic does not put millions of children at risk by forcing them to earn an income to support their families. Governments must assume their responsibility for the proper implementation of ILO Convention No. 182 which they have now all ratified.

The International Organisation of Employers, together with its global network of 150 member organizations representing more than 50 million companies, have long supported the ratification and implementation of Convention No. 182 and all efforts to address child labour in line with target 8.7.

Similar to freedom of association, the Employers' group expresses concerns with the increase of forced labour due to the COVID-19 pandemic. We call on governments to respect, promote and realize the elimination of all forms of forced or compulsory labour as enshrined in the ILO 1998 Declaration and all ILO Member States. We take note of the Committee of Experts concerns with the sharp decrease in the number of labour inspections due to the pandemic. While this may be due to social distancing measures, it nevertheless is important for governments to continue complying with their obligations under Convention Nos 81 and 129 especially, in our view, as it regards providing assistance and guidance to companies in taking the necessary health and safety prevention and protection measures to enable business continuity and the maintenance of jobs in the crisis. This may require thinking about new and innovative ways to conduct inspections and provide guidance to companies in these exceptional circumstances.

We highlight once again the Centenary Declaration that states “international labour standards also need to respond to the changing patterns of the world of work, protect workers and take into account the needs of sustainable enterprises”. A balanced application of international labour standards, in our view, must take fully into account the special needs of both employers and workers in this exceptional situation and this will be the key for a sustainable and resilient recovery with productive employment and decent work opportunities for all.

**Présidente** – Merci beaucoup M<sup>me</sup> Regenbogen. Nous avons neuf orateurs inscrits sur la liste des orateurs. J’invite à présent M. Moyo Japhet, membre travailleur de la République du Zimbabwe, à prendre la parole.

**Worker member, Zimbabwe (Mr MOYO)** – Madam Chair, my organization is the Congress of Trade Unions and is supported by our regional body Southern African Trade Union Coordination Council (SATUCC), which has been following the events in our region and in my country in particular from the onset of the outbreak of COVID-19. SATUCC aligns itself with my statement and this accolade is made by the Government of Zimbabwe’s failure to observe fundamental rights of employees during the COVID-19 period, as I will demonstrate.

The COVID-19 pandemic only exacerbated the already existing challenges to workers’ fundamental rights at work. The rights to freedom of association, collective bargaining, occupational safety and health, social protection and social dialogue are among such rights that are grossly violated under the pretext of combating the spread of coronavirus. SATUCC remains concerned by the growing trend in the criminalization of trade union activities during strikes and protest actions. As my country engaged in lockdowns in March 2020, certain sectors of the economy were declared to be essential services but most workers in such sectors were not adequately protected against the

virus due to failure by both the Government and employers to supply adequate PPEs. The workers were overworked with no essential pay and benefits. Our health sector workers went back on strike and their leaders were arrested and judicially persecuted. My federation was labelled a terrorist organization and some of its leaders, including its President, Mr. Peter Mutasa, were placed on police wanted custody list following protest actions by citizens demanding better social and economic rights. Such an attack is a threat to workers' rights to civil liberties. In addition, our members generally continue to face some arrests for reporting some of the violations that includes issues of corruption and are judicially persecuted as well. Trade unions were excluded from the list of essential services and were forced to close offices leaving workers without representation. Our country already has a weekly inspection system and it is the duty of trade unions to undertake their duties in crisis period. Our situation was also compounded by lack of measures to protect workers against income insecurity. The Government abrogated its responsibility and insisted that employers should determine what they want to pay their workers and workers were then forced to engage in survival activities

We also note a disrespect of social dialogue as the Government took measures without consultations. We are now a country ruled through decrees. After several demands, some dialogue resumed but most of our agreed recommendations were not taken on board. Let me end by reiterating that governments have every obligation to respect fundamental rights of workers, even during a crisis period.

**Worker member, Philippines (Ms CORONACION)** – Like many governments, the Philippine Government has done little to protect workers in the current COVID-19 crisis. Its militarized pandemic response, prioritization of irrelevant and dangerous initiatives like the Anti-Terrorism Act and the Joint Industrial Peace and Concerns Office (JIPCO),

anti-worker issuances, as well as the red-tagging of trade unionists undermines any claim of upholding workers' rights.

In fact, Filipino workers are under immense pressure – COVID-19 and the crises it has engendered and intensified on one hand, and the assault on trade unionism on the other.

For example, the Government's militarized response – preferring military and police solutions from the policy-making to the community level, has led to widespread economic disruption and a spike in human rights abuses. The implementation of lockdowns across the country without adequate aid has done more to cause unemployment and the loss of livelihood than eradicate the threat posed by COVID-19. More than that, more trade union leaders and members were added to the list of those killed. From 43 in 2019, to 56 in 2021.

At the same time, government officials under the National Task Force – End Local Communist Armed Conflict (NTF-ELCAC) have been rabidly tagging workers, progressives, and ordinary citizens as fronts of the country's decades-long communist insurgency.

Furthermore, the Department of Labor and Employment had issued several controversial pronouncements during the pandemic. The anti-worker Labor Advisory 17 and Department Order 213 were only repealed or amended because of organized labour's swift condemnation.

In addition, workers from Coca-Cola have been dismissed for trumped-up charges during the pandemic. The unions meanwhile were intensely red-tagged. The refrain across many industries is consistent, to be a unionist is to be a member of the underground New People's Army.

NTF-ELCAC representatives were also engaged in multiple instances of red-tagging against workers such as in Davao. JIPCO forms meanwhile were being handed out to citizen-driven community pantries that sprung up as a form of collective mutual aid after two years of pandemic.

All of these developments are a clear indication of the deterioration of international labour standards in the country. We call on the ILO, the ITUC and the international community to support Philippine labour as we continue to assert the recognition of labour rights in our country.

**Miembro gubernamental, Colombia (Sra. GAVIRIA RAMOS)** — Colombia no ha sido ajena a la crisis que ha generado la pandemia, desde el inicio de la misma, nuestro Gobierno ha estado atento y diligente frente al gran desafío que enfrenta el país por la emergencia sanitaria y económica desencadenada, ha formulado e implementado diversas medidas encaminadas a la protección del empleo y garantizar el trabajo decente.

Deseamos aprovechar la oportunidad para agradecer a la Oficina la oportuna y rápida asistencia que brindó a nuestro país en la elaboración de las normas que de manera excepcional se expidieron a raíz de dicha pandemia, específicamente lo regulado en la jornada laboral en concordancia con los Convenios núms. 1 y 30.

Para mitigar la crisis, el Gobierno de Colombia adoptó, entre otras medidas: mecanismo de protección al cesante, retiro excepcional de cesantías, programa de auxilio a los trabajadores en suspensión contractual. También se tomaron medidas en política fiscal y monetaria; apoyo financiero a sectores específicos; medidas para proteger la protección social; mantenimiento del empleo en seguridad y salud en el trabajo; medidas de teletrabajo y trabajo en casa; el «programa de créditos con garantía del 90 por ciento de la nación para proteger las nóminas laborales»; el «subsidio del

40 por ciento del salario mínimo legal vigente para empleadores formales que cubre cerca de 3 millones de personas», y el «subsidio para la prima o bonificación que se pagaba en el mes de junio».

Respecto a la inspección del trabajo, se ajustó sus procedimientos para efectuar una rápida acción para atender las inquietudes, solicitudes y quejas presentadas a raíz de la crisis. Es importante señalar igualmente que en la pandemia no se suspendieron las negociaciones colectivas, de hecho, en la actualidad, Colombia está negociando colectivamente con el sector público, con fundamento en los Convenios núms. 151 y 154, dicha negociación se realiza de manera virtual. Los espacios de diálogo social siguieron igualmente en pleno funcionamiento, tal como pasa con la Comisión Especial de Tratamiento de Conflictos ante la OIT.

Si bien en Colombia desde el 2012, existía la Ley del Teletrabajo, se adoptó la Ley de Trabajo en Casa, figura que se aplica para los sectores públicos y privados incluyendo importantes aspectos como el de la desconexión laboral.

Para avanzar en la recuperación y confianza en las instituciones, el Gobierno invertirá en el plan de reactivación económica más de 170 billones de pesos que apuntan al incremento del pleno empleo a través de una estrategia que combina apoyo a los mipymes, aceleración de proyectos de infraestructura, incentivos al proyecto de economía naranja, avances en conectividad y transformación digital.

Por otro lado, en el documento la Comisión indica que con la crisis de la pandemia se detectó que hay una laguna normativa en el ámbito de riesgos biológicos, este mismo vacío también fue visualizado en el Comité Andino de Autoridades de Seguridad Social, por lo cual se solicitó que incluyera como riesgo biológico, coincidiendo con lo interpretado por la Comisión. Vale la pena resaltar que Colombia fue el primer país que adoptó como enfermedad de riesgos laborales a la COVID-19.

Para finalizar creemos que el diálogo social es fundamental para avanzar en la época de crisis y que todos incluidos los actores sociales debemos contribuir a la búsqueda de soluciones en dichas épocas, por ello el papel de la OIT debe ser más activo en la búsqueda, ATRAV y ACTEM podrían ser más dinámicos en los diálogos regionales, ayudando a generar sinergias y la Oficina a proveer mecanismos para poder avanzar junto con los Estados en acciones concretas que contribuyan a la mejora en la aplicación efectiva de los convenios.

Nuestro Gobierno reitera el compromiso para garantizar la protección de los derechos laborales, el apoyo al tejido empresarial con el compromiso para implementar políticas que busquen la reactivación del empleo.

**Miembro empleadora, Chile (Sra. MUNOZ)** — Yo soy de la Central Unitaria de Trabajadores de la CUT, de Chile, quiero comentarles un poco la situación y la respuesta que ha tenido el Gobierno frente a la COVID-19 que nos encuentra en medio de un estallido social donde se pone en cuestionamiento lo que es el modelo neoliberal que ha precarizado la vida de las y los trabajadores.

La inexistencia del diálogo social, la presión constante y las políticas contra las y los trabajadores han sido la tónica en que el Gobierno ha administrado la pandemia de COVID-19. A pesar de la evidencia internacional que mostraba la rápida expansión del virus en la población, el Gobierno de Chile se resistió a tomar medidas como cuarentenas nacionales, cordones sanitarios, detención y aislamiento eficaz de las personas positivas solo por presión de las organizaciones sociales se lograron accionar casos de cuarentena comunales y cierres de colegios.

Las medidas que emanaron desde el Ministerio de Salud hacia los servicios de salud fueron tardías, desiguales y confusas, algunas veces contradictorias y en esas difíciles circunstancias la red de salud pública del país y sus trabajadores han asegurado el

cuidado de la población. Para enfrentar la pandemia, el Gobierno de Chile tomó el riesgo de usar estrategias sanitarias inéditas en el mundo y sin experiencias comparadas que las llamó cuarentenas dinámicas para proteger la economía, estrategia que provocó la profundización de la crisis sanitaria tal como lo demuestra las cifras de contagios y muertes. Sebastián Piñera, en representación de la derecha económica, implementó una política coordinada para sacar provecho de la crisis sanitaria y profundizar su agenda neoliberal. La prioridad fue convertir la crisis sanitaria en una etapa de proceso de acumulación de riquezas en la cual la economía y los millones de los súper ricos están por encima y sin contra peso alguno del derecho constitucional por la vida y la salud de las personas. Solo de esta manera se puede explicar que la crisis médica sea utilizada por las ISAPRES y las empresas de salud privada para aumentar el costo de sus planes y subir los precios de las prestaciones. También, para que las AFP, Administradoras de fondo de pensiones por vías de subterfugios de mercado hacen desaparecer miles de millones de dólares de los ahorros de las y los trabajadores chilenos y de paso sean los mismos trabajadores quienes con sus ahorros del seguro de cesantía en virtud de una mentada ley de protección al empleo bajando a coste cero, el costo del trabajo para el empresario, ya que los únicos costos en este caso que mantiene son los costos de cotizaciones previsionales de salud que las pueden pagar en cómodas cuotas asumiendo los trabajadores y las trabajadoras los costos de esta crisis. Lo mismo con la Ley del Teletrabajo que ha venido a precarizar aún más las relaciones laborales con jornadas de más de doce horas de trabajo y traspasando todos los costos de las herramientas de trabajo y de operaciones a las y los trabajadores.

Actualmente se ha elevado el nivel de cesantía en Chile, una gran cantidad de trabajadoras y trabajadores estuvo con sus contratos laborales suspendidos y un gran número de trabajadores independientes por cuenta propia, trabajadores de plataforma, etc., y que no han podido salir de su casa a trabajar y que tampoco han tenido una



respuesta efectiva de protección social del Estado que les permita cubrir sus necesidades básicas como es la alimentación o la vivienda ha tenido que de alguna forma resurgir lo que son las ollas comunes y los comedores populares de una forma de poder responder a esta crisis social económica estructural que estamos viviendo en Chile donde ha sido el pueblo y las organizaciones sociales y sindicales que han coordinado este tipo de acciones.

Chile despertó, está viviendo un tiempo histórico en la construcción de una nueva constitución, pero es insostenible que se desarrolle aún con violación a los derechos humanos y con presos y presas políticas en las cárceles.

**Miembro trabajador, Brasil (Sr. De LISBOA AMÂNCIO DO VALE)** — Señora Presidenta, en el Brasil la pandemia causada por la COVID-19 resultó en más violaciones a las normas de esta organización. Las violaciones a los Convenios núms. 98 y 154, se han intensificado en los últimos dos años y las conclusiones aprobadas por la Comisión de Aplicación de Normas en 2018 y 2019 han sido absolutamente incumplidas. En septiembre de 2020, la Empresa Brasileña de Correos contestó judicialmente la huelga de los trabajadores en los tribunales, y como resultado el Tribunal Superior de Trabajo retiró 50 de las 79 cláusulas del convenio colectivo, la mayoría de ellas consagradas por años de libre negociación con la grave violación del Convenio núm. 98. Al mismo tiempo denunciarnos la persecución a dirigentes sindicales como se hizo con el presidente de la Federación Unitaria de Petroleros punido por el simple ejercicio de la función para la cual fue elegido.

Se publicaron las medidas provisionales, 927, 936 y 1045 para permitir sin consulta alguna a los sindicatos qué acuerdos de convenios colectivos sean derogados a la liberalidad de los empleadores y que las reducciones salariales, la jornada laboral y la

suspensión de los contratos de trabajo se realicen por acuerdos individuales, no hay diálogo social en el Brasil.

La vulnerabilidad de las comunidades indígenas y quilombolas aumentó con la pandemia. El Gobierno no ha cumplido las órdenes judiciales de tests, vacunación y otras medidas de protección. Se ignoró el derecho de consultas.

Señora Presidenta, todo el planeta lo sabe, en el Brasil la tragedia provocada por la pandemia se vio agravada por la incompetencia e irresponsabilidad de un Gobierno que cambió cuatro ministros de salud en un año y cuyo presidente, en lugar de combatir el virus y proteger a la población parece querer luchar contra la gente y proteger el virus.

En marzo de 2020 con 1 000 muertes, el Presidente clasificó la COVID-19 como una *gripezinha*. En abril declaró que no tenía nada por hacer. En junio con 35 000 muertes el Presidente declaró que dejaría de publicar los números de la pandemia. Mientras niega los riesgos de la pandemia y lucha contra las directrices de la OMS, anima a su gente a salir a las calles, sin protección y ataca a los países que ofrecen ayudas. En enero de 2021, con 198 000 muertos, faltaba oxígeno en el estado de Amazonas, el Presidente afirmó «no hay oxígeno, no puedo hacer nada». Fue necesario que las centrales sindicales mediasen con el Gobierno venezolano el suministro de oxígeno para disminuir la tragedia.

Señora Presidenta, más de la mitad de la población brasileña vive en condiciones de inseguridad alimentaria, y el 1.º de junio el país superó los 465 000 muertos por la pandemia.

**Worker member, United Kingdom (Mr RUSSELL)** – We welcome the role labour inspectors have played during the pandemic, and our thanks and respect goes out to those that have faced an increased risk of infection in carrying out essential duties. As

they do for all such workers. We note, however, the experts concerns that moratoria and changes to inspections practices have reduced capacity at a crucial time.

Targeting reduced inspection resources risks leaving significant gaps in workplace protection, and we urge all governments to consult with the real workplace, experts, namely the unions. To ensure that emergency provision is fit for purpose.

In the United Kingdom, we already had concerns over the reassuring of inspection, including the recruitment and retention of skilled inspectors. Recent TUC research based on information gathered through parliamentary questions, suggests that if the UK is to meet the International Labour Organization's (ILO's) benchmark on inspector numbers, it needs to recruit and train urgently a further 1,792 staff. This is more than is currently employed by the different inspection agencies.

The upshot of this is that each year, only one in 171 UK workplaces is subject to inspection by a labour market enforcement body.

Trade unions and wider civil society are always willing to play their role in adding value to government inspection. *The Independent* newspaper reported last October that "a pathology company that processes COVID-19 test samples for the NHS put its staff at risk of infection through multiple breaches of health and safety rules. Its breaches included misleading hygiene advice for couriers, for example, claiming that lab sample boxes only needed to be cleaned once a week, inadequate training for PPE use, and insufficient space for social distancing. There was no guidance provided on how to deal with spilled COVID samples.

The Health and Safety Executive carried out a thorough investigation on the basis of information provided by the Independent Workers' Union of Great Britain.

In Leicester, journalists and NGOs uncovered systematic breaches of COVID regulations in the city's textile industry, with cramped factory spaces running at full capacity throughout the UK's initial lockdown period, with minimum wage and other violations also rife. COVID cases in Leicester affected working-age people more than in the rest of the country and the city has consistently had to face additional COVID-prevention measures.

In Leicester, there is now heightened enforcement activity, as well as a laudable partnership between unions, local government, businesses and enforcement agencies aimed at thoroughly reforming the industry's working practices, but these serious problems might not have come to light had it not been for the intervention of unions and third parties. Civil society is not a replacement for a properly funded labour inspection system.

Many countries, for example the G7 members, have supported calls for economies to "build back better" after COVID. Properly resourcing all our labour inspection systems would correct one glaring flaw in what we are aiming to build back better from, as well as allowing greater influence over other ways in which we can ensure our economies are built on decent work.

**Présidente** – Il est important de faire savoir à cette commission que le gouvernement du Brésil a demandé un droit de réponse en rapport avec l'intervention du représentant des travailleurs du Brésil. J'accorderai ce droit à la fin de cette séance, lorsque la liste des orateurs de cet après-midi sera épuisée. La réponse doit être brève, pas plus de deux minutes, et en langage parlementaire. Et selon l'habitude du BIT, il n'y aura pas de réponse à la réponse. Je vous remercie. Je passe immédiatement la parole à M. Singh Kumar, observateur représentant la CSI. Monsieur, vous avez la parole.

**Observer, International Trade Union Confederation (ITUC) (Mr SINGH)** – Madam Chair, good evening everybody, myself is Shri Kumar Singh, representing INTUC from India, the largest union in our nation. I speak on behalf of the Indian workers. As of now, more than 20 million Indian people in India have been infected with COVID-19. More than 300,000 precious lives have been lost as a result of the Indian Government's negligent and irresponsible policy in responding to the pandemic. There is an alarming shortage of vaccine doses, oxygen, hospital beds, even cremation facilities everywhere.

Despite the disastrous outbreak of the COVID-19 pandemic, the Government is passing laws no one wants, and pursuing full-scale privatization that have been protested strongly by the trade unions.

Last year, the Government in six states in Uttar Pradesh, Himachal Pradesh, Gujarat, Madhya Pradesh, Haryana and Uttarakhand government have suspended labour laws through executive orders while the legislative assemblies were not in session.

All the major labour laws governing trade unions, industrial relations, industrial disputes, labour inspection and contract workers have been suspended, and industrial establishments are exempted from the labour laws for a period of three years, or indefinitely in major sectors in some states.

Trade unions were fighting hard to stop the extension of working hours from 8 to 12 hours. It was pressed through by six state governments to become the norm of work.

In May, new rules were adopted to limit the scope of collective bargaining and to devise a new bargaining procedure without any consultation.

The Government is also repealing the latest Inter State Migrant Workmen Act which will result in dire consequences for the protection of migrant workers who are most vulnerable under the lockdown, and many were unable to return to their home province.

Under the pandemic, millions of workers and the trade unions have lost their fundamental rights we have won in decades of trade union struggle.

The Federal Government of India is responsible for ensuring that their obligations under international labour standards are observed by all state governments.

Under the pandemic, workers have been killed in lethal industrial accidents in the mines and the petrochemical plants. Up to now, the Government of India is still refusing to accept a direct contacts mission of the ILO to implement the conclusion of this committee made in 2019. Dialogue with the Government has been disrupted since the Government ceased to convene the national labour conference in 2014.

I urge the Government of India to respect its obligations as a member of the ILO and repeal all the labour legislation that contravenes with the international labour standards.

**Observer, International Transport Federation (ITF) (Mr SUBASINGHE)** – At the peak of the COVID-19 pandemic, there were possibly 400,000 seafarers trapped, working aboard ships due to the so-called crew change crisis caused by pandemic-related government border and travel restrictions, and an equal number of unemployed seafarers waiting to join them who were ashore. That made 800,000 seafarers affected by the crisis. With new COVID-19 variants continuing to emerge and the inequitable distribution of vaccinations around the world, this crisis is far from over.

Seafarers who provide a key frontline service to society with more than 90 per cent of world trade moved by sea, are enjoying some of the toughest conditions faced by workers in any occupation during the pandemic. It is simply not right. As the experts have recognized in their general observation on the application of the Maritime Labour Convention during the pandemic, failure by governments to adhere to international protocols developed to alleviate this crisis, among other things, has resulted in

widespread non-compliance with the MLC. In addition to the impact this has on the lives of seafarers, such pervasive violations of the MLC not only affect the credibility of the instrument itself, but the entire system of international labour standards. A number of States, of course, has stepped up to the plate and delivered the seafarers but much more needs to be done. For example, so far only 55 States, at last count, have declared seafarers as key workers.

On the question of force majeure, the experts make it absolutely clear that it may no longer be involved from the moment that options are available to comply with the Convention and such is the case now. Among the many key takeaways on experts' recommendations is the need for further cooperation among ratifying Member States to ensure the effective implementation and enforcement of the Convention during the pandemic. Also a general principle of international law. We are also heartened by the experts' recognition that it is implicit in the very inaction of certain Member States of ensuring crew changes that give seafarers no option but to stay on board which in turn creates conditions that amount to forced labour, a non-[verifiable?] right under international law.

We have had supportive resolutions on this issue from the UN General Assembly, the ILO Governing Body and ILO Special Tripartite Committee of the MLC. We now have a multi-UN agency COVID-19 maritime human rights due diligence checklist which aims to help companies play their essential role in helping in this crisis. It is now imperative that governments implement these resolutions and the experts' recommendations. There is simply no time to waste.

In conclusion, I would like to thank the ILO Director-General, our wonderful colleagues from the ILO Standards and Sectoral Activities Departments for their invaluable work in support of the world's seafarers during the past 15 months.

**Government member, United Kingdom of Great Britain and Northern Ireland**

**(Ms HATIA)** – Apologies for not being able to have my video on. I am having some Wifi issues this morning.

In response to the COVID-19 pandemic last year, the UK Government adopted a coordinated strategy to address all the accompanying challenges, including social protection, employment policy, occupational safety and health and other areas in which ILO labour standards apply. The Government has centred on the principle that nobody will be left behind as a result of this pandemic and we have provided an unprecedented level of support to individuals and businesses.

The flexibilities in the UK social protection system, which supports those in and out of work, allowing us to more easily support the low-earning self-employed, those whose earnings fluctuate, allow the UK to act quickly to meet the needs of people hit by the pandemic. Despite a huge surge in claims, people moving in and out of work and changes in hours people work, the system stood up to the challenges. The UK Government put in place an unprecedented economic package to mitigate the impact of the pandemic. Working in close cooperation with our social partners, the package included a job retention scheme and self-employment schemes which provide grants to support work in businesses. The UK's Health and Safety Executive provided support to all sectors with information, advice and guidance relevant to employers and workers in managing the risks associated with restarting or running their businesses during the outbreak and being COVID secure. Additional financial and human resources were secured to underpin the Health and Safety Executive's approach to COVID-19.

The UK performs consistently well compared to other large economies on key health and safety outcomes, such as workplace injuries, work-related illness and health and safety practices in the workplace. The effectiveness of HSE demonstrates that it's



number of inspectors is sufficient to secure the effective discharge of its duties. The UK Government's priority is to deliver a recovery that ensure the UK is more prosperous, healthier and stronger than before the pandemic. Significant work is now under way to promote job creation and to get people back to work. One of the central aims of the UK's G7 presidency is to develop a shared agenda for international action and national economy recovery that builds back better, more inclusively and greener. A major concern of the UK is the risk that the pandemic reverses years of progress towards the ending of forced labour, human trafficking, child labour and modern slavery globally. We welcome the fact that the G7 trade minister recently agreed the need to continue to work together to protect individuals from forced labour, including mitigating the risks of forced labour in global supply chains, an important labour standards issue.

**Observer, Public Services International (PSI) (Mr CAMILO RUBIANO)** – We would like to underline in this part of the discussion that the pandemic highlighted and exacerbated the impact of many years of underfunding and privatization of public health.

Among the consequences, are underpaid, understaffed and overworked health and care workers. Those who we called heroes and received many applauses during this year are also rewarded with “precarization” and unsafe work. Indeed, workplace safety and occupational health are still major issues for health and care workers. Lack of personal protective equipment, long working hours and shortage of staff means that one health worker dies every 30 minutes during the pandemic, while others suffer in their mental health. The overwhelming 23 per cent prevalence of depression and 39 per cent insomnia in health workers during this period is just a tip of the iceberg of mental health issues arising as the result of the working conditions during the pandemic.

There are also severe constraints on social dialogue. Workers raising issues and making complaints were sometimes met with outright repression. For instance, health workers in Hong Kong withdrew their services at the beginning of the pandemic, and faced with administrative sanctions. A similar situation took place in Malawi. In Zimbabwe, the Government dumped ongoing bargaining to pass a unilateral regulation of wages and working conditions. The nurses' union declared a strike, 15 members were arrested and later released after massive outcry, but they are still facing trial.

There was also mass sacking of doctors and other health workers in Kenya. In Liberia, it seems that the Government did not learn any lessons from the Ebola crisis, and instead threatened and victimized health workers again, and to today, the Secretary-General of the nurse union is in exile. In total, PSI have recorded health and care worker strikes in at least 84 countries during this period. All these involved, in one way or another, the evaluation of one form of international labour standard.

So perhaps, next year's General Survey will shed some more light on the situation experiences of health and care workers during the pandemic. Yet, we would like to call for a more in-depth analysis of the impact of COVID-19 on the international labour standards in the next Committee of Expert report, as long as the pandemic and the recovery from it continues to affect the world of work.

**Membre employeuse, Belgique (M<sup>me</sup> HELLEBUYCK)** – Comme rappelé par notre vice-présidente Sonia Regenbogen, la Déclaration du centenaire de l'OIT affirme que les normes internationales du travail doivent répondre aux modèles changeants du monde du travail, protéger les travailleurs, prendre en compte les besoins des entreprises durables, tout en faisant l'objet d'un contrôle efficace. Les besoins des entreprises sont particulièrement pertinents dans le contexte actuel de reprise économique progressive,

où les gouvernements doivent mettre en œuvre des stratégies de relance COVID-19 dans lesquelles les entreprises durables joueront un rôle clé.

Nos travaux actuels se déroulent dans le contexte de la pandémie en cours. Afin de faciliter la sortie de crise, il restera nécessaire d'exploiter pleinement la flexibilité des normes de l'OIT en faveur d'une mise en œuvre favorable à la croissance et à l'emploi.

Au sein de l'Union européenne et en particulier en Belgique, les gouvernements doivent encourager et soutenir un dialogue social efficace et constructif. Dès le début de la pandémie, les partenaires sociaux belges ont pris leurs responsabilités pour assurer la santé et la sécurité des travailleurs sur le lieu de travail. Le dialogue social a également contribué aux décisions gouvernementales de soutien temporaire aux entreprises durement frappées, ainsi qu'aux travailleurs mis en chômage forcé. Fort heureusement, la plupart des licenciements ont ainsi pu être évités.

À présent, de la part des gouvernements, il faut éviter les avalanches d'initiatives sur lesquelles les partenaires sociaux devraient se prononcer à bref délai. Le dialogue social demande un minimum de temps et de nombreuses capacités pour étudier, consulter, négocier et développer des solutions équilibrées. Les défis sont nombreux. La sortie de crise est progressive et la reprise est encore fragile.

Les employeurs belges veulent jouer pleinement leur rôle dans la relance économique de leur pays, ainsi que dans les réformes structurelles nécessaires sur le marché du travail. Nous attendons de tous les partenaires qu'ils s'engagent dans les trois piliers du développement durable et que la balance soit équilibrée entre les dimensions économique, sociale et environnementale. L'OIT reste la référence pour les normes sociales à respecter par tous. Le travail accompli par les experts est indispensable pour que ces normes soient réellement appliquées partout dans le monde. La commission d'experts conserve tout notre soutien.

**Présidente** – Au cours de la présente séance, le gouvernement du Brésil a demandé un droit de réponse en rapport avec l'intervention du membre travailleur. Je donne à présent la parole à M. Ravagnani Duarte Silva afin qu'il exerce son droit de réponse. La réponse doit être brève, pas plus de deux minutes et en langage parlementaire. Monsieur, vous avez la parole.

**Government member, Brazil (Mr RAVAGNANI DUARTE SILVA)** – Mr Antonio de Lisboa has referred to some issues that were included in the Committee of Experts report concerning the application of Conventions in Brazil. First of all, I would like to remind that no individual case concerning Brazil has been included on the final list of cases to be considered by this Committee. For this reason, constituents should not engage in discussing such cases, I will restrain myself to recalling that the Committee discussed two times a case on Convention No. 98, and no violation was found by the Government of Brazil. Furthermore, Brazil is up to date with its reporting duties and implementation of all the conclusions adopted by this Committee on our case regarding Convention No. 98.

The national labour council is a tripartite body whose agenda is open to representatives of workers and employers. Since the adoption of the Committee's conclusions on our case concerning Convention No. 98, workers have never raised this subject there, or within any other body nationally.

Social dialogue in Brazil is strong, and has been fully respected and duly taken into consideration by the Brazilian Government. The national labour council and the tripartite permanent parity commission have been convened for a record number of times since 2019.

On the provisional measures adopted in the context of the pandemic, I would like to say that derogations of labour laws provided for in those instruments are exceptional

and time-bound. They were adopted under exceptional circumstances in an emergency situation, in order to provide a timely and robust response to the economic and social crisis that suddenly struck us all. Those measures are aimed at preserving jobs and income, and are similar to the ones adopted by many other countries in the world. They are in agreement with all provisions of the relevant international labour standards ratified by Brazil. Ten million workers were supported by the income support programme; another 60 million informal workers were supported by the emergency cash transfer programme. More than 80 per cent of the workers' income has been preserved by the government programmes and the income retention is higher for the most vulnerable people.

Concerning the pandemic, I would like to state that 46 million people have already taken their first dose of COVID vaccine, and 22 million people have taken their second dose of the vaccine. This makes us the fourth country on the list of countries which have mostly vaccinated at this stage.

**Présidente** – Le gouvernement de la Chine, Région administrative spéciale de Hong-kong, a demandé un droit de réponse en rapport avec l'intervention du représentant de l'Internationale des services publics. J'accorderai ce droit demain, la réponse devra être brève, pas plus de deux minutes et en langage parlementaire. Selon la pratique du BIT, il n'y aura pas de réponse à la réponse.

Il s'agissait là du dernier orateur de la liste; nous avons donc terminé notre discussion du deuxième segment de la discussion générale et, comme c'est la pratique, la commission conclura la discussion générale le samedi 5 juin avec les réponses de la présidente de la commission d'experts et de la Représentante du Secrétaire général ainsi que les remarques finales des vice-présidents.

Nous arrivons à la fin de notre ordre du jour. Notre commission poursuivra ses travaux demain à partir de 13 heures, heure de Genève, avec la discussion sur l'Étude d'ensemble de la commission d'experts de 2020 intitulée *Promouvoir l'emploi et le travail décent dans un monde en mutation* et son addendum de 2021. Je voudrais à cet effet rappeler aux membres de la commission que cette discussion sera structurée autour de trois questions génériques, étant entendu que cela n'aura pas pour effet de limiter les interventions des orateurs à ces seules questions abordées dans l'Étude d'ensemble. Les questions génériques sont les suivantes: les progrès accomplis et problèmes rencontrés dans la mise en œuvre des instruments examinés; les mesures à prendre pour promouvoir les conventions et leur ratification à la lumière des bonnes pratiques et des obstacles recensés; et les pistes pour l'avenir en matière d'action normative et d'assistance technique.

J'invite les membres souhaitant participer à ces discussions, s'ils ne l'ont pas encore fait, à s'inscrire sur la liste des orateurs en envoyant un courriel à l'adresse de la commission [CAN2021@ilo.org](mailto:CAN2021@ilo.org). Avant de clore ces travaux, je rappelle aux gouvernements inscrits à la séance informelle d'information organisée par les vice-présidents qu'elle aura lieu à 16 h 15. Veuillez vous connecter en utilisant le lien Zoom de la réunion que vous avez reçu à cet effet. Je vous souhaite à toutes et à tous une bonne continuation et à demain.

*The sitting closed at 4.12 p.m.*

*La séance est levée à 16 h 12.*

*Se levantó la sesión a las 16.12 horas.*