International Labour Conference

Provisional Record 9

103rd Session, Geneva, May–June 2014

Note – Committee members may submit corrections to their own statements appearing in this report to the Committee secretariat (hahn@ilo.org or pinoargote@ilo.org) by 9 June 2014, at 20.00 hrs.

Fourth item on the agenda: Supplementing the Forced Labour Convention, 1930 (No. 29), to address implementation gaps to advance prevention, protection and compensation measures, to effectively achieve the elimination of forced labour

Report of the Committee on Forced Labour

1. The Committee on Forced Labour met for its first sitting on 28 May 2014. It was originally composed of 176 members (92 Government members, 30 Employer members and 54 Worker members). To achieve equality of voting strength, each Government member entitled to vote was allotted 135 votes, each Employer member 414 votes and each Worker member 230 votes. The composition of the Committee was modified nine times during the session and the number of votes attributed to each member was adjusted accordingly. [1]

[1] The modifications were as follows:

(a) 30 May: 163 members (112 Government members with 247 votes each, 13 Employer members with 2,128 votes each and 38 Worker members with 728 votes each);

(b) 31 May (morning): 159 members (113 Government members with 204 votes each, 12 Employer members with 1,921 votes each and 34 Worker members with 678 votes each);

(c) 31 May (afternoon): 161 members (115 Government members with 204 votes each, 12 Employer members with 1,955 votes each and 34 Worker members with 690 votes each);

(d) 2 June: 157 members (115 Government members with 341 votes each, 11 Employer members with 3,565 votes each and 31 Worker members with 1,265 votes each);

(e) 3 June: 154 members (115 Government members with 18 votes each, 9 Employer members with 230 votes each and 30 Worker members with 69 votes each);

(f) 4 June: 155 members (116 Government members with 45 votes each, 9 Employer members with 580 votes each and 30 Worker members with 174 votes each);

(g) 5 June (morning): 153 members (116 Government members with 63 votes each, 9 Employer members with 812 votes each and 28 Worker members with 261 votes each);

(h) 5 June (evening): 154 members (117 Government members with 28 votes each, 9 Employer members with 364 votes each and 28 Worker members with 117 votes each); and

2. The Committee elected its Officers as follows:

Chairperson:	Mr D. Garner (Government member, Australia) at its first sitting
Vice-Chairpersons:	Mr E. Potter (Employer member, United States) and Mr Y. Veyrier (Worker member, France) at its first sitting
Reporter:	Mr B.-M. Shinguadja (Government member, Namibia) at its 15th sitting

3. At its sixth sitting, the Committee appointed a Drafting Committee composed of the following members:

Government members:	Mr G.G. Acien (South Sudan), assisted by Ms C. Hyndman (New Zealand) Ms S. Martinez Cantón (Spain) Ms C. Zuzek (Argentina)
Employer members:	Mr P. Woolford (Canada), assisted by Mr J.G. Cordero (Argentina) Ms M. Claus (Belgium)
Worker members:	Mr L. Demaret (Belgium), assisted by Mr C. Fanning (United States)

4. The Committee had before it Reports IV(1), IV(2A) and IV(2B) entitled *Strengthening action to end forced labour*, prepared by the International Labour Office for a single standard-setting discussion of the fourth item on the agenda of the Conference.

5. The Committee held 18 sittings.

Introduction

6. The representative of the Secretary-General, Mr Gilbert Houngbo, Deputy Director-General for Field Operations and Partnerships, welcomed the members of the Committee and invited them to nominate their Chairperson.

7. Upon his election, the Chairperson affirmed his commitment to the work of the Committee and assured its members that he would do his best to facilitate a productive meeting. The task ahead of them was an important one and there were high expectations. The ILO estimated that 21 million people were victims of forced labour across the world. Alleviating the hardship, poverty and deprivation confronted daily by these people extended the interest and importance of the Committee's work to all corners of the globe.

General discussion

8. The representative of the Secretary-General recalled that the Tripartite Meeting of Experts on Forced Labour and Trafficking for Labour Exploitation held in February 2013 (the 2013

(i) 6 June: 153 members (117 Government members with 56 votes each, 8 Employer members with 819 votes each and 28 Worker members with 234 votes each.

Tripartite Meeting of Experts) had concluded that there was an added value in the adoption of supplementary measures to effectively eradicate forced labour in all its forms through standard setting to advance prevention, protection and compensation measures. New standards would complement the Forced Labour Convention, 1930 (No. 29), which had stood the test of time, in order to reinforce efforts to tackle contemporary forms of forced labour, including trafficking in human beings as defined by the United Nations (UN) Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children, supplementing the UN Convention against Transnational Organized Crime (the Trafficking in Persons Protocol). The discussion of supplementary standards also provided an opportunity to address the transitional provisions in Convention No. 29, which allowed for the limited use of forced labour for public purposes during a transitional period. These provisions were no longer applicable.

9. Although the majority of responses to the questionnaire that was contained in Report IV(1) chose the option of a Protocol and a Recommendation, there had been a significant division in the replies received regarding the choice of instrument. Based on the replies received, the Office had prepared texts of both a Protocol and a Recommendation. The proposed Protocol was short and concise, structured in such a way that it would, for the most part, include obligations to adopt policies and programmes without going into details. While the proposed Protocol reiterates the principles of prevention, protection and compensation in order to give effect to the elimination of forced labour, the proposed Recommendation provides further guidance as to how those principles could be implemented.

10. The Employer Vice-Chairperson highlighted that Convention No. 29 was the first of the fundamental standards to be adopted by the ILO. The Employers' group supported the complete abolition of forced labour in all its forms, including human trafficking, as soon as possible. Forced labour was a severe human rights violation: victims lost their freedom and dignity and were bound to dangerous and unacceptable working conditions. The ILO's recent report on the subject, *Profits and poverty: The economics of forced labour*, showed the link between the victims of forced labour and poverty, highlighting the need for not only standards but economic development. He warned that a tightly scheduled single discussion was a challenge and that if the work of the Committee was not focused on reaching a broad consensus, there would be no chance to discuss the issue again the following year. Despite the demand of the Universal Declaration of Human Rights of 1948 that "no one shall be held in slavery or servitude", an estimated 21 million men, women and children were in forced labour. When the Convention was adopted in 1930, forced labour was largely viewed as a colonial phenomenon, while its contemporary forms were substantially different. Most forced labour today occurred in the private sector. The most recent ILO estimates found the majority of forced labour, 56 per cent, occurred in the victims' place of origin or residence, while the remainder was the result of internal or external migration.

11. The Employer Vice-Chairperson mentioned that the 2013 Tripartite Meeting of Experts had found that there were substantial implementation gaps concerning prevention, protection and remedy. The proposed texts for a Protocol and a Recommendation provided a sound basis for the Committee's discussion. The Committee benefited from the work of the 2012 Committee on Fundamental Principles and Rights at Work, the Tripartite Meeting of Experts, the background reports and constituents' responses to these, and many discussions and substantial preparatory work. In order for the Employers' group to support a Protocol, it was primordial to ensure that it would not become overloaded with details, while the Recommendation should include what is essential and achievable. Four key points were important to the Employers' group. First, regarding the Protocol, there was a need to confirm the definition of forced labour as set out in Convention No. 29 while at the same time affirming that it includes situations that are conducive to forced labour, and

particularly work-related human trafficking. The Conference was the supreme body of the ILO and only it could definitely confirm or determine the scope of ILO instruments. Second, the recognition of the end of the transitional period should be in the main text of the Protocol itself rather than the preamble. Third, the Recommendation should follow the structure of the Protocol, provide practical guidance for implementation and reflect national differences. Fourth, ambiguous or misleading wording should be avoided. Both instruments would need to give clear guidance without being prescriptive or proposing a one-size-fits-all approach.

12. The Worker Vice-Chairperson stressed that freedom from forced labour was one of the fundamental principles and rights at work, the human rights significance of which had been recently reaffirmed during the 2012 recurrent item discussion. The abolition of forced labour reflected the aspirations of the ILO's Constitution to bring about work in freedom. Convention No. 29, the most ratified of all ILO Conventions today, was a marker of progress. Convention No. 29, together with the subsequent Abolition of Forced Labour Convention, 1957 (No. 105), and their supervision and implementation have undeniably helped to reduce forced labour. However, new forms of forced labour had come to the fore, which were linked to migration, economic pressures and the global crisis. The vast majority of the victims of forced labour, 90 per cent, were exploited by individuals or firms, and 44 per cent were migrants. Forced labour represented the worst type of inequality where the victims were excluded from any right, starting with the free choice of work. They did not enjoy freedom of association and the right to collective bargaining, and did not benefit from a social protection floor. The victims of forced labour lived in fear, with no money or housing; often they could not speak the language of the country they were in, had no work permit or identity documents, and were in debt. Policies for prevention, protection and compensation were necessary.

13. The Workers' group supported both a Protocol and Recommendation. The aim is not adding bureaucratic or administrative burden for the member States in adopting both instruments. Rather than establishing a new definition of forced labour, a Protocol would call on Members to step up the implementation of Convention No. 29 through prevention and protection measures and to root out human trafficking for forced labour purposes. A Recommendation should guide countries by specifying good and most effective practices to combat forced labour with regard to the reinforcement of labour inspection, in coordination with judiciary, police, immigration and social services. Prevention should include education and public awareness, and should target temporary work agencies, businesses and their supply chains, and employers of domestic workers. Protection should include effective access to justice, namely visas during the trial, social service care and support, and job opportunities. Penalties and sanctions were also necessary.

14. The Worker Vice-Chairperson insisted that supplementing a symbolic instrument such as Convention No. 29 and removing its outdated transitional provisions would demonstrate the ILO's capacity to be modern and relevant. Indeed, although the debates in 1930 focused on compulsory labour in colonies, the Conference Committee had already highlighted the need for the Convention to serve as a tool for the elimination of all forms of forced labour. A historic opportunity presented itself to those Members who in 1930 did not support the Convention or were not able to do so because they had not yet joined the Organization or had not yet gained their independence at the time. The existence of forced labour negated the very raison d'être of the ILO. Its Constitution affirmed that labour was not a commodity, yet forced labour reduced men and women to exactly that. There were nearly 21 million people in forced labour but they were not Gogol's "dead souls". By adopting a Protocol and Recommendation, Governments, Employers and Workers would take up the challenge to work together to free them from oppression.

15. The Government member of Greece, speaking on behalf of the Government members of Member States of the European Union (EU) [2] (hereinafter referred to as EU Member States), and indicating that the Government members of Albania, Armenia, Iceland, the former Yugoslav Republic of Macedonia, the Republic of Moldova, Montenegro, Norway, Serbia and Ukraine had aligned themselves, welcomed the intent to address implementation gaps and ensure coherence in international law in order to effectively eradicate forced labour in all its forms. The provisions of the proposed instruments echoed the principles of the EU's legislation and policies, which themselves promoted the ratification and effective implementation of the core labour standards. Many of the EU's international agreements also referred to them. Key principles and approaches should be promoted in order to focus the discussion while striving to ensure wide acceptance. These included gender- and child-sensitive approaches, focus on preventive measures, protection of victims from intimidation and re-victimization, and appropriate support and assistance to victims.

16. The Government member of Costa Rica, speaking on behalf of the Government members of the Group of Latin American and Caribbean Countries (GRULAC) (hereinafter referred to as GRULAC), expressed support for the conclusion of the 2013 Tripartite Meeting of Experts to supplement Convention No. 29. This also presented an opportunity to enhance legal certainty with regard to the Convention's transitional provisions. Having thoroughly analysed the proposed Protocol and the proposed Recommendation, GRULAC looked forward to presenting its views throughout the Committee's work. She expressed the hope that the discussions would be pursued from a human rights and victim-oriented perspective, taking into account the important role played by labour inspectorates. The eradication of forced labour also required international cooperation between States and relevant international organizations in order to adopt joint solutions, while taking into consideration the obligations of individual States.

17. The Government member of Belgium recalled that, in the context of increased mobility in the world of work, the fight against forced labour was closely linked to the fight against unfair competition and required close collaboration between States. His Government supported the adoption of a Protocol and a Recommendation in order to strengthen Convention No. 29. A Protocol would reaffirm the need for States to respect principles of prevention, protection and compensation, and would need to be drafted in a clear and concise manner. A Recommendation should identify measures States should take in order to ensure the effective implementation of the principles enunciated in the Protocol, giving attention to vulnerable groups such as children and migrant workers.

18. The Government member of the Bolivarian Republic of Venezuela welcomed the discussion on measures to address implementation gaps with regard to prevention, protection of victims and access to compensation in order to effectively eliminate forced labour. She emphasized the importance of cooperation between relevant stakeholders, including employers' and workers' representatives in order to prevent forced labour.

19. The Government member of France fully supported the statement made on behalf of EU Member States and recalled that forced labour, as a human rights violation, should be combated in all its forms. Despite the high ratification rate of Convention No. 29, it was necessary to adopt standards to address new forms of forced labour, especially in the

[2] Unless otherwise specified, all statements made by Government members on behalf of regional groups or members of intergovernmental organizations are reported as having been made on behalf of all Governments members of the group or organization in question who are Members of the ILO and are attending the Conference.

context of globalization. Her Government supported the adoption of a concise Protocol supplemented by a Recommendation.

20. The Government member of the United States welcomed the opportunity to consider ways to strengthen Convention No. 29 and advance efforts to combat forced labour by addressing implementation gaps related to prevention, protection and compensation. The Convention was a relevant and vital tool in the fight against forced labour. Her Government supported the adoption of a concise Protocol and a more detailed Recommendation that would provide guidance on measures of prevention, protection and compensation to supplement both the Convention and the Protocol.

21. The Government member of Germany supported the statement made on behalf of EU Member States and stated that Convention No. 29 was in need of being supplemented to adjust it to reality. Implementation gaps could only be addressed through the adoption of a Protocol supplemented by a Recommendation spelling out action to improve prevention, protection and compensation. It was therefore hoped that the Committee would reach a consensus for the adoption of both a Protocol and a Recommendation.

22. The Government member of Canada expressed support for the development of new international labour standards focusing first and foremost on addressing the implementation gaps identified by the 2013 Tripartite Meeting of Experts. New standards should offer practical guidance on measures to strengthen the elimination and prevention of all forms of forced labour as defined in Convention No. 29, as well as on enhanced protection and compensation of victims. She emphasized the need to withdraw the outdated transitional provisions in the Convention and requested clarification from the Office as to how their removal could be achieved. The position of her Government on the form of the instrument would be informed according to the response received in this regard. Should the Committee decide to develop a Protocol, it should be concise and focus on the identified implementation gaps and it should not include inflexible obligations that would prevent ratification. Gender inclusive language should be used in the text of a new instrument.

23. The Government member of Norway, speaking on behalf of Denmark and Sweden, supported the statement made on behalf of EU Member States. The group of countries represented by her initially supported the adoption of a stand-alone Recommendation as they had concerns that a Protocol would weaken Convention No. 29. A Protocol could weaken the scope of Convention No. 29, since prevention, protection and compensation were already addressed therein. The group represented by her would not however oppose the adoption of a Protocol if this was the prevailing view. She requested clarification from the Legal Adviser on the current legal status of the transitional provisions of Convention No. 29.

24. The Government member of Senegal emphasized the need to take due account of various social and cultural contexts, including in the preamble of the Protocol. He stressed the importance of enhancing legal provisions, protection for victims, particular at-risk groups such as children or workers in the informal economy, as well as encouraging technical cooperation and assistance. Specific measures targeted at migrant workers and effective monitoring of recruitment services was needed, along with support for enhancing the capacity of labour inspectorates.

25. The Government member of Korea recalled the need for member States to improve efforts to prevent forced labour, protect victims and provide compensation. He stressed the need to also address forced labour imposed by the State. In this regard, he recalled that the workers' groups of Japan, Korea and the Netherlands had consistently raised the issue of the victims of wartime sexual slavery ("comfort women") at the Conference Committee on

the Application of Standards. He expressed the hope that the Committee's review of the new forms of forced labour and in its efforts to narrow the implementation gaps of Convention No. 29 would be fruitful.

26. The Government member of Argentina supported the statement made on behalf of GRULAC and informed the Committee of numerous measures adopted by her Government both in law and in practice to address forced labour. Her Government supported the adoption of a Protocol to address protection and prevention issues.

27. The Government member of China said that his Government was in support of adopting a Protocol and a Recommendation. In China, the legislation with regard to forced labour and its enforcement were aligned with the provisions of international labour standards. The Chinese Constitution made the State responsible for safeguarding human rights and the inviolability of its people's freedom. There were clear legal provisions on the suppression of forced labour including penal sanctions. The adoption of new instruments should be guided by lessons learned from history. In this connection, he referred to the use of forced labour during the Second World War in Asia and the plight of the "comfort women" and their families.

28. The Government member of New Zealand said that the abolition of forced labour was a key priority for the ILO and New Zealand fully supported its work in that regard. Her Government was seeking to ensure an outcome that updated and extended protection against forced labour and worked towards its eradication. Accordingly, there was a need to focus on key implementation gaps and to ensure that instruments remained sufficiently flexible to enable their wide ratification. Her country had adopted a number of national and international instruments to address the problem of forced labour and human trafficking. Particular focus had been placed on work in the fishing sector. A seasonal migrant workers' scheme ensured a win–win situation for the economies of developing countries, employers, and workers and their families.

29. The Government member of Mexico noted that there was a pressing need to fill implementation gaps on forced labour, particularly in view of the recent ILO figures. Prevention measures were key and her country had established a committee for the prevention, penalization and eradication of forced labour-related crimes which elaborated legislative amendments to strengthen prevention of human trafficking. Her Government saw the need to adopt instruments to help countries strengthen their legislation and policies, as well as their labour inspection systems, with a view to eradicating forced labour in all its forms.

30. The Government member of India explained to the Committee that forced labour, including that of children, was prohibited in her country under national legislation. She voiced her concern on the form of the instrument. She stressed that national governments should be able to devise their own strategies to tackle forced labour, based on national conditions and practice. This would not be helped by having a binding instrument which would not allow for flexibility. To this effect, she expressed her Government's wish to have an instrument in the form of a Recommendation which would provide practical guidance in the implementation of Convention No. 29.

31. The Government member of Morocco reminded the Committee that the task at hand was to develop an instrument to criminalize and prohibit all forms of forced labour. In that light, he requested guidance for the Office on what would be the most effective form of the instrument for achieving this goal.

32. Replying to queries from several Government members, the Legal Adviser recalled that the standard-setting item on supplementing Convention No. 29 was placed on the agenda of

the Conference with a view to the adoption of a Protocol and/or a Recommendation and, therefore, it was for the Committee to decide upon the form of the new instrument(s). In the case of a Protocol, the provisions would be binding as for the provisions of other international labour Conventions, but only a member State who had ratified Convention No. 29 would be in a position to ratify the Protocol. Concerning the possible removal of the transitional provisions from the text of Convention No. 29, he explained that the only way to delete them would be to have a provision on the matter inserted into the main text of the draft Protocol, as the preambular clause recognizing that the transitional period had expired and that the transitional provisions were no longer applicable was only of a declaratory value and not legally binding. Similarly, this could not be achieved by addressing the transitional provisions in a Recommendation.

33. The Legal Adviser explained that, as stated in the Office report, the expiration of the transitional period had been acknowledged by the ILO's supervisory bodies and governing organs. The Committee of Experts on the Application of Conventions and Recommendations had been making comments to this effect, while the Conference withdrew in 2004 Recommendation No. 36 – an instrument that set the rules for recourse to forced labour during the transitional period – and the Governing Body adopted in 2010 a new report form for Convention No. 29, which no longer contained questions regarding the transitional provisions. Therefore, no good faith interpretation of the relevant provisions of the Convention, in accordance with their ordinary meaning and in the light of the Convention's object and purpose, could support the view that 84 years after the adoption of Convention No. 29, the transitional provisions remained applicable.

34. The Government member of Japan understood that the main issue was to address human trafficking, as this was not adequately addressed in Convention No. 29. The form of the new instrument should be as flexible as possible to enable as many member States as possible to implement the provisions with the aim to eradicate the scourge of forced labour. Citing Article 28 of the Vienna Convention on the Law of Treaties, 1969, he expressed his Government's understanding that, should the new standards take the form of a Protocol, its provisions would not apply retroactively.

35. On a more solemn note, he expressed his Government's deep remorse for the pain it had caused during the Second World War, especially in the case of the "comfort women". He reminded the Committee of his Prime Minister's statement the previous year where he expressed deep regret and remorse for the pain and suffering caused by his country during this period. He said that in accordance with the treaties signed by Japan after the War, compensation had been paid to the victims and hence matters were legally settled.

36. The Government member of Benin pointed out that many countries had legislation in place to eradicate forced labour, but were still faced with the problem. This was mainly because legislation covered declared work, which was subject to labour law. The problem however lay with undeclared labour where the abuse occurred, as workers had no protection. With this understanding, she explained that a clear and concise Protocol could be a way to assist in this area.

37. The Government member of Australia, while reminding the Committee that her country had ratified Conventions Nos 29 and 105, would prefer the instrument to be in the form of a Recommendation that would provide practical guidance on how to fully implement Convention No. 29 instead of a new prescriptive binding instrument.

38. The Government member of Brazil informed the Committee of the adoption of new legislation in his country on forced labour which increased the penalties for perpetrators. This included increased fines, with the confiscation of properties where forced labour was

being undertaken. He explained that this piece of legislation had taken several years to be adopted, with Parliament finally agreeing to amend the Constitution to enable its adoption.

39. The Government member of Switzerland supported the setting of standards in the area of forced labour and agreed to pursuing a Protocol and a Recommendation. This choice of instruments appeared to have broad support, as Convention No. 29 was one of the fundamental Conventions of the ILO, ratified by most member States. Noting that the draft Protocol did not contain a definition of the term "victim", he sought clarifications from the Office on whether this meant that defining this notion was subject to national legislation.

40. The Government member of Trinidad and Tobago aligned his country with the statement made on behalf of GRULAC. From the statistics contained in the Office report, only 9 per cent of the persons concerned (1.8 million) were from his region and this was still too much. The elimination of forced labour could not only be achieved by the work of ministries of labour alone, but needed a collaborative effort between ministries, as well as collaboration with social partners at the national level, and collaboration between countries and development agencies at both the regional and international levels.

41. The Government member from Uruguay voiced her delegation's support for the new instrument to take the form of a concise Protocol with an accompanying Recommendation.

42. The Government member of the United Arab Emirates, speaking on behalf of the Government members of the Gulf Cooperation Council (GCC) (hereinafter referred to as the GCC), informed the Committee that forced labour was prohibited in the labour markets of the GCC and employers were obliged to provide workers with decent working conditions. He did urge a word of caution in this area, explaining that one should not confuse the abuse of workers' rights, which was dealt with under labour law, in comparison to forced labour, which was a criminal offence and covered under different legislation. With nearly 2 million temporary and seasonal migrant workers within the GCC, it was now a priority in the region to participate actively in these international efforts.

43. The Government member of Thailand reminded the Committee that forced labour was not only a national problem but also an international one and, even if stringent public policies were in place, its eradication would only be possible through collaboration between the public and private sectors and social partners at national level. Her country supported a Recommendation to be the form of the new instrument, to provide further guidance for the implementation of Convention No. 29.

44. The Government member of Zimbabwe pointed out that the provisions contained within Convention No. 29 were still relevant, and that an instrument in the form of a Recommendation would be a better way to provide guidance on how to bridge the implementation gaps.

45. The Government member of Indonesia expressed his Government's commitment towards the elimination of forced labour. He referred to Indonesia's ratification of Conventions Nos 29, 105, the Worst Forms of Child Labour Convention, 1999 (No. 182), and other fundamental Conventions, as well as the UN Trafficking in Persons Protocol. He expressed support for supplementing Convention No. 29 with the adoption of a Recommendation, as this would enhance efforts within member States to implement the provisions contained within the Convention.

46. The Government member of Namibia recalled that Convention No. 29 was adopted in 1930 to address concerns of forced labour in colonized territories, the majority of which were in Africa. He explained that the face and form of forced labour had changed since the

1930s but the impact remained the same: the degradation and humiliation of human beings by other human beings in the name of work, and was unacceptable. He argued that forced labour did not make any sense for any State today or in the future, nor did it make any business sense for honest business people. He closed by supporting the development of a Protocol and a Recommendation.

47. The Government member of the Philippines said that the work of the Committee should ensure that forced labour is a violation of human rights that needed to be addressed by all countries. Whatever the form of the ensuing instrument, it should be applicable by all countries and it should cover all forms of forced labour. Regarding the issue of compensation, the instrument should ensure the penalization of the culprits of forced labour rather than of governments. All governments should commit to adopting national action plans which provided protection.

48. The Government member of Turkey recalled that forced labour was a major obstacle for the achievement of decent work, requiring a harmonized, consistent and coordinated approach, as well as close cooperation among national and international institutions, and non-governmental organizations (NGOs). Having ratified Convention No. 29 and the UN Trafficking in Persons Protocol, Turkey had improved its legislation and had taken important steps to prevent human trafficking and to protect and compensate victims. Shelters had been established in several cities in order to guarantee judicial, psychological and medical counselling to victims, and a multilingual toll-free emergency helpline was put in place. Victims were provided with free medical care and issued with humanitarian visas and short-term residence permits. Her delegation supported the preparation of a new instrument to address the current forms of forced labour.

49. In response to a question from the Government member of Germany on whether the broadening of labour legislation as referred in the proposed Protocol could be understood as implying a requirement to apply national labour legislation to forced labour, the secretariat explained that in accordance with Convention No. 29, forced labour should be made a penal offence. However, the intention of the article in question is to prevent forced labour, and various sources of law, including labour law, could be relevant to this purpose. This is without prejudice as to whether certain forms of work or service are recognized as work under national legislation.

50. The representative of the United Nations Office of the High Commissioner for Human Rights (OHCHR) expressed full support for the standard-setting process, which presented an opportunity to strengthen prevention of forced labour, enhance protection through a coherent and multidisciplinary rights-based approach and ensure access to justice for victims. The process would also contribute to strengthening law enforcement responses and encouraging international cooperation. The standard-setting process represented a favourable moment for putting in place a legally binding instrument that would address existing gaps and strengthen the body of instruments on trafficking in persons, forced labour, slavery and slavery-like practices, and related human rights violations.

51. The representative of the International Organization for Migration (IOM), quoting the UN Special Rapporteur on Trafficking in Persons, noted that trafficking for labour exploitation constituted a very large and ever-increasing share of the trafficking business. [3] He noted that, between 2011 and 2012, there was a significant increase in the number of victims of

[3] "Modern slavery: United Nations rights experts say the regulation of labour markets is key to eradicate forced labour", 23 May 2014, available at http://www.unog.ch/80256EDD006B9C2E/(httpNewsByYear_en)/BAF85C57F2C98462C1257CE100378DC4?OpenDocument.

trafficking assisted by IOM, especially with regard to victims of trafficking for labour exploitation. While there was an increase in the number of men victims of trafficking, he recalled that women continued to represent a large proportion of victims assisted by IOM. His organization was aware of and sensitive to the need for improved action to prevent, protect, assist and rehabilitate victims of labour and sexual exploitation.

52. The representative of the Organization for Security and Co-operation in Europe (OSCE – Office of the Special Representative and Coordinator for Combating Trafficking in Human Beings) welcomed the discussions on the development of an instrument to supplement Convention No. 29 and to address gaps in implementation. As a close partner of the ILO in the framework of the Alliance against Trafficking in Persons and in bilateral cooperation initiatives, the OSCE addressed trafficking in persons for all forms of exploitation both as a human rights violation and a serious transnational threat. In this context, the adoption of a Protocol and a Recommendation was consistent with OSCE's commitments and values. She observed that two provisions of the Addendum to the OSCE Action Plan to Combat Trafficking in Human Beings: One Decade Later were reflected in the drafts proposed by the Office, namely, the provision regarding victims' access to relevant legal counselling and appropriate remedies, including compensation; and the provision on measures to ensure that, where appropriate, victims of trafficking are not penalized for their involvement in unlawful activities that they have been compelled to commit. The Addendum was endorsed by the 57 participating States at the OSCE Ministerial Council in December 2013.

53. The representative speaking on behalf of the International Young Christian Workers (IYCW) and the World Solidarity Movement (WSM) explained that forced labour could only be tackled through an integrated policy perspective with all relevant stakeholders participating. It should follow a rights-based approach, with particular attention to vulnerable groups, and include the rights to freedom of association and the right to collective bargaining for workers. He also urged that the instrument include provisions for the strengthening of labour administration and labour inspection systems, as these were fundamental services for tackling forced labour. In the area of compensation, this should be unconditional for victims of human trafficking and forced labour, irrespective of the country that they are in. Cooperation between member States of the ILO should be enhanced to protect migrant workers and those who are trafficked, with provisions allowing a member State to protect their nationals who have been trafficked. In conclusion, he expressed his wish for the instrument to take the form of a legally binding Protocol, with an accompanying Recommendation.

54. The representative of the NGO Walk Free, a movement of over 6.6 million people fighting to end modern slavery, explained that it had reached out to ministers of labour in 194 countries calling for a strong Protocol supplemented by a Recommendation. She expressed the need for the Committee to seize this unique opportunity to revise the out-of-date provisions, in particular those referring to the transitional period, in Convention No. 29, a view expressed in the 62,188 letters sent to ministers of labour, and shared by others including Human Rights Watch, Anti-Slavery International, Amnesty International and the Global Union federations. According to her organization's own Global Slavery Index, more than 29 million people were still living in modern slavery, which was unacceptable.

55. The representative speaking on behalf of Anti-Slavery International and the Global Alliance Against Traffic in Women (GAATW) explained that due to globalization and the expansion of international trade, it was important to extend the rule of international law against forced labour across countries, and this could be only undertaken through a binding instrument, namely a robust Protocol with an accompanying Recommendation. This would require member States to ensure that law and practice effectively identified and protected victims of forced labour, in particular the risks faced by vulnerable groups such as

migrants, women and children, and the need for perpetrators of forced labour to compensate their victims.

56. The representative speaking on behalf of the International Domestic Workers Federation (IDWF) explained that domestic workers, of whom there were 53 million worldwide, were particularly vulnerable to exploitation, as they worked in private homes, behind closed doors, out of view of public scrutiny. The majority consisted of women (80 per cent), often migrants who were particularly vulnerable to exploitation, especially through the hands of private employment agencies. She explained that domestic workers were also vulnerable to being trafficked and abused. To protect domestic workers, the representative called for a strong Protocol and Recommendation to enhance the effectiveness of Convention No. 29 that could adequately protect domestic workers.

57. The representative of Human Rights Watch pointed out to the Committee that her organization had published reports on forced labour in different areas of economic activity and wished that the Committee could have had the opportunity to listen to the stories of some of the victims. This was a historic opportunity to enhance the effectiveness of Convention No. 29, as well as to plug implementation gaps in terms of prevention, victim protection and compensation. With that in mind, a binding Protocol and more detailed guidance through an accompanying Recommendation provided the best solution. Such commitment could result in a consulted push to eradicate forced labour, as was the case for Convention No. 182, which when adopted had led to international action to eliminate child labour.

58. The Worker Vice-Chairperson commented after listening to the interventions that there was a commitment by the Committee to eradicate forced labour, and that his group was confident that the form of the instrument would be a Protocol and a Recommendation. On questions posed about the weakening of provisions of existing legislation and that of national sovereignty, he pointed Government members to article 19, paragraph 8, of the Constitution of the ILO which states "In no case shall the adoption of any Convention or Recommendation by the Conference, or the ratification of any Convention by any Member, be deemed to affect any law, award, custom or agreement which ensures more favourable conditions to the workers concerned than those provided for in the Convention or Recommendation." Hence the adoption of a Protocol would not undermine national sovereignty, as any instrument would still be ratified freely and only when the country's legislation was in conformity with that instrument.

59. The Employer Vice-Chairperson agreed that the Office paper provided a good basis for the Committee's work. He noted that the vast majority of Governments had not clearly stated their positions regarding the form of the instrument, namely either a Protocol accompanied by a Recommendation, or just a Recommendation, so it was difficult for his group to gauge the feeling of the Committee. He was sure that all members of the Committee were committed to eradicating the scourge of forced labour. He observed that many Governments referred to "compensation", where Employers would use the word "remedy", as this included compensation and, in many cases, remedy was not only of a financial nature. He considered that the only way that the Committee could reasonably proceed was on the basis of non-retroactivity.

60. The Chairperson considered that, although there was no clear position at that time, there was enough support to continue work on both instruments. Hence, he instructed members of the Committee to prepare their amendments on both the draft Protocol, as well as the accompanying Recommendation. He made it clear that this did not predetermine any final decision on the form of the instrument, as this discussion had not yet been held, but proceeding in this fashion would allow the groups to have more time for discussion.

Consideration of the proposed Protocol contained in Report IV(2B)

61. The Chairperson outlined some basic rules for the discussion of amendments and suggested that the Committee could start by considering the amendments to the draft text for a Protocol. He stressed that the discussion of the text would not require the Committee to decide on the final form of the instrument at that time.

Preamble

Third preambular paragraph

62. The Government member of Canada introduced an amendment, seconded by the Government member of New Zealand, to replace in the French version of the text the words *"de l'homme"* by *"de la personne"*. Recalling the resolution concerning gender equality and the use of language in legal texts adopted by the Conference in 2011 and the Manual for drafting ILO instruments, she stressed that the use of gender-sensitive terminology was particularly important for the instruments under discussion.

63. The Worker Vice-Chairperson recalled that during the 2012 Conference Committee for the Recurrent Discussion on the Strategic Objective of Fundamental Principles and Rights at Work, it was agreed to use the expression *"droits de l'homme"* instead of *"droits de la personne"*. He noted the tendency to use *"droits de la personne"*, but *"personnes"* could raise difficulties as such, key reference documents such as the Universal Declaration of Human Rights of 1948 used the expression *"droits de l'homme"* in their French versions.

64. The Government members of Belgium, Benin and New Zealand supported the amendment.

65. Following informal consultations with the Government member of Canada, the Worker Vice-Chairperson informed the Committee that it had been agreed to use the term *"droits humains"*.

66. The Worker Vice-Chairperson presented a new consolidated version of paragraph 3 for consideration by the Committee which read: "Recognizing that prohibition of forced or compulsory labour should be considered a peremptory norm of international law and that forced or compulsory labour violates the human rights and dignity of millions of women and men, girls and boys, contributes to the perpetuation of poverty and stands in the way of the achievement of decent work for all, and".

67. The Employer Vice-Chairperson supported the new text.

68. The Government member of Canada could not support the reference to peremptory norms, as she had been advised that this could only apply to provisions or rights that had no lawful derogations, which was not the case for forced labour. She could agree to adding that the prohibition of forced labour was a fundamental principle or human right at work.

69. Supporting the Government member of Canada, the Government member of the United States proposed to delete reference to peremptory norms, replacing it with text stating that "freedom from forced or compulsory labour is a fundamental right".

70. The Government members of Australia, and Namibia, speaking on behalf of the Government members of the Africa group (hereinafter referred to as the Africa group),

supported the suggestions made by the Government members of Canada and the United States.

71. The Worker Vice-Chairperson, understanding the positions of Governments regarding peremptory norms, cited the July 1998 report of the Commission of Inquiry on Myanmar which had concluded that there "exists now in international law peremptory norms prohibiting forced labour" and described this as "one of the basic human rights". So it was not a new concept that his group was bringing to the table.

72. The Employer Vice-Chairperson agreed, stating that Convention No. 29 had existed for 84 years and had been ratified by 177 countries, and it was now part of *"jus cogens"* which included genocide and slavery. Slavery and forced labour were at the core of what was discussed here so there should not be a problem.

73. The Government member of Brazil congratulated the amendment put forward by the Workers' group, as the Supreme Court in his country had accepted a ruling on this.

74. The Government member of Greece, speaking on behalf of EU Member States, requested clarification from the Legal Adviser as to whether the prohibition of forced labour could be considered a peremptory norm.

75. The Legal Adviser indicated that the Commission of Inquiry appointed under Article 26 of the ILO Constitution to examine the complaint of non-observance of Convention No. 29 by Myanmar had indeed noted that "a State which supports, instigates, accepts or tolerates forced labour on its territory commits a wrongful act and engages its responsibility for the violation of a peremptory norm of international law". This view was later endorsed by the ILO Committee of Experts which, in its 2007 General Survey on Convention No. 29, stated that the principles embodied in Convention No. 29 "had since been incorporated in various international instruments both universal and regional, and had therefore become a peremptory norm of international law". These important pronouncements of the ILO supervisory bodies had been largely commented and reproduced in academic writings over the past 16 years. In terms of international legal theory, the concept of a peremptory norm *(jus cogens)* can be found in Article 53 of the 1969 Vienna Convention on the Law of Treaties, which defines it as "a norm accepted and recognized by the international community of States as a whole as a norm from which no derogation is permitted and which can be modified only by a subsequent norm of general international law having the same character".

76. However, even though the existence of peremptory norms of international law was today generally accepted, identifying the principles which would be qualified as peremptory norms remained a matter of debate. The principles that were most frequently cited as belonging to the category of peremptory norms were the prohibition of slave trade, genocide, piracy, apartheid and war of aggression. Reverting to the question of EU Member States, the Legal Adviser noted that the prohibition of forced labour could be considered a peremptory norm of international law – indeed this had been the position taken by ILO supervisory bodies – and it would be now for the Committee to decide whether it wished to echo that view.

77. The Government member of Greece, speaking on behalf of EU Member States, said that in the light of the explanation provided by the Legal Adviser, her group would feel more comfortable with an explicit reference to fundamental rights. She therefore presented a new proposal to replace the beginning of the paragraph with "Recognizing that prohibition of forced or compulsory labour forms part of the body of fundamental rights,".

78. The Government members of Canada, Mexico, Namibia, New Zealand, Trinidad and Tobago, and the United States supported the proposal.

79. The Worker Vice-Chairperson indicated that his group did not want to put the Governments in a difficult position on an issue of international law which could have an effect on ratification. His group's aim was to achieve the adoption of the Protocol and its widest possible ratification. However, he requested that it be placed on the record that the Committee had discussed the possibility of considering the prohibition of forced or compulsory labour as a peremptory norm of international human rights, noting that, on a number of occasions, the supervisory bodies of the ILO had considered it as such.

80. The Employer Vice-Chairperson supported the position of the Workers' group. The aim was to have the Protocol rapidly ratified by as many member States as possible, and agreed for the discussion of it being a peremptory norm to be placed in the record of the discussions.

81. The Government member of Brazil said that, although his Government did not have any difficulty with the original proposal made by the Workers' group, he realized that such a mention would create difficulties and was therefore in support of the subamendment proposed by EU Member States.

82. The Government member of Namibia indicated that his concern at a reference to the prohibition of forced or compulsory labour as a peremptory norm arose from the fact that Article 2.2 of Convention No. 29 contained exceptions to what was considered forced or compulsory labour. Had this been amended to delete the exceptions, his Government could have possibly accepted the amendment submitted by the Workers' group.

83. The Chairperson considered that the Committee had accordingly reached consensus on the amendment.

84. While reserving her Government's position as to the form of the instrument, the Government member of India introduced an amendment, seconded by the Government member of Sri Lanka, to replace the words "women and men, girls and boys" with "persons" in order to make the text more general.

85. The Employer Vice-Chairperson opposed the amendment, noting that the existing wording was factual and appropriately highlighted specific categories of persons.

86. The Worker Vice-Chairperson agreed with the Employer Vice-Chairperson.

87. The amendment was not adopted.

88. The Chairperson considered that paragraph 3 of the preamble could therefore be adopted and that the Committee had accordingly reached consensus. The Protocol was therefore ready for adoption, taking into account that a decision on the form of the instrument would be taken later.

Fifth preambular paragraph

89. The Government member of the United States put forward an amendment on behalf of the Government members of Australia, Canada and New Zealand to insert "including changing patterns and modern forms of forced labour" after the word "manifestations". The proposal was made in the light of the Office report and the general discussion during which many Committee members stressed the changing face of forced labour.

90. The Employer Vice-Chairperson did not support the amendment, as the paragraph related to the definition of forced labour in Convention No. 29, which remained valid. The underlying concerns of the amendment's proponents could better be addressed elsewhere in the text.

91. The Worker Vice-Chairperson agreed with the Employer Vice-Chairperson.

92. The Government member of the United States clarified that the purpose of the proposed language would, in fact, have been to confirm that the definition of forced labour in Convention No. 29 remained valid and included the changing forms of forced labour.

93. The amendment was not adopted.

94. The Worker Vice-Chairperson withdrew an amendment.

95. The Government member of the United States, speaking on behalf of the Government members of Australia, Canada, New Zealand, Norway, Switzerland and Turkey, proposed an amendment to insert after the words "human beings" the words "in situations of forced labour". The amendment was technical in nature, specifying that the definition of forced labour did not apply to all human beings but to all those in forced labour.

96. The Employer Vice-Chairperson found the amendment to be unnecessary and did not support it. The prohibition of forced labour applied to all human beings. There were situations where people fell into forced labour, which was why the text under discussion aimed at filling gaps in prevention.

97. The Worker Vice-Chairperson also opposed the amendment. The current wording was preferred, as it reflected the general scope of application of Convention No. 29.

98. The Government members of Benin and Côte d'Ivoire also preferred the Office text.

99. The amendment was not adopted.

100. The Government member of Greece, speaking on behalf of EU Member States, proposed an amendment inserting a new paragraph after preambular paragraph 5, as follows: "Recalling the obligation of States party to the Forced Labour Convention, 1930 (No. 29), to make forced labour punishable as a penal offence, involving penalties imposed by law which are really adequate and are strictly enforced, and". The amendment was to recall in the preamble the obligations of member States under the Convention.

101. The Employer Vice-Chairperson had no objection to the amendment, but wondered whether the reference to "really adequate" penalties was consistent with Convention No. 29.

102. A representative of the secretariat informed the Committee that the proposed wording reflected Article 25 of Convention No. 29, which referred to "penalties imposed by law which are really adequate and strictly enforced".

103. The Worker Vice-Chairperson supported the amendment. With the adoption of preambular paragraph 5 and the present amendment, the preamble would pertinently recall the key provisions of Convention No. 29.

104. The Government member of the Democratic Republic of the Congo supported the amendment, as it underscored that forced labour constituted a crime which should be

punished. This was particularly relevant in conflict situations in order to discourage armed groups to inflict forced labour on the population.

105. The amendment was supported by the Government members of Benin, Brazil, on behalf of GRULAC, Cameroon, Canada, Mali, the United Arab Emirates, on behalf of the GCC, and the United States.

106. The Government members of Morocco and Zimbabwe supported the amendment in principle, however, they had a preference for replacing "really adequate and are strictly enforced" with "adequate and are enforced".

107. The amendment was adopted, as proposed by the Government member of Hungary on behalf of EU Member States.

108. The Government member of the United States introduced an amendment, on behalf of the Government members of Australia, Canada, New Zealand and Switzerland, to add another new preambular paragraph reading as follows: "Emphasizing the urgency of eliminating forced and compulsory labour in all its forms and manifestations, and". It was necessary to highlight the importance of urgent action to eliminate forced labour in view of the millions of people that were affected by it.

109. The Employer and Worker Vice-Chairpersons supported the amendment.

110. The Government member of Greece, on behalf of EU Member States and the Government member of Turkey, also voiced support for this addition.

111. The amendment was adopted.

Seventh preambular paragraph

112. The Employer Vice-Chairperson introduced the amendment to insert at the beginning of the paragraph, after the words "Recognizing that", the phrase "the context and forms of forced labour have changed and". This preambular paragraph was the right place to highlight that forms of forced labour have changed and this was the reason for updating Convention No. 29 to close implementation gaps.

113. The Worker Vice-Chairperson supported the amendment.

114. The Government members of Brazil, speaking on behalf of GRULAC, Cameroon, the Democratic Republic of the Congo, Greece, speaking on behalf of EU Member States, and the United States also expressed support for the amendment.

115. The amendment was adopted.

116. The Government member of Greece, speaking on behalf of EU Member States, introduced an amendment to replace the words "labour or sexual exploitation" by the words "forced labour". In their view, the focus of the instrument was on forced labour.

117. The Worker Vice-Chairperson did not support the amendment, arguing that there was no harm in describing in the preamble the context in which forced labour occurred. Labour and sexual exploitation were both referred to in the definition of trafficking in human beings in the UN Trafficking in Persons Protocol on these issues and were phenomena that were often associated with each other.

118. The Employer Vice-Chairperson agreed with the views expressed by the Worker Vice-Chairperson.

119. The Government member of Switzerland, in reply to the Worker Vice-Chairperson, noted that if the objective was to refer to all elements of the definition of trafficking in persons, also for the purpose of organ removal would have to be mentioned.

120. The Government members of Cameroon and India supported the amendment.

121. The Government member of Uruguay, speaking on behalf of GRULAC, indicated that they preferred the original text.

122. The amendment was not adopted.

123. The Government member of India introduced an amendment to delete the words "or sexual". Reference to labour exploitation was sufficient here, taking into account that sexual exploitation was not a labour issue but rather a serious offence under criminal law.

124. The Worker Vice-Chairperson agreed that the focus of the discussion was indeed on labour exploitation. However, it was justified to mention labour and sexual exploitation, as these two elements were linked with forced labour, which was not the case with regard to trafficking of persons for removal of organs. The Workers' group therefore did not support the amendment.

125. The Employer Vice-Chairperson agreed with the Worker Vice-Chairperson, stating that ILO research clearly illustrated the association of trafficking in persons for labour exploitation and for sexual exploitation. The situation described in the paragraph was indeed factual. Sexual exploitation as well as trafficking for labour exploitation were both covered by criminal law.

126. The Government member of Turkey also opposed deleting the reference to sexual exploitation.

127. The Government member of Switzerland proposed a subamendment to delete the words "for purposes of labour and sexual exploitation", so that the paragraph would generically refer to trafficking in persons as a subject of growing international concern. The subamendment was supported by the Government members of Cameroon, Canada and Greece, speaking on behalf of EU Member States, Indonesia, Saudi Arabia, Thailand and the United States.

128. The Government members of Mali and Uruguay, speaking on behalf of GRULAC, did not support the subamendment.

129. The Employer and the Worker Vice-Chairpersons did not support the subamendment.

130. The amendment and the subamendment were not adopted.

131. The Employer Vice-Chairperson introduced an amendment for the paragraph to refer to trafficking in persons "for the purposes of labour, which may include sexual exploitation". The proposal was meant to ensure that the wording stressed the labour dimension, while also appropriately mentioning sexual exploitation. It was to be understood together with the earlier amendment of the Employers' group already adopted by the Committee, which inserted into the paragraph under discussion a reference to the changing context and forms of forced labour.

132. The Worker Vice-Chairperson was willing to support the amendment, adding that it responded to the concerns expressed by several Governments with regard to the manner in which sexual exploitation was referred to.

133. The Government members of Senegal and the United Arab Emirates, speaking on behalf of the GCC, expressed support for the amendment submitted by the Employers' group because it further clarified the paragraph.

134. The Government member of Cameroon stated her opposition to singling out sexual exploitation as a form of forced labour, as there were many other forms that would need to be mentioned, including domestic work.

135. The Government member of New Zealand proposed to insert the word "forced" before "labour". This was supported by the Government member of the United States, pointing out that "trafficking in persons for the purposes of labour" was too broad.

136. The Worker Vice-Chairperson stated that his group preferred the amendment as proposed by the Employers' group.

137. The Employer Vice-Chairperson did not support the suggestion put forward by the Government member of New Zealand and considered that the large majority supported the approach proposed by his group. It was very clear from the earlier amendment submitted by the Employers' group regarding the paragraph under discussion – which had been adopted by the Committee – that the focus here was on forced labour. The amendment under discussion simply indicated that it could include sexual exploitation.

138. The Government member of Sweden said that forced labour and sexual exploitation, which was a grey area in itself, should not be confused, and therefore wished to keep the original text.

139. The Government members of Ireland and Spain supported the statement made by the Government member of Sweden, considering that trafficking in persons for sexual exploitation could not be considered a form of forced labour. The Government members of Austria, France, Italy, Namibia and Uruguay, speaking on behalf of GRULAC, indicated their preference for the Office text.

140. The Government members of Benin, the Democratic Republic of the Congo and Turkey supported the amendment submitted by the Employers' group, considering that it made the text clearer. They argued that the amendment distinguished between the two notions, while still referring to both of them.

141. The Worker Vice-Chairperson considered that Committee members were fundamentally in agreement, but were not all reading the text in the same way. Sexual exploitation was indeed different from labour exploitation. However, the paragraph under discussion referred to trafficking as the context for the Protocol. Neither the original text nor the amendment proposed by the Employers' group, sought to assimilate trafficking for sexual exploitation and forced labour. The amendment submitted by the Employers' group simply indicated that trafficking in persons could include sexual exploitation.

142. The Employer Vice-Chairperson reiterated that the preamble simply described the environment of forced labour. The Committee should therefore not allow itself to be waylaid by an issue that did not affect the purpose of the Protocol but simply the description of its context.

143. Following consultations with the Vice-Chairpersons, the Chairperson proposed that the Committee consider referring, in the paragraph under discussion, to trafficking in persons "for the purposes of forced labour, which may include sexual exploitation".

144. The Government member of Australia supported the wording proposed by the Chairperson.

145. The Government member of the United States also welcomed the Chairperson's proposal, but wished to subamend it to replace "include" with "involve".

146. The Government member of Greece, speaking on behalf of EU Member States, and the Government member of New Zealand, supported the Chairperson's proposal, as subamended by the Government member of the United States.

147. The Government member of India noted that her Government's initial reservations to the text related to the fact that under Indian legislation sexual exploitation could not be considered a form of work. Nonetheless, as reference was made here to sexual exploitation as a consequence of forced labour, she was in a position to join the consensus.

148. The amendment was adopted as subamended.

Eighth preambular paragraph

149. The Worker Vice-Chairperson put forward an amendment to replace the text in paragraph 8 with the following: "Recalling that the prohibition of forced or compulsory labour is considered a peremptory norm of international human rights law, which requires its effective elimination in the context of changes in the global economy, particularly the increased number of people who are in forced labour in the private economy, exploited by individuals or enterprises and among migrant workers." The rationale behind the new paragraph was that workers in forced labour situations were actually in the private sector, as shown by the 2012 International Labour Conference (ILC) report of the Committee for the Recurrent Discussion on the Strategic Objective of Fundamental Principles and Rights at Work.

150. The Employer Vice-Chairperson indicated support for the amendment of the Workers' group, but proposed a subamendment to replace the words "exploited by individuals or enterprises and among" with "especially" so as not to stigmatize enterprises and employers.

151. The Worker Vice-Chairperson agreed with the proposed subamendment.

152. The Government member of Canada expressed concern that the discussions could be turning repetitive, since the amendment proposed by the Workers' group was a repetition of what had been discussed and added to the previous paragraph. The only new concept in this amendment was the notion of exploitation in the private sector, which in many cases involved migrant workers.

153. The Worker Vice-Chairperson indicated that he would not oppose the point raised by the Government member of Canada, and proposed that a shortened version of paragraph 8 could be developed to reflect discussions on paragraph 3.

154. The Chairperson proposed that the Government member of Canada and the Worker Vice-Chairperson discuss both proposed amendments and submit new texts to the Committee.

155. Following informal consultations, the Worker Vice-Chairperson outlined three questions related to paragraph 8, which his group wished to address through a new amendment. First, the Office report assessing the reality of contemporary forced labour had found that some sectors were seeing an increase in forced labour, such as the private sector, while in 1930 when Convention No. 29 was adopted, the most prevalent form was enforced by the State. Second, the same report also noted that new categories of workers were at risk, in particular, migrant workers. Third, it was necessary to highlight the importance of prevention. He proposed a subamended version of an amendment to modify the paragraph to read: "Noting that there is an increased number of workers who are in forced or compulsory labour in the private economy, that certain sectors of the economy are particularly vulnerable, and that certain groups of workers have a higher risk of becoming victims of forced or compulsory labour, especially migrants, and".

156. No objections were raised, and the paragraph was adopted, as amended. Other related amendments were not adopted.

157. The Government member of Namibia, speaking on behalf of the Africa group, put forward an amendment to add a new paragraph after paragraph 8: "Noting that forced labour is linked to sociocultural realities which require prevention and awareness-raising measures, and".

158. The Employer Vice-Chairperson opposed the amendment, as he did not see a basis for its inclusion.

159. The Worker Vice-Chairperson also opposed the amendment, as he considered the amendment to be a source of ambiguity.

Ninth preambular paragraph

160. The Government member of India presented an amendment, seconded by the Government member of Sri Lanka, to delete paragraph 9. She explained that her delegation would like to move this text into the preamble of the Recommendation in order to have a concise Protocol.

161. The Worker Vice-Chairperson did not support the amendment. He considered that the only appropriate place for the paragraph in the Recommendation would be in its preamble, which would leave the status of the paragraph unchanged. It was therefore better to retain the paragraph in the Protocol.

162. The Government member of Brazil, speaking on behalf of GRULAC, reminded the Committee that changing the placement of the paragraph would have no bearing on whether a Protocol would be adopted or not. The paragraph described an important guiding principle and should thus be kept in the preamble of the Protocol.

163. The Government member of New Zealand agreed with the Government member of Brazil in opposing the amendment.

164. The Government member of Argentina also opposed the amendment, as the Protocol should mention the question of unfair competition.

165. The Government member of Greece, speaking on behalf of EU Member States, also opposed the amendment.

166. The amendment was not adopted.

167. The Government member of Brazil presented an amendment on behalf of GRULAC to replace "effective suppression" with "sustained eradication". While the term "suppression" was used in Convention No. 29, "eradication" was more modern and taken from the 2013 Brasilia Declaration on Child Labour (the Brasilia Declaration). Moreover, "suppression" implied the use of force.

168. The Worker Vice-Chairperson supported the continued use of wording taken directly from Convention No. 29. He proposed a subamendment to replace "sustained eradication" with "effective and sustained suppression". The meaning of *"soutenue"* in French was not the same as "sustained" and he asked the Office for clarification.

169. The Employer Vice-Chairperson supported the amendment, as forced labour was a long-term problem not a one-off event. Once eradicated, it would require sustainable efforts to prevent its recurrence, the aim being to continually improve. He proposed to subamend the amendment by replacing the term "sustained" with "sustainable". He also pointed out that his group had a number of related amendments that also dealt with replacing "suppression" with other terms such as "elimination" and "eradication", and it would be wise to find a common terminology in order to avoid long discussions.

170. The Chairperson commended the Employer Vice-Chairperson's wise counsel. The issue of agreed language had to be grappled with early on in the discussion.

171. The Worker Vice-Chairperson agreed that consensus needed to be found. He reiterated his support for using the original terminology of Convention No. 29.

172. The Government member of the United States was also ready to support the use of "suppression", but wanted to hear from GRULAC.

173. The Government member of Greece, speaking on behalf of EU Member States, supported using the language of Convention No. 29.

174. The Government member of Brazil explained that he had no problem with the term "sustainable" but the language of the Brasilia Declaration was "sustained". Regarding the comment related to adhering to the language of Convention No. 29, he argued that the Committee had a historic opportunity to update it, arguing that there should be no obligation to follow terminology adopted in 1930. He agreed with the Employer Vice-Chairperson that, even if forced labour were eradicated, work would still be needed to prevent its recurrence.

175. The Government member of the United States shared the views of those who supported the language of Convention No. 29, but pointed out that the term "effective" could be sufficient by itself. The Brasilia Declaration developed new language, but this was in the context of child labour and Convention No. 182.

176. The Chairperson noted that there was sufficient consensus to accept the revised wording, as subamended by the Employers' group, and proposed to move to the next amendment.

177. The Government member of Namibia, speaking on behalf of the Africa group, presented an amendment to insert a new paragraph after paragraph 9 as follows: "Noting that forced labour has progressively undergone various transformations as a result of globalization, and".

178. The Employer Vice-Chairperson had no objections to the proposed amendment, but the notion of the changing face of forced labour had been picked up earlier in the text that would render this amendment redundant.

179. The Worker Vice-Chairperson concurred with the Employer Vice-Chairperson, and suggested that the concern was addressed in the formulation of paragraph 8.

180. The Government member of the United States explained that she had no problem with the substance of this provision, but pointed out that it was already covered in earlier text.

181. The Government member of Namibia, speaking on behalf of the Africa group, declined to withdraw the amendment, but said that they would be willing to incorporate it into paragraph 8.

182. The Chairperson confirmed that this amendment would be taken into account when the Committee returned to discuss paragraph 8.

Tenth preambular paragraph

183. The Government member of Egypt proposed an amendment to delete all the text after the words "international labour standards". As there was no secondment to this amendment, it was not discussed.

184. The Worker Vice-Chairperson presented an amendment to insert after the words "Convention, 1999 (No. 182)", the following: "the Migration for Employment Convention (Revised), 1949 (No. 97), the Migrant Workers (Supplementary Provisions) Convention, 1975 (No. 143), the Domestic Workers Convention, 2011 (No. 189), the Private Employment Agencies Convention, 1997 (No. 181), the Labour Inspection Convention, 1947 (No. 81), the Labour Inspection (Agriculture) Convention, 1969 (No. 129), the Employment Relationship Recommendation, 2006 (No. 198)." This was in the interest of completing this list of pertinent instruments.

185. The Employer Vice-Chairperson questioned the inclusion of Conventions Nos 97 and 143, as these had been deemed out of date by the Cartier Review Group to the Governing Body. He suggested referring to the ILO Multilateral Framework on Labour Migration instead of the two migration Conventions. He also proposed a subamendment to delete reference to the Employment Relationship Recommendation, 2006 (No. 198).

186. The Worker Vice-Chairperson asked for clarification from the Office on why reference had been made to Conventions Nos 97 and 143 in the Domestic Workers Convention, 2011 (No. 189) if they were out of date. On the inclusion of a reference to the ILO Multilateral Framework on Labour Migration, he felt that even though it did not have the same normative weight as Conventions and Recommendations, it could provide guidance and could be placed at the end of the list. He accepted the proposal from the Employers' group to exclude reference to Recommendation No. 198.

187. The Employer Vice-Chairperson accepted the compromise proposed by the Workers' group to leave reference to Conventions Nos 97 and 143, the deletion of the reference to Recommendation No. 198 and the placement of reference to the ILO Multilateral Framework on Labour Migration at the end of the paragraph.

188. The Government member of Indonesia voiced his preference for the original Office text.

189. The Government member of Canada could not agree with reference being made to the ILO Multilateral Framework on Labour Migration, as it was just a report from a meeting of experts and had only been "noted" by the Governing Body. The Government member of the United States agreed.

190. The Government member of Greece, speaking on behalf of EU Member States, preferred that only reference be made to the fundamental Conventions, as well as to Conventions Nos 81 and 129.

191. The amendment was adopted as subamended.

Eleventh preambular paragraph

192. The Worker Vice-Chairperson introduced an amendment that proposed in line 9, after the words "Women and Children (2000), and", to insert "the International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families (1990), the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment (1984), the Recommended Principles and Guidelines on Human Trafficking and Human Rights, published by the Office of the High Commissioner for Human Rights, the Convention on the Elimination of All Forms of Discrimination against Women (1979), the Convention on the Rights of Persons with Disabilities (2006)." He immediately subamended the amendment in the light of the previous discussion to delete reference to "the Recommended Principles and Guidelines on Human Trafficking and Human Rights, published by the Office of the High Commissioner for Human Rights".

193. The Employer Vice-Chairperson had no objection to the amendment as subamended.

194. The Government member of Switzerland preferred to leave the original text as proposed by the Office, and opposed the amendment. However, he proposed to subamend the text with the addition of reference to the UN Convention on the Rights of the Child and its Optional Protocol on the sale of children, child prostitution and child pornography (2000). The subamendment was seconded by the Government member of New Zealand.

195. The Employer Vice-Chairperson could understand the rationale behind this addition, but it would shift the focus from forced labour to other forms of exploitation, and hence could not support it.

196. The Worker Vice-Chairperson agreed with the Employer Vice-Chairperson, and pointed out that child labour was already well covered in the previous paragraphs.

197. The subamendment submitted by the Government member of Switzerland was not adopted.

198. The amendment submitted by the Workers' group was adopted as subamended.

199. The Government member of Brazil, speaking on behalf of GRULAC, introduced an amendment to delete "and" in the seventh line, after the words "Organized Crime (2000)" and, in the last line, after "(2000)", to insert "and the Protocol against the Smuggling of Migrants by Land, Sea and Air (2000)". In view of the fact that the focus should be on instruments addressing forced labour and trafficking, they considered it justified to include the Protocol against the Smuggling of Migrants by Land, Sea and Air (2000).

200. The amendment received broad support and was adopted.

Twelfth preambular paragraph

201. Upon request of the Chairperson, a representative of the Legal Adviser explained that paragraph 12 represented a standard paragraph appearing in the preamble of all ILO

instruments. The text referred to the subject before the Committee and reflected the Governing Body decision to put this item on the agenda of the ILC.

202. The Government member of the United States, speaking on behalf of the Government members of Canada, Japan, New Zealand, Norway and Switzerland, introduced an amendment that suggested to replace the words "implementation gaps to strengthen" with "gaps in implementation of the Forced Labour Convention, 1930 (No. 29), and reaffirm that measures of" and, after the word "compensation", insert the words "are necessary". She acknowledged the Office's explanation that this was a standard paragraph; nevertheless she wondered if it would be possible to adjust the wording in order to address the gaps in implementation. This would imply that there was a need to address the gaps.

203. The Employer Vice-Chairperson suggested a subamendment to replace the word "compensation" with "remedy". He recalled that the UN Basic Principles and Guidelines on the Right to a Remedy and Reparation for Victims of Gross Violations of International Human Rights Law and Serious Violations of International Humanitarian Law (2005) [4] provided a definition on the scope of the term "remedy". In particular, he suggested incorporating principles 19 to 23, which included the forms restitution, compensation, rehabilitation, satisfaction and guarantees of non-repetition. Compensation was not the only form of remedy.

204. The Worker Vice-Chairperson supported the Employer Vice-Chairperson, as now the term "remedy" could be defined and it was more encompassing than only mentioning compensation.

205. The Government member of Australia supported the subamendment in agreeing that remedy was not confined to compensation.

206. The Government member of the United States expressed her concern regarding the subamendment. The Governing Body had asked the Committee to address prevention, protection and compensation. The suggested subamendment was leading too far from the path of the proposed Protocol.

207. The Government member of Greece, speaking on behalf of EU Member States, supported the subamendment.

208. The Government member of Canada proposed a sub-subamendment to insert ", including access to compensation," after "remedies", in the interest of adhering as closely as possible to the decision taken by the 2013 Tripartite Meeting of Experts, on which the mandate of the Committee was based.

209. The Government member of the United States seconded the sub-subamendment made by the Government member of Canada, but still could not support the subamendment put forward by the Employers' group.

210. The Government member of Brazil, speaking on behalf of GRULAC, supported the sub-subamendment.

211. The Employer Vice-Chairperson observed that the use of "including" highlighted one form of remedy above others. There were many examples within the Committee on the

[4] Adopted and proclaimed by General Assembly resolution 60/147 of 16 December 2005.

Application of Standards where remedies other than compensation were considered necessary.

212. The Government member of Argentina agreed that compensation was not the only solution but, given its importance, she supported the sub-subamendment.

213. The Government member of Australia reiterated her agreement with the Employers' group. Each victim had specific support needs, which might vary depending on factors such as gender, age, cultural background and type of exploitation. The Protocol should not take a one-size-fits-all approach, and compensation was not always the right form of remedy.

214. The Government member of Canada did not understand the rationale behind the position of the Employers' group. One of the most important means of eliminating forced labour was to remove the incentive for perpetrators to not pay workers. Not only did the victims deserve compensation, but compensation could also act as a deterrent. The sub-subamendment did not undermine other forms of remedy, but she considered that specific reference should be made to compensation in accordance with the decision of the 2013 Tripartite Meeting of Experts.

215. The Worker Vice-Chairperson did not understand where the problem lay. The definition of remedy that had been provided by the Employers' group included compensation, therefore adding "including compensation" was superfluous. It was not however problematic. He did not believe that the Committee placed itself at any risk by adhering to the definition provided in the UN Basic Principles and Guidelines on the Right to a Remedy and Reparation. The concept of remedy was referred to in its different permutations in different parts of the text, without introducing any new concepts. He, however, understood that the precise definition provided by the resolution needed to be verified by the Government members.

216. The Government member of Uruguay supported the sub-subamendment submitted by the Government member of Canada.

217. The Employer Vice-Chairperson considered that the only other alternative was to include a list of the five categories of remedy preceded by "such as". Those ratifying the Protocol should not be misled into thinking that remedy did not go any further than compensation.

218. The Government member of Greece, speaking on behalf of EU Member States, noted that compensation was referred to in the agenda of the Conference and she therefore supported the sub-subamendment.

219. The Chairperson said that he considered that there was enough support to dismiss the sub-subamendment, instead of adding other types of remedy to balance it out.

220. The Government member of Brazil, speaking on behalf of GRULAC, said that it was very important for his group to mention "access to compensation".

221. The Government member of Namibia, speaking on behalf of the Africa group, observed that access to compensation had a prominent place in the background paper as one of the existing implementation gaps. Including such a mention in the preamble would therefore accurately reflect the essence of that text.

222. The Government member of Canada understood that the purpose of the paragraph was to describe the agenda item. While the Committee could decide on the substantive provisions of the Protocol, she did not understand how it could make an amendment to the wording of

a decision which had been adopted prior to its meeting. She requested clarification from the Office in that regard.

223. A representative of the Legal Adviser reiterated that the paragraph referred to the subject indicated in the agenda. A similar paragraph appeared in the draft Recommendation and reflected the agenda item decided by the Governing Body.

224. The Employer Vice-Chairperson observed that it could be a possibility and could include a reference of the resolution document number.

225. The Chairperson proposed that the Committee either include all the categories of remedy or none of them.

226. The Government member of the United States indicated that her delegation was unfamiliar with the UN resolution that had been cited by the Employers' group and was therefore not prepared to base a binding protocol on a non-binding UN General Assembly resolution. She was unsure whether the remedies included in the definition were comprehensive enough to cover all possible remedies. Remedies beyond compensation were, no doubt, necessary and the intention of the sub-subamendment was not to limit the definition to compensation, but simply to highlight it.

227. The Government member of Greece, speaking on behalf of EU Member States, wished to stress that the decision of the Governing Body of the ILO on the agenda of the Conference included a reference to compensation. The Committee should therefore adhere to that agenda.

228. Following informal discussions, the Employer Vice-Chairperson informed the Committee that his group could accept a reference to "remedies, such as compensation".

229. There was broad support in the Committee for the wording presented by the Employer Vice-Chairperson and the amendment was adopted as subamended.

230. The Government members of Spain and Colombia, speaking on behalf of GRULAC, noted that the Spanish translation of the English term "remedy" was not accurate. The term was broad and included different notions for which specific terms existed in Spanish, namely, judicial remedies and compensation. Both notions should be included in the text.

231. The Government member of Belgium echoed the comments made by the Government members of Spain and Colombia, and added that the French translation needed adjustments for the same reasons.

232. The Chairperson noted that there was agreement on the English text, and proposed that adjustments that may be necessary to the Spanish and French translations would be taken up by the Committee Drafting Committee.

233. The Government member of the United States regretted that the wording that resulted from the discussions had weakened the emphasis on compensation, given that the Committee had been specifically tasked by the Governing Body to address the issue. However, her Government did not wish to impede consensus and withdrew the amendment.

234. The Government member of Colombia, speaking on behalf of GRULAC, introduced an amendment to insert ", rehabilitation" after the word "protection". Rehabilitation was equally important for victims.

235. The Employer Vice-Chairperson found that rehabilitation related to prevention, as it helped to ensure that victims would not be exploited again in the future. However, he suggested subamending the text to refer to rehabilitation in the context of remedies, so that the text would refer to access to remedies, such as compensation and rehabilitation.

236. The Worker Vice-Chairperson had no objection to including the notion of rehabilitation in one way or another.

237. The Government member of Brazil, speaking on behalf of GRULAC, accepted the subamendment of the Employers' group.

238. The Government member of Australia stated that adding the notion of rehabilitation detracted somewhat from the issue of compensation.

239. The amendment was adopted as subamended.

240. The Government member of Brazil, speaking on behalf of GRULAC, introduced an amendment submitted by his group to replace "effective suppression" with "sustained eradication", and subamended the proposal to use the phrase "effective and sustainable suppression" instead, consistent with the agreed text of paragraph 9.

241. The amendment was adopted as subamended.

242. The Government member of Cameroon expressed concern that the text under discussion did not take up the issue of repression.

243. In reply, the Worker Vice-Chairperson and the Government member of Greece, speaking on behalf of EU Member States, stated that in their view, this issue of imposition of sanction was well covered in other parts of the preamble.

244. The paragraph was adopted, as amended.

Article 1

245. The Employer Vice-Chairperson introduced an amendment concerning the transitional clauses of Convention No. 29 and the Committee agreed to consider it at the same time it would discuss Article 6.

Paragraph 1

246. Speaking on behalf of the Africa group, the Government member of Namibia presented an amendment to replace paragraph 1 with the following paragraph: "Each Member shall take effective measures to prevent and eliminate forced or compulsory labour, to provide protection and effective remedies, including compensation, to victims, and to sanction the perpetrators of forced labour."

247. The Employer Vice-Chairperson observed that the amendment deleted an important set of words, namely, the first part of the existing paragraph which referred to the obligations under Convention No. 29. This phrase was crucial, as it established the purpose of the instrument. Furthermore, in line with the discussion on the preamble, his group would like to introduce a subamendment to replace "including compensation" with "such as compensation".

248. The Worker Vice-Chairperson supported the subamendment submitted by the Employers' group and proposed a further subamendment to include, in the beginning of the suggested text, the words "In giving effect to its obligation to suppress forced or compulsory labour", taking up the suggestion by the Employer Vice-Chairperson.

249. Speaking on behalf of the Africa group, the Government member of Namibia accepted the subamendments introduced by the social partners.

250. The Government member of Australia suggested replacing the second mention of the phrase "forced or compulsory labour" with "its use" in order to tidy up the wording.

251. The Government member of New Zealand then proposed aligning the wording at the end of the paragraph with the rest of the text by referring to "forced or compulsory labour".

252. Speaking on behalf of GRULAC, the Government member of Brazil indicated, in regard to the subamendment of the Workers' group, that his group wished to refer in this part of the text to the effective and sustained suppression of forced labour, using language previously agreed to in the context of preambular paragraph 9. Furthermore, they wished to insert, after the word "compensation", the words "by those found responsible by the State". While they agreed on compensation as a general principle, the notion should be qualified.

253. The Government member of the Philippines supported the subamendment proposed by GRULAC to qualify the notion of compensation.

254. The Government member of Canada indicated that her Government could not agree to adding to the term "suppression" the words "effective and sustained", as the existing obligations under Convention No. 29 could not be changed or redefined in any way. In any case, the details of measures to achieve the suppression of forced labour would be addressed in the Recommendation, providing examples and options.

255. Speaking on behalf of EU Member States, the Government member of Greece introduced a subamendment to add after "provide protection" the words "assistance and support", as also mentioned in the Trafficking in Persons Protocol. She further suggested a subamendment to adjust the wording to reflect Article 25 of Convention No. 29. To this end, the phrase "to sanction the perpetrators of forced labour" should be replaced with "to ensure that the exaction of forced or compulsory labour shall be punishable as a penal offence". This reflected their concern that sanctions should not become less stringent. She further proposed a subamendment to GRULAC's subamendment replacing "by the State" with "by the competent authorities".

256. The Government member of Chile, speaking on behalf of GRULAC, agreed with the suggestion to replace "by the State" with "by the competent authorities".

257. The Government member of the United States supported the request made by the Government member of Canada to refer to the obligation to suppress forced or compulsory labour without further qualification. Moreover, she could not accept the insertion of "by those found responsible by the State", but proposed a further subamendment to insert before "effective remedies", "access to appropriate and", which she considered would address some of the concerns raised by the words "by the State", which could imply a court process for which there might be no provision in certain national systems. Her subamendment would provide for all possible situations.

258. The Government member of Canada seconded the subamendment proposed by the Government member of the United States.

259. The subamendment was supported by the Employer and Worker Vice-Chairpersons.

260. The subamendment was adopted.

261. The Employer Vice-Chairperson concurred with the Government members of Canada and the United States, who opposed GRULAC's suggestion to refer to the "effective and sustained suppression" of forced labour. He also was not in a position to support the EU Member States' proposal to add a reference to "assistance and support", cautioning that the provision should not be overloaded and remain confined to general concepts. These issues could be addressed adequately elsewhere in the text, particularly in the Recommendation. With regard to the suggestion to include the words "by those found responsible by the State", he observed that some due process protections were required to prevent an arbitrary decision on a designated perpetrator. What was specifically meant by this addition would require a lengthy discussion.

262. The Worker Vice-Chairperson noted the views expressed by some Governments and the Employers' group, and agreed that there was no need to qualify the obligations regarding the suppression of forced labour here. However, GRULAC's concern might be addressed by adding the word "sustainably" after "eliminate". The use of "by those found responsible by the State" could raise difficult questions of interpretation in the context of implementation, which should be avoided. Replacing "State" by "competent authorities" was also equally problematic, since in some cases authorities could be involved in the exaction of forced labour. He suggested focusing solely on the need for compensation, which, in turn, would require States to take measures to ensure that perpetrators are effectively prosecuted and that compensation is available from the offender.

263. The Government member of Korea supported the view of the Workers' group. In cases where forced labour was committed by the State, the issue of responsibility should be investigated by international organizations in order to compensate victims. Therefore, the use of the expression "those found responsible by the State" could be misleading.

264. The Government member of Canada agreed with the Employers' group that too many suggestions were being added and that the issue of assistance could be addressed at a later stage. She opposed the suggestion made by the Workers' group to include the word "sustainably", as its use was neither clear nor necessary in the context of the paragraph under discussion. If the Committee's intention was to "eliminate" forced labour, no adjectives were needed.

265. The Worker Vice-Chairperson stated that his group supported the many interventions related to compensation, in particular that of the Africa group asking for reference to this in the first Article. However, at this stage in the text it was important to focus specifically on protection, prevention and access to remedy, such as compensation and the sanction of perpetrators. This would result in a more streamlined and effective text. For this reason, his group did not support the EU Member States' proposed subamendment to insert "support and assistance", as this issue was also referred to elsewhere in the text when discussing protection.

266. The Government member of Greece, speaking on behalf of EU Member States, agreed to withdraw their subamendment to include a reference to "assistance and support" in the paragraph under discussion.

267. The Government member of Chile, speaking on behalf of GRULAC, reiterated their support for the Africa group's amendment and the need for the wording to specify that the perpetrators of forced labour should be defined by "the competent authorities", though this could also include the State. He expressed concern regarding the subamendment by the

Employers' group, downplayed the importance of compensation and reiterated his group's support for retaining "including compensation". Further, he voiced GRULAC's support for the subamendment proposed by EU Member States regarding the criminal sanctions.

268. Lacking support in the Committee, the subamendments to add "by the competent authorities" after "compensation", and to refer to the "effective and sustained" suppression of forced or compulsory labour were not adopted.

269. The Employer Vice-Chairperson, in response to the subamendment suggested by EU Member States regarding sanctions, said the wording suggested dated back to 1930. However, incidents of contemporary forced labour might not always require criminal law. The Employers' group had no problems with penal sanctions to forced labour, but their concern was effectiveness of implementation. For example, withholding passports or excessive recruitment fees leading to bonded labour might be handled under civil or administrative procedures which could be quicker and more effective. It was incoherent to narrow the provision under discussion down to penal sanctions when the overall rationale of the proposed text was to promote additional measures.

270. The Worker Vice-Chairperson did not fully appreciate the reasoning behind the wording suggested by EU Member States as regards sanctions. He recalled that Article 25 of Convention No. 29 remained unchanged and ratifying member States continued to be bound by it. The preamble of the Protocol sufficiently recalled the obligations under Article 25 of Convention No. 29 and there was hence no need to repeat its wording in Article 1 of the Protocol. For the Workers' group, there was no risk of lessening the extent of criminal sanctions. He tended to agree with the Employer Vice-Chairperson that the text proposed by the Africa group was useful in that it was broader.

271. The Government member of Austria, speaking on behalf of EU Member States, reiterated that their concern was to ensure consistency in the paragraph's wording with Convention No. 29 and requested clarifications in this regard from the Legal Adviser.

272. The Government member of the United Arab Emirates, speaking on behalf of the GCC, commented on the subamendment by EU Member States that its wording was already contained in Convention No. 29 and that the Protocol objective was to promote action to address implementation gaps.

273. The Government member of Spain explained that it was preferable to close existing implementation gaps, rather than open new ones, and therefore preferred keeping the language of Article 25 of Convention No. 29 and not going any further.

274. The Government member of Indonesia supported the subamendment of EU Member States for the sake of legal clarity. Reiteration of the wording could help strengthen the implementation of Convention No. 29.

275. The Employer Vice-Chairperson recalled that language issues aside, the idea was to give effect to the obligation to suppress forced or compulsory labour. The reference to "access to appropriate and effective remedies" implied that there was not always the need for criminal remedy. He argued that this subamendment by EU Member States was thus a substantive rejection of what had been previously discussed, and reiterated the need to avoid a one-size-fits-all approach. He argued that a range of remedies could come into play but that the proposed amendment would limit this.

276. The Worker Vice-Chairperson agreed that legal advice on the wording on the table could help clarify matters, while reminding the Committee that although Convention No. 29 contained Article 25, there were still 21 million people in forced labour. The fact that

Convention No. 29 was ratified by 177 countries was not enough, rather the Committee should seek to add to its provisions to meet the existing shortcomings.

277. The Legal Adviser expressed the view that the amendment submitted originally by the Africa group to add the words "and to sanction the perpetrators of forced labour" at the end of Article 1(1), could not be deemed as diminishing the scope or content of the basic obligations arising out of Convention No. 29, i.e. the obligation under Article 1 to suppress the use of forced or compulsory labour in all its forms within the shortest possible period, as well as the obligation under Article 25 to make the exaction of forced or compulsory labour punishable as a penal offence and to provide for adequate and strictly enforced penalties. The wording in question would not diminish in any way the degree of obligation that arose out of Articles 1 and 25 of the Convention, especially as paragraph 1 made it clear that Members were bound to take preventive and protective measures, as well as to provide for remedies and sanctions "in giving effect to its obligation to suppress forced or compulsory labour", thus directly linking any additional implementing measures under the Protocol with the core obligations under Convention No. 29. Furthermore, he recalled that the Committee had already adopted a new preambular paragraph basically reproducing the obligation laid down in Article 25 of the Convention. As a way of making this clearer in the text, the Legal Adviser suggested for consideration by the Committee that the introductory clause of draft paragraph 1 could be adjusted to read: "In giving effect to its obligations under Convention No. 29, each Member shall take effective measures".

278. The Employer Vice-Chairperson recalled that his group had submitted an amendment to add before Article 1 provisions on the transitional period contained in Convention No. 29. The Committee had decided to deal with the amendment in the context of Article 6. However, he wondered whether it would not be appropriate to discuss the elimination of the transitional period before reaching this clause, as this question had related legal implications.

279. The Legal Adviser noted that the amendment proposed by the Employers' group was in reality a repetition of a preambular paragraph acknowledging that the transitional period had expired and that the transitional provisions were no longer applicable, which possibly raised the question of the added value of such a declaratory statement in the text of the Protocol. In contrast, inserting a new provision that would specifically set out that the transitional provisions of Article 1(2) and (3), and Articles 3 to 24 of Convention No. 29 shall be deleted would have a distinct effect in that it would remove altogether the provisions in question from the text of the Convention. An operative clause to this effect could be introduced up front, or elsewhere in the body of the Protocol, as the Committee might decide.

280. The Worker Vice-Chairperson thanked the Legal Adviser, noting that the guidance provided confirmed the views of both the Employers' and Workers' groups. Turning to the Government member of Greece, he questioned whether it was necessary to repeat reference to Convention No. 29 in Article 1(1) of the Protocol.

281. The Government member of Greece, speaking on behalf of EU Member States, replied saying that a further reference to Convention No. 29 would make it clear that these were the obligations under the Convention and hence proposed the suggestion of the Legal Adviser as an alternative to their original subamendment.

282. The Worker Vice-Chairperson said that he was not against the proposal but considered that such repetition might point to a lack of assurance within the Committee and sought clarifications from the Legal Adviser in that regard.

283. The Legal Adviser suggested another drafting option for the beginning of the paragraph as follows: "In giving effect to its obligations to suppress forced or compulsory labour under Convention No. 29".

284. The Government member of the Philippines observed that an amendment discussed previously had sought to ensure that compensation would be provided by those found responsible, and not systematically by the State. The proposal made by EU Member States might be taken to imply a distinct obligation to guarantee remedies, such as compensation.

285. The Government member of the United States suggested that the words "under Convention No. 29" should come after "obligations", which was supported by the Government member of Canada.

286. The amendment was adopted as subamended.

Paragraph 2

287. The Government member of the United Arab Emirates, speaking on behalf of the GCC, proposed an amendment to delete the paragraph, as he believed implementation details should be addressed further along, preferably in the Recommendation.

288. The Employer Vice-Chairperson could not agree with this amendment, as the main role of having a Protocol to Convention No. 29 was to bridge the implementation gaps. Convention No. 29 did not have the requirements for a national policy, as well as coordination mechanisms for tackling forced labour, and the current paragraph was here to bridge this.

289. The Worker Vice-Chairperson agreed with the Employer Vice-Chairperson. One of the conclusions from the 2013 Tripartite Meeting of Experts was the lack of implementation by governments of the provisions of Convention No. 29, and this paragraph provided the framework for implementation.

290. The Government member of Cameroon agreed with both the Employers' and Workers' groups, and pointed out that forced labour was tackled by many different government departments, as well as many organizations outside governments. Hence a national policy, as well as coordination mechanisms, were necessary and she could support the amendment.

291. Her view was echoed by several Government groups, namely, Namibia for the Africa group, Brazil for GRULAC, and Indonesia.

292. On the other hand, the Government member of India supported the amendment as her Government and that of Sri Lanka had proposed a similar amendment with the same reasoning.

293. The amendments were not adopted.

294. The Worker Vice-Chairperson introduced an amendment to replace the text in paragraph 2 with the following: "Each Member shall develop a national policy and plan of action for the effective suppression of forced or compulsory labour in consultation with employers' and workers' organizations, which shall involve systematic action by the competent authorities in coordination with employers' and workers' organizations, as well as by other groups concerned." His group considered that the development of national policies and action plans by member States should be carried out in consultation with employers' and

workers' organizations, and their implementation should be carried out in coordination with them.

295. The Employer Vice-Chairperson supported the Worker Vice-Chairperson's proposal.

296. The Government member of the United States supported the proposal with one subamendment seconded by the Government members of Australia and Greece to replace "in coordination" after "competent authorities" with "and by". The rationale behind the subamendment was that there were times when competent authorities had to work alone, without coordinating with the social partners, and this subamendment would allow for this.

297. The Worker Vice-Chairperson indicated that their original proposal was motivated by the same concern as that expressed by the Government member of the United States and "in coordination" provided greater flexibility. If the words "and by" could be understood in the same way, his group had no particular problem with the subamendment introduced by the United States.

298. The Employer Vice-Chairperson considered that the idea of coordination was important and that the notion of uncoordinated independent action by the competent authorities was still possible when necessary.

299. The Government member of Cameroon repeated her previous comment about coordinated action at national level as a necessity in dealing with forced labour. She accepted though that it would be difficult to require countries that had not ratified the Tripartite Consultation (International Labour Standards) Convention, 1976 (No. 144) to work with the social partners before taking measures.

300. Speaking on behalf of EU Member States, GRULAC and the GCC respectively, the Government members of Greece, Brazil and the United Arab Emirates, as well as the Government members of Canada, New Zealand and Turkey, supported the subamendment put forward by the Government member of the United States.

301. The Worker Vice-Chairperson indicated that the development of policies and action plans in consultation with employers' and workers' organizations was in line with freedom of association, but the State was thereafter responsible for deciding on its national policy and action plans. Those institutions were responsible for implementing national policies and action plans where possible "in coordination" with employers' and workers' organizations, and this rationale also responded to the point raised by the Government member of Cameroon.

302. The Government member of the United States suggested replacing "shall" with "may" which placed the responsibility on the employers' and workers' organizations to decide whether to act independently or in coordination with government institutions.

303. The Employer Vice-Chairperson could not agree with this, and pointed out the normative and binding nature of a Protocol. The use of the word "may" only had a place in non-binding text such as that of the Recommendation, and did not understand the Governments' concerns, unless they were reluctant to engage with the business communities and unions in their countries.

304. The Government member of Canada indicated that no country had spoken against developing plans of action in consultation with employers' and workers' organizations. The Governments' concern was that employers' and workers' organizations were opting out of committing to take action against forced labour.

305. The Worker Vice-Chairperson was surprised that, considering workers' commitment for the issue they were debating, anyone could doubt the willingness of the Workers' group to implement measures to end forced labour. The proposal of the Workers' group was motivated by the same concerns as those expressed by the Government member of the United States, considering that using both the words "consultation" and "in coordination" ensured the involvement of all the parties while respecting governments' capacity to decide on the action plans to be adopted. The subamendment submitted by the Government member of the United States might go against that intention.

306. The Government member of the United States proposed a subamendment to replace "and by" with "and, where appropriate, in coordination with" which could form a basis for consensus, as it covered the notion that governments could act independently and, if appropriate, with the social partners. Her proposal was seconded by the Government member of Namibia on behalf of the Africa group.

307. The Government member of the United States asked to correct the subamendment proposed by replacing "where appropriate" with "as appropriate".

308. The Government member of Greece, speaking on behalf of EU Member States, voiced her group's preference for the original amendment made by the Workers' group.

309. The Chairperson clarified that the only subamendment being discussed was that of the Government member of the United States, and there seemed to be enough consensus for it to be carried.

310. The amendment was adopted as subamended.

311. The Government member of Brazil, speaking on behalf of GRULAC, introduced an amendment to replace "effective suppression" with "sustained eradication", as previously proposed in the context of the discussion on the preamble of the Protocol.

312. This was agreed to by both the Employer and Worker Vice-Chairpersons, with the latter suggesting a change to be made throughout the instrument, as this was agreed text and would save a lot of discussion time.

313. The Government member of Greece, speaking on behalf of EU Member States, opposed the amendment and stressed that use of "effective suppression" in the case of Article 1(2), and the preamble had different connotations.

314. The Government member of Brazil, speaking on behalf of GRULAC, could not understand the disagreement, as this change had been discussed and accepted by the Committee.

315. The Government member of Ireland opposed the subamendment and observed that the word "sustained" was not adequate in the context of the eradication of forced labour.

316. The Government member of Spain seconded the statement made by the Government member of Ireland. She emphasized that the word "sustained" related to the notion of prolonged action, which could also be interpreted as protracted action.

317. The Government member of Brazil, speaking on behalf of GRULAC, explained why the term "sustained" was important. He gave the example of polio, which had been eradicated. Due to unsustained efforts, the disease had returned. This was why it was important to maintain efforts to stop forced labour returning once eradicated.

318. The Government member of the United States stressed the importance of the point raised by GRULAC and proposed a way forward by adding an extra sentence at the end of the paragraph, as follows: "This will require sustained efforts to achieve this goal."

319. The Government member of Brazil, speaking on behalf of GRULAC, could accept the proposal made by the Government member of the United States.

320. The Worker Vice-Chairperson expressed concern that the subamendment proposed by the Government member of the United States could have an opposite effect to the one intended by the initial proposal under paragraph 9 of the preamble and hence preferred the original GRULAC amendment.

321. The Employer Vice-Chairperson supported the Workers Vice-Chairperson's view.

322. The Government member of Canada, seconded by the Government member of New Zealand, proposed a further subamendment in order to try to address the issue and satisfy all concerned. The subamended text would read as follows: "which shall involve coordinated, systematic and sustained action".

323. The Government member of France suggested a sub-subamendment to replace "sustained" by "definitive", which would be in line with the French version *"durable"*.

324. The Government member of Brazil, speaking on behalf of GRULAC, opposed the sub-subamendment proposed by the Government member of France, and stressed that the words "definitive" and "sustained" did not have the same meaning.

325. The Government member of Indonesia requested clarification as to whether the proposed wording, if adopted, would oblige governments to consult with social partners in the context of the development of national policies and plans of action, but not to coordinate with them in carrying out systematic action for the suppression of forced labour.

326. The Chairperson confirmed this and the amendment was adopted.

327. The Government member of Namibia, on behalf of the Africa group, withdrew the amendment.

Paragraph 3

328. The Government member of India withdrew an amendment in the light of a forthcoming amendment proposed by the Workers' group.

329. The Employer Vice-Chairperson presented an amendment, at the same time subamending it, to make it clear that the definition of forced labour in Convention No. 29 covered trafficking in persons. The proposed text as subamended read: "Confirming the definition of forced or compulsory labour contained in Convention No. 29, the measures referred to in this Article shall include specific action against trafficking in persons for the purposes of forced or compulsory labour."

330. The Worker Vice-Chairperson and the Government member of the United States also supported the amendment as subamended.

331. The Government member of Brazil, speaking on behalf of GRULAC, proposed a further subamendment to insert at the end of the paragraph ", in accordance with applicable international laws", as there was no definition of trafficking in persons in Convention No. 29.

332. This concerned the Employer Vice-Chairperson, as referring to this instrument was outside of ILO control and broadened the scope beyond the mandate of the ILO. He proposed a modified definition of human trafficking from the Trafficking in Persons Protocol, which edited out part of the definition to focus only on the elements within the ILO's mandate.

333. The Worker Vice-Chairperson recalled that the preamble already referred to relevant instruments, including the Trafficking in Persons Protocol, and his group did not support the subamendment put forward by GRULAC.

334. The Government member of Greece, speaking on behalf of EU Member States, aligned her group with the Workers' group. The body of the Protocol was about actions and not definitions.

335. The subamendment proposed by GRULAC was not adopted.

336. The Government member of Austria, speaking on behalf of EU Member States, expressed her group's rejection of the first part of the subamended amendment proposed by the Employers' group, which was phrased in the style of preambular text. She recalled that when discussing penal sanctions, the Employers' group had opposed her group's proposed insertion of similar specific references to Convention No. 29.

337. The Worker Vice-Chairperson proposed the deletion of the reference to Convention No. 29 to meet the concerns of the EU Member States.

338. The Employer Vice-Chairperson could not accept the proposal of the Workers' group, as there was a general misperception that the definition of forced labour in Convention No. 29 did not encompass human trafficking, and that the proposed wording made it unambiguously clear that human trafficking was covered in the Convention's definition.

339. The Government member of Namibia, speaking on behalf of the Africa group, considered that the language "Confirming the definition of forced or compulsory labour contained in Convention No. 29," was misplaced in the body of the Protocol.

340. The Employer Vice-Chairperson considered that the objection of the Africa group could be addressed by reworking the text to begin "The definition".

341. The Government member of the United States agreed with the Employers' group that the language reaffirming the definition of forced labour belonged to the operational paragraphs of the Protocol.

342. The Government member of Canada supported the previous speakers on the placement of the text. She suggested a new subamendment to read: "The measures referred to in this Article shall include specific action against trafficking in persons for the purposes of forced or compulsory labour, as defined in Convention No. 29."

343. The Employer and Worker Vice-Chairpersons accepted the subamendment.

344. The Government member of Indonesia reminded the Committee that every word of the Protocol created a legal obligation. He asked for clarification of the wording "specific actions", as the wording was ambiguous.

345. The Government member of the United Arab Emirates, speaking on behalf of the GCC, recalled that the Protocol had to be read alongside the Recommendation and it was therefore useful to specify definitions. He agreed with the Employers' group that clarity had been lacking in the definition of forced labour in Convention No. 29 and supported the

subamendment submitted by the Government member of Canada. He pointed out that paragraph 6 of the preamble also referred to trafficking and should be harmonized with Article 1(3).

346. The Government member of the United States suggested a further amendment to the text to retain its original intent: "The definition of forced or compulsory labour contained in Convention No. 29 is reaffirmed, and the measures referred to in this Article shall include specific action against trafficking in persons for the purposes of forced or compulsory labour."

347. This was accepted by the Employer Vice-Chairperson.

348. The Government member of Brazil, speaking on behalf of GRULAC, did not see the need for a reference to the definition in Convention No. 29, as it was already in force. However, the concept of trafficking in persons was not mentioned in Convention No. 29 and should be clearly addressed.

349. The Government member of Cameroon proposed replacing the word "specific" before "action" with "appropriate". The same proposal was subsequently put forward by the Government member of Indonesia.

350. The Employer Vice-Chairperson noted that the comment made by the Government member of Brazil illustrated that the definition of forced labour in Convention No. 29 gave the impression that the trafficking of persons was not included, while it was. This explained the need for making it clear in the Protocol through his group's amendment that the definition from 1930 was still valid and included the trafficking in persons.

351. The Worker Vice-Chairperson concurred with the Employer Vice-Chairperson. His group saw no legal difficulties with the way in which the Employers' group had subamended their original amendment, but his group remained open as to the best way of referring to the definition established in Convention No. 29.

352. The Employer Vice-Chairperson reiterated that his group's main concern was that the wording should clearly indicate that trafficking which led to forced labour fell within the scope of Convention No. 29. The Employers' group was not wedded to any particular phrasing, as long as it reflected the Committee's intention to make clear that the definition of forced labour encompassed human trafficking for the purposes of forced labour.

353. Speaking on behalf of GRULAC, the Government member of Brazil stated that if a specific reference to Convention No. 29 were to be made, he proposed a subamendment to also add the phrase ", without prejudice to any more favourable existing provisions in national law". Many countries had exceeded the provisions of Convention No. 29 and mentioning this instrument might result in restrictions to those activities. The subamendment would make it clear that the Protocol was establishing a floor rather than a ceiling.

354. The Worker Vice-Chairperson said that he understood the concern behind the subamendment proposed by GRULAC, but feared that it could weaken the Protocol. If such a reference were to be made, it might be understood as implying that this principle did not apply to other provisions in the Protocol. The ILO Constitution already provided that the adoption of a Convention by the ILO, and its ratification by a member State, could not prejudice more favourable provisions in national legislation. This applied to all Conventions adopted by the ILO in their entirety.

355. The Employer Vice-Chairperson agreed that it was generally understood that ILO standards were minimum standards. The risk of the proposed language was that it could create tensions between more favourable practices and minimum standards. To avoid this, he proposed returning to the subamendment made by the Government member of the United States.

356. Speaking on behalf of GRULAC, the Government member of Brazil stressed that the very purpose of their subamendment had been to recall the constitutional principle referred to by the Worker Vice-Chairperson. Given that there was no doubt as to the Protocol's connection to Convention No. 29, there should be no difficulty either in referring to the ILO Constitution in that paragraph.

357. Speaking on behalf of the GCC, the Government member of the United Arab Emirates supported the proposal made by the Employers' group. It was important to refer to the definition of forced labour and to indicate that measures taken on the basis of that Article encompassed trafficking in persons for the purpose of forced labour. There was no need to further extend the paragraph. The Protocol should be short and focused.

358. The Chairperson observed that there was not enough support for the subamendment put forward by GRULAC and proposed returning to the subamendment submitted by the Government member of the United States.

359. The Employer Vice-Chairperson reiterated his group's support for the suggestion proposed by the Government member of the United States. He, however, proposed a further subamendment to replace "Article" with "Protocol" to ensure that the paragraph applied to the whole instrument.

360. The Worker Vice-Chairperson concurred and supported the subamendment proposed by the Employers' group.

361. The Government member of the United States stressed that the intentions behind the proposal put forward by GRULAC were relevant and therefore wished to place on record that the Committee's discussions on the content of a Protocol indeed aimed to establish a floor rather than a ceiling on measures for the eradication of forced labour. Her Government supported the subamendment proposed by the Employers' group and introduced a further subamendment to insert the word "therefore" between the words "and" and "the".

362. The Government member of Australia seconded the subamendment proposed by the Government member of the United States.

363. The Government member of Greece, speaking on behalf of EU Member States, supported the subamendments proposed by both the Employers' group and the Government member of the United States.

364. The amendment was adopted as subamended.

Article 2

365. The Government member of the United Arab Emirates, speaking on behalf of the GCC, introduced an amendment to delete Article 2. A similar amendment was also made by the Government members of India and Sri Lanka. While they were in agreement with the Article's content, measures and mechanisms to prevent forced labour had already been

addressed under Article 1. In order to keep the text of the Protocol concise, further details should be included in the Recommendation.

366. The Worker Vice-Chairperson strongly opposed the amendment, highlighting that the main purpose of a Protocol was to guarantee that preventive measures were systematically applied by member States. Certain measures should be mentioned in the text of the Protocol in order to ensure that forced labour would be sustainably eliminated.

367. The Employer Vice-Chairperson understood the spirit of the amendment but could not agree with the deletion of the Article. His group had some specific issues with regard to the text under discussion which they were keen to address.

368. The Government member of Brazil, speaking on behalf of GRULAC, opposed the amendment, as Article 2 was needed to ensure that governments commit to taking appropriate measures to prevent forced labour.

369. The Government members of Greece and Namibia, speaking on behalf of EU Member States and the Africa group, respectively, also opposed the amendment.

370. The amendment was not adopted.

Subparagraph (a)

371. The Government member of Australia introduced an amendment to replace the expression "especially at risk" with "considered to be especially vulnerable". While the use of "at risk" served to identify groups that might be exposed to forced labour due to their inherent characteristics, the proposed wording encompassed groups that might be particularly exposed to forced labour in a given situation and due to a combination of factors, for instance, in the case of origin, destination and transit countries.

372. The amendment was seconded by the Government member of New Zealand and subsequently supported by the Employer and Worker Vice-Chairpersons. The Government member of Brazil, on behalf of GRULAC, and the Government members of the Philippines and Spain, also supported the amendment.

373. The amendment was adopted.

374. The Government member of Egypt introduced an amendment to add "according to the capacity of each country" at the end of the subparagraph, to ensure that member States take measures in a progressive manner.

375. The proposed amendment was not seconded and therefore not considered.

New subparagraph after subparagraph (a)

376. The Worker Vice-Chairperson introduced an amendment to insert a new subparagraph after subparagraph (a) to read as follows: "educating and informing employers, including private employers, in order to prevent their becoming involved in forced or compulsory labour practices". While measures to educate and inform people should indeed be targeted at victims or potential victims, such measures should also be directed towards employers, especially employers of domestic workers. These employers were often unaware of possible indicators of forced labour, such as, for example, withholding of passports.

377. The Employer Vice-Chairperson introduced a subamendment to add "all" before "employers" followed by the phrase "in both the formal and informal sectors" to replace

"including private employers". The intention was to make the wording more encompassing. The wording proposed by the Workers' group could send a wrong message, as most forced labour did not occur in the private sector in the formal economy.

378. The Worker Vice-Chairperson clarified that the reference to "private employers" was meant to refer to employers of domestic workers for example. Mentioning the formal and informal sectors raised the issue of definitions of these terms, which was the subject of discussions in the Committee on Transitioning from the Informal Economy. However, he was not opposed to include these notions in an appropriate place elsewhere.

379. The Employer Vice-Chairperson appreciated the explanations provided by the Worker Vice-Chairperson. He suggested that, in that case, it was preferable to use the terminology of Convention No. 189 and supported replacing "including private employers" with "including employers of domestic workers". The definitional distinctions between informal and formal employment were not the key issue here. What mattered was that awareness campaigns should target all employers.

380. The Government member of the United States supported the amendment put forward by the Workers' group. Nevertheless, the subamendment proposed by the Employers' group raised some difficulties, as governments would be made responsible for educating "all employers, including employers of domestic workers", an obligation the fulfilment of which would be difficult to determine. Moreover, she did not agree with the references to the formal and informal sectors, as this was under discussion in another Committee. She offered a new subamendment to the subamendment submitted by the Employers' group, to replace "including employers of domestic workers" with "such as employers of domestic workers".

381. The Government member of Australia seconded the subamendment proposed by the Government member of the United States, which was also supported by the Government member of Brazil, on behalf of GRULAC.

382. The Government member of Indonesia stated that a focus on employers of domestic workers was not useful, as forced labour occurred in all sectors.

383. The Government member of India noted that her delegation's preference was to add no new provisions. Nonetheless, she preferred a general reference to "all employers" without specific mention of employers of domestic workers, keeping in mind that there already existed specific standards on this category of workers.

384. The Government member of the United Arab Emirates, speaking on behalf of the GCC, and the Government member of Greece, speaking on behalf of EU Member States, supported the amendment as subamended by the Government member of the United States.

385. The Worker Vice-Chairperson did not oppose the subamendments by either the Employers' group or the Government member of the United States, though it seemed that in this context, the use of "such as" might actually restrict the application of measures to only employers of domestic workers. The wording "all employers, including employers of domestic workers" was preferable, it being understood that this did not imply in any way an obligation for governments to inform each and every employer, but rather to take measures targeting the range of different types of employers.

386. The Employer Vice-Chairperson recognized that the amendment proposed by the Workers' group had captured the spirit in wanting to cover all types of employers. He also found that the subamendment suggested by the Government member of the United States could be restrictive.

387. The Government member of the United States stated that their proposals had been made in the spirit of finding consensus, taking into account the views expressed in the Committee. Their own preference was the original proposal by the Workers' group, with the wording adjusted to refer to "employers in the private and public sectors" rather than singling out "private employers".

388. The Government member of Namibia, speaking on behalf of the Africa group, supported the Workers' group, with the addition that it should refer to "all employers".

389. The Government member of Belgium observed that referring to "employers in the private and public sectors" was an unnecessary departure from the amendment's initial intent. The amendment had used the term "private employer" though the intention seemed to have been to refer to individual employers *(particuliers employeurs)*.

390. The Worker Vice-Chairperson confirmed that the discussion was being complicated by language issues. Referring to individual employers was acceptable, if this was the correct term to refer to employers of domestic workers.

391. The Government member of Canada noted that she had no objections to using "individual employer", but could not support a reference to "all employers" for the same reasons as explained by the Government member of the United States.

392. The Government member of Cameroon could agree with the proposal of the Workers' group, though it was important to keep in mind that reaching out to employers of domestic workers was challenging.

393. The Government member of Argentina pointed out that information campaigns targeting employers of domestic workers were crucial and possible. In her country, specific approaches in this regard had been developed.

394. The Government member of Australia signalled support for the initial amendment by the Workers' group. She introduced a subamendment to delete ", including private employers" in order to avoid singling out any specific sector of employment or group of employers.

395. The subamendment proposed by the Government member of Australia was seconded by the Government member of Malaysia.

396. The Government member of Greece, speaking on behalf of EU Member States, proposed another option to ensure that all employers would be covered, namely, to replace "educating and informing employers" with "informing employers and raising their awareness".

397. The Government member of the United Arab Emirates, speaking on behalf of the GCC, cautioned against the use of vague language.

398. The Government members of New Zealand and Thailand supported the subamendment proposed by the Government member of Australia.

399. In a spirit of compromise, the Worker Vice-Chairperson accepted the subamendment proposed by the Government member of Australia. The resulting text covered all employers and established an important principle that could be further elaborated in the Recommendation.

400. The Employer Vice-Chairperson concurred with the Worker Vice-Chairperson.

401. The amendment was adopted as subamended.

Subparagraph (b)

402. The Worker Vice-Chairperson presented an amendment to insert "and enforcement" after "coverage" in the first line of the subparagraph.

403. The Employer Vice-Chairperson supported the amendment.

404. The Government member of Indonesia could not agree with the amendment, as it would require changes in his national legislation and his country was not ready for that.

405. The Government member of the United States supported the amendment, but in the light of the preceding comments, proposed a subamendment to insert the word "strengthening" before "enforcement". This was supported by the Government members of New Zealand and Brazil, on behalf of GRULAC.

406. The Government member of Canada could not agree with either the amendment or the subamendment, as in her opinion these aspects were already covered in the text.

407. The Employer Vice-Chairperson pointed out that several smaller amendments had been submitted to that subparagraph that could have an impact on the wording, and suggested that the Committee consider them simultaneously. The Worker Vice-Chairperson agreed.

408. The Employer Vice-Chairperson presented an amendment to replace the word "broadening" with "ensuring". In countries where the legislation already contained measures on the prevention of forced or compulsory labour, it was not a question of broadening the coverage of legislation but of ensuring its implementation. Other countries where that was not the case, needed to broaden their legislations. He introduced a second amendment to replace in the same subparagraph ", including labour law," with "applies". Many labour systems addressed the issue of forced labour, but not necessarily only through labour laws, and to remove this reference would allow for that flexibility.

409. Speaking on behalf of EU Member States, the Government member of Greece introduced an amendment to insert the words "prevention of" after the words "legislation relevant to" to stress the paramount importance of legislation that prevented the use of forced labour and thus paved the way for its eradication. The Government members of Germany and Ireland supported the amendment.

410. The Government member of the United Arab Emirates, speaking on behalf of the GCC, and the Government members of India and the Philippines, accepted the amendments proposed by the Employers' group and the Government member of Greece, on behalf of EU Member States.

411. The Government member of Indonesia supported the amendment proposed by the Employers' group to replace the word "broadening" with "ensuring".

412. The Government member of Singapore could only support the amendment to replace ", including labour law," with "applies".

413. The Government member of Belgium expressed concern at the amendment proposed by the Employers' group to remove the reference to labour law. Many situations which amounted to forced labour, such as cases where workers were required to work long hours, were covered by labour law and that needed to be enforced.

414. The Worker Vice-Chairperson supported the amendments proposed by the Employers' group to replace the word "broadening" with "ensuring", and by the Government member of Greece, on behalf of EU Member States, to insert "prevention of" after the words "legislation relevant to". In light of the amendments supported by the Workers' group, he observed that subparagraph (b) would only be consistent with the overall objective of Article 2 to strengthen prevention measures if the reference to labour law was kept. He therefore did not accept the amendment introduced by the Employers' group to replace "including labour law" with "applies".

415. The Employer Vice-Chairperson requested clarification from the secretariat as to whether specific reference to "labour law" in the context of prevention measures to address forced labour would oblige member States to take action to strengthen the enforcement of labour legislation, even in cases where forced labour might be addressed under different laws.

416. The Government member of the United States introduced an amendment, submitted jointly with the Government member of Japan, that would in fact address the point raised by the Employers' group on which laws applied to the issue of prevention of forced labour. She therefore introduced an amendment to replace "relevant to forced or compulsory labour, including labour law, to all workers and all sectors of the economy" with "as appropriate".

417. With regard to the request for clarification on the obligations emanating from the inclusion of an explicit reference to "labour law" in the Protocol, the secretariat explained that member States could apply a broad range of legislation in giving effect to the provisions of the Protocol. While it was clear that labour law in its various forms (such as employment law) was the most suitable legislation to regulate workers' rights, other relevant legislation might be applied in the context of prevention measures to address forced labour.

418. The Employer and Worker Vice-Chairpersons expressed their satisfaction with the explanation provided by the secretariat.

419. The Government member of the United Arab Emirates, speaking on behalf of the GCC, highlighted that the questions raised by the Employers' group were particularly relevant in the context of a legally binding instrument and prevention should not only be restricted to labour. This would allow flexibility to member States and hence enable wide ratification of the Protocol. He also voiced his support for the suggestion put forward by the Government member of the United States.

420. The following amendments were adopted: the amendment proposed by the Workers' group to insert "enforcement" after the word "coverage"; the amendment proposed by the Government member of Greece, on behalf of EU Member States, to insert "prevention of" after the words "legislation relevant to"; and the amendment put forward by the Employers' group to replace the word "broadening" with "ensuring".

421. The Chairperson indicated that the amendment proposed by the Government members of Japan and the United States and the amendment proposed by the Workers' group addressed similar issues and would therefore be jointly discussed.

422. The Worker Vice-Chairperson withdrew his group's amendment to delete "and all sectors of the economy".

423. The Government member of the United States noted that she had not intervened during the previous discussions, but was waiting to defend her amendment in light of the original text and not of the amendments adopted. While her Government had not elaborated an alternative text, she opposed the expression "ensuring the coverage and enforcement of legislation", as its meaning was unclear. She requested to have her amendment reflected in

light of the original text, and suggested replacing “relevant to forced or compulsory labour, including labour law, to all workers and all sectors of the economy” with “as appropriate”.

424. The Employer Vice-Chairperson said that, had the proposal presented by the Government member of the United States been considered first, he would have opposed it, as it removed the whole purpose of the debate from the provision. However, having reached consensus on an amended text for Article 2(b), he proposed a subamendment to include “as appropriate” after “including labour law,”.

425. The Worker Vice-Chairperson agreed and supported the subamendment put forward by the Employers’ group.

426. Several Government members of the Committee voiced their concern at the drafting of the subparagraph, which was causing problems in comprehension, especially in the translated text.

427. The Government member of the United States suggested a subamendment to the text that might address the drafting issues, namely, to reorder the subparagraph to read: “(b) ensuring the coverage and enforcement of legislation, including labour law as appropriate, to prevent forced or compulsory labour for all workers in all sectors of the economy.”

428. The subamendment was supported by the Government member of New Zealand.

429. The Government member of Cameroon rejected the amendment by the Employers’ group to use the word “ensuring” instead of “broadening”. There had consistently been problems with the definition of the scope of forced labour, so the concept of “broadening coverage” was welcome.

430. The Worker Vice-Chairperson explained that the original drafting of the subparagraph had left room for ambiguity and the intention in amending the text was to achieve clarity. The spirit of the original text was to bring together both legislation that was relevant to forced and compulsory labour and its prevention, in respect to all workers and sectors. By adding “, including labour legislation as appropriate,” it was clear that there might be circumstances where the elimination of a lack of labour legislation enforcement was necessary as a preventing measure. At the same time, other legislation might be more relevant and labour inspection had to be strengthened in that way too.

431. The Employer Vice-Chairperson agreed with that view and the text was adopted, as amended.

432. The Government member of Greece, speaking on behalf of EU Member States, introduced an amendment to insert “/or” after “labour inspection services” so that it was clear that the competent authority would be involved, according to national circumstances.

433. The Chairperson explained that the Manual for drafting ILO instruments discouraged the use of “and/or”. The amendment was therefore withdrawn.

434. The Worker Vice-Chairperson introduced an amendment that proposed deleting the words “whenever necessary” at the end of the subparagraph.

435. The Government member of Brazil, speaking on behalf of GRULAC, proposed to subamend the text in subparagraph (b) by replacing “ensuring” with “undertaking to ensure” before “that the coverage and enforcement of legislation relevant to prevention of forced or compulsory labour, including labour law as appropriate, applies to all workers

and all sectors of the economy and that the labour inspection services and other services responsible for the implementation of this legislation, whenever necessary."

436. The Government member of Switzerland did not support the amendment submitted by the Workers' group, as it would imply that all member States needed to strengthen labour inspection systems, even those who already had well-functioning inspectorates.

437. The Government members of Australia and the United States could not support the amendment submitted by the Workers' group. However, they expressed support for the subamendment proposed by the Government member of Brazil, on behalf of GRULAC.

438. The Employer Vice-Chairperson, for the sake of clarity, suggested to structure the text as follows:

> (b) undertaking efforts to ensure that:
>
> (i) the coverage and enforcement of legislation relevant to prevention of forced or compulsory labour, including labour law as appropriate, applies to all workers and all sectors of the economy; and
>
> (ii) the labour inspection services and other services responsible for the implementation of this legislation are strengthened.

439. The Worker Vice-Chairperson welcomed the proposal of the Government member of Brazil in conjunction with the subsequent changes suggested by the Employer Vice-Chairperson. This could also address the concerns voiced by the Government member of Switzerland.

440. The Government member of Greece, speaking on behalf of EU Member States, proposed to re-insert "whenever necessary" at the end of the sentence to allow for flexibility at national level. This was supported by the Government members of Ireland and Sweden. In the case of Sweden, it was extremely important, as there was no labour inspectorate and the enforcing of the law and inspection was undertaken by the social partners.

441. The Worker Vice-Chairperson expressed the agreement of his group with the resulting text. In his view, the insertion of "undertaking efforts to ensure that" provided the balance to the deletion of "whenever necessary".

442. Subparagraph (b) was adopted, as amended.

Subparagraph (c)

443. The Employer Vice-Chairperson introduced an amendment to replace the text after the words "protecting workers" with ", particularly migrant workers, from possible abusive and fraudulent practices during the recruitment and placement process." He explained that there was a wide variety of ways to recruit workers, which were not confined exclusively to private employment agencies or recruitment agencies. He claimed that the intent of the amendment was to ensure that the protection covered the recruitment and placement process, and also applied to employers who directly recruited workers without going through intermediaries.

444. The Workers' group supported the amendment.

445. The Government member of Greece, speaking on behalf of EU Member States, expressed concern that "services" was now missing, and subamended the text to read "recruitment and placement services".

446. The Government member of Australia supported the amendment, and therefore withdrew the amendment her Government had submitted regarding placement services.

447. The Government member of the United States, seconded by the Government member of Greece, speaking on behalf of EU Member States, requested one small subamendment to replace "workers" with "persons", arguing that these individuals might not yet have been recruited to become workers.

448. The Worker Vice-Chairperson requested legal advice on the correct terminology to use, "persons" or "workers".

449. The Legal Adviser explained that both terms could be used but drew attention to subparagraph (a) which referred to yet another word, "people", thus possibly raising a question of consistency.

450. The Government member of Spain explained that when talking about prevention, the situation involved people who were not yet workers.

451. The Government member of the United Arab Emirates, speaking on behalf of the GCC, supported the position of the Government member of Spain and the amendment of the Employers' group. He argued that in discussing prevention, it would be preferable to talk about "persons". He also argued that it would be more appropriate to use "migrants" rather than "migrant workers".

452. The Government member of Namibia, speaking on behalf of the Africa group, preferred the term "worker", as this was in the mandate of the ILO.

453. The Government member of Uruguay, speaking on behalf of GRULAC, supported the use of the word "persons", arguing that it was more appropriate in the prevention context.

454. The Employer Vice-Chairperson explained that in a person's lifetime, the only time one was not a worker was while at school. Otherwise, individuals were workers. The discussion revolved around how to minimize the opportunities that they had to fall into the unfortunate circumstance of forced labour. It was necessary to use terminology that covered those entering the labour market, but who had not yet found a job.

455. The Worker Vice-Chairperson completely understood the rationale for the term proposed. He had not been opposed to its use in subparagraph (a), as he believed it covered all young people at school. However, in subparagraph (c), he felt it was more appropriate to use "workers" within the recruitment process. "Workers" was ILO language and covered all members of the working class. Nevertheless, taking into account the concerns voiced by Governments, he could accept the terms "persons" or "people".

456. The Government member of Namibia explained, on behalf of the Africa group, that he was not comfortable with attempts to extend the coverage beyond "workers" and could not accept the use of the term "persons", as it was outside the scope of the ILO's mandate.

457. Subparagraph (c) was adopted, as amended.

New subparagraph after subparagraph (c)

458. The Worker Vice-Chairperson introduced an amendment adding a new subparagraph after (c), that would read: "each Member should promote due diligence from public and private sector entities to prevent and respond to risks of forced or compulsory labour."

459. The Employer Vice-Chairperson recalled that the underlying spirit of the amendment could be found in the *Guiding Principles on Business and Human Rights* elaborated by the UN. He expressed concern about it, as the primary duty to protect was essentially a state duty. He read out the state's duty as set out in that document: "States must protect against human rights abuse within their territory and/or jurisdiction by third parties, including business enterprises. This requires taking appropriate steps to prevent, investigate, punish and redress such abuse through effective policies, legislation, regulations and adjudication." He proposed a subamendment for the text to read: "Each Member shall undertake national assessments to determine whether forced or compulsory labour exists in their country, and support similar assessments in the private sector, and shall take action to prevent, protect and remedy any forced or compulsory labour that is found."

460. Following informal discussions, the Government member of the United States introduced a subamendment to the amendment initially submitted by the Workers' group in order to address concerns raised by Governments and the Employers' group. The new subparagraph after subparagraph (c) would read: "supporting due diligence by both the public and private sectors to prevent and respond to risks of forced and compulsory labour". If adopted, a related amendment submitted by the Government members of New Zealand and the United States would be withdrawn.

461. The Worker Vice-Chairperson thought the text put forward by the Workers' group clear. Nonetheless, his group supported the subamendment, as it expressed sufficiently clearly the principle of due diligence in the context of prevention of forced labour.

462. The Employer Vice-Chairperson noted that the proposals from the Workers' group and the Government members of New Zealand and the United States were more appropriate for the Recommendation. However, his group could support the compromise text, as it was succinct and clear without going into the underlying specificities.

463. The Government members of Greece, on behalf of EU Member States, Namibia, on behalf of the Africa group, and the United Arab Emirates, on behalf of the GCC, as well as the Government members of Canada, New Zealand and Sudan, supported the subamendment.

464. The amendment submitted by the Workers' group was adopted as subamended.

465. The Government member of the United States introduced an amendment to another subparagraph to Article 2, on behalf of her Government and the Government of New Zealand. They proposed to include the following text as a new subparagraph: "addressing the root causes and factors of forced labour that heighten the risks of forced and compulsory labour".

466. The Employer and Worker Vice-Chairpersons both stated that they saw no difficulties with the suggested text, but wondered what the added value was. The Worker Vice-Chairperson asked the Governments to elaborate further and explain what the new proposed text would add that was not covered by the provisions on due diligence just adopted by the Committee.

467. The Government member of New Zealand stressed that the proposed new subparagraph talked about more fundamental issues and was considerably wider in scope. It was important to look into development issues and disparities between countries as a means to overcome poverty as a root cause of forced labour.

468. The Government member of Turkey supported the amendment. It was important that the Protocol include a statement to this effect, in addition to its references to prevention, protection and compensation.

469. The Government member of Brazil, speaking on behalf of GRULAC, agreed that there was some overlap with the previously adopted text that referred to due diligence by the public and private sectors "to prevent and respond to risks" of forced labour. However, his group supported the amendment, as they believed that it added something new.

470. The Government member of Namibia, speaking on behalf of the Africa group, concurred with the Worker Vice-Chairperson.

471. The Government member of the United Arab Emirates, speaking on behalf of the GCC, supported the view of the Employer Vice-Chairperson that the Committee should move faster and concentrate on essential matters. His group agreed with the interventions by the Workers' group and the Africa group, as they did not see what was new in the proposal.

472. The Government member of the United States sought to further clarify the motives for the amendment. Addressing such root causes of forced labour as discrimination or poverty went far beyond due diligence in reviewing the operation of businesses or governments. She turned to the Workers' group for their views on whether to continue the discussion of the amendment.

473. The Worker Vice-Chairperson reiterated that his group had had no difficulty with the intention behind the proposal and he welcomed the explanation from the Governments. His group agreed that such factors could heighten the risk of forced and compulsory labour, and therefore could support the amendment.

474. The Employer Vice-Chairperson noted that the amendment echoed the sentiments of his group's own arguments in favour of a reference to national assessments and he therefore supported the amendment.

475. The Government member of Côte d'Ivoire also spoke in support of the amendment.

476. The amendment was adopted as submitted.

477. Article 2 was adopted, as amended.

478. The Legal Adviser responded to the question from the Government member of Switzerland concerning the term "victim" used in the Protocol. In view of the fact that the Swiss federal Act on Assistance to Victims of Crime included a definition of that term, the Government member of Switzerland had queried whether the Protocol, in the absence of similar definition referred back to national legislation in that regard. He also sought guidance on whether the definition contained in Swiss legislation could be considered to cover the victims of forced or compulsory labour. The Legal Adviser pointed out that neither the draft Protocol nor Convention No. 29 contained a definition of the term "victim", nor did any other ILO instrument. Drafted in 1930, Convention No. 29 referred to "persons from whom forced or compulsory labour is exacted". The use of the term "victims" " in the draft Protocol instead of the expression "persons from whom forced labour is exacted" reflected the evolution of international human rights law over the past 80 years in the sense that today anyone who was subject to forced labour practices could only be regarded as a victim of a serious violation of fundamental human rights. The notion of victims was widely used by the ILO supervisory bodies in the context of forced labour and also appeared in the UN Basic Principles and Guidelines on the Right to a Remedy and Reparation. The Legal Adviser further noted that the Protocol contained no cross-reference to national law, which was preferable as to avoid weakening the definition of forced or compulsory labour in Convention No. 29. Finally, the Legal Adviser indicated that technical advisory services with regard to the compatibility of national legislation with

ILO instruments were available to member States, though such assistance could not be provided in the context of the Committee's discussions.

Article 3

479. The Government member of the United Arab Emirates, speaking on behalf of the GCC, indicated that having listened to the views expressed in the Committee, he would withdraw an amendment to delete Article 3.

480. The Worker Vice-Chairperson introduced an amendment to replace the text of Article 3 with the following: "Each Member shall take effective measures for the identification, release, protection as well as the recovery and rehabilitation of all victims of forced or compulsory labour." The purpose of the proposal was to add the element of protection.

481. The Government member of Australia introduced an amendment to replace, after the words "measures for the identification", the words "and release, as well as the recovery and rehabilitation, of" with ", release, and protection of, as well as provision of assistance and support for". They argued that the notions of rehabilitation and recovery were not typically used in such a context. The proposed wording was in line with Article 6 of the Trafficking in Persons Protocol. The Government member of New Zealand seconded the amendment.

482. The Government member of Greece, speaking on behalf of EU Member States, withdrew an amendment similar to the one introduced by the Government member of Australia and expressed support for the latter. Moreover, they wished to subamend the text proposed by the Government member of Australia to add after "release" the words "from bondage".

483. The Government member of Brazil, speaking on behalf of GRULAC, acknowledged that the amendments of the Workers' group and the Government member of Australia were both of interest, but expressed a preference for the text proposed by the Workers' group.

484. The Government member of Cameroon cautioned that the term "release" might cause confusion and suggested "withdrawal", which had been in use in the context of child labour as an alternative.

485. The Government member of Cote d'Ivoire expressed support for the amendment submitted by the Government member of Australia. He believed that the term "rehabilitation" was more limiting than "assistance and support".

486. The Government members of Switzerland, Turkey and the United States also supported the amendment submitted by the Government member of Australia.

487. The Worker Vice-Chairperson considered that the amendments submitted by the Workers' group and the Government member of Australia could be merged by adding the words "provision of assistance and support for" to their own amendment. He considered it inappropriate to add "from bondage" before "release", as forced labour was a broader concept than bondage.

488. The Chairperson proposed the following wording for consideration by the Committee: "Each Member shall take effective measures for the identification, release, protection, provision of assistance and support and recovery and rehabilitation, for all victims of forced or compulsory labour."

489. The Government member of Greece, speaking on behalf of EU Member States, noted that the word "assistance" also included the aspect of "recovery" in line with the Trafficking in Persons Protocol. She suggested the deletion of the terms "recovery and rehabilitation".

490. The Government members of Canada, Indonesia, New Zealand, Senegal and the United States supported the subamendment made by the Government member of Greece, on behalf of EU Member States.

491. The Government members of Algeria and Namibia were in favour of retaining the words "recovery and rehabilitation".

492. The Employer Vice-Chairperson recalled that over the last 30 years, issues related to recovery and rehabilitation had been discussed by the Committee of Experts and the Conference Committee on the Application of Standards as an effective way to prevent forced labour. Lamenting that Governments were rejecting decades of observations made by the supervisory bodies, he argued that "assistance and support" was in fact new language, and that without the notions "recovery and rehabilitation", an important part of the text would disappear.

493. The Worker Vice-Chairperson recalled that the rationale put forward for proposing the deletion of "recovery and rehabilitation" was that "assistance and support" was all encompassing. Indeed there seemed to be broad agreement in that regard. Assistance and support would help achieve recovery and rehabilitation.

494. The Government member of Cameroon supported the inclusion of the notions of recovery and rehabilitation, arguing that they were linked to assistance and support.

495. The Government member of Brazil, speaking on behalf of GRULAC, believed that assistance and support was broader than recovery and rehabilitation, but that they remained separate, overlapping concepts. He argued that including "recovery and rehabilitation" was a way of preventing forced labour in the future.

496. The Government member of Australia insisted that the text include a reference to "assistance and support". In her view, "assistance and support" was broader, for instance, including assistance during legal proceedings.

497. The Government member of India pointed out that it was important to ensure the text's clarity, as its terms inherently implied commitments for all governments. She preferred keeping "recovery and rehabilitation".

498. The Chairperson noted that there was sufficient support in the Committee to include in the text of Article 3 a reference to "recovery and rehabilitation" as well as "assistance and support". Based on the discussions in the Committee, he proposed the following wording to be considered as a subamendment to the amendment submitted by the Workers' group: "Each Member shall take effective measures for the identification, release, protection, recovery, rehabilitation, as well as for other forms of assistance and support, for all victims of forced or compulsory labour."

499. The amendment was adopted, as amended.

500. Speaking on behalf of EU Member States, the Government member of Greece introduced an amendment to add the words "paying special attention to children, women and other persons at risk" at the end of Article 3. The intention of the amendment was to strengthen the gender- and child-sensitive approach of the Protocol, which was in line with the Trafficking in Persons Protocol.

501. The Employer Vice-Chairperson introduced an amendment to add, at the end of Article 3, the phrase "in their national context including whether they are a sending, transit or receiving country, recognizing that a country could be one or more of these categories at the same time". The amendment acknowledged that remedies were dependent on national situations. A country could fall into all three categories, but it should be clear that there was an understanding that specific actions depended on national context.

502. The Government member of India presented an amendment to add ", as appropriate" at the end of the Article, also in order to acknowledge differences in national context. A consideration of both the socio-developmental and legislative contexts would encourage compliance.

503. The Worker Vice-Chairperson did not support the amendment submitted by the Government member of Greece, on behalf of EU Member States. While his group understood the reasons for giving particular attention to women and children, he noted that 50 per cent of victims of forced labour were men. All victims of forced labour were included in the preamble, and his group did not wish to take the risk of focusing on specific categories for fear of undermining others. In view of the explanation provided by the Government member of India, his group did not support their amendment, to avoid any suggestion that provisions on forced labour could be subject to any derogation whatsoever. With regard to the amendment submitted by the Employers' group, there was concern at how the words "national context" would be interpreted. There was no objection to referring to particular situations, on the understanding that situations of forced labour did not always involve migrants. He therefore suggested replacing "in their national context including" with "taking into consideration, in particular," which made it clear that other aspects might also intervene while not excluding assistance in situations outside the context of migration.

504. The Government member of Australia did not support any further additions to Article 3, believing that the text was adequate as it stood. She did not understand why the amendment submitted by the Employers' group should only apply to Article 3, as the whole Protocol applied to all national circumstances.

505. The Government member of Turkey did not support the amendment submitted by the Government member of Greece, on behalf of EU Member States. Men and boys were also part of the vulnerable groups and legislations should be prepared to protect all victims.

506. The Employer Vice-Chairperson observed that national context was of considerable importance. Certain countries might face both domestic instances of forced labour and cases within the context of migration. For example, a receiving country might have a housing obligation, which would be irrelevant in a sending country. The amendment highlighted the fact that the measures against forced labour were highly situational. The amendment did not provide an escape clause, but merely a recognition of reality.

507. The Government member of Germany sought clarifications from the secretariat concerning the term "rehabilitation" used in Article 3. In German legislation, the term had a very specific meaning and implied enjoyment of a wide range of social benefits, in particular disability benefits.

508. In reply, a representative of the secretariat recalled that during the discussion, the social partners had made reference to the Committee of Experts on the Application of Conventions and Recommendations (CEACR), which had been addressing rehabilitation issues in connection with forced labour in the context of Convention No. 29. The supervisory bodies had noted that member States should ensure that victims of forced labour, including of trafficking, were afforded psychological, medical and legal support to

enable them to assert their rights and to contribute to their social rehabilitation. The UN Basic Principles and Guidelines on the Right to a Remedy and Reparation also provided guidance regarding the term "rehabilitation".

509. The Employer Vice-Chairperson noted that his group did not support the amendment put forward by EU Member States regarding women and children. He understood the spirit of the amendment, but forced labour was egregious across the board and the economic reality was that it actually affected equally men, boys, women and girls.

510. The Worker Vice-Chairperson observed that underlying concern expressed by the amendment of the Employers' group regarding the different situations of sending, transit and receiving countries was an important feature of the Committee's debate and should be highlighted as such in its report. However, he wondered if it would be appropriate to record the matter in the report, while the wording could be taken up in the context of the Recommendation. By all means, governments should apply policies that reflected their national circumstances and their particular role in the migration process.

511. The Employer Vice-Chairperson said that such a way forward was acceptable to his group, with the understanding that there was agreement on Article 3 of the Protocol indeed implying that countries would need to take the measures necessary in their specific national circumstances. The Worker Vice-Chairperson confirmed this understanding.

512. The Government member of New Zealand noted that Article 3 did not lend itself to adding descriptions of specific topics or country situations, though the formulations suggested could be considered in the context of the Recommendation.

513. The Government members of Australia, Mexico and the United States agreed with the Government member of New Zealand. The United States added that inclusion of that wording in Article 3 detracted from the fact that most forced labour took place without any crossing of borders.

514. Lacking sufficient support, the amendment by EU Member States to add a reference to special attention to women, children and other persons at risk, as well as the amendment introduced by the Government member of India to add "as appropriate" at the end of Article 3, were not adopted.

Article 4

515. The Government member of the United Arab Emirates, speaking on behalf of the GCC, and the Government members of India and Sri Lanka, withdrew an amendment to delete Article 4.

516. The Worker Vice-Chairperson introduced an amendment to replace Article 4 with the following text: "Each Member shall ensure that all victims of forced or compulsory labour, irrespective of their residency status: (a) have effective access to appropriate remedies, including compensation; (b) are not held liable for offences they have been compelled to commit." The main change was the wording "irrespective of their residency status". The Workers' group considered the residency status more relevant than nationality on that point.

517. The Chairperson invited comments regarding the first part of the amendment.

518. The Employer Vice-Chairperson proposed a subamendment to subparagraph (a) to replace "including compensation" with "such as compensation" in order to ensure consistency with earlier references to compensation in the text.

519. The Government member of Canada considered that the proposal put forward by the Workers' group was acceptable as far as subparagraph (a) was concerned.

520. The Government member of Greece, speaking on behalf of EU Member States, commented on subparagraph (a) of the proposal by the Workers' group, indicating their preference for retaining the reference to nationality as contained in the Office text.

521. The Government member of Australia withdrew an amendment to the Article in the light of the amendment by the Workers' group.

522. The Government member of Brazil, speaking on behalf of GRULAC, supported the amendment by the Workers' group, with a subamendment that suggested replacing "residency status", which was unclear, with "migration status".

523. The Government members of New Zealand and the United States indicated support for subparagraph (a) of the proposal by the Workers' group on condition that reference could be made to "migration status" or "nationality".

524. The Government member of Cameroon considered that the term "nationality" was more appropriate. Government measures should also cover nationals of other countries, for example, in the case of legal assistance.

525. The Worker Vice-Chairperson accepted the subamendment proposed by the Employer Vice-Chairperson. However, he was concerned that the term "migration status", as suggested by Governments, targeted the situation of migrant workers only, whereas "residency" was much broader.

526. The Government member of Belgium stated that the term "residency status" was problematic, as it had different meanings in various countries. In their understanding, the term "residency" was referring to a legal status; in the EU, all countries had a legal residency system. Therefore, she underscored that the term used should be "nationality".

527. The Government member of New Zealand supported the use of the wording "remedies, such as compensation" for consistency. With regard to "migration status", she stated that in the immigration context, the term was recognized as referring to residency status, including nationality.

528. The Government member of the United States shared the concerns expressed by others regarding the term "residency"; residency was bound to a location. It raised the issue of the situation of workers who had left the country where they had been victims of forced labour. Regarding the issue of compensation, she reiterated her Government's disappointment that the wording on the issues used in the text was not more forward leaning.

529. The Government member of Finland suggested not using "migration status" in the provision, as cases of forced labour within a country should be covered as well. He suggested considering two options, either using "residency" or deleting the last part of the sentence altogether.

530. The Government member of Cameroon stated that countries, to a certain extent, needed to differentiate between nationals and non-nationals, which needed to be taken into account in

the wording of provisions, and wondered whether the provisions would apply to all foreigners.

531. Replying to the Government member of Cameroon, the Chairperson explained that the Article would not apply to all foreigners, rather it would apply specifically to victims of forced labour.

532. The Government member of Canada proposed a subamendment, drawing on the wording of paragraph 10(e) of the proposal to replace "irrespective of their residency status" with "irrespective of their presence or legal status in the national territory".

533. The subamendment was seconded by the Government member of Turkey.

534. The Government member of Greece, speaking on behalf of EU Member States, and the Government member of Brazil, speaking on behalf of GRULAC, as well as the Government members of Côte d'Ivoire and South Sudan, supported the subamendment proposed by the Government member of Canada. South Sudan placed on record that his Government would have preferred a reference to "legal presence and status".

535. The Employer Vice-Chairperson had no difficulty with the suggested wording for subparagraph (a).

536. The Worker Vice-Chairperson welcomed the wording proposed by the Government member of Canada and the comments made by Committee members thereon.

537. The Government member of the United States regretted that "such as" was introduced before "compensation", and referred to the conclusions of the recurrent discussion on fundamental principles and rights at work in 2012.

538. The Government member of the United States proposed a subamendment on behalf of Australia, Japan and Turkey, to add, at the beginning of the Article, after "Each Member shall", the words "seek to". It would be impossible for States to ensure that all victims have access to appropriate remedies. She recommended using language that countries could reasonably achieve.

539. The Worker Vice-Chairperson found that the proposed subamendment unnecessarily weakened the text and preferred keeping the original text.

540. The Employer Vice-Chairperson agreed with the position of the Workers' group, noting that the subamendment considerably weakened the provision.

541. The Government member of Indonesia supported the subamendment put forward by the Government member of the United States.

542. Lacking support in the Committee, the amendment was not adopted.

543. The Government member of the Philippines introduced two subamendments: firstly, to insert the words "and other forms of assistance" after the word "remedies" in order to clarify that remedies were not limited to legal and administrative regulations; secondly, to insert after "compensation" the words "for damages from the perpetrator". He argued that the Protocol should make it clear that remedies were to be extracted from the perpetrators and that compensation should be understood as a punitive measure.

544. The Government member of Brazil, speaking on behalf of GRULAC, supported the subamendments, but suggested that the second subamendment should read "such as compensation from perpetrators".

545. The Employer and Worker Vice-Chairpersons did not support the subamendments suggested by the Government member of the Philippines.

546. The subamendments were not adopted.

547. The Government member of Egypt introduced a subamendment to delete subparagraph (b), as the intention and scope of the provisions were unclear.

548. The subamendment was not seconded and therefore not considered by the Committee.

549. With regard to the second part of the amendment put forward by the Workers' group, the Employer Vice-Chairperson noted that the situation described in the text could be abused by people who willingly engaged in criminal activities. As Governments had submitted amendments on that point, putting forward alternative language, he preferred to hear their opinions.

550. The Government member of Greece, speaking on behalf of EU Member States, introduced a subamendment to replace subparagraph (b) of the text proposed by the Workers' group with the following: "Members shall, in accordance with the basic principles of their legal systems, take the necessary measures to ensure that competent authorities are entitled not to prosecute or impose penalties on victims of forced labour for their involvement in criminal activities which they have been compelled to commit as a direct consequence of being subjected to forced labour."

551. The Government member of Canada, stated that her Government had submitted an amendment regarding Article 4(2) of the Office text, which they preferred over subparagraph (2) of the text of the Workers' group. She was prepared to defer to the proposal submitted by EU Member States which was very similar to their own proposal, but would propose to subamend the wording to replace "criminal activities" with "unlawful activities".

552. The Government members of Australia, Japan, New Zealand, Switzerland and the United States supported the subamendment proposed by the Government member of Canada.

553. The Government member of Greece, speaking on behalf of EU Member States, accepted the subamendment proposed by the Government member of Canada.

554. The Worker Vice-Chairperson agreed to the subamended proposed by EU Member States, as further amended by the Government member of Canada.

555. The Government member of the United Arab Emirates, speaking on behalf of the GCC, as well as the Government member of the United States, also supported the wording proposed by EU Member States, as amended by the Government member of Canada.

556. The Employer Vice-Chairperson stated that his group continued to prefer not including a provision on that matter in the Protocol, as they did not consider it to reflect the right approach. They would, however, not stand in the way of adopting the text if that was the will of the Committee.

557. The amendment submitted by the Workers' group was adopted, as amended.

558. The Government member of Brazil, speaking on behalf of GRULAC, introduced an amendment to insert a new paragraph: "3. Each Member shall consider the adoption of measures to impose sanctions on those who make use of or benefit from forced labour." He explained that the amendment had been formulated prior to the mention of sanctions within the Protocol.

559. The Worker Vice-Chairperson suggested the withdrawal of the amendment, as its provision had already been included, especially in Article 1(1), and was thus redundant. The Employer Vice-Chairperson agreed.

560. The Government member of Brazil, speaking on behalf of GRULAC, said that there was one aspect of the amendment that had not been included elsewhere regarding the need to sanction those who benefited from forced labour even if they were not directly involved in its use. In submitting the amendment, the group had considered supply chains with a view to being able to sanction the beneficiaries of forced labour further down the chain.

561. The Government member of Namibia, speaking on behalf of the Africa group, understood the logic behind the proposal, but pointed out that it would be extremely difficult for governments to monitor and to find out how to sanction consumers. He could not support the amendment.

562. The Government member of Switzerland was in agreement, as the amendment broadened up the sanctions too much and implied that the State could not punish everyone.

563. The Government member of Cameroon supported the amendment, as it had proved successful, especially in the fight against child labour, where goods produced using child labour were named, thus shaming those enterprises that knowingly bought goods from the perpetrators of the practice.

564. The Government member of the Democratic Republic of the Congo agreed with the second part of the GRULAC statement, as that was the case in regions of conflict where people were forced to work and the goods were sold openly.

565. The Government member of Brazil, speaking on behalf of GRULAC, said that he realized that the proposal was not sufficiently clear, and therefore proposed to subamend it by replacing "make use of or benefit from forced labour" with "make use of or benefit in the supply chain from forced labour", thus including a specific reference to supply chains.

566. The Worker Vice-Chairperson indicated that his group was in complete agreement that those who used or sponsored forced labour should be sanctioned. The Committee had covered the point elsewhere and, in addition to the Recommendation, had made ample provisions for any gaps in that regard. Regarding the issue of the beneficiaries of forced labour, the previous debate on the issue had resulted in a conclusion that it was relatively difficult to make any clear provision in that regard in the Protocol. The Committee had come up with two innovative and relevant provisions, first, on awareness-raising and education campaigns and, second, on the promotion of due diligence. He therefore considered that the current amendment was no longer necessary.

567. The Employer Vice-Chairperson agreed with the Worker Vice-Chairperson. The Committee had made it clear that the Protocol addressed the perpetrators of forced labour. Considering those who benefited from forced labour would broaden the scope too much.

568. The Government member of Argentina observed that in view of the nature of forced labour, the Committee needed to consider a number of different measures, including prevention measures. The amendment opened the door for prevention. In reality, labour

inspection could lead to sanctions for the perpetrators, but the products resulting from forced labour continued to be bought by persons who were aware of what was happening. Those individuals also needed to be sanctioned, in order to be able to eradicate forced labour effectively. That view was shared by the Government member of Cameroon.

569. The Government member of Trinidad and Tobago agreed that the issue was of importance, but it would be difficult to include it as a requirement in a binding Protocol. It should be reflected clearly in the record of the discussions.

570. The amendment was not adopted.

571. Article 4 was adopted, as amended.

Article 5

572. The Government member of the United States withdrew an amendment.

573. Article 5 was adopted with no change.

574. The Worker Vice-Chairperson introduced an amendment to add a new Article after Article 5, which would read: "Each Member shall ensure that legal persons can be held liable for the violation of the prohibition to use forced or compulsory labour in applying Article 25 of the Forced Labour Convention 1930 (No. 29)." He acknowledged that the proposal could generate a prolonged debate, as the amendment put forward sought to address cases in which legal persons should be held liable for forced labour. He observed that the provisions under Convention No. 29 relating to private individuals, companies or associations did not prevent new forms of forced labour to emerge. The aim of the proposal put forward by the Workers' group was to address those new forms of forced labour.

575. The Employer Vice-Chairperson could not accept that amendment. He pointed out that the majority of cases of forced labour occurred in the informal economy, and recalled that cases in which formal businesses were perpetrators of forced labour were already addressed under Convention No. 29. He stressed that it was an issue to be defined in the context of countries' legal systems. Therefore, the issue of liability of legal persons should not be included in a Protocol aiming to address implementation gaps. He suggested that the Workers' group should reflect upon the proposal put forward and the consequences of its insertion in a Protocol.

576. For the reasons given by the Employer Vice-Chairperson, the Government member of Indonesia could not support the amendment.

577. The Government member of Greece, speaking on behalf of EU Member States, introduced a subamendment to delete "in applying Article 25 of the Forced Labour Convention 1930 (No. 29)", and to add the following sentence at the end of the amended text: "Subject to the legal principles of the Member, the liability of a legal person may be criminal, civil or administrative." The proposed sentence reflected the wording of Article 22 of the Council of Europe Convention on Action against Trafficking in Human Beings.

578. The Worker Vice-Chairperson, taking the Governments' views into account, including the proposed subamendment by the Government member of Greece, on behalf of EU Member States, withdrew the amendment. He observed that Article 25 of Convention No. 29 contained no specific reference to the status of potential perpetrators of forced or compulsory labour, and that it was therefore preferable to maintain the focus on

Convention No. 29, instead of elaborating on the issue of legal persons. He believed that Convention No. 29, supplemented by the present Protocol, provided the necessary legal certainty in that regard.

Article 6

579. Before beginning deliberations on the amendments to Article 6, the Government member of Greece, speaking on behalf of EU Member States, requested the opinion of the Legal Adviser as to whether the draft Protocol might be considered to have a retroactive effect and also whether an explicit provision was needed in order to exclude any such retroactive effect.

580. The Legal Adviser replied that treaties were generally not retroactive and that their legal effect was prospective unless a different intention appeared. The principle of non-retroactivity of treaties was codified in Article 28 of the 1969 Vienna Convention on the Law of Treaties, which provided that unless a different intention appeared from the treaty or was otherwise established, its provisions did not bind a party in relation to any act or fact which took place or any situation which ceased to exist before the date of the entry into force of the treaty with respect to that party. With regard to the draft Protocol, he noted that, as currently worded, the Protocol did not provide for retroactive application of its provisions and, therefore, the provisions of the Protocol, if adopted, would only be applicable to acts or situations existing or arising after its entry into force. He added that there was nothing in the preparatory work, including the 2013 Tripartite Meeting of Experts and the Conference discussions thus far, to indicate a different intention in that respect.

581. The Government member of Japan thanked the Legal Adviser for the clear explanation, and agreed with the Government member of Greece that it should be included in the record of the discussions.

582. The Government member of Japan introduced an amendment to delete, in the fifth line of Article 6, the words ", in particular the Forced Labour (Supplementary Measures) Recommendation, 2014." He said that including text from a non-binding instrument (the Recommendation) was not common practice.

583. The Employer Vice-Chairperson agreed with the Government member of Japan and seconded the amendment. He could only recall one case where the Paragraphs from a Recommendation were quoted in the main text of a Convention, namely, Convention No. 182. He believed that the rationale behind the Office text in the present instance could have taken been from the Maritime Labour Convention, 2006 (MLC, 2006), where it was commonplace.

584. The Worker Vice-Chairperson agreed that the only Convention that referred to text from the Recommendation was Convention No. 182. He said that he could support the amendment only if he heard from other members in the Committee a clear and manifest commitment to complete the discussions on both the texts of the Protocol and the Recommendation.

585. The Government members of Greece, speaking on behalf of EU Member States, and the United Arab Emirates, speaking on behalf of the GCC, as well as the Government members of Canada, Germany, New Zealand, Norway and the United States, supported the amendment made by the Government member of Japan, and expressed their commitment to finish deliberations on the texts of both the draft Protocol and the Recommendation.

586. The Government member of Greece, speaking on behalf of EU Member States, withdrew a similar amendment.

587. The Government member of China understood that the Recommendation was not legally binding, but wished to request the opinion of the Legal Adviser as to whether its mention in the Protocol would make its provisions legally binding.

588. Furthermore, the Employer Vice-Chairperson observed that both the amendments submitted by EU Member States and the Government member of Japan only proposed to delete the name of the Recommendation. However, they would also need to delete the words after "concerned", as the only relevant international standard was the Recommendation itself. He requested confirmation from the Legal Adviser and asked to subamend the text accordingly.

589. The Legal Adviser explained that the mere reference to the Recommendation in the draft Protocol did not change its legal nature as a non-binding instrument. Regarding the expression "due consideration", he explained that it was used in the MLC, 2006, which contained both mandatory Standards and non-mandatory Guidelines to reflect the idea that ratifying countries were required to duly consider implementing their responsibilities under the mandatory part of the Convention in the manner suggested in the non-mandatory part. It was further understood that by following the guidance provided for in the non-mandatory part, ratifying countries as well as ILO supervisory organs could be sure without further consideration that the mandatory requirements of the MLC, 2006, were fully complied with. In the context of the Protocol, the use of the same expression would not of course render any binding force to the provisions of the Recommendation. Finally, he indicated that if the reference to the Recommendation was removed, the words after "concerned" would probably become redundant.

590. The Worker Vice-Chairperson observed that his group's main aim was to adopt the Protocol and proceed to considering the Recommendation. On the basis of the explanation and for the sake of simplicity, he considered that the Committee should adhere to a clear distinction between the respective roles of Conventions and Recommendations. His group was looking forward to a commitment to proceed with the discussion on the Recommendation in the time available to the Committee, so that both the instruments could be presented to the Conference.

591. The Government members of Brazil, Greece, Namibia and the United Arab Emirates, speaking respectively on behalf of GRULAC, EU Member States, the Africa group and the GCC, as well as the Government members of Australia, Japan, Norway and the United States, expressed their support for the text as amended and looked forward to working on the Recommendation.

592. Article 6 was adopted, as amended by the Government member of Japan, and subamended by the Employers' group.

593. The Government member of the Philippines introduced an amendment, seconded by the Government member of Thailand, to add, after Article 6, a new Article that would read: "Any existing law, regulation or other implementing measure each Member has set in place prior to the adoption of this Protocol shall be considered to be substantially equivalent, in the context of Articles 1, 2, 3, 4 and 5, if the Member satisfies itself that existing national laws and regulations are advantageous to the full achievement of the general object and purpose of this Protocol." He explained that the wording of the proposed amendment was inspired by the text of the MLC, 2006, and would give member States flexibility to implement provisions taking into consideration the specific circumstances and resources in each country.

594. The Government member of Indonesia supported the amendment.

595. The Worker Vice-Chairperson observed that the amendment appeared to be unnecessary, as the issues it addressed were already covered in the context of the supervisory mechanisms of the ILO. He did not accept the amendment.

596. The Employer Vice-Chairperson expressed his surprise and highlighted that it was not possible to speak of substantial equivalency in terms of human rights. Human rights required protection, without reservations. He recalled that ILO instruments provided for minimum standards and that should be the commitment of member States upon ratification of a binding treaty. Reference to "substantially equivalent measures" would undermine the ILO supervisory machinery, including reporting requirements under article 22 of the ILO Constitution, and was therefore strongly opposed to the amendment.

597. The Government member of Namibia, speaking on behalf of the Africa group, could not support the amendment. The MLC, 2006, had been developed in a different context, hence the use of the terms "substantially equivalent measures".

598. The amendment was not adopted.

599. The Chairperson introduced the discussion on a new Article to be included after Article 6. The Article aimed to address the issue of the transitional provisions set forth in Convention No. 29.

600. The Worker Vice-Chairperson observed that all the proposed amendments aimed at removing the transitional provisions from Convention No. 29, since they were not consistent with the elimination of forced labour. Noting that the amendment proposed by his group did not provide for the best wording, he withdrew it and suggested discussing the amendments proposed by the Government member of Australia (and seconded by the Government members of Canada, Japan, New Zealand, Switzerland, Turkey and the United States), and the Government member of Greece, on behalf of EU Member States. He requested the Legal Adviser to provide guidance on the most appropriate wording in the light of the Committee's objective.

601. The Employer Vice-Chairperson withdrew the amendment proposed by his group and supported the wording proposed by the Government member of Greece on behalf of EU Member States. He stressed that the main objective was to remove the transitional provisions from the text of Convention No. 29 and requested clarification from the Legal Adviser as to whether the text of the Convention would be republished without the transitional provisions in case of adoption of the amendment. He was supported by the Worker Vice-Chairperson.

602. The Government member of Greece, speaking on behalf of EU Member States, introduced an amendment to add a new Article, as follows: "The provisions of Article 1, paragraphs 2 and 3, and Articles 3 to 24 of the Forced Labour Convention, 1930 (No. 29) shall be removed". She recalled that it was necessary to remove the transitional provisions from Convention No. 29 and requested clarification from the Legal Adviser on the exact wording to be used.

603. The Legal Adviser noted that the words "Upon entry into force of this Protocol" proposed in the amendment put forward by the Government member of Australia might not be necessary as the Protocol, just like any other international labour Convention, could produce legal effects only after its entry into force. He recalled that the provisions subject to the current discussion were generally referred to as "transitional provisions". He expressed the view that the verbs "delete" or "remove" were more appropriate than

"revoke" in the case of the transitional provisions and therefore suggested the following wording: "The transitional provisions of Article 1, paragraphs 2 and 3, and Articles 3 to 24 of Convention No. 29 shall be deleted." He recalled that the Committee might wish to leave it to the Drafting Committee to decide where in the text the new provision should be inserted, its significance and scope not being at all affected by its position in the text.

604. The Government members of Brazil, speaking on behalf of GRULAC, Greece, speaking on behalf of EU Member States, and the United Arab Emirates, speaking on behalf of the GCC, as well as the Government members of Canada, Japan, New Zealand and the United States, supported the proposed wording.

605. The text was adopted as subamended.

606. The Employer Vice-Chairperson expressed his group's appreciation for the flexibility shown by the Chairperson and the Committee by adopting a path which departed somewhat from the norm, deciding on the form of the instrument after having considered its contents. That approach had been very important for his group, and he was able to confirm that the Employers' group supported the adoption of the Protocol and proceeding to the discussion on the Recommendation. The Protocol brought the ILO forced labour standards into the twenty-first century and was a modern-day instrument.

607. The Worker Vice-Chairperson thanked the Chairperson for having steered the Committee's work on the proposed Protocol. He expressed gratitude to the Employer Vice-Chairperson for the fruitful discussions in the Committee so far. His group highly valued the support of the Employers' group for a Protocol and a Recommendation. The objective of the work of the Committee was that of the progress of humanity towards the total emancipation of men, women and their children. He recalled that at the submission of Convention No. 29 to the Conference in 1930, the Rapporteur of the Committee on Forced Labour, Mr Vernon of the United Kingdom, had explained that the draft Convention sought the total elimination of the use of forced labour by both individuals and enterprises. The Convention had been approved unanimously by the three groups, but the Committee had considered it necessary to include transitional provisions. The objective of the Convention had been the immediate elimination of forced labour and the transitional provisions had been envisaged as a period of no more than five years. At the time, the Workers' delegate, Léon Jouhaux, had nonetheless expressed his disappointment with the result, which he considered to be a consolation prize for the original objective of the Workers' group of achieving the immediate elimination of forced labour. Through the adoption of the Protocol, the Committee was equipping the ILO to achieve the eradication of forced labour in all its forms, following the progress made on the elimination of forced labour imposed by States.

608. Speaking on behalf of GRULAC, the Government member of Brazil noted that beyond the challenge that the Committee had set itself at the Conference, it had the larger task of sending a clear message to the world regarding its commitment, as employers, workers and governments, to eliminate forced labour once and for all, 84 years after the adoption of Convention No. 29. Through its hard work, and sometimes difficult compromises, the Committee was in effect sending that message. The Protocol was a modern and balanced instrument, which recognized that forced labour was a violation of fundamental human rights and an obstacle to ensuring that decent work was a reality for all. The challenge was now to adopt the Protocol and to make it effective, seeking the means to do so through effective legal frameworks. The Recommendation should provide a more precise indication of the means of achieving the objective of eradication, and therefore constituted a necessary supplement to the Protocol. GRULAC thereby wished to reaffirm its willingness to work towards the adoption of such a Recommendation.

609. Speaking on behalf of the Africa group, the Government member of Namibia expressed his group's appreciation for the way in which the Chairperson had steered the discussion and the approach that had been taken to enable the Committee to reach a decision. The Africa group had the clear objective of working towards a Protocol to be supported by a Recommendation. That objective should be seen in the light of the situations of forced labour which Africa, as a continent, had suffered under different colonial administrations. The Committee's work was a reminder that human beings should be free to choose the employment that they wished to engage in. As a result of its collective history, no African country failed to mention the intolerance of forced labour in its Constitution. His group had aimed to work together with the social partners and other Governments to achieve a Protocol and it looked forward to working on the Recommendation to support that instrument.

610. The Government member of Greece, speaking on behalf of EU member States, was pleased that the Committee had been able to achieve compromises and wide support for a draft text for a Protocol which they suggested be forwarded to the Conference for consideration. It was hoped that the positive tripartite engagement would continue throughout the discussions on the Recommendation, which was highly important in terms of guidance for the implementation of Convention No. 29.

611. The Government member of the United States supported the adoption of a Protocol and a Recommendation, and looked forward to discussing the provisions of the Recommendation.

612. The Government member of Algeria expressed satisfaction that the Committee had been able to find a consensus on the matter, and fully supported the adoption of a Protocol followed by a Recommendation. He highlighted that the adoption of the instruments would help to promote decent work and eradicate forced labour.

613. The Government member of China stressed that the suppression of forced labour was a consensus of the international community and he therefore supported the adoption of a Protocol and a Recommendation.

614. The Government member of India reiterated her Government's support for a Recommendation. Given that her country was already bound by Convention No. 29, such instrument was better suited to assist in the elimination of forced labour.

615. The Government member of Ethiopia aligned himself with the position taken by the social partners and Governments in support of the adoption of a Protocol and a Recommendation. He stressed that those instruments would reflect his Government's commitment and would enhance coordination of global endeavours to combat forced labour, slavery and trafficking in persons.

616. The Government member of Canada expressed appreciation for the work of the Committee and the way in which it had achieved agreement on the text of a Protocol. She supported the adoption of a Protocol and a Recommendation which would provide guidance on the implementation of Convention No. 29 and of the Protocol.

617. The Government member of Nigeria observed that the adoption of new instruments to eradicate forced labour would have a significant impact in the Nigerian national context. She therefore supported the adoption of a Protocol and a Recommendation.

618. The Government members of Libya and Sudan aligned themselves with the statement made by the Government member of Namibia, on behalf of the Africa group.

619. In the light of the discussions, the Chairperson observed that there was consensus to present to the Conference a Protocol and a Recommendation supplementing Convention No. 29.

620. The title of the proposed Protocol was adopted.

621. The entire proposed Protocol was adopted, as amended, subject to any changes made by the Committee Drafting Committee.

622. The representative of Caritas International strongly supported the adoption of a Protocol and a Recommendation supplementing Convention No. 29 to achieve the elimination of forced labour and the prevention of human trafficking. Through its work, Caritas constantly witnessed the abuses of migrant workers, the lack of mechanisms to protect them from exploitation and the infrequency of redress. Maritime and domestic workers were particularly vulnerable migrant groups. Caritas welcomed the Protocol, especially the provisions contained in Articles 2 and 4 regarding the necessity of broadening legislative coverage to all sectors of the economy, protecting workers who used recruitment services and ensuring effective access to remedies. Caritas was confident that the adoption of the Protocol would be a significant achievement by the international community in building a world that would be more just and secure for migrants.

623. The representative of the United Nations Office on Drugs and Crime (UNODC) applauded the Committee for the consensus reached on adopting a Protocol supplemented by a Recommendation, which had the potential to significantly improve the legal framework on forced labour and consequently the responses to the closely linked crime of trafficking in persons. UNODC was the guardian of the Trafficking in Persons Protocol. It assisted States in their efforts to implement that instrument. Due to the global and often transnational nature of trafficking in persons, a multidimensional, multidisciplinary approach was needed to identify and protect victims, prosecute perpetrators and reduce risks. The Inter-Agency Coordination Group against Trafficking in Persons (ICAT) had stressed that States needed to be aware of their obligations arising out of complementary international instruments, including Convention No. 29. Any new instruments adopted by the Conference needed to complement the existing framework, given that the concepts of forced labour and trafficking in persons were closely related and that there was significant overlap between them.

Consideration of the proposed Recommendation contained in Report IV(2B)

Title of the proposed Recommendation

624. Speaking on behalf of the Africa group, the Government member of Namibia withdrew his amendment to replace “suppression” with “elimination”, as that wording had already been adopted in the Protocol.

625. The title was adopted without amendment.

Preamble

Third preambular paragraph

626. The Government member of India withdrew two amendments submitted jointly with the Government member of Sri Lanka.

627. The Paragraph was adopted without amendment.

Fourth preambular paragraph

628. Commenting on an amendment submitted jointly by the Government members of Australia, Canada, New Zealand, Norway, Switzerland and the United States, the Chairperson proposed that the agreed wording from the Protocol could be used in place of preambular Paragraph 4.

629. The Government members of the countries who submitted the amendment agreed with the Chairperson's suggestion.

630. The Employer and Worker Vice-Chairpersons also agreed.

631. The Paragraph was adopted, as amended.

Fifth preambular paragraph

632. The Government member of India withdrew two amendments submitted jointly with the Government member of Sri Lanka.

633. The Paragraph was adopted without amendment.

Sixth preambular paragraph

634. The Paragraph was adopted without amendment.

635. The preamble was adopted.

Paragraph 1

636. The Employers' group withdrew two amendments.

637. The Government member of Greece, speaking on behalf of EU Member States, introduced an amendment to add the words "while using gender mainstreaming and a child-sensitive approach where appropriate". It was important that national plans had a focus on the needs of specific groups. Women and men were affected by forced labour in different ways and children had very specific protection needs. She proposed a further subamendment to delete "mainstreaming" so that the suggested text would read "while using a gender- and child-sensitive approach where appropriate".

638. The Worker Vice-Chairperson had no problem with the amendment or subamendment, but questioned whether the phrase "as appropriate" was needed.

639. The Employer Vice-Chairperson was also not opposed to the amendment. However, he thought that its placement in the first Paragraph shifted the balance of the opening of the Recommendation. He asked for further explanation from the Governments as to why they believed the text should come at that stage.

640. The Government member of Greece agreed to delete "where appropriate". In reply to the Employer Vice-Chairperson, she stressed that Paragraph 1 dealt with national policies and therefore should highlight the need to take into consideration the special needs of women, men and children.

641. The Government member of Australia agreed with the Employers' group with regard to the placement of the suggested wording.

642. The Government member of the United States also supported the sentiment of the amendment, but suggested it be moved to clause (a).

643. The Government members of Canada, and Greece, speaking on behalf of EU Member States, agreed with the subamendment from the Government member of the United States.

Clause (a)

644. The Worker Vice-Chairperson introduced an amendment to insert, after the words "policies and", the word "time-bound". His group felt that it was necessary to ensure that plans of action would be implemented over a specified period of time. The wording had been taken from Convention No. 182.

645. The Employer Vice-Chairperson had no issues with the suggested addition.

646. The Government member of Brazil, speaking on behalf of GRULAC, noted that plans of action usually had short-, mid- and long-term goals, but they could also have permanent goals which were not time-bound.

647. The Government member of Canada expressed her support for the amendment and proposed a subamendment to replace "time-bound plans of action" with "plans of action with time-bound measures". In her view, the measures rather than the plans of action should be time-bound.

648. This subamendment submitted by the Government member of Canada was supported by the Government members of Brazil, on behalf of GRULAC, Greece, on behalf of EU Member States, and the United Arab Emirates, on behalf of the GCC, as well as the Government member of the United States.

649. The subamendment was supported by the Employer and Worker Vice-Chairpersons.

650. The amendment was adopted, as amended.

651. The Government member of New Zealand introduced an amendment to replace the word "ensure" with "achieve".

652. The Employer and Worker Vice-Chairpersons supported the amendment.

653. The Government members of Brazil, on behalf of GRULAC, and Greece, on behalf of EU Member States, also agreed.

654. The amendment was adopted.

655. The Government member of Brazil, speaking on behalf of GRULAC, introduced an amendment to replace "effective suppression" with "sustained eradication". He recalled that his Government had submitted a similar amendment regarding the Protocol.

656. Referring to the related wording which had been agreed upon for the Protocol, the Government member of Canada asserted that in English the term "sustainable" was unusual in connection with suppression of forced labour and suggested that the Committee Drafting Committee look into the matter.

657. The Employer Vice-Chairperson reminded the Committee that the terminology adopted for the Protocol after long discussions should be used in the work on the Recommendation.

658. The Worker Vice-Chairperson also considered that the wording "effective and sustainable suppression" as used in the Protocol should be used in that clause.

659. The Government member of the United States thought that there had been an understanding that the matter could be taken up by the Committee Drafting Committee. However, she preferred using the word "lasting", as it was found in the ILO Constitution, which referred to "lasting peace". The wording would then be "effective and lasting suppression".

660. The Government member of Brazil responded that "lasting suppression" was a new concept. "Lasting" would be similar to effective, for example. By contrast, the term "sustainable" would imply that efforts should be undertaken on an ongoing basis.

661. The Government member of Australia shared the concerns voiced by the Government member of the United States. In her country, the term "sustainability" was closely linked to environmental issues. She preferred the word "lasting".

662. The Government members of New Zealand and Spain also preferred the term "lasting" over "sustainable".

663. The Government member of Sudan suggested the wording "to achieve absolute and lasting elimination".

664. The Employer and Worker Vice-Chairpersons agreed that the Committee Drafting Committee could look into the issue. The Committee referred the matter to the Committee Drafting Committee.

665. The Employer Vice-Chairperson introduced an amendment to replace "the protection and compensation of victims" with "through prevention, protection and access to remedy for current situation". He immediately suggested a subamendment in order to take account of previously agreed terminology. To this end, he proposed to delete ", protection", and to replace "remedy for current situation" with "remedies, such as compensation".

666. The Worker Vice-Chairperson agreed to the subamended proposal, as it would ensure consistency with the Protocol.

667. The Government member of New Zealand supported the amendment as put forward by the Employers' group, as did the Government member of Greece, on behalf of EU Member States.

668. The Government member of the United States preferred the notion of "protection" to remain in the text, which was agreed to by the Employer Vice-Chairperson.

669. The Government member of India concurred with the Government member of the United States.

670. The Government member of Sudan proposed to delete “including” before “through”, as it was not necessary, which was supported by the Government member of Nigeria.

671. The Employer Vice-Chairperson agreed to that subamendment.

672. The amendment was adopted as subamended.

673. The Government member of Greece introduced an amendment submitted by EU Member States to replace the word “and” after the words “including the protection” with “, assistance and support as well as”. That was agreed language from the Protocol. Noting that “assistance and support” had a broader meaning, their intention was to strengthen the aspect of protection.

674. The Employer Vice-Chairperson explained that conceptually he had no problem with the amendment, but found that the resulting text did not read well. In his view, the concern for importance of assistance and support could be noted in the report. There was no need to repeat aspects of the Protocol in the Recommendation.

675. The Worker Vice-Chairperson also felt that the provisions should not be overloaded and suggested that the language could be inserted in the Recommendation’s provisions concerning protection.

676. The Government member of Canada considered that Article 3 of the Protocol already addressed assistance and support in a general manner, and agreed that the amendment could be accommodated elsewhere in the Recommendation.

677. The Government member of Brazil, speaking on behalf of GRULAC, said that with regards to the issues addressed in that clause, the Protocol was more specific than the Recommendation, while it should be the other way around.

678. The Government member of Sudan suggested using the terms “prevention” or “protection”, and “assistance” or “support”. The suggestion was not seconded and therefore not discussed.

679. The Government member of Greece, speaking on behalf of EU Member States, agreed that their amendment be discussed in connection with the Recommendation’s provisions on protection.

680. The Government member of Namibia, speaking on behalf of the Africa group, introduced an amendment to capture the idea of the sanctioning of perpetrators in the text. The suggestion was to add “and the sanctioning of perpetrators” at the end of the clause, though the wording would need to be adjusted to fit in the current amended version.

681. Following up on the Committee’s decision to include a reference in that clause to gender- and child-sensitive approaches, as suggested by EU Member States, the Government member of Canada suggested adding “using a gender- and child-sensitive approach” after “time-bound measures”, while the wording suggested by the Africa group could be included by adding the phrase “of victims and the sanctioning of perpetrators” at the end of the clause as amended.

682. The Worker Vice-Chairperson was not convinced that the sanctioning of perpetrators would fit within this provision on national policies and action plans, but rather in the enforcement section of the Recommendation.

683. The Employer Vice-Chairperson argued that the Recommendation did not need to restate the provisions of the Protocol but rather add specific guidance.

684. The Government member of Greece, speaking on behalf of EU Member States, as well as the Government members of Turkey and the United States, supported the amendment by the Africa group, as subamended by the Government member of Canada.

685. The Government member of the United Arab Emirates, speaking on behalf of the GCC, shared the point of view expressed by the Worker Vice-Chairperson.

686. The Government member of Namibia, speaking on behalf of the Africa group, believed that their proposed amendment was well suited. He believed that the subamendment of Canada was useful.

687. The Employer and Worker Vice-Chairpersons noted that they had no objections to the amendments if Governments wished to include them.

688. The amendment was adopted, as amended.

Clause (b)

689. The Government member of Greece, speaking on behalf of EU Member States, introduced an amendment to replace the words "including the labour inspectorate" with "such as labour inspectorates". The rationale was to ensure the involvement of the relevant national authorities which, in some European countries, were not labour inspectorates.

690. The Worker Vice-Chairperson highlighted that the purpose of the Paragraph was to ensure that labour inspectorates were involved in the development, coordination, implementation, monitoring and evaluation of the national policies and plans of action. The text should not suggest that that work could be done without the involvement of labour inspectorates.

691. The Employer Vice-Chairperson wished to ensure that involving labour inspectorates would not be seen as only optional. It was important that the text clearly state that their involvement was a form of best practice.

692. The Government member of Sweden agreed with the objective of the clause and the need to strengthen the competent authorities, and to have all relevant authorities work against forced labour. However, in Sweden, there was no labour inspectorate and the Committee needed to take into consideration different national mechanisms and institutional set-ups.

693. The Government member of Brazil, speaking on behalf of GRULAC, supported the Employer Vice-Chairperson's view that the objective ought to be to strengthen the labour inspection services. Countries that did not have labour inspectorates certainly had other authorities fulfilling similar functions. In addition, the Recommendation was non-binding.

694. The Government member of Germany explained that in her country a range of different authorities were involved in monitoring labour conditions. She clarified that the amendment's intent was not to weaken the provisions in the text, but rather to recognize that multiple competent authorities could be involved.

695. Echoing the comments made by the Government member of Germany, the Government member of Turkey noted that in her country there were several ministries involved in combating forced labour and human trafficking.

696. The Government member of India supported the proposed amendment of EU Member States and explained that in India different national authorities were also involved.

697. The Worker Vice-Chairperson considered that the problem could be resolved by removing the comma after "competent authority". That would make it clear that all the elements in the list were on the same footing.

698. The Employer Vice-Chairperson supported the subamendment by the Workers' group.

699. The Government members of Nepal and Sweden also supported the subamendment.

700. The amendment was adopted, as amended.

701. Paragraph 1 was adopted, as amended.

Paragraph 2

Subparagraph (1)

702. The Worker Vice-Chairperson presented an amendment to insert ", and in independent manner," after the words "should regularly" in order to encourage Members to ensure that data was collected and treated independently to avoid bias. While his group did not suspect governments of introducing bias in their studies, it was important to emphasize the need for reliable data.

703. The Employer Vice-Chairperson agreed with the rationale of the amendment, but preferred using the words "reliable and unbiased", which would express greater confidence in governments.

704. The Government member of the United States was in agreement with the Employer Vice-Chairperson's suggestion as the original amendment might suggest that national statistical offices could not be used for that purpose. The words "reliable and unbiased" could be inserted before "detailed information".

705. That subamendment was seconded by the Government member of Greece, on behalf of EU Member States, and the Government member of New Zealand.

706. The Worker Vice-Chairperson accepted the subamendment.

707. The Government member of the United States indicated that she wished to subamend her own subamendment to read "available, reliable, unbiased, and detailed information".

708. The Government member of Brazil, speaking on behalf of GRULAC, as well as the Government members of Australia, Japan and Turkey, supported the subamendment.

709. The amendment was adopted as subamended.

Subparagraph (2)

710. Speaking on behalf of EU Member States, the Government member of Greece introduced an amendment to subparagraph (2) replacing "disaggregated by sex, age and other relevant

characteristics" with "disaggregated by relevant characteristics such as sex, age and nationality".

711. Speaking on behalf of GRULAC, the Government member of Brazil introduced an amendment to insert ", race, nationality" after "age", since those two considerations were also important when designing policies that addressed vulnerabilities. The text should use either a broad formula or provide examples, in which case he considered that "race" should be included.

712. The Worker Vice-Chairperson supported the proposal made by EU Member States, but could not accept the inclusion of a reference to "race", which might open up a wider debate. Using "such as" indicated that the list was not exhaustive, and could therefore address the concerns of countries which considered that "race" was relevant.

713. The Employer Vice-Chairperson observed that different countries might refer to the issue of race in different ways. However, considering that the list was not exhaustive, and in order to avoid any problems, he supported the proposal made by EU Member States.

714. Speaking on behalf of GRULAC, the Government member of Brazil said that his group would not insist on the inclusion of the term "race", but observed that this was highly relevant. For example, Brazil had designed affirmative action policies on the basis of studies which took race into consideration.

715. The Government member of Namibia observed that the geographical position of countries and their demography were important considerations. There were a number of countries where race was a serious issue. In Namibia, South Africa and, to a certain extent, in the United States, statistics on race were important. Given that the list was neither exhaustive nor prescriptive, he could see no problem in the inclusion of race.

716. The Government member of Côte d'Ivoire recalled that in the fields of data collection and statistics, "sex, age and nationality" were basic requirements for disaggregating data. He observed that including these characteristics in the text of the Recommendation could limit the scope of data disaggregation and exclude other important characteristics to be taken into consideration.

717. Speaking on behalf of EU Member States, the Government of Greece said that her group could not support the amendment by GRULAC because collecting data on race was prohibited in a number of EU Member States.

718. The amendment proposed by EU Member States was adopted.

719. The Worker Vice-Chairperson introduced an amendment to add the words "which would allow to assess progress made" at the end of the clause.

720. The Employer Vice-Chairperson supported the amendment, as the objective was not only to collect data but to analyse it and provide follow-up. He subamended the text to read "which would allow an assessment of progress made".

721. The Government member of the United States found that the data collected would not always point to progress. She therefore proposed a further subamendment as follows: "which would allow an assessment of the state of forced or compulsory labour and to inform policy-making". The subamendment was supported by the Government members of Indonesia and New Zealand.

722. The Worker Vice-Chairperson considered that an evaluation of progress includes both positive and negative results. The original formulation encouraged movement towards progress and a re-evaluation of policies where no progress was found. He therefore proposed maintaining the original amendment.

723. The Employer Vice-Chairperson considered that the amendment submitted by the Workers' group provided the right approach to the issue of progress. He therefore suggested a more general formulation: "to inform future action needed", after the original amendment submitted by the Workers' group.

724. The Government member of Canada supported the proposal made by the Employers' group, but considered that the word "needed" should be deleted.

725. The Worker Vice-Chairperson proposed the wording "which would allow an assessment of policies and progress made".

726. The Employer Vice-Chairperson recalled that the provision aimed at addressing not only policies, but also practices and activities which result from the implementation of policies.

727. The Government member of the United States agreed with the Employers' group and suggested reconsidering the language proposed by the Workers' group, as initially subamended by the Employers' group.

728. The Government member of Mali supported the amendment introduced by the Workers' group to add the words "which would allow to assess progress made". He noted that this was a more logical wording.

729. The Government member of Greece, speaking on behalf of EU Member States, supported the amendment proposed by the Workers' group, as initially subamended by the Employers' group.

730. The amendment was adopted as subamended.

731. The Government member of the United States, speaking on behalf of the Government members of Australia, Canada, Japan, Norway, Switzerland and Turkey, introduced an amendment to replace "right to privacy with regard to" with "privacy of". She stressed that the amendment aimed at deleting the reference to a right to privacy, which was not provided for in international human rights law, while preserving the important wording regarding protection of personal data.

732. The Worker Vice-Chairperson observed that, unless he was mistaken with regard to the legal aspect of the point raised by the Government member of the United States, protection of privacy should be considered a human right. He opposed the amendment and expressed preference for the text as originally drafted.

733. The Employer Vice-Chairperson, seeking to address the concerns raised considered that the subparagraph could refer to "the expectation of privacy with regard to personal data".

734. The Government member of the United States supported the subamendment by the Employers' group.

735. The Government member of Greece, speaking on behalf of EU Member States, opposed both the amendment and subamendment and highlighted that the right to privacy was expressly provided for in the Universal Declaration of Human Rights.

736. The Government member of Mali introduced a subamendment to utilize a simpler wording, which would read: “the right to protection of personal data should be respected”. This was supported by the Government member of Morocco.

737. The Government member of the United States said that, if the text were to reflect the language in the Universal Declaration of Human Rights, she would propose a subamendment, as follows: “Members should respect the right to the protection of the law against arbitrary or unlawful interference including with privacy with regard to personal data.” The Government member of Australia seconded the subamendment.

738. The Government member of Brazil, on behalf of GRULAC, as well as the Government member of Sweden, supported the subamendment proposed by the Government member of the United States.

739. The Government member of Belgium finding the language put forward by the Government member of the United States unclear, suggested that the text after “privacy” should read “including the right to protection of personal data”. The Government member of the United Kingdom seconded the subamendment proposed by the Government member of Belgium.

740. The Government member of Côte d’Ivoire supported the subamendment by the Government member of Belgium and suggested a different subamendment for the text after “unlawful interference” to read “with the right to protection of privacy, including the protection of personal data”.

741. The Government member of the United States supported the spirit of the subamendment proposed by the Government member of Belgium and suggested as a further alternative “including with regard to personal data”. The Government member of Australia seconded the subamendment.

742. The Worker Vice-Chairperson observed that, while he did not intend to prolong the discussions, the amendment initially proposed was simpler.

743. The Employer Vice-Chairperson highlighted that, as opposed to what was stressed by the Government member of the United States, the right to privacy was indeed a human right according to the Universal Declaration of Human Rights. He therefore suggested reconsidering the initial draft proposed by the Office, which contained a simpler wording.

744. The Worker Vice-Chairperson supported the suggestion of the Employers’ group.

745. The Government member of Greece, speaking on behalf of EU Member States, supported the original text proposed by the Office.

746. The Government members of Mali and Zimbabwe also supported the original text.

747. The Government member of the United States supported the original text, if a subamendment was considered to delete the words “the right to”. She observed that the provisions on privacy set out in the Universal Declaration of Human Rights were essentially addressed to States and therefore distinct from the right to privacy with regard to personal data. She agreed with the Employers’ group on the need for succinct wording.

748. The Government member of Australia seconded the subamendment proposed by the Government member of the United States.

749. The Government members of Benin and Côte d'Ivoire supported the text as originally proposed by the Office.

750. The Government member of Namibia, on behalf of the Africa group, supported the original text proposed by the Office.

751. The Chairperson observed that the discussion had approached a consensus to maintain the Office text.

752. The amendment was therefore not adopted.

753. Paragraph 2 was adopted, as amended.

Paragraph 3

754. The Chairperson opened discussions on the chapeau of Paragraph 3 of the proposed Recommendation, taking the amendments proposed by the Employers' group and several Governments together.

755. The Employer Vice-Chairperson introduced an amendment to insert "could" before the word "include" at the end of the sentence. He understood that using the word "could" was not in conformity with ILO style, but it would apply to all clauses within the Paragraph except clauses (d) and (c), which referred to fundamental principles and rights at work. He further suggested dealing with clauses (g), (h) and (i) separately, as they referred to migration. The remaining clauses which dealt with prevention programmes would be reviewed later.

756. The Worker Vice-Chairperson appreciated the explanation of the Employer Vice-Chairperson, as his group had major difficulties with the use of the word "could" with respect to fundamental principles. He proposed also adding clause (f) concerning the Social Protection Floors Recommendation, 2012 (No. 202) under the same new chapeau. Clause (j) should be discussed separately as it covered the subject of trade.

757. Several Government members voiced their concern on the proposed dividing and rearrangement of the Paragraph, as it had not been formally submitted as an amendment that all could study prior to deliberations in plenary. They also reminded the social partners that the text formed part of the Recommendation and not the Protocol, and hence provided guidance on what could be undertaken to apply the provisions of the Protocol.

758. The Employer Vice-Chairperson did not think that the introductory sentence could be discussed until an agreement had been reached on the clauses that it would cover. If clauses (c) and (d) were treated separately, (d) followed by (c), then the discussion could move onto the other clauses. The two separate clauses should be dealt with first because of their hierarchical importance. He also did not support including clause (f) under the first introductory sentence as it referred to a Recommendation, which was not on the same hierarchical level as the fundamental standards of the ILO.

759. The Committee supported this suggested way to proceed with the discussions.

760. The Employer Vice-Chairperson introduced an amendment to replace the text in clause (d) as follows: "the implementation of the core Conventions and the realization of the core principles of the 1998 Declaration;". He however understood that the Workers' group would wish to mention freedom of association specifically, in which case he suggested that the clause should spell out all the fundamental principles and rights at work individually, using the words of the ILO Declaration on Fundamental Principles and Rights at Work

(1998 Declaration). All the core principles were related to the work that would be required to give effect to the Protocol, so he suggested that the introduction could relate to the realization of the fundamental principles and rights at work with a view to fulfilling the Protocol.

761. The Worker Vice-Chairperson said that he had no difficulties with the suggestion of the Employers' group to refer to the fundamental ILO Conventions and to the 1998 Declaration. He noted, however, that the intention behind the proposal put forward by the Workers' group was to highlight the importance of promoting freedom of association and collective bargaining, as the Freedom of Association and Protection of the Right to Organise Convention, 1948 (No. 87), and Right to Organise and Collective Bargaining Convention, 1949 (No. 98), were the least ratified fundamental Conventions.

762. A representative of the secretariat expressed concern about adding a reference to the "least ratified fundamental Conventions" in the text of the Recommendation, as the current situation concerning ratifications would evolve.

763. The Government member of Greece, speaking on behalf of EU Member States, and the Government member of Namibia, speaking on behalf of the Africa group, supported the subamendment proposed by the Workers' group, but suggested a further subamendment to replace "in particular" with "including", as all fundamental Conventions were equally important.

764. The Government member of Australia opposed the use of "in particular" and proposed a subamendment to use the following wording: "the implementation of the fundamental conventions they have ratified and efforts to respect, promote and realize the fundamental principles and rights at work".

765. The Government member of the United States seconded the subamendment put forward by the Government member of Australia, and recalled that the words "efforts to respect, promote and realize fundamental principles" were taken from the 1998 Declaration. This wording was stronger and thus more appropriate. She stressed that her Government had no problem with referring to freedom of association and collective bargaining, but would not feel comfortable with giving particular emphasis to Conventions Nos 87 and 98 by using the words "in particular" in the context of another ILO instrument.

766. The Government member of Canada was concerned with the language proposed, as it was not usual practice to have a reference to the 1998 Declaration in the text of an ILO instrument, apart from the preamble.

767. The Government member of Brazil, speaking on behalf of GRULAC, and the Government member of India concurred.

768. The Employer Vice-Chairperson proposed to delete the reference "realization of … at work" and replace it with ", which include", and then to list the core Conventions. This would put freedom of association first, while recognizing the relative importance of the other four fundamental principles and rights at work. He pointed out that on the day of the presumed adoption of the Protocol and Recommendation, the Protocol would not be ratified right away by all Members, while the Recommendation would have immediate applicability. For this reason, the Recommendation should signal to governments that the fundamental Conventions were necessary for the achievement of the aims of the Protocol. He wondered whether the following language could be introduced: "Members are encouraged to expeditiously ratify the Protocol", followed by reference to the core Conventions, and then reference to discrimination and vulnerable groups.

769. The Government member of Australia commented that the discussion seemed to be going around in circles. Her Government preferred the original Office draft, and she asked whether the majority of Committee members were of the same opinion. The Government members of Brazil, on behalf of GRULAC, and Namibia, on behalf of the Africa group, as well as the Government members of Egypt, Indonesia and the United States, concurred.

770. The Worker Vice-Chairperson hence proposed that, after the chapeau, there should first be a reference to the realization of fundamental principles and rights at work. This should be followed by clause (d), for which he suggested that the words "and other organizations" be deleted, as they were referring to fundamental rights at work covered by ILO Conventions which included references to the relevant parties.

771. The Employer Vice-Chairperson stated that his group was in broad agreement with the Workers' group.

772. The Government member of Greece, speaking on behalf of EU Member States, proposed a minor subamendment to replace in clause (d) "groups" with "workers".

773. The Government member of Belgium, while not disagreeing with the position of EU Member States, expressed concern regarding the deletion of "other organizations". She explained that migrant organizations could fall within this category.

774. The Government member of Canada proposed replacing "organize in trade unions" with "join workers' organizations", because Convention No. 87 did not use the terminology of trade unions but workers' organizations, a term which was well defined. The Government members of Turkey and the United States agreed.

775. The Government member of Namibia, speaking on behalf of the Africa group, said that the comment made by the Government member of Canada answered the concerns raised by the Government member of Belgium as well as by his group. He was comfortable with supporting the following wording:

> Members should take preventive measures that include:
>
> (…) the realization of fundamental principles and rights at work;
>
> (d) the promotion of freedom of association and collective bargaining to enable at-risk workers to join workers' organizations;
>
> (c) programmes to combat the discrimination that heightens vulnerability to forced or compulsory labour.

776. The Chairperson expressed concern that the revised wording could lead to the erroneous conclusion that freedom of association and collective bargaining were not part of the fundamental principles and rights at work, and proposed using the term "in particular" after "fundamental principles and rights at work".

777. The Employer and Worker Vice-Chairpersons preferred to keep the three clauses separate.

778. The Government member of India preferred the deletion of the reference to fundamental Conventions, but agreed with clauses (d) and (c). This was supported by the Government members of Switzerland and the United States.

779. The Government member of Morocco supported the revised text with the reference to fundamental rights at the beginning.

780. The Worker Vice-Chairperson believed it was important to recall the measures to prevent forced labour without necessarily going into details, and this could be achieved by adding a specific reference to realizing the fundamental principles and rights at work. He could not understand the reservations expressed by Governments in this regard, as they were bound to realize the fundamental principles and rights at work by being ILO Members.

781. The Government Member of the United States indicated that her Government fully supported the fundamental principles and rights at work. However, mentioning them at that point did not make sense. They included the elimination of forced or compulsory labour, thereby creating a repetition. The Paragraph already mentioned freedom of association and collective bargaining, as well as action against discrimination; Paragraph 8 referred to the worst forms of child labour. She therefore considered that the fundamental principles and rights at work were adequately covered.

782. The Government Member of Namibia said that specific fundamental principles should not be singled out. If they maintained the reference to the fundamental principles and rights at work, then clause (d) on the promotion of freedom of association and collective bargaining should be deleted.

783. The Government member of Belgium observed that the Paragraph concerned prevention, which occurred before the use of forced labour. It therefore made sense to call for the respect of fundamental principles and rights at work as a way to preventing situations of forced labour.

784. The Employer Vice-Chairperson observed that the Committee was considering a Recommendation, not a Protocol. All the Governments present, as Members of the ILO, had made a political commitment to realize the fundamental principles and rights at work.

785. The Worker Vice-Chairperson explained that since the beginning of the discussions, the Employers' and Workers' groups and the Governments had made a certain number of compromises in an attempt to work together. However, the Committee was now discussing the realization of the fundamental principles and rights at work as a means of prevention, which should not be put in question by anyone.

786. The Government member of Greece, speaking on behalf of EU Member States, asked for confirmation that the introductory sentence only referred to clauses (c) and (d). On that basis, she submitted a new proposal to replace the words at the end of the introductory sentence, after "preventive measures" with "while realizing fundamental principles and rights at work that include".

787. The Employer Vice-Chairperson welcomed this proposal, with a slight amendment to change "while realizing" to "including realization".

788. The Government member of Sudan, seconded by the Employers' group and supported by the Government member of Turkey, proposed a subamendment to use the following wording for the chapeau: "Taking into consideration their commitment to realize fundamental principles and rights at work, Members should take preventive measures that include:".

789. The Government member of Brazil, speaking on behalf of GRULAC, and supported by the Government members of Canada and the United States, proposed replacing the words "including realization" with "the promotion", as it was already the duty of member States who had ratified the fundamental Conventions to realize them.

790. The Government member of Canada also highlighted that her Government had never objected to including reference to fundamental principles and rights at work in the Recommendation; her only objection related to the use of "in particular" in the same sentence.

791. The Government member of the United States indicated that in the light of the discussions, a number of Governments had considered Paragraph 3 in consultation with the Employers' and Workers' groups, and had come up with a proposal for addressing fundamental principles and rights at work. The suggested wording was as follows:

> 3. Members should take preventive measures that include:
>
> (...) respecting, promoting and realizing fundamental principles and rights at work;
>
> (d) the promotion of freedom of association and collective bargaining to enable at-risk workers to join workers' organizations;
>
> (c) programmes to combat the discrimination that heightens vulnerability to forced or compulsory labour;
>
> (...) initiative to address child labour and promote educational opportunities for children, both boys and girls, as a safeguard against children becoming victims of forced labour;
>
> (...) taking steps to realize the objectives of the 2014 Protocol to the Forced Labour Convention, 1930, and the Forced Labour Convention, 1930.

792. The Worker Vice-Chairperson supported the proposal, indicating that it seemed to provide the best possible solution and addressed his group's concerns.

793. The Employer Vice-Chairperson fully supported the proposal.

794. The Government members of Brazil, on behalf of GRULAC, Greece, on behalf of EU Member States, and Namibia, on behalf of the Africa group, as well as the Government members of Japan and Turkey, fully supported the proposed text.

795. The Government member of Sudan supported the proposal but introduced a minor subamendment, seconded by the Government member of Nepal, to align the introductory sentence with previous wording by adding "protective and" before "preventive".

796. The subamendment did not find support in the Committee.

797. Speaking on behalf of GRULAC, the Government member of Brazil introduced an amendment to replace "the discrimination that heightens" with "all forms of discrimination that heighten", in order to make the clause more comprehensive.

798. The Employer Vice-Chairperson appreciated the spirit of the amendment but observed that the boundaries of discrimination were constantly evolving. He was concerned that the amendment might lead to considerations of political correctness, which could vary from country to country. His group therefore did not support the amendment.

799. The Worker Vice-Chairperson was in agreement with the Employers' group. The intention was covered by the original text, which seemed sufficiently general to avoid any doubt.

800. Speaking on behalf of GRULAC, the Government member of Brazil explained that his group had submitted an earlier amendment to include the consideration of "race" in the collection of data on vulnerable groups. That amendment had not been upheld and he had hoped to cover that concern by means of the current amendment.

801. The amendment was not adopted.

802. The Worker Vice-Chairperson said that although his group had already endorsed the text introduced by the Government member of the United States, he wondered whether the last clause could be understood as a suggestion that the Committee provided for the possibility of not ratifying the Protocol, being satisfied with its implementation through Convention No. 29. The Committee's objective should be the ratification of the Protocol. He requested the Legal Adviser to provide clarifications in this regard.

803. The representative of the Legal Adviser noted that there was no legal impediment to including a reference "to taking steps to realize the objectives of the 2014 Protocol" and that there was no reason to believe that it might possibly operate as a disincentive to ratification.

804. The Employer Vice-Chairperson introduced an amendment to add the word "could" before the word "include" in the chapeau of Paragraph 3. He stressed that the intention of the amendment was not to modify the impact of the word "should" in the first part of the chapeau. However, the Paragraph and its clauses addressed preventive measures which could be implemented in different manners depending on the national context. The wording proposed was therefore an attempt to take into consideration the different national contexts.

805. The Government member of the United States agreed with the Employers' group, noting that the same intention had been behind an amendment submitted by her Government, jointly with Australia, Canada, Japan, New Zealand, Switzerland and Turkey. They sought to insert the words "as appropriate within their country contexts" after "measures".

806. The Worker Vice-Chairperson insisted that the wording should not provide for the option of not taking any measures at all. The objective was to ensure that, among the measures suggested, member States should take steps to implement those which are the most effective for preventing forced labour, taking into account the context of their own countries. He exemplified by saying that transit, destination and origin countries could have a different approach with regard to labour migration and the prevention of forced labour. He introduced a subamendment to use the wording "Taking into account their respective realities and situations, Members should take the most effective measures, including:".

807. The Employer Vice-Chairperson supported the suggestion and proposed a further subamendment to replace "realities" with "circumstances". He believed the wording put forward indicated that, taking into consideration the specific circumstances in their own countries, member States should take the measures provided for in the subsequent clauses.

808. The Government member of the United States introduced a subamendment to retain the word "preventive", since these were the measures addressed by the Paragraph. She opposed the use of "the most effective", as the expression could leave room for misinterpretation on the definition of "effectiveness" in the national context. She therefore suggested replacing it with "additional". The Government member of Canada seconded that subamendment.

809. The Government member of Morocco put forward a further subamendment to replace "the most effective" with "appropriate". The Government member of Cameroon seconded that subamendment.

810. The Government member of Senegal supported the wording proposed by the Workers' group, but suggested that "including" be replaced with "in particular".

811. The Employer Vice-Chairperson suggested that the Government member of the United States reconsider the use of "most effective", as the expression provided for a certain level of flexibility in the national context. He proposed a further subamendment to replace "including" with "such as", and to retain "the most effective" in order to ensure that the measures enumerated in the clauses were not an exhaustive list.

812. The Government member of Brazil, speaking on behalf of GRULAC, believed that the subamendment put forward by the Employers' group was reasonable.

813. The Worker Vice-Chairperson opposed the subamendment proposed by the Government member of Morocco to insert the word "appropriate". He agreed to reinsert "preventive". He could also support the use of "additional" (instead of "the most effective") only if "including" was kept. Conversely, replacing "including" with "such as" would only be supported if the expression "the most effective" was kept.

814. The Employer Vice-Chairperson saw no problem with the wording suggested by the Workers' group.

815. The Government member of Cameroon did not support the wording "most effective". Given this was a non-binding Recommendation, it would be the responsibility of governments to judge the relevance of the measures they might take. The word "appropriate" was therefore preferred.

816. The Government member of Canada supported the terms "additional preventive measures", and "including" in place of "such as". If this was the proposal from the Workers' group, she supported it and believed many other Governments would also.

817. The Worker Vice-Chairperson clarified that his proposed subamendment for the chapeau read: "Taking into account their respective circumstances and situations, Members should take the most effective measures such as:".

818. The Government member of Canada supported that subamendment.

819. Speaking on behalf of EU Member States, the Government member of Greece also supported the subamendment and insisted that "most effective preventive measures" should be retained.

820. The Worker Vice-Chairperson raised an editorial point for the consideration of the Committee Drafting Committee, which was to look at whether "circumstances" and "situations" had in fact the same meaning.

821. The Chairperson confirmed that this would be addressed by the Committee Drafting Committee.

822. The amendment was adopted, as amended.

New clause before clause (a)

823. The Government member of the United States introduced an amendment, submitted jointly with the Government members of Australia, Canada, New Zealand, Switzerland and Turkey, to insert a new clause before clause (a) to read: "addressing the root causes of workers' vulnerability to forced or compulsory labour;". The proposal incorporated a concept that was missing from Paragraph 3.

824. The Worker Vice-Chairperson entirely supported the intention to address the root causes of forced labour, but he questioned whether or not the proposed wording sufficiently indicated what was to be done by governments. Given the possible causes, such as poverty or unemployment, perhaps it was inevitable that the wording was general.

825. The Employer Vice-Chairperson agreed with the Workers' group. In principle, the responsibility of governments was to establish an environment where root causes would be addressed. He thought that keeping the wording general was beneficial and noted that later clauses gave more details in this respect.

826. The Government member of Brazil, on behalf of GRULAC, supported the amendment.

827. The amendment was adopted.

Clause (a)

828. The Government member of Greece introduced two amendments on behalf of EU Member States. The first proposed to replace "those groups" with "the persons", as those most at risk were not usually organized in groups. The second, echoing arguments made during the discussion on the Protocol, was to replace "as workers" with "at work". Given the risks related to recruitment before taking up a job, preventive measures should be addressed to those who did not yet have the legal status of worker.

829. The Worker Vice-Chairperson, as regards the use of "at work" rather than "workers", reminded the delegates that, for the ILO, "workers" designated the working classes, namely, all those whose only income was from their labour. By extension, this covered workers' families. Thus "workers" corresponded to the objectives of the clause. He also underlined for the record that the word "victim" was understood in both instruments as inclusive regardless of residence or migration status. As for the second proposed amendment, he stated that the use of "person" could have implications that were broader, as there was a legal difference between a "moral person" and a "civil person", for example. The context was targeted awareness raising, and it seemed logical that this would be aimed at groups rather than individuals. Despite these misgivings, he would not raise any major objections to that proposed amendment.

830. The Employer Vice-Chairperson agreed with the Workers' group and thought that targeting necessarily identified categories or situations at risk, which would consequently be defined as groups. When it came to the proposed replacement of "workers" with "at work", he had listened carefully to the Workers' group, but had difficulty understanding their position. A child of 10 years of age was not a worker but nevertheless at risk of forced labour.

831. The Government member of Germany, referring to the intervention of the Worker Vice-Chairperson, pointed out that the amendment had not suggested replacing "workers" with "persons" but with "at work". This had a broader meaning than workers.

832. The Government member of Senegal expressed support for replacing "those groups" with "the persons". Groups as such could not become victims; one could either say "groups of persons" or "persons".

833. The Government member of Cameroon suggested that "categories of persons in economic activity" was a better formulation than "groups", as this would cover all persons who were working for their livelihoods. This suggestion was not seconded and therefore not considered by the Committee.

834. The Government member of Canada suggested to simply use the word "those", which would be correct in the English language, so the Committee would be spared further discussions on whether to refer to groups, persons or categories.

835. The Worker Vice-Chairperson, in response to the intervention of the Government member of Germany, acknowledged having made a mistake in reading the two amendments by EU Member States. In fact, he could agree to replacing "as workers" with "at work". He also agreed with the subamendment of the Government member of Canada.

836. The Employer Vice-Chairperson also supported both amendments by EU Member States with the subamendment suggested by the Government member of Canada, as did the Government member of Namibia, on behalf of the Africa group.

837. The amendments were adopted, as amended.

838. Speaking on behalf of the Africa group, the Government member of Namibia introduced an amendment to insert, after clause (a), a new clause as follows: "(b) targeted awareness-raising campaigns for potential perpetrators regarding the sanctions which they could incur;". Their intention was to strengthen the aspect of consequences for perpetrators to complement the focus on victims of the previous clause.

839. The Worker Vice-Chairperson understood the point made by the Africa group, however, his concern was potential problems around the wording with regard to legal aspects, such as the presumption of innocence. He recalled Article 2 of the Protocol, which already addressed the aspect of educating and informing employers. This would cover the intent of the amendment. Any language to be included would have to be aligned with the Protocol.

840. The Employer Vice-Chairperson acknowledged that the intent of the amendment raised a valid point. Considering that this wording was in the Protocol and therefore was the strongest statement the Committee could make, he felt the amendment was not necessary. Alternatively, language from the Protocol could be used.

841. The Government member of New Zealand wished to go beyond the wording of the Protocol, so that the clause could target a broader group than just employers, for example, recruiters. This would further avoid the impression of employers being accused as potential perpetrators. She suggested a subamendment for clause (a) to read as follows: "targeted awareness-raising campaigns regarding sanctions for violating the prohibition of forced or compulsory labour;".

842. The Government member of Namibia, on behalf of the Africa group, as well as the Government members of Benin, Mexico and the United States, supported this subamendment.

843. The Government member of India concurred with the Workers' group in keeping the language consistent with the Protocol. Concerning the subamendment, she wondered who would be targeted by such campaigns.

844. The Government member of New Zealand replied that this could be left open for the decision of governments to target any group that would need such awareness raising.

845. The Government member of Indonesia emphasized that it was not necessary to repeat points already addressed in the Protocol. A Recommendation should provide guidelines on implementation. He was concerned that with the current subamendment, implementation gaps might not be closed but widened.

846. The Worker Vice-Chairperson supported the subamendment put forward by the Government member of New Zealand, as it responded to their initial concerns. He rather thought it was a useful suggestion to extend awareness-raising campaigns beyond employers. The wording complemented what was said in the Protocol on prevention by highlighting the issues of sanctions.

847. The Government member of Namibia acknowledged the point made by the subamendment of the Government member of New Zealand. The intention was not only to make employers aware but also other relevant players. He agreed that it would put more burden on governments, however, it was their responsibility to inform and educate the public.

848. The amendment was adopted, as amended.

Clause (b)

849. The Employer Vice-Chairperson introduced an amendment to replace clause (b) as follows: "to create an enabling environment in which at-risk populations have increased opportunities in the labour market and can support themselves;". Although the amendment did not introduce a significant change, it changed the emphasis, making it clear what the objective was, in simpler language.

850. The Worker Vice-Chairperson observed that the Office text raised the idea of employability, which was important. Therefore, even if the initial text could be improved upon, his group did not support the amendment.

851. The Government members of Australia, Canada, India, Japan, New Zealand and the United States indicated that they preferred the initial text.

852. The Employer Vice-Chairperson withdrew the amendment.

853. Speaking on behalf of the Africa group, the Government member of Namibia said that, on the basis of the Committee's support for the original wording of the clause, his group would withdraw an amendment which would include entrepreneurship training.

Clauses (c) and (d)

854. Clauses (c) and (d) were addressed previously by the Committee in connection with the subamendment concerning fundamental principles and rights at work, introduced by the Government member of the United States, following informal consultations.

Clause (e)

855. Speaking on behalf of EU Member States, the Government member of Greece introduced an amendment to replace the text of the clause with the following: "steps to ensure that national laws and regulations concerning the employment relationship cover all sectors of the economy and that they are effectively enforced. The relevant information on the employment relationship should be specified in an appropriate, verifiable and easily understandable manner and preferably through written contracts in accordance with national laws, regulations or collective agreements;". Her group believed that the proposal provided workers with more protection from forced labour violations; it acknowledged differences in national legislations and ensured that workers were informed of their conditions of employment. The wording drew on Article 7 of Convention No. 189.

856. The Employer Vice-Chairperson observed that many countries did not use written contracts. The issue of language was also difficult, since there were cases in which the

contract used the language of the country in which the work was going to take place. The main objective should be that the terms of employment were explained to the workers in a language they understood. The provisions should be applicable to different legal systems.

857. The Worker Vice-Chairperson recognized that contracts were not always in writing. The issue of understanding and language was important but not easy to resolve. However, whether written or not, workers should be made aware of the terms and conditions of their employment.

858. The Government member of Denmark considered that the concerns raised by the Employers' and Workers' groups were addressed by the amendment. The employment relationship needed to be "verifiable", in other words, documented in one way or the other. The Conference Committee on Domestic Workers at the 99th and 100th Sessions of the ILC had extensive discussions on these issues.

859. The Government member of Germany was in agreement with the Government member of Denmark, since the amendment was in line with Convention No. 189. It provided a certain amount of flexibility by only recommending, rather than insisting, that contracts should be in writing.

860. The Government member of Namibia, on behalf of the Africa group, and the Government member of Canada, were in agreement with the Government member of Germany.

861. The Government member of New Zealand also supported the amendment, which provided useful guidance for governments, particularly with regard to workers in vulnerable situations.

862. The Government member of the United States also supported the amendment.

863. The Worker Vice-Chairperson suggested bringing the wording closer to Article 7 of Convention No. 189 and subamended the text to replace "employment relationship" in the second sentence of the amendment with "terms and conditions of employment".

864. The Employer Vice-Chairperson accepted the amendment with the subamendment introduced by the Workers' group.

865. The Worker Vice-Chairperson indicated that, in the light of the agreement to use the language of Convention No. 189, his group also supported the text.

866. The amendment was adopted, as amended.

New clause after clause (e)

867. The Government member of the United States introduced an amendment, jointly submitted with the Government members of Canada and New Zealand, to insert a new clause after (e) as follows: "encouraging employers and businesses to take effective measures to prevent forced or compulsory labour in their operations and their supply chains, including by conducting due diligence and risk assessment, setting up mitigation measures and monitoring mechanisms, providing remediation measures where appropriate, and reporting in a transparent manner about these efforts;". She explained that the clause would follow on from the Protocol provisions regarding education and information of employers and businesses. In the context of a Recommendation, the suggested text provided more detailed guidance for countries on how to approach that issue.

868. The Employer Vice-Chairperson observed that the ILO did not yet have a proper understanding of what a supply chain was and of how it operated, something that would hopefully be achieved with the general discussion on the topic which has been placed on the Conference agenda in 2016. There were many examples of supply chains where there were no direct links with workers under conditions of forced labour. Companies had their own compliance programmes, but they were effectively being asked to substitute national labour inspectorates. Employers in the informal and unregulated parts of the economy, rather than companies in the regular economy, were the root cause of forced labour. The proposed wording would shift the burden of responsibility onto companies where forced or compulsory labour was not really an issue. There was no factual basis for the amendment, and his group seriously doubted that the Committee had any real appreciation of the implications of the proposal.

869. The Worker Vice-Chairperson indicated that his group had also submitted two amendments suggesting text on the same subject. Their amendments intervened at a different point in the Paragraph, but he believed that they could assist in finding a formulation which addressed the concerns raised without introducing any ambiguity. The first amendment suggested adding at the end of clause (j) the following: "including guaranteeing that employers conduct due diligence with respect to ensuring that their supply chains do not benefit from forced labour"; the second amendment sought to insert a new clause after clause (j) as follows: "education and training for individual employers and businesses to take effective measures to prevent forced or compulsory labour in their operations and supply chains." The amendment from the Government members of Canada, New Zealand and the United States, was more detailed but it would require a much broader discussion than the Committee could realistically pursue. He therefore suggested linking the current discussion to his group's amendments in order to find a compromise.

870. The Government member of Namibia, speaking on behalf of the Africa group, expressed disappointment with the position of the Employers' group. Recalling the discussions on the prosecution of perpetrators, during which the responsibility of governments to effectively enforce laws was highlighted, he expressed surprise that there was hesitation when it came to addressing employers' responsibilities to prevent and address forced labour. His group fully supported the amendment.

871. The Government member of Brazil, speaking on behalf of GRULAC, aligned with the statement of the Africa group. It was very important to include reference to supply chains in the Recommendation and to address forced labour in this context. He observed that the concept of quality control was widely accepted and promoted in the business world, and questioned why there was difficulty expanding this concept to include the quality of employment conditions offered throughout supply chains.

872. The Government member of Greece, on behalf of EU Member States, supported the amendment, as it promoted the principle of corporate social responsibility.

873. The Government member of Austria disagreed with the Employer Vice-Chairperson that there was a lack of understanding of the issues raised by the amendment. The concept of due diligence in supply chains was widely known and had been included in the UN Guiding Principles on Business and Human Rights and the OECD Guidelines for Multinational Enterprises.

874. The Employer Vice-Chairperson insisted that all companies were located in a given country, and it was the obligation of that State to have an effective system in place to monitor and ensure the enforcement of relevant legislation. The amended text contained no reference to the responsibility of the State, as was the case under Principle No. 1 of the UN Guiding Principles. He further noted that Principle No. 3 referred to the State's

responsibility to provide guidance to businesses on how to respect human rights throughout their operations, and this was neither reflected in the text of the Recommendation nor in the amendment under discussion. He perceived the Governments' intention as an attempt to shift the burden and absolve themselves from any accountability and responsibility in this regard, while State responsibility was primary.

875. The Government member of Canada had difficulties understanding the argument of the Employers' group and recalled that the text of the instruments under discussion was, in their totality, related to the responsibility by States to suppress forced labour through effective labour inspection, law enforcement and other measures. The Committee had previously agreed on a provision regarding the State's responsibility to inform and educate employers with regard to the prevention and eradication of forced labour and therefore there was no shifting of burden. Virtually every code of conduct of multinational enterprises contained provisions addressing the issue of forced labour in supply chains, and measures were already being taken by companies in this regard. Therefore, she had difficulties understanding why it would be inappropriate to include the amendment in the context of a non-binding instrument aimed at providing guidance.

876. The Government member of New Zealand, supporting the statement of the Government member of Canada, proposed a subamendment to add "including through providing guidance" after "encouraging".

877. The Government member of Australia seconded the subamendment and agreed with the arguments presented by the Government member of Canada.

878. The Government member of the United States was perplexed by the arguments presented by the Employers' group. She stressed that principle No. 12 of the UN Guiding Principles specifically referred to fundamental principles and rights at work. She observed that the main focus of the Recommendation was on State responsibility to prevent and address forced labour and that, in fulfilling such responsibility, governments should also encourage businesses to take measures to prevent and address the problem. In the United States, most multinational enterprises were already taking measures to suppress forced labour, and therefore she could not understand the opposition of the Employers' group to the amendment.

879. The Government member of Italy supported the arguments presented by other Government members and opposed the view of the Employers' group that the Recommendation did not contain provisions on the responsibility of governments to address forced labour. In the context of the Protocol, governments had already committed to taking action to inform and educate employers on forced labour issues.

880. The Government member of Brazil, speaking on behalf of GRULAC, shared the views expressed by other Governments.

881. The Employer Vice-Chairperson, referring to Principles Nos 15 and 19 of the UN Guiding Principles dealing with the employers' responsibility, noted that there was no reference to monitoring or supply chains. The scope of the proposed amendment went beyond the scope of these principles. While acknowledging that the Protocol contained some general language on the role of governments, he argued that the language in the Recommendation needed to be balanced.

882. The Worker Vice-Chairperson observed that the intention of the Committee was in no way to defend the violations of workers' rights that sometimes occur in the supply chains of multinational enterprises. Recalling the 2013 disaster of the Rana Plaza – a commercial building that collapsed in Bangladesh, killing over a thousand workers – he noted that

violations occurred due to a number of factors, including negligence and the increasing pressure for immediate profits. In the context of globalization, multinational enterprises often possessed greater economic power than government institutions, especially in developing countries, where limited budgets prevented the establishment of an effective labour inspection system. It was within the ILO's mandate to call on governments to commit to the protection of fundamental principles and rights at work. However, in the context of globalization of trade and, given the increasing role of multinational enterprises, the issue of responsibility for the protection of fundamental principles within supply chains had become somewhat sensitive. He reiterated his previous suggestion to consider the amendment jointly with two amendments by his group on the same subject.

883. The Government member of Turkey found that the rationale for the amendment put forward by the Government member of Canada was clear, and she supported it as subamended. She agreed with the Employer Vice-Chairperson that it was the responsibility of governments to take measures to combat forced labour, but encouraging and informing employers was part of that responsibility.

884. The Government member of Sweden observed that the proposed amendment was a recognition that they were all in the fight against forced labour together. Governments had a role in encouraging other actors to act.

885. The Employer Vice-Chairperson proposed a subamendment as follows: "through assessing whether there is any forced or compulsory labour in their countries and supporting public and private sectors to take similar assessments in order to prevent and mitigate forced labour in their operations; and".

886. The Government member of Canada questioned whether the proposed text was in fact a subamendment, as it appeared to replace the entire text of the initial amendment.

887. The Employer Vice-Chairperson confirmed that he intended to replace the text. However, recognizing the complexity of the discussion and the proposals, he suggested that a working party might be set up to look specifically at this clause.

888. The Chairperson proposed to the Committee that an informal working party be established with four members from the Governments, the Employers' and Workers' groups, and that this working party should discuss in parallel with the Committee so as not to hold up its work. The Chairperson requested the working party to report back to the Committee with a proposal as regards the amendment of the Government members of Canada, New Zealand and the United States, as well as the two related amendments of the Workers' group.

889. The Chairperson asked the informal working party to report on the outcome of its work concerning clause (j).

890. The Government member of the United States introduced the compromise text which read as follows: "In giving effect to its obligations under Convention No. 29 to suppress forced or compulsory labour, each Member should provide guidance and support to employers and businesses to take effective measures to identify, prevent, mitigate and account for how they address the risks of forced or compulsory labour in their operations or in products, services or operations to which they may be directly linked".

891. This was adopted with the understanding of the Committee that the chapeau would have to be modified to take into account the new structure of the Paragraph.

Clause (f)

892. The Government member of Greece, on behalf of EU Member States, withdrew their amendment to delete the word “guarantees”.

Clause (g)

893. The Worker Vice-Chairperson introduced an amendment to replace the words “pre-departure orientation” with “orientation before departure and upon arrival”. This should convey the idea that orientation services should be available for migrants in receiving countries on the outset upon arrival, not only before departure, to provide information on forced labour.

894. The Government member of Australia introduced an amendment submitted by the Government members of Canada, New Zealand and Turkey to replace “orientation” with “information”. In their view, information could be broader than orientation.

895. The Government member of Brazil, speaking on behalf of GRULAC, supported the amendment of the Workers’ group, and agreed that orientation services should be available before departure and upon arrival.

896. The Government member of Canada thought that “orientation” gave the impression that a person should be present for such service, which might not be possible in some cases and for some countries. She suggested the wording “information for migrants pre-departure and on arrival”.

897. The Employer Vice-Chairperson suggested expanding the discussion on their amendment to replace, after the word “migrants”, the rest of the sentence with “to create awareness and better understanding about trafficking and forced labour situations”. This had a similar objective to provide migrant workers with information on what trafficking and forced labour could entail. For example, to make them aware if taking away the passport in that country was a practice; that recruitment fees should be paid by others; hence, provide information that people needed to make them aware of their rights in order to avoid them becoming victims of forced labour.

898. The Government member of Indonesia respectfully disagreed with the Employers’ group and the Government member of Australia. In his understanding, orientation was broader than information, and he asked if creating awareness was enough. Indonesia organized orientation programmes for migrants that included substantive training which went beyond merely creating awareness and providing information. He emphasized that it was critical to provide sufficient training.

899. The Government members of Nepal and Singapore shared the views of the Government member of Indonesia. Similarly, the Government member of Brazil, speaking on behalf of GRULAC, as well as the Government member of the Philippines, indicated their preference for “orientation”.

900. The Worker Vice-Chairperson suggested that “orientation and information” be included. He was eager to include the amendment submitted by the Employers’ group as an addition rather than a replacement.

901. The Government member of Australia agreed to include “information and orientation”; their reasoning behind the suggestion to use “information” was a practical consideration, as it could sometimes be difficult to provide orientation. The amendment proposed by the Employers’ group was very broad and general in nature.

902. The Employer Vice-Chairperson emphasized that there should be both, information and orientation, so that migrant workers were fully aware of the situation in the destination country upon arrival.

903. The Government member of Namibia had no difficulty in accepting inclusion of both notions. Information was more provided on paper, while orientation was broader. With regard to the concern voiced by the Government member of Australia, he suggested a subamended wording "information or orientation" to give countries a choice and avoid practical problems.

904. The Government member of the United States supported the suggestion by the Government member of Namibia. In some cases, governments did not have the possibilities to provide orientation, for example, in the case of undocumented migrant workers.

905. The Government member of Greece, speaking on behalf of EU Member States, supported the inclusion of both information and orientation, as well as the addition of the wording from the amendment of the Employers' group at the end of the clause.

906. The Government member of Turkey also supported the addition of the wording from the amendment proposed by the Employers' group.

907. The Government member of Indonesia suggested changing the wording to "information before departure and orientation upon arrival;".

908. The Government member of the United States was not sure whether "information" meant a one-on-one meeting with a government official or information handed out. She did not think it was possible to arrange for one-on-one information sharing for those entering without a visa.

909. The Worker Vice-Chairperson felt that the chapeau of the Paragraph provided for sufficient flexibility. He believed there was consensus that information should be provided regarding possible risk in the best suited manner.

910. The Government member of Senegal said that information and orientation would be useful both before departure and upon arrival, and subamended the text to read: "orientation and information before departure and upon arrival for migrants". The subamendment was seconded by the Government member of Argentina.

911. The Government member of Canada suggested a change in the language originating in the amendment of the Employers' group which was to replace after "trafficking" the words "and forced labour" with "for forced labour". This was to ensure that the text remained focused on the subject of the discussion.

912. The Employer Vice-Chairperson noted that the change proposed by the Government member of Canada did capture reality. He did not see the additional burden of including in the information activities for migrants information on trafficking more generally. He did not support the subamendment.

913. The Government member of the Philippines supported the subamendment proposed by the Government member of Canada. He believed that the Trafficking in Persons Protocol covered trafficking for other purposes.

914. The Worker Vice-Chairperson agreed that it was good to focus on forced labour. However, he felt that one should not complicate matters. It was easier to inform migrants about

trafficking in general, which would also cover trafficking for forced labour. He argued for simple language in the Recommendation in order to make its implementation more effective.

915. The Chairperson noted that there was broad support for referring to "information and orientation" and to "trafficking for forced labour situations" in the second part of the clause.

916. The amendment was adopted as subamended.

Clause (h)

917. The Government member of Greece, speaking on behalf of EU Member States, introduced an amendment to delete the words "employment and labour migration". She immediately subamended their proposal and suggested that the first part of the clause should read: "Coherent polices, such as employment and labour migration policies,". It was not only employment and labour policies that were concerned but other policies as well, including education policies.

918. The Employer Vice-Chairperson indicated that his group had no issues with the amendment proposed by EU Member States. They had submitted an amendment to replace the second part of the clause after "which" with the following: "address circumstances that could result in forced labour situations." However, his group could agree to adding this wording at the end of the clause.

919. The Worker Vice-Chairperson supported the amendment by EU Member States and the proposal from the Employers' group.

920. The Government member of Greece, speaking on behalf of EU Member States, also agreed to including the wording suggested the Employers' group.

921. The Government members of Namibia, on behalf of the Africa group, and Uruguay, on behalf of GRULAC, as well as the Government members of Canada and the United States, equally voiced their support.

922. The amendment was adopted, as amended.

Clause (i)

923. The Government member of the United States, speaking on behalf of the Government members of Australia, Canada, New Zealand, Switzerland and Turkey, introduced an amendment to replace clause (i) with the following: "promote coordinated efforts with other countries to facilitate orderly, regular and safe migration and to prevent trafficking in persons;".

924. The Worker Vice-Chairperson introduced an amendment to replace "cooperation with other countries" with "transnational cooperation at all levels". This was to ensure that the cooperation was operational and not at the diplomatic level.

925. The Employer Vice-Chairperson subamended the proposal by the Government member of the United States and the other Governments to refer to "promote coordinated efforts at all levels of government". This might accommodate the concerns underlying the amendment submitted by the Workers' group.

926. The Government member of Argentina, speaking on behalf of GRULAC, referred to an amendment they had submitted to Committee proposing to replace after "efforts to" the phrase "guarantee migration in acceptable conditions and to prevent trafficking in persons" with "prevent trafficking in persons and guarantee migration in acceptable conditions and respecting the rights of migrants". However, GRULAC was prepared to withdraw the amendment should consensus on the joint proposal by the Government member of the United States and the other Governments emerge.

927. The Worker Vice-Chairperson raised concern over the term "orderly" as translated into French. He suggested using the term "rights-based" instead of "orderly".

928. The Government member of the United States believed that "at all levels of Government" was not entirely appropriate as immigration law was handled at the federal level in multiple countries. She suggested a subamendment to replace that expression by "by relevant government agencies with other countries". With regards of adding "rights-based", she was concerned that it would give the impression of a "right" to migrate. However, the word "orderly" could be deleted if it raised problems.

929. The Government members of Canada and Indonesia supported the subamendment proposed by the Government member of the United States.

930. The Worker Vice-Chairperson indicated that his group was not trying to introduce a right that did not exist, but was referring to what were essentially human rights. He believed that his group could reach an agreement on the basis of the proposal made by the Government member of the United States.

931. The Employer Vice-Chairperson believed that they were close to an agreement, but was not confident that the Governments had reached consensus with regard to the use of the words "rights-based".

932. The Government member of Australia supported the proposal on relevant government agencies, given that responsibility for migration laws was often located at a federal level; she also supported the deletion of the words "rights-based" and "orderly".

933. The Government member of Finland echoed the views expressed by the Government member of Australia.

934. Speaking on behalf of GRULAC, the Government member of Uruguay called for the words "rights-based" to be included so as to cover all migrants, both legal and illegal.

935. Speaking on behalf of the Africa group, the Government member of Namibia was not in favour of using the words "rights-based" or "orderly", which were not sufficiently clear.

936. The Government member of Greece, on behalf of EU Member States, and the Government member of Sweden, supported the proposal made by the Government member of the United States.

937. The amendment submitted by the Government member of the United States, on behalf of the Government members of Australia, Canada, New Zealand, Switzerland and Turkey, was adopted, as amended.

938. The Worker Vice-Chairperson introduced an amendment to add at the end of the clause the words "including coordinated efforts to regulate, licence and monitor labour recruiters and employment agencies and eliminate the charging of recruitment fees to workers to prevent debt bondage and other forms of economic coercion;". The rationale was to include in

prevention efforts the targeting of recruitment agencies that engaged in human trafficking for forced labour. Charging of fees by third parties was a particular issue where wages were withheld and workers found themselves in debt bondage, as had recently been seen in the Committee on the Application of Standards.

939. The Employer Vice-Chairperson supported the amendment, as the language was in line with Convention No. 181.

940. The Government members of Australia, Canada, Namibia, on behalf of the Africa group, New Zealand and the United States supported the amendment.

941. The Government member of Brazil, speaking on behalf of GRULAC, supported the new text, but wished to keep a reference to the human rights of migrants by inserting the words "rights-based".

942. The new proposed subamendment drew no support, and the clause was adopted as amended by the Workers' group to read: "promote coordinated efforts by relevant government agencies with other countries to facilitate regular and safe migration and to prevent trafficking in persons, including coordinated efforts to regulate, license and monitor labour recruiters and employment agencies and eliminate the charging of recruitment fees to workers to prevent debt bondage and other forms of economic coercion;".

943. The Committee adopted Paragraph 3, as amended.

Paragraph 4

Subparagraph 1

944. The Government member of the United States introduced an amendment submitted by the Government members of Australia, Canada, Japan, New Zealand, Norway, Switzerland, and Turkey, to insert, before subparagraph (1), the following:

> Members should take measures to protect victims of forced or compulsory labour. Within their national contexts:
>
> (1) Targeted efforts should be made to identify and release victims of forced or compulsory labour.

945. The Employer Vice-Chairperson accepted the amendment.

946. The Worker Vice-Chairperson could accept the amendment with the deletion of the words "within national context" in the chapeau.

947. The Government member of the United States proposed to replace "within their national contexts" with "such as". She further clarified that the chapeau was intended to apply to the whole section on protection.

948. The Employer Vice-Chairperson suggested that the chapeau for Paragraph 3 could be modified to fit the amendment proposed, as it was already agreed text.

949. The Government member of the United States explained that she could accept "targeted efforts should be made to identify and release victims of forced or compulsory labour", if that made it easier for the Committee to reach consensus.

950. The amendment was adopted as subamended.

951. The Employer Vice-Chairperson introduced an amendment to replace the first sentence with "Protective measures should be offered to victims of forced or compulsory labour." His group could not understand what the words "on the basis of their informed consent" meant in this particular context.

952. The Government member of Greece, speaking on behalf of EU Member States, did not support the amendment because protective measures were not offered but provided. She cited article 6 of the Trafficking in Persons Protocol in this regard. This was supported by the Government member of the United Kingdom.

953. The Government member of Brazil, speaking on behalf of GRULAC, proposed to insert after "labour" the words "once they have been rescued". He argued that informed consent only applied after a victim had been rescued.

954. The Worker Vice-Chairperson indicated that he had no objection to the proposal of the Employers' group. He argued that the idea of consent was not in relation to protection but to filing judicial proceedings, and therefore had no objection to its deletion. With regard to the amendment introduced by GRULAC, he considered that victims should be protected as soon as they had been identified, and thus could not support the proposal.

955. The Government members of Australia, Indonesia, Turkey and the United States, and the Government of Greece, on behalf of EU Member States, supported the amendment put forward by the Africa group which maintained the original wording, deleting only the reference to the victims' consent.

956. The first subparagraph was adopted, as amended.

Subparagraph 2

957. The Government member of the United States introduced an amendment to insert "generally" in line 2, before the words "should not", and replace "criminal and other proceedings" in line 3, with "an investigation or prosecution of the crime when such cooperation would cause harm to the individual". The amendment sought to provide some leeway in that regard. In many cases, successful prosecution of perpetrators was dependent on the cooperation of victims, so some flexibility was needed to ensure that prosecutors were not systematically left without key tools for the prosecution of perpetrators.

958. The amendment did not receive support and was not adopted.

959. The Government member of Greece, speaking on behalf of EU Member States, introduced an amendment to add a new sentence at the end of the subparagraph as follows: "These measures should be provided to victims irrespective of their nationality at least during the reflection and recovery period referred to under Paragraph 9." Her group thereby wished to provide clear guidance on implementation.

960. The Employer Vice-Chairperson was unclear as to the meaning of the word "reflection".

961. The Worker Vice-Chairperson could not support the amendment, as he feared that it might open up a debate on residency status or nationality, which he did not consider necessary, since the Recommendation referred to all victims of forced labour regardless of their legal status.

962. The Government member of Italy indicated that Paragraph 9 referred to a period of reflection, and the purpose of the amendment was to indicate that it constituted a period during which victims were "free from obligations". The length of that period could be

discussed, but the Committee would have to consider the issue, at the latest, when considering Paragraph 9.

963. Due to insufficient support, the amendment was not adopted.

964. The Government member of New Zealand, seconded by the Government member of Australia, introduced an amendment to add the following sentence at the end of subparagraph (2): "States should take care to ensure that such measures do not give the impression that victims are being induced to participate in prosecution, thereby undermining the victims' credibility." The amendment aimed at providing guidance to States with regard to mechanisms for the prosecution of perpetrators. The intention was to highlight that encouraging victims' cooperation in proceedings could, in some cases, undermine the credibility of victims' testimonies.

965. The Worker Vice-Chairperson understood that the amendment aimed to ensure that judicial proceedings were carried out in an appropriate manner. The amendment proposed however appeared to contradict its preceding sentence and thus he could not support it.

966. The Employer Vice-Chairperson did not oppose the spirit of the amendment, but believed it was more detailed than the provisions of the Recommendation were expected to be.

967. The Government member of New Zealand confirmed that the amendment proposed provided specific guidance, but observed that the suggestion was based on national experiences.

968. The Government member of Ireland opposed the amendment.

969. The amendment received insufficient support and thus was not adopted.

970. Subparagraph (2) was adopted, and Paragraph 4 was adopted, as amended.

New paragraph after Paragraph 4

971. The Worker Vice-Chairperson introduced an amendment to add, after Paragraph 4, a new Paragraph, as follows: "Members should take measures to strengthen the capacity of trade unions and other organizations concerned to support and assist victims of forced or compulsory labour." He indicated that the amendment proposed was aimed at ensuring that the capacity of trade unions would be taken into consideration in the context of measures to protect victims of forced labour.

972. The Employer Vice-Chairperson supported the amendment.

973. The Government member of Canada requested clarification from the Workers' group with regard to the type of measures governments were expected to take to strengthen the capacity of trade unions.

974. The Worker Vice-Chairperson stressed that the aim of the amendment proposed was to ensure that trade unions were seen as one of the stakeholders that could take action in the context of protecting and assisting victims in cooperation with other bodies. Details as to the specific measures taken would depend on the national context.

975. The Government member of Canada, seconded by the Government member of the United States, put forward a subamendment to use the wording: "Members should partner with trade unions and other organizations with the capacity to assist victims of forced or compulsory labour."

976. The Employer Vice-Chairperson observed that, in the ILO context, the use of the verb "to partner" would require referring to both employers' and workers' organizations.

977. The Worker Vice-Chairperson agreed that the term "partnership" was broader and could give rise to numerous questions, and thus proposed a further subamendment to adopt the wording: "Members should recognize the role and the capacity of trade unions and other organizations concerned in the framework of programmes to support and assist victims of forced or compulsory labour."

978. The Government member of Canada supported the subamendment.

979. The Government member of Greece, on behalf of EU Member States, supported the subamendment, but put forward a further subamendment to replace "programmes" with "action" and "trade unions" with "workers' organizations".

980. The Worker Vice-Chairperson supported the subamendment.

981. The Employer Vice-Chairperson supported the initial wording proposed in the amendment put forward by the Workers' group, and pointed out that the expression "framework of action" had no substantial meaning.

982. The Worker Vice-Chairperson, noting the concern of the Employers' group, proposed a further subamendment to delete the expression "in the framework of programmes".

983. Speaking on behalf of EU Member States, the Government member of Greece supported the amendment, as did the Government members of Canada, Turkey and the United States.

984. The new Paragraph was adopted as amended, to read: "Members should recognize the role and the capacities of workers' organizations and other organizations to support and assist victims of forced or compulsory labour."

Paragraph 5

985. Speaking on behalf of EU Member States, the Government member of Greece presented the amendment which replaced Paragraph 5 with: "Members should, in accordance with the basic principles of their legal systems, take necessary measures to ensure that competent authorities are entitled not to prosecute or impose penalties on victims of forced labour for their involvement in unlawful activities which they have been compelled to commit as a direct consequence of being subject to forced labour." She explained that this was agreed language from the Protocol, encouraging victims to come forward and protecting them from penalties.

986. The Worker Vice-Chairperson was prepared to support the amendment, as were the Government members of Australia, Canada, Japan, New Zealand, Singapore and the United States.

987. The Employer Vice-Chairperson asked the secretariat to verify that the text was indeed from the Protocol.

988. The Chairperson confirmed that the text was almost identical, with very minor changes, and suggested that it was not necessary to repeat it in the Recommendation. His view was agreed to by the Employer Vice-Chairperson.

989. The Government member of the United States found the repetition across both texts useful as, if some Members did not ratify the Protocol, the provision would still be relevant in the context of Convention No. 29.

990. The Government member of Greece, speaking on behalf of EU Member States, insisted on the importance of the text which gave guidance on the implementation of the Protocol.

991. The Government member of Canada underlined that the provision in question was directed at the State and, for those countries which had not yet ratified the Protocol, it would nonetheless be a requirement to report from time to time on the application of the Recommendation, therefore the inclusion of the provision was welcome.

992. The Government member of Namibia, speaking on behalf of the Africa group, pointed out that the work of the Committee was to develop a Recommendation that would stick to the Protocol, so it should use the language of the Protocol. The Recommendation offered guidance to all, so it was appropriate to include the provision proposed by EU Member States.

993. The Worker Vice-Chairperson was concerned by the turn in the discussion. He had already expressed his support for the substance but, listening to the Governments' interventions, he had heard many among them emphasizing the non-ratification of the Protocol as the motive for including the provision in the Recommendation. He wanted to be assured that governments would ratify the Protocol and that the Recommendation would play its expected role of supplementing, not replacing, Convention No. 29 and its Protocol, and that such an assurance would be placed on record.

994. The Government member of Italy, speaking on behalf of EU Member States, strongly emphasized the need to protect victims from the consequences of the acts that they may have been forced or compelled to do. She recognized that there was already mention of this idea in the Protocol, but believed it was important to include it in the Recommendation as well.

995. The Worker Vice-Chairperson noted the rationale for the amendment and agreed to its importance. He believed it was important to make sure that the wording of the provision was the same as in the Protocol.

996. The Employer Vice-Chairperson agreed on an exceptional one-time basis to the inclusion of this provision in Paragraph 5.

997. The Government member of Namibia, speaking on behalf of the Africa group, explained that he was supportive of this amendment, as he believed it was important to send the message across that victims of forced labour who had committed crimes under forced labour circumstances should not be prosecuted.

998. The amendment and the Paragraph, as amended, were adopted.

Paragraph 6

999. The Worker Vice-Chairperson introduced an amendment, explaining that it would replace the entire text of Paragraph 6 with "Members should take measures to eliminate abuses and fraudulent practices by recruitment and placement services, including regulating, licensing and supervising these services, establishing adequate and accessible complaint mechanisms, and imposing adequate penalties to ensure transparency, full disclosure of terms and conditions of work and to guarantee that no fees for recruitment are charged to

the worker." He explained that he wished to redraft the Paragraph in order to clarify the effective measures that needed to be taken to eliminate abuses and fraudulent practices.

1000. The Employer Vice-Chairperson was willing to support this proposal with the condition of changing the word "guarantee" in the text. He argued that this word was problematic because some legal systems may not provide for that, and therefore there needed to be a measure of flexibility.

1001. The Government member of Australia indicated that a group of Governments had presented a proposal which might address the concerns raised by both the Employers' and the Workers' groups. She accordingly suggested the following subamendment, which was seconded by the Government of New Zealand: "Members should take measures to eliminate abuses and fraudulent practices by recruiters and employment agencies, such as: prohibiting the charging of recruitment fees to workers; requiring transparent contracts that clearly explain terms of employment and conditions of work; establishing adequate and accessible complaints mechanisms; imposing adequate penalties; and supervising, regulating, or licensing these services."

1002. The Government member of Singapore suggested that "supervising" should be deleted, as it implied that recruitment services might have to report to governments, which was not realistic. In addition, given that recruitment agencies were businesses and were providing a service to workers, she proposed using the word "limiting" instead of "prohibiting". The two proposals were seconded respectively by the Government of Indonesia and the Employers' group.

1003. The Worker Vice-Chairperson referred to Article 7.1 of Convention No. 181, which stated: "Private employment agencies shall not charge directly or indirectly, in whole or in part, any fees or costs to workers", and suggested using the word "eliminating" instead of "prohibiting".

1004. The Government member of Australia supported the use of the word "eliminating", especially since it was consistent with the wording agreed upon by the Committee in Paragraph 3(i).

1005. The Government member of Belgium also supported the use of the word "eliminating", considering that it concerned persons who were not yet in employment. The Committee should seek to avoid situations where workers were forced into debt.

1006. The Worker Vice-Chairperson agreed that, given that they were discussing a Recommendation and that they were considering protection measures against forced labour specifically, the wording used in Convention No. 181, seemed most appropriate.

1007. The Government member of Canada agreed that the Recommendation should be consistent with existing ILO instruments. She moreover noted that Convention No. 181 provided for a number of exceptions with regard to the prohibition of recruitment fees. Nevertheless, it was ultimately the responsibility of the employer to pay for recruitment.

1008. The Employer Vice-Chairperson observed that Convention No. 181 had not yet been widely ratified. His group was, however, prepared to accept the proposal put forward by the Governments.

1009. Paragraph 6 was adopted, as amended.

Paragraph 7

1010. The Employer Vice-Chairperson and the Government member of Canada withdrew their amendments.

1011. Speaking on behalf of EU Member States, the Government member of Greece introduced an amendment to insert ", in appropriate cases," after "rehabilitation should". It was important for her group that the text should take national circumstances into account to allow for each Member's needs at the implementation stage.

1012. The Worker Vice-Chairperson introduced a subamendment to align the wording of the chapeau of Paragraph 7 with the language agreed under Paragraph 3 of the Recommendation. The chapeau would read: "Taking into account their respective circumstances and situations, Members should take the most effective protective measures to meet the needs of all victims for both immediate assistance and long-term recovery and rehabilitation such as:".

1013. With broad support from the Committee, the chapeau of Paragraph 7 was adopted, as amended.

1014. The Government member of the United States, seconded by the Government members of Australia, Canada, Japan, New Zealand and Turkey, introduced an amendment to replace "the protection of" with "reasonable efforts to protect". The intention of the amendment was to provide governments with a certain degree of flexibility. With regard to intimidation and retaliation of victims, she observed that these could sometimes occur prior to the commencement of legal proceedings and suggested including, after "retaliation", "for exercising their rights under relevant national laws and".

1015. The Worker Vice-Chairperson recalled that the Committee had previously discussed the use of the word "reasonable" and supported the amendment proposed.

1016. The Government member of Canada proposed to replace "and cooperation" with "or cooperation".

1017. The Government member of Brazil, on behalf of GRULAC, supported the amendment as subamended.

1018. The amendment was adopted as subamended.

1019. The Government member of Greece, speaking on behalf of EU Member States, introduced an amendment to delete the words "as appropriate".

1020. The Government member of the United States opposed the amendment as the text served a function, referring as it did to whichever party needed protection, whether it was the victim, their family or witnesses.

1021. The Worker Vice-Chairperson supported the amendment, as the clause was not clear, and the bracketing commas around ", as appropriate," suggested its application to the whole clause.

1022. Clause (a) was adopted, as amended.

Clause (b)

1023. The Government member of Indonesia introduced an amendment, seconded by the Government member of Singapore, to delete the clause. While he understood and supported the content of the provision as an important part of the protection measures afforded to victims of forced labour, he considered that these were already covered by clause (d), which referred to "material assistance" and therefore encompassed housing.

1024. The Employer Vice-Chairperson recalled that his group had withdrawn earlier amendments, but wanted to keep the spirit of these amendments in proposing a subamendment to clause (b) that would add language that reflected different thinking for citizens of a country and those that came into a country. The subamended text would add, to the end of the text, the words "for workers from the country. But in the case of migrant workers not from the country there should be the possibility of providing a temporary stay, including short-term accommodations, in accordance with national law, in order that an informed decision can be taken regarding protection measures and a participation in judicial proceedings;".

1025. The Worker Vice-Chairperson understood the concerns of the Employers' group, as it could appear that permanent rights to housing were being offered. A later amendment to be submitted by GRULAC was shorter but captured the same idea, and could be easier to integrate. In addition, he had a legal concern, which was that Article 6 of the Trafficking in Persons Protocol referred to "provision of appropriate housing".

1026. The Government member of Belgium rejected the subamendment submitted by the Employers' group. She noted that the chapeau used the words "taking into account their respective circumstances and situations", which left it to States to decide on the terms for such provisions, and therefore preferred the Office text.

1027. Speaking on behalf of the Africa group, the Government member of Namibia shared the view of the Government member of Belgium. He suggested returning to the original draft text but amending this to delete "and adequate".

1028. The Government member of the United States also supported the original text, while retaining "adequate and appropriate housing".

1029. The Government member of Indonesia offered to withdraw his Government's amendment on the understanding that the GRULAC amendment be accepted.

1030. Speaking on behalf of GRULAC, the Government member of Brazil asked that the Spanish text be corrected to use *"alojamiento adecuado y apropiado"* instead of "*vivienda adecuada y apropiada"*, as this was a more accurate translation. He also confirmed his group's preference for the original text over the subamendment proposed by the Employers' group.

1031. The Government member of Spain supported the amendment by GRULAC to the Spanish text.

1032. The Government member of Brazil introduced a further amendment on behalf of GRULAC to clarify further the provision regarding housing for victims, adding the words "during the time required for their rehabilitation".

1033. The Government member of Ireland spoke in favour of the subamendment by the Employers' group, as it brought the conditions of the victims of forced labour to an equivalency with the victims of human trafficking, which was appropriate.

1034. The Government member of New Zealand stated that they would prefer the original wording as proposed by the Office.

1035. The Government member of Indonesia voiced his support for the amendment proposed by GRULAC.

1036. The Worker Vice-Chairperson requested clarification on the wording from the Office. Although he understood the reasoning behind the wording setting a time limit, in his view the original text was not meant to give housing forever. He advised that the clause should be read in context of the chapeau for Paragraph 7. It specified that measures were implicitly meant for the period of rehabilitation and not for an undetermined time.

1037. The Government member of Greece, speaking on behalf of EU Member States, stated that they preferred to keep the original text.

1038. The Government member of Canada indicated that clauses 7(a) to (d) were taken from the Trafficking in Persons Protocol, paragraph 3, and the chapeau of this paragraph provided the context. In the case of the chapeau agreed for Paragraph 7 of the draft Recommendation, she noted that it provided much less flexibility than the words used in the Trafficking in Persons Protocol "shall consider".

1039. A representative of the secretariat confirmed that the wording of the Trafficking in Persons Protocol was reflected in some clauses of Paragraph 7, including (b). With regard to language, she stressed that they were discussing a Recommendation, while the Trafficking in Persons Protocol was a legally binding instrument.

1040. The Employer Vice-Chairperson proposed to use the term "accommodation", and understood why it would have to be time-bound.

1041. The Government member of Brazil, speaking on behalf of GRULAC, accepted the word "accommodation".

1042. The Government member of Canada, considering that the chapeau provided flexibility taking into account the national context and referring to rehabilitation, suggested to end the clause after "accommodation" and to delete "during the time required for their rehabilitation", as the duration of rehabilitation of a victim could vary substantially and might even take some years.

1043. The Government member of Namibia concurred with this observation that the time for rehabilitation could not be known.

1044. The Government members of Australia and the United States supported the formulation "adequate and appropriate accommodation".

1045. The Government member of Greece, speaking on behalf of EU Member States, reiterated that they preferred to retain the original wording of the proposed text.

1046. The Employer Vice-Chairperson agreed to replace "during the time required for their rehabilitation" with "temporary", as suggested by the Government member of Indonesia.

1047. The Worker Vice-Chairperson, while agreeing with the Employers' group, could not agree with the use of the term "temporary" and, if it were to be used, he would like to see it defined.

1048. The Government member of Belgium pointed out that the terms were not in line with the Trafficking in Persons Protocol.

1049. The Chairperson concluded that there was consensus in the room for the wording without "required for their rehabilitation".

1050. The Government member of Brazil, speaking on behalf of GRULAC, presented an amendment to delete the entire clause (d). He explained that material assistance was included in the clause when talking about social and economic assistance.

1051. The Worker Vice-Chairperson did not support the amendment.

1052. The Government member of Belgium pointed out that material assistance was tied to food and clothing, and did not see other points under Paragraph 7 that could be deemed as material assistance.

1053. The Government member of Australia requested clarification from the Office as to what was meant by "material assistance".

1054. A representative of the secretariat explained that the Office had used the same wording as in the Trafficking in Persons Protocol, noting that "material assistance" had not been defined. She also mentioned that this same wording had been used in Report IV(1), where it referred to assistance in kind as well as in cash. It covered the most immediate needs as suggested by the Government member of Belgium. She also reminded the Committee that a question on material assistance had been included in the questionnaire sent to all member States and social partners.

1055. The Employer Vice-Chairperson did not support the deletion of material assistance and asked to revert to clause (b).

1056. The Chairperson deemed that there was not sufficient support and the amendment was not adopted.

1057. The Government member of Singapore, seconded by the Government member of Indonesia, introduced an amendment to insert "where necessary" after the words "material assistance" and explained that it should take into account the nature of circumstances.

1058. The Employer and Worker Vice-Chairpersons stated that the chapeau already addressed this issue.

1059. The clause was adopted, as amended.

Clause (c)

1060. The Employer Vice-Chairperson recalled that as part of a previous amendment to the entire Paragraph, they supported the Office text for the original clause (c) that read "health care including both medical and psychological assistance".

1061. The Worker Vice-Chairperson introduced a subamendment to add, at the end of the sentence, "as well as provision of special rehabilitative measures for victims of forced or compulsory labour who have been subject to sexual violence".

1062. The Government member of Finland, speaking on behalf of EU Member States, proposed to subamend the text by inserting the word "also" after "who".

1063. The Government member of Namibia, speaking on behalf of the Africa group, recalled the amendment of the EU Member States and agreed to support it.

1064. The Employer Vice-Chairperson suggested to replace "as well as provision of special rehabilitative measures" with "in particular for victims of forced or compulsory labour", in order to put the focus on the victims.

1065. Speaking on behalf of EU Member States, the Government member of Greece supported the clause as subamendment by the Employers' group.

1066. The Government member of the United States did not agree with using the words "in particular" because it narrowed the provision of social and economic assistance down to those who had been subjected to sexual violence. Other victims might also require psychological assistance. She suggested a subamendment to delete "in particular" and use the wording "including those who have also been subjected to sexual violence". The amendment was seconded by the Government member of Brazil.

1067. This received the support of the Committee and was adopted.

Clause (f)

1068. The Government member of the United States presented an amendment to insert "access to" before "employment" to avoid the suggestion that governments would provide jobs, but rather indicate that they should facilitate a victim's ability to obtain a job.

1069. The amendment was adopted.

1070. The Worker Vice-Chairperson introduced an amendment to add ", which increase employability in decent work and income-earning opportunities", in order to qualify "employability" by using the concept of "decent work" and introduce the concept of "income-earning opportunities".

1071. Speaking on behalf of the Africa group, the Government member of Namibia observed that the amendment appeared to introduce a disconnect between the beginning and the end of the sentence. Given that the discussion was taking place within the ILO, it should be taken as a given that any employment possibilities provided by its Members should involve decent work.

1072. The Government members of Australia and the United States supported this.

1073. Agreeing with the Government member of Namibia, the Worker Vice-Chairperson suggested a subamendment which would read "including access to educational and training opportunities and access to decent work".

1074. The Government member of Brazil, on behalf of GRULAC, as well as the Government members of Australia and Canada, supported the subamendment.

1075. The subamendment was adopted, and Paragraph 7 was adopted, as amended.

Paragraph 8

1076. The Government member of Brazil, speaking on behalf of GRULAC, introduced an amendment to add "and adolescents" after "children". The intention was to ensure that adolescents, and youth in general, were included in the context of the protection of children's rights.

1077. The Worker Vice-Chairperson stated that he had no problem with the intention of the amendment, but recalled that provisions addressing children's rights, including in the context of child labour, used the word "children" to refer to all individuals who had not attained majority.

1078. The Employer Vice-Chairperson agreed with the explanation provided by the Workers' group.

1079. With this explanation, the Government member of Brazil, speaking on behalf of the GRULAC, withdrew the amendment.

1080. The Government member of Greece, speaking on behalf of EU Member States, introduced an amendment to insert a new clause before clause (a), which would read: "access to education for girls and boys". The amendment aimed to ensure that children victims of forced labour had access to their fundamental human rights.

1081. The amendment was supported by the Committee and adopted.

1082. The Government member of Namibia, speaking on behalf of the Africa group, introduced an amendment to add, at the end of clause (a), "in accordance with the national legislation". The intention was to allow member States some flexibility according to national legislation.

1083. The Worker Vice-Chairperson observed that the original text contained the expression "as appropriate" and therefore addressed the issue raised by the Government member of Namibia. He observed that reference to national legislation could give rise to misinterpretation with regard to the level of flexibility allowed, and that gaps in national law should be addressed by member States.

1084. The Employer Vice-Chairperson agreed with the Workers' group and recalled that the wording generally used in the ILO was "according to national law and practice". In this case, the original text of the Recommendation, a non-binding instrument, allowed sufficient flexibility and provided appropriate guidance to member States.

1085. The Government member of Australia supported the statements of the social partners.

1086. The Chairperson indicated that there was insufficient support for the amendment and it thus was not adopted.

1087. The Worker Vice-Chairperson introduced an amendment to add a new clause after clause (b) that would read: "efforts to reunite children with their families, or, when it is in the best interest of the child, provide family based care". He stated that, according to national experience, provisions of this type contributed to the rehabilitation of children victims of serious violations and abuse. He continued to introduce a second amendment to add another new clause, which would read: "measures to ensure that the prosecution remains possible for a sufficient period of time after the child victim of forced or compulsory labour reaches the age of majority". The idea was that, particularly for children who had been victims of crimes at an early age, the right to seek redress could preclude before they had reached a sufficiently mature age to pursue their rights. This was often the case with regard to children victims of sexual abuse.

1088. The Employer Vice-Chairperson supported the first amendment proposed by the Workers' group concerning reuniting children with their families, but had reservations about the second one dealing with the statute of limitations for prosecution. The latter seemed a significant proposal and would be difficult for courts or judicial systems, as the reference

to a "sufficient period of time" was not precise enough. The example that the Worker Vice-Chairperson had given suggested that a victim of 35 years of age could refer back to a situation which occurred when he or she was 15 years of age.

1089. The first amendment received broad support from the Committee and was adopted.

1090. The Government member of Sweden concurred with the Employer Vice-Chairperson and was very unsure about the second amendment. The proposed text was very open, with no limitations and no indication of the severity of the crimes concerned. The Government members of Canada and the United States agreed with these views.

1091. The Government member of Belgium submitted a proposal to try to clarify the time period, suggesting the statute of limitations for the crime would commence from the age of majority.

1092. The Worker Vice-Chairperson thanked the Governments for their comments and suggestions. He realized that the issue probably required a complex legal discussion. He had hoped for full support but, as this was not the case, he preferred to withdraw the amendment rather than continue.

1093. Paragraph 8 was adopted, as amended.

1094. The Government member of Brazil, speaking on a point of order, made an intervention on behalf of GRULAC regarding the Committee Drafting Committee. His group wished to record its disagreement with the selection process for the members of the Committee Drafting Committee and with its working methods. The selection process should be clear and transparent, with time limits for the proposal of candidates and their election, and broad consultation with and between the regional groups. That Committee's work should be limited to adjusting the agreed text for grammatical, stylistic or editorial reasons, without making substantive changes. GRULAC had been displeased to learn that the Committee Drafting Committee had failed to respect the broad debate and consensus around the use of the expression "effective and sustainable suppression of forced labour" *(supresión efectiva y sostenible del trabajo forzoso)*, and had changed that wording to "effective and lasting suppression of forced labour" *(supresión efectiva y permanente del trabajo forzoso)*. During the discussion on this subject, GRULAC had clearly stated that while it considered "sustained" *(sostenido)* and "sustainable" *(sostenible)* to be synonymous, it did not consider expressions such as "lasting" *(permanente)* having the same semantic scope. GRULAC had also stated their willingness to accept limiting the use of the agreed expression, which came from the Brasilia Declaration adopted by 153 countries, if it figured in the preamble. Similarly they had been willing for the Committee Drafting Committee to determine whether the new language should be used in explicit references to Convention No. 29. Stressing the constructive, consensus-building attitude of GRULAC, he regretted that his commitment had not been reciprocated by the Committee Drafting Committee in its work. The group hoped that the Committee would take into account their position and maintain the consensus during its work.

1095. The Chairperson took note of the statement made by the Government member Brazil, on behalf GRULAC, and assured the group that it would be brought to the attention of the Committee Drafting Committee.

1096. The Worker Vice-Chairperson was surprised by the GRULAC statement. He believed that the problem originated from the concern that "sustainable" in English was more associated with environmental issues. In French, the formulation *"durable"*, which had been used by the Committee in connection with the suppression of forced labour, did not raise the same issues and was appropriate. Given that the term *"durable"* in the ILO Constitution was

translated as “lasting”, the solution found for the purpose of the present instruments seemed appropriate.

1097. The Employer Vice-Chairperson similarly noted that in English “lasting” could be translated as “*durable*”, as there were various options to describe “sustainable”. In his view, the word “lasting” was stronger than “sustainable”. He suggested that the Committee Drafting Committee verify the Spanish version and find a solution.

Paragraph 9

1098. The Government member of Canada, seconded by the Government member of New Zealand, introduced an amendment to the chapeau to add after “labour” the words “, regardless of their legal status,” to make clear that protective measures should be accessible to all migrants.

1099. The Government member of Mexico, on behalf of GRULAC, supported the amendment.

1100. The Employer Vice-Chairperson preferred the original text, which already covered the different situations referred to by the Government member of Canada.

1101. The Worker Vice-Chairperson noted that the agreed language from the Protocol was: “irrespective of their presence or legal status in the national territory”.

1102. The Government member of Canada responded that it was not appropriate to refer to residency in this case, as migrants would not have access to protective measures after having left the country. They had no issues with including the term “irrespective of their legal status”.

1103. The Government member of Spain reflected on the measures listed in clauses (a), (b) and (c), and had no doubt that these measures could only take place if the person was in the country.

1104. A representative of the secretariat confirmed that the measures referred to in Paragraph 9 presumed presence in the country.

1105. The Government member of Greece, speaking on behalf of EU Member States, suggested the inclusion of “irrespective of legal status in the national territory”.

1106. The Government member of Morocco agreed with the wording put forward by EU Member States.

1107. The Government member of the United States also supported the formulation suggested by EU Member States. She further wondered whether it might be helpful to align the wording of the chapeau to those agreed for Paragraphs 3 and 7, which included the phrase “taking into account their respective circumstances and situations”.

1108. The Employer Vice-Chairperson reiterated that the amendment was unnecessary. The Committee’s discussion had confirmed that all workers were included irrespective of legal status in the country.

1109. The Government member of New Zealand supported the amendment of the Government member of Canada.

1110. The Government member of Switzerland accepted the inclusion of the wording suggested by EU Member States. He also supported the proposal of the Government member of the United States to introduce into the chapeau a reference to national circumstances.

1111. The Chairperson invited the Government member of the United States to clarify the wording of their subamendment, which the Government member of Switzerland had seconded.

1112. The Government member of the United States proposed to subamend the clause to read: "Taking into account their respective circumstances and situations, Members should take protective measures for migrants subjected to forced or compulsory labour, irrespective of their legal status in the national territory such as:".

1113. The Worker Vice-Chairperson suggested referring to "effective protection measures". With regards to "legal status", he noted that clause (b) addressed the issue of residency permits and therefore the addition should not raise any difficulty.

1114. The Employer Vice-Chairperson agreed.

1115. The Government member of Canada supported the wording proposed by the Worker Vice-Chairperson.

1116. The Government members of Greece, on behalf of EU Member States, and Namibia, on behalf of the Africa group, as well as the Government member of Australia, also supported the subamendment by the Workers' group.

1117. The Worker Vice-Chairperson observed that "such as" could raise issues of interpretation.

1118. The Government member of the United States, responding to the concerns raised by the Worker Vice-Chairperson, asked whether "including" would be better than "such as".

1119. Both the Employer and Worker Vice-Chairpersons agreed with that subamendment.

1120. The amendment was adopted as subamended.

Clause (b)

1121. The Government member of Brazil, speaking on behalf of GRULAC, introduced an amendment to replace the phrase "provision of temporary or permanent residency permits" with "provision of the necessary permits to remain or work in the country." The rationale was to make the formulation broader to allow each country to determine how best to guarantee the residency in the country.

1122. The Employer Vice-Chairperson doubted whether the amendment was substantive and considered that the Office text was adequate.

1123. The Worker Vice-Chairperson agreed.

1124. Lacking support in the Committee, the amendment was not adopted.

1125. The Worker Vice-Chairperson introduced an amendment to delete "as appropriate" at the end of the clause, a phrase which was limiting.

1126. The Employer Vice-Chairperson agreed with the amendment of the Worker Vice-Chairperson in view of the agreed wording for the chapeau.

1127. The Government member of the United States supported the amendment of the Workers' group.

1128. The Government member of Canada pointed out that "as appropriate" was not meant to limit the scope of application. It merely allowed governments to determine which measures could be appropriate in any given context. She gave the example of a child victim, who would not need subsequent access to the labour market.

1129. The Government member of Namibia, speaking on behalf of the Africa group, also felt that "as appropriate" should remain. It served a different purpose than the chapeau.

1130. The Government member of Morocco supported the amendment.

1131. The amendment was adopted.

Clause (c)

1132. The Worker Vice-Chairperson introduced an amendment to replace the entire clause with the following: "facilitation of safe, dignified and voluntary repatriation that does not include detention and does not impose any cost on victims of forced or compulsory labour or their families". He felt that it was necessary to be explicit in discussing the conditions in which voluntary and safe repatriation of victims of forced labour and their families was carried out.

1133. The Employer Vice-Chairperson wished to hear the views of Governments before taking a position on the amendment.

1134. The Government member of New Zealand introduced a subamendment to add "preferably" before "voluntary", considering that the option of staying in the country of destination was essentially available for refugees and in the case of trafficking rather than for all migrants subjected to forced labour. The subamendment was seconded by the Government member of Australia.

1135. The Government member of India was in agreement with the Government member of New Zealand.

1136. The Government member of Argentina indicated that her Government could have supported the amendment prior to the insertion of the word "preferably", indicating that they had also submitted an amendment to remove that word.

1137. Speaking on behalf of EU Member States, the Government member of Greece indicated her group's preference for the original text. However, in the event of proceeding with the amendment, she introduced a subamendment to delete the words "that does not include detention".

1138. The Government member of the United States indicated a preference for the original text but said that her delegation could accept the amendment with the subamendment of EU Member States.

1139. The Employer Vice-Chairperson said that prior to the latest subamendment, his group was going to ask the Governments how they proposed to pay for such measures. He however believed that it was best to return to the original text.

1140. The Government members of Greece, speaking on behalf of EU Member States, and the United Arab Emirates, speaking on behalf of the GCC, as well as the Government

members of Canada, Morocco, Norway, Senegal and Turkey, indicated their preference for the Office text.

1141. The Worker Vice-Chairperson noted the opposition to his group's amendment. There was no difference between trafficking and forced labour, as both were punishable under criminal law. While he understood that the Committee should not have a debate on migration policies, he recalled that it was discussing the victims of forced labour, which was a denial of human rights. Forced labour essentially contradicted the ILO principle stating that labour was not a commodity. If the original text was retained, he considered that it should at least indicate that the victims should be offered repatriation voluntarily. Recalling that the Domestic Workers Recommendation, 2011, provided that repatriation should be offered to workers "at no cost to them", his group would have suggested to include similar language in the clause under discussion.

1142. The Chairperson noted that there was support in the Committee for retaining the Office text.

1143. The amendment was not adopted.

1144. Speaking on behalf of GRULAC, the Government member of Argentina said that, although the issue raised by their amendment to delete the word "preferably" had already been discussed, her group wished to maintain its position. Once the victims of forced labour had been released, their human rights, including the free election of their place of residence, should be respected.

1145. Paragraph 9 was adopted, as amended.

Paragraph 10

1146. The Employer Vice-Chairperson introduced an amendment to replace the title to Paragraph 10 with "Access to justice and remedy", in order to align it with the wording that had been decided on in the Protocol. His group considered that, in a logical sequence, access to justice came first. To perfectly align the title with previously agreed wording, he suggested referring to "remedies, such as compensation" in the chapeau of the Paragraph.

1147. The Worker Vice-Chairperson, and the Government members of Argentina, on behalf of GRULAC, and Greece, on behalf of EU Member States, as well as the Government members of Canada and Nigeria, supported the proposal by the Employers' group.

1148. Speaking on behalf of GRULAC, the Government member of Argentina introduced an amendment to insert the words "by those found responsible by the State" after the word "damages". She presented another amendment to replace "appropriate remedies, in particular" with "remedies, as such".

1149. The Employer Vice-Chairperson indicated that his understanding was that victims should be given access to justice first and that the ensuing proceedings would lead to the remedy. His group's concern related to the position of the words "access to justice" in the text and the need to ensure due process. His group would introduce a subamendment to add "following appropriate due process proceedings". This implied administrative hearings or court proceedings.

1150. A Worker member, speaking on behalf of the Worker Vice-Chairperson, supported the suggestion of the Employers' group on the use of "access to justice". Regarding the proposal to refer to "appropriate due process proceedings", she observed that judicial proceedings varied from country to country and therefore the use of the suggested

language could lead to misinterpretation. She opposed the amendment put forward by GRULAC to insert "by those found responsible by the State", and stated that the issue had already been discussed in the context of the Protocol.

1151. The Government member of Australia introduced a subamendment to insert "access to justice and" before "effective access to remedies". She opposed the subamendment put forward by the Employers' group, as well as the amendment put forward by GRULAC to insert "by those found responsible by the State".

1152. The Government member of Greece, speaking on behalf of EU Member States, supported the subamendment of the Government member of Australia. Concerning GRULAC's proposal, she indicated that they would be able to support a slightly different version of the proposal, namely "by those found responsible by the competent authorities".

1153. The Government members of Argentina, on behalf of GRULAC, New Zealand and Turkey supported the subamendment put forward by the Government member of Australia.

1154. The secretariat explained that in preparing the text of the Paragraph under discussion, the Office had been guided by the UN Basic Principles and Guidelines, which describe the right of victims to a remedy as encompassing the following aspects: equal and effective access to justice; adequate, effective and prompt reparation for harm suffered; and access to relevant information concerning violations and reparation mechanisms.

1155. The Employer Vice-Chairperson recalled that the Committee had agreed on the overall intention behind the title of the Paragraph and that the Committee Drafting Committee was well placed to rearrange the wording if necessary. Turning to the discussion on the use of "effective access to justice", he observed that although Paragraph 10 addressed both access to justice and access to remedies, it was unnecessary to repeat the word "access". He noted, however, that the positioning of the word "effective" had to be reconsidered, since the provision aimed at addressing access to justice and effective access to remedies.

1156. The Government member of the United States proposed the following wording: "have effective access to justice and remedies, such as".

1157. The Government member of New Zealand put forward the following alternative wording: "access to justice and effective access to other remedies, such as compensation". She noted that, as per the explanation provided by the secretariat, access to justice was only one type of remedy. The Government members of Australia and the United States supported the subamendment introduced by the Government member of New Zealand.

1158. The Government member of Sudan proposed "effective access to fair remedies and compensation". The subamendment was not seconded.

1159. The Employer Vice-Chairperson proposed a subamendment for the phrase to read: "have effective access to justice and other remedies".

1160. The Worker Vice-Chairperson stressed that it was absolutely necessary to place the terms "effective" and "remedy" together.

1161. The Employer Vice-Chairperson agreed with the Workers' group and changed their proposal to "have effective access to justice and remedies", which was supported by the Workers' group.

1162. The Government member of Ireland observed that the concepts of justice and compensation were directly related, and that justice was just one form of compensation. He

proposed to use the wording: “effective access to justice, including compensation for material and non-material damages”. The proposal was not seconded.

1163. The Employer Vice-Chairperson stressed that there were other remedies in addition to compensation and therefore opposed the subamendment proposed by the Government member of Ireland. He observed that the word “remedies” was necessary and exemplified stressing that psychological care did not fall into the concept of compensation, but was nevertheless considered a remedy.

1164. The Worker Vice-Chairperson proposed yet another option: “effective access to both justice and remedies, such as”.

1165. The Employer Vice-Chairperson suggested aligning the language in the chapeau of Paragraph 10 to the wording used in Article 1 of the Protocol which used the wording “access to appropriate and effective remedies, such as compensation”.

1166. A Worker member, speaking on behalf of the Worker Vice-Chairperson, was open to consider this proposal.

1167. The Government member of Argentina, speaking on behalf of GRULAC, opposed the Spanish version of the proposed subamendment and preferred the wording which was previously suggested *(acceso efectivo tanto a la justicia como a acciones jurídicas y reparación, en particular, una indemnización por daños morales y materiales, con inclusión de:)*.

1168. Following consultations with the Officers, the Chairperson suggested that, in order to maximize the use of time, an informal working party be formed to discuss Paragraph 10 and all related amendments, in parallel to the Committee sitting.

1169. Given that the informal working party established to discuss Paragraph 10 had completed its work, the Chairperson asked the Committee to revisit this last pending issue and informed the Committee that the informal working party had drafted text for discussion by the Committee.

1170. The new chapeau proposed read as follows: “Members should take measures to ensure that all victims of forced or compulsory labour have access to justice and other appropriate and effective remedies such as compensation for personal and material damages, including by”.

1171. This received support from the Committee and was adopted.

Clause (a)

1172. The new text for clause (a) read as follows: “ensuring, in accordance with national laws, regulations and practice that all victims of forced or compulsory labour either by themselves or through representatives have effective access to courts, tribunals and other resolution mechanisms, to pursue remedies, such as compensation, and damages;”.

1173. The Government member of Namibia, speaking on behalf of the Africa group, proposed a subamendment to delete the words after “mechanism”, as these referred to compensation, which was dealt with in clause (b).

1174. The Worker Vice-Chairperson appealed to the Government member of Namibia to consider withdrawing his subamendment, which had been arrived at following lengthy discussion and consensus.

1175. The Employer Vice-Chairperson added his voice to that of the Worker Vice-Chairperson and pointed out that there were two different issues dealt with. This clause dealt with legal proceedings whereas clause (b) referred to the victims.

1176. The subamendment was withdrawn and clause (a) was adopted.

Clause (b)

1177. The new clause (b) was introduced and read as follows: "providing that victims can pursue compensation and damages, including unpaid wages and statutory contributions for social security benefits, from perpetrators".

1178. The Government member of Greece, speaking on behalf of EU Member States, proposed to add before "statutory" the words "where relevant" because social security benefits were not available in all countries.

1179. The Government member of Switzerland reminded the Committee Drafting Committee to consistently apply the wording "victim of forced and compulsory labour" throughout the legal instruments wherever the term "victim" was referred to.

1180. The Government member of Indonesia, seconded by the Government member of India, wondered whether there was redundancy between clauses (a) and (b).

1181. The Employer Vice-Chairperson gave the same reasoning as he had done previously to the Government member of Namibia. He explained that two different subject matters were being dealt with. The first matter had to do with the legal framework, while the second matter specifically related to what victims could pursue outside the courtroom. Clause (b) was there to make clear what the remedy would be in concrete terms.

1182. The Worker Vice-Chairperson entirely shared the viewpoint of the Employer Vice-Chairperson. He explained that this clause was favourable to Governments as the damages would not be borne by the State but by perpetrators, as this was explicitly mentioned here.

1183. The Government member of Indonesia added that clause (a) had the wording "other resolution mechanisms", which would allow victims of forced labour to obtain damages from perpetrators.

1184. The Chairperson deemed that there was strong support in the room for the text as proposed.

1185. The Government member of Italy, speaking on behalf of EU Member States, explained that the purpose of the amendment was not to introduce any hesitation about whether there should be compensation. She explained that it was only a matter of being factually correct, as in certain countries there are other institutions that provide social security, for instance, through taxes and fiscal authorities.

1186. The clause, as proposed by the informal working party, was adopted.

Clause (c)

1187. A new clause (c) was introduced and read as follows: "ensuring access to appropriate existing compensation schemes".

1188. The Government member of Mexico, speaking on behalf of GRULAC, pointed out that there were some problems with the Spanish text and these should be considered by the Committee Drafting Committee.

1189. The Government member of Namibia, speaking on behalf of the Africa group, made reference to a remark made by the Government member of Switzerland that, when using the term "victim", this should be consistent throughout the text.

1190. The Government member of Spain proposed a subamendment to delete the word "existing". The drafting only placed obligations on States that already had compensation schemes but not on others. The aim should be to ensure that States which did not have such schemes created them.

1191. The Government member of Mexico, on behalf of GRULAC, and the Government members of Italy and Senegal, supported the amendment submitted by the Government member of Spain.

1192. The Government member of Sudan suggested the deletion of the whole clause, which was implicit in the previous clause. The subamendment was not seconded.

1193. The Employer Vice-Chairperson said that they were talking about ensuring access to compensation schemes, on the assumption that they existed already. The word "existing" was therefore very important in the clause.

1194. The Worker Vice-Chairperson observed that where there were no existing schemes, they needed to be created. To create such schemes, they needed to be financed, and to finance them would require either taxation or contributions from enterprises. His group would have supported the original text, but having submitted the text to a working group, it would also prefer the removal of "existing".

1195. The Employer Vice-Chairperson considered that the Committee should keep the wording agreed on by the working group.

1196. The Worker Vice-Chairperson recognized that having sent the text to a working party, they should accept the result of their work. He recalled that the Committee was considering a Recommendation and observed that the wording was sufficiently comprehensive to encourage the development of schemes in States where they did not already exist.

1197. The subamendment was not adopted.

1198. Paragraph 10, clause (c), was adopted, as amended.

Clauses (d) and (e)

1199. The text for new clauses (d) and (e) were introduced and read as follows:

> (d) providing information and advice regarding victims' legal rights and the services available, in a language that they can understand, as well as access to legal assistance, preferably free of charge;
>
> (e) providing that all victims of forced or compulsory labour, that occurred in the member State, both nationals and non-nationals, can pursue appropriate administrative, civil and criminal remedies in that state, irrespective of their presence or legal status in the Member State , under simplified procedural requirements, when appropriate.

1200. Both clauses were accepted and adopted by the Committee.

1201. Paragraph 10 was adopted, as amended.

Paragraph 11

1202. The Employer Vice-Chairperson introduced an amendment to replace at the end of the chapeau "including by" with "that could include". He immediately subamended their proposal by suggesting that the chapeau's text could be reworded using previously agreed language. The proposal was as follows: "Taking into account their respective circumstances and situations, Members should take the most effective measures to strengthen the enforcement of national laws and regulations and other measures, that could include:".

1203. The Worker Vice-Chairperson wondered whether in the case of the present Paragraph, the suggested wording was appropriate, given the particular issues covered.

1204. The Government member of the United States supported the amendment.

1205. The Government member of Sudan supported the proposal of the Employers' group, but asked that "and" before "other measures" be replaced by "as well as", and also suggested the deletion of the comma at the end of the phrase.

1206. The Employer Vice-Chairperson withdrew the amendment.

Clause (a)

1207. The Worker Vice-Chairperson introduced an amendment to insert, after the words "providing the necessary", the words "and their representatives" at the end of the clause. After having read other amendments to the clause, including an amendment by the Employers' group, he recognized that it was important in connection with enforcement of the legislation to distinguish between public authorities and other organizations.

1208. The Employer Vice-Chairperson wondered whether inserting "mandate" was needed, as there was already a reference to "competent authorities". Governments implementing the Recommendation would clearly understand that a number of governmental agencies should be involved, in addition to the labour inspectorate.

1209. The Government member of India agreed with the Employer Vice-Chairperson. She proposed that the clause should refer to "competent authorities such as labour inspectorate and other organizations".

1210. At this stage, the Government member of Greece, speaking on behalf of EU Member States, noted that they had submitted an amendment to replace, in the Office text, "the labour inspection services and other competent authorities" with "the competent authorities, such as labour inspection services".

1211. The Government member of Canada supported the original text, as amended by EU Member States. She did not see the point of including the term "mandate" or the requirement of adding "representatives".

1212. The Worker Vice-Chairperson, seeking to address the issues raised during the discussion, proposed to subamend the text as follows:

> (a) make available to labour inspection services and other competent authorities the necessary mandate, resources and training to allow them to increase their cooperation and to take effective measures in order to enforce the law and to cooperate with other

organizations concerned for the prevention and protection of victims of forced or compulsory labour.

1213. The Government member of Greece, speaking on behalf of EU Member States, preferred the original text. Though they would be prepared to accept the proposal by the Workers' group, it could be changed to refer to "the competent authorities, such as labour inspection services".

1214. The Government member of Indonesia supported the points made by previous speakers.

1215. The Worker Vice-Chairperson explained that the wording as suggested made it clear that the first part was about law enforcement by competent authorities, and the second dealt with prevention and protection which could also involve other organizations. The competent authorities needed to have the right mandate in terms of law enforcement with regards to forced labour, which was not always the case. The idea behind adding the word "mandate" was precisely to make it clear that labour inspection services had to be involved in law enforcement efforts to eliminate forced labour. However, he was prepared to withdraw the addition of "and their representatives".

1216. The Government member of Canada queried the use of the words "competent authorities". Governments had the mandate on those issues and were therefore responsible for providing the resources. In federal States, the proposed text might suggest that federal government was responsible for providing the competent authorities (i.e. national government) with resources. She therefore asked the Office to provide a definition of the term.

1217. The Employer Vice-Chairperson considered that the use of the words "competent authorities" already acknowledged the fact that governments were organized differently.

1218. A representative of the secretariat, in response to the Government member of Canada, clarified that a competent authority was a term very frequently used in ILO instruments to refer to all authorities competent for the purposes of implementation and compliance with regard to the instrument concerned.

1219. Speaking on behalf of the Africa group, the Government member of Namibia argued in favour of using ILO terminology. He was still unclear as to the meaning of "other organizations" in this clause.

1220. Speaking on behalf of GRULAC, the Government member of Brazil said that he had no problem with the general idea of the clause, but proposed deleting "to increase their cooperation and" as in many cases there was already appropriate cooperation.

1221. The Government member of Sweden suggested another subamendment to replace the word "increase" with "improve". Although the competent authorities should have sufficient resources, it was not necessarily always a question of quantity but rather of quality.

1222. The Government member of Morocco observed that while he understood the purpose of the proposal of the Workers' group, it needed to be made clearer. The clause covered two objectives, the supervision of implementation in cooperation with the competent authorities, and prevention and protection.

1223. The Government member of Benin proposed a subamendment to replace the words "competent authorities" with "competent services", considering that the competent authorities were responsible for providing the resources. That subamendment was seconded by the Government member of Senegal.

1224. The Government member of Spain supported the subamendment made by the Government member of Sweden.

1225. The Government member of Cameroon observed that those who allocated resources were often parliaments and ministers who were at a level above the competent authorities referred to in the clause.

1226. The Government member of the United States proposed a more direct formulation, which was seconded by the Government member of Turkey, which addressed the concern raised regarding the reference to competent authorities: "Make available to relevant authorities, such as labour inspection services, the necessary mandate, resources and training to allow them to effectively enforce the law and cooperate with other organizations concerned for the prevention and protection of victims of forced or compulsory labour."

1227. The Worker Vice-Chairperson was satisfied with the wording.

1228. The Government member of Namibia, on behalf of the Africa group, and the Government members of Australia and Canada, supported the subamendment proposed by the Government member of the United States.

1229. The Employer Vice-Chairperson also supported the clause, as amended.

1230. The amendment was adopted, as amended.

Clause (b)

1231. The Employer Vice-Chairperson introduced an amendment to replace the entire clause by "providing for the imposition of penalties in accordance with national law and practice;". The amendment sought to use standard ILO language.

1232. The Worker Vice-Chairperson and the Government members of Australia, Canada and the United States indicated their preference for the original text.

1233. The Government member of Senegal put forward a subamendment to delete "and practice", which was unclear.

1234. The Government member of Argentina, on behalf of GRULAC, supported the text as proposed by the Office.

1235. The Employer Vice-Chairperson agreed to withdraw the amendment.

Clause (c)

1236. The Employer Vice-Chairperson introduced an amendment to delete ", and the preceding clause". The wording was unclear.

1237. The secretariat pointed out that "the preceding clause" had been used in accordance with ILO drafting practice and that it referred to clause 11 (b) of Paragraph 3.

1238. The Employer Vice-Chairperson noted that replacing "the preceding clause" with "clause (b)" would make the text clearer. The Worker Vice-Chairperson and the Government member of Namibia, on behalf of the Africa group, shared that view.

1239. The Government member of the United States suggested "clause 11(b) of this Recommendation".

1240. The Chairperson declared that there was consensus on Paragraph 11(c) and indicated that the Committee Drafting Committee would be able to find the most appropriate wording considering the issues raised by Governments.

Clause (d)

1241. The Government member of Namibia, speaking on behalf of the Africa group, introduced an amendment to replace "police" with "law enforcement services, social workers". He observed that the police were part of the broader range of law enforcement agencies and that social workers should also be taken into consideration, especially in the context of the development of indicators of forced labour for the identification of victims.

1242. The Government member of Egypt requested clarification as to what was meant by forced labour indicators. More details could be included in the text in this regard.

1243. The Government member of Indonesia requested clarification from the Office with regard to the expression "relevant actors".

1244. The Government member of Sudan observed that employers' and workers' organizations had the status of NGOs and therefore suggested reconsidering the wording in this regard.

1245. The Government member of Cameroon, commenting on the question raised by the Government member of Egypt, considered that statistical information as referred to Paragraph 2(1) of the Recommendation was related to the issue of indicators.

1246. The Government member of Argentina, speaking on behalf of GRULAC, supported the amendment proposed by the Government member of Namibia. Law enforcement agencies and the police had different mandates in the prevention of forced labour.

1247. The Employer and Worker Vice-Chairpersons supported the amendment.

1248. The amendment was adopted.

1249. With regard to the questions raised, a representative of the secretariat explained that the intention of the Office had been to keep the reference to indicators of forced labour as broad as possible, in order to allow States to develop their own lists of elements that would help law enforcement agents to identify cases of forced labour. She highlighted that the indicators referred to under clause (d) were different from statistical indicators. With respect to the expression "relevant actors", the Office's intention was to provide broad guidance to member States, but to leave it to governments to decide which actors played the most relevant role in the identification, investigation and prosecution of forced labour in the national context.

1250. The Government member of the United States, speaking on behalf of the Government members of Australia, Canada, Norway, New Zealand and Switzerland, introduced an amendment to add "immigration officers" before "public prosecutors". The intention was to include the broadest possible group of potential actors involved in the identification of victims. She observed that the Workers' group had a similar amendment to propose.

1251. The Worker Vice-Chairperson supported the amendment introduced by the Government member of the United States and withdrew their amendment, which contained similar language.

1252. The Employer Vice-Chairperson also supported the amendment.

1253. The amendment was adopted.

1254. Paragraph 11 was adopted, as amended.

Paragraph 12

1255. The Government member of the United States introduced an amendment to replace "ensuring" with "achieving". The aim was to strengthen the provision while using more accurate language. In the context of international cooperation, she believed "ensuring" was more viable than achieving.

1256. Both the Employer and Worker Vice-Chairpersons supported the amendment.

1257. The Government member of Sudan proposed a subamendment to add "regional organization, as well as international organizations".

1258. The Chairperson proposed a rewording to say "international and regional organizations" for clarity.

1259. The amendment proposed by the Government of the United States, as well as the subamendment proposed by the Government member of Sudan, received support for the Committee and were thus adopted.

1260. An amendment was withdrawn by the Employers' group.

1261. The Worker Vice-Chairperson introduced an amendment which was to insert a new clause before (a) which read as follows: "strengthening international cooperation between labour law enforcement institutions in addition to criminal law enforcement". He explained that this was to be consistent with the addition made by his group to the Protocol text.

1262. The amendment received the support of the Committee and was adopted.

1263. The Government member of the United States introduced the amendment to add a new clause after (b) which read: "cooperation to address and prevent the use of forced labour by diplomatic personnel". She explained that this was an area that had received a lot of publicity in recent times and should be included in the Recommendation to provide guidance to member States.

1264. The amendment received support from the Committee and was adopted.

1265. Paragraph 12 was adopted, as amended.

Adoption of the Recommendation

1266. The Chairperson indicated that the Committee had discussed all the amendments to the text of the draft Recommendation. He invited the Committee to consider the title and it was adopted.

1267. The Committee adopted the text of the Recommendation, as amended, in its entirety.

Closing statements

1268. The Government member of Greece, speaking on behalf of EU Member States, recalled that 21 million individuals were victims of forced labour to date. She commended the Committee for its commitment and engagement in working to supplement Convention No. 29. As a result, the Committee was ready to submit two instruments for adoption in the Conference plenary. The Protocol would provide for important principles to strengthen prevention measures and to improve victims' access to protection and compensation. It would also remove the transitional provisions of Convention No. 29. The Recommendation would provide guidance to States and help enhance national cooperation in the fight against forced labour. She expressed satisfaction that the text of the Protocol was concise, which would encourage ratification, and that the Recommendation would provide the necessary flexibility for Members to adopt measures and policies according to national contexts. She recalled that all 28 EU Member States had ratified Convention No. 29, and Government members in the region were particularly attentive to the formulation of international instruments. She expressed satisfaction with the outcome of the discussions.

1269. The Government member of the United Arab Emirates, on behalf of the GCC, thanked the Committee for its commitment and highlighted that the instruments that would be presented in plenary for adoption reflected the aspirations of social partners and Governments in the Committee. He stressed the need for continued work, within and outside the ILO, in order to bring to an end all forms of forced labour.

1270. The Government member of Namibia, on behalf of the Africa group, stressed that the position of the Africa group remained unchanged to support the adoption of both a Protocol and a Recommendation. He observed that it was equally important to take measures to implement these instruments, and that adoption and ratification of international instruments was just one of many important steps to be taken towards the eradication of forced labour. He recalled that millions of individuals in the African continent had been subjected to forced labour in the context of colonial administration, and that it was his responsibility and that of the delegates representing the region in the present Committee, to return to Africa and take the next steps. He expressed hope that employers' and workers' organizations would collaborate with governments in order to achieve the goal of eradicating forced labour.

1271. The Government member of the United States commended the Committee for the important achievement. She was very pleased that the spirit of collaboration that prevailed throughout the sessions and the recurrent discussion (on the strategic objective of fundamental principles and rights at work) in 2012, allowed the Committee to adopt the texts of the Protocol and the Recommendation which would be presented in plenary for adoption.

1272. The Government member of India expressed satisfaction with the atmosphere of understanding and trust which allowed the Committee to adopt an instrument that would provide guidance in the fight against forced labour.

1273. The Government member of Argentina, on behalf of the GRULAC, considered that the joint efforts of all participants had made possible the adoption of supplementary measures which would help bring forced labour to an end. She expressed hope that, in the future, participants would be able to meet to exchange experiences and best practices in implementing the measures provided for in the instruments adopted.

1274. The Government member of Canada, speaking on behalf of IMEC governments, was convinced that the Protocol and the Recommendation would contribute to the global efforts to suppress forced and compulsory labour.

1275. With regard to the question raised by the Government member of Indonesia on the number of ratifications required for entry into force of the Protocol, the representative of the Legal Adviser explained that, as it was the case for any Convention, the entry into force of the Protocol would be provided for in a standard clause of its final provisions. In such standard clause the number of ratifications needed for entry into force was set by default at two, but the Committee could give a different indication if it so desired.

1276. The Worker Vice-Chairperson reflected that this moment brought to an end two years of hard work. It had been a long way with moments of enthusiasm, of doubt, and always with a will to arrive. The main challenge on the onset had been to create trust in their ideas on what needed to be done. This was not to create new bureaucratic obligations, but they had the ambition to work dynamically towards putting in place instruments that could help addressing implementation gaps in an effective and rapid way. Creating trust had meant aiming for a protocol that was short and concise, to complement Convention No. 29, accompanied by a Recommendation which should be a guide for governments in the implementation of the Protocol. The Protocol also achieved removing the transitional provisions of Convention No. 29. At the time when the Convention would be updated with the Protocol, everyone would see what they actually had achieved: modernizing one of the fundamental Conventions of ILO, focusing on defining forced labour and providing for prosecution and penalty sanctions and effective policies to prevent, protect and remedy. He thanked his group for their commitment and outreach allowing for reaching consensus. He thanked the Chairperson, who, while worried about slow progress, had guided the process with a lot of patience and understanding. He extended sincere thanks to Mr Ed Potter, the Employer Vice-Chairperson, who in his view was without doubt the best defender of the interest of businesses. That was, because he had put him at times in difficulties with some fellow workers; and he hoped he himself had achieved the same in return, putting him into difficulties within his own group. He reiterated that a good agreement was one that nobody was completely happy with. Internally, they represented different interests, and classes were still a reality, despite modern times. However, in turning to the Government member of Canada considering the French term for human rights, he stated that both, men and women were born equal and free before the law. Denying a woman or a man their rights meant denying the quality of their being a woman or a man. Creating labour law contributed to sustainable peace and social justice between all three groups. What they had aimed at with this work was to remove the cancer of forced labour from the world of work.

1277. The Employer Vice-Chairperson invited the Committee to savour this moment of adoption in highlighting that it was a historic moment for the ILO – certainly to be followed by another one at the adoption by the plenary. This could not have happened without all the engaged people in the room. So, his bouquets of thanks, first and foremost were addressed to everybody in this room who had worked to achieve a positive outcome. His second dedication of thanks went to Mr Yves Veyrier, the Worker Vice-Chairperson, who was a renowned expert and highly committed to end forced labour; he could not imagine a better counterpart in the endeavour. He especially thanked the Chairperson for his patience and effective leadership. Returning to the question posed by the Government member of Namibia regarding the coming into force of the Protocol, he explained that the Employers' group had a policy of requesting that the number of ratifications be greater than 10 per cent of the membership of the ILO before a Convention could take effect. For this Protocol, however, the Employers' group had relented on this position because the Protocol, if ratified, was an amendment of a significant human rights treaty where ratification by two countries had brought Convention No. 29 into force. The Employers' group wanted the Protocol to take effect as soon as possible, because it wanted to see the end of forced or compulsory labour. He concluded by extending further words of thanks to the Chairperson and finally, last but not least, to the secretariat who worked long hours to make sure that the work of the Committee could continue.

1278. The Chairperson thanked the Committee for the honour and privilege of chairing the meeting. He extended his thanks to all members of the Committee who had worked in a productive and effective manner, in a very tight time frame, drawing on the best features and the unique character of the ILO's tripartite structure. He underlined the significant role of the two Vice-Chairpersons, whose combined experience, wisdom, knowledge and personal commitment to the ILO and its cause had brought so much to the Committee's work. He extended his appreciation to the intergovernmental organizations and the non-governmental organizations for their participation during the meetings and in the lead up to the discussion, hoping that in time the instruments would assist them in the important work that they did. The Committee had come to its task with high expectations, for good reason: there were 21 million people who continued to be subjected to forced labour across the globe. The Committee had completed its work by agreeing on a Protocol to the Forced Labour Convention, 1930 (No. 29), supported by a Recommendation, which they considered to be the most effective instrument to achieve the elimination of forced labour in the twenty-first century.

Geneva, 8 June 2014

(Signed) D. Garner
Chairperson

E. Potter
Employer Vice-Chairperson

Y. Veyrier
Worker Vice-Chairperson

B.-M. Shinguadja
Reporter

Proposed Protocol to the Forced Labour Convention, 1930

The General Conference of the International Labour Organization,

Having been convened at Geneva by the Governing Body of the International Labour Office, and having met in its 103rd Session on 28 May 2014, and

Recognizing that the prohibition of forced or compulsory labour forms part of the body of fundamental rights, and that forced or compulsory labour violates the human rights and dignity of millions of women and men, girls and boys, contributes to the perpetuation of poverty and stands in the way of the achievement of decent work for all, and

Recognizing the vital role played by the Forced Labour Convention, 1930 (No. 29), hereinafter referred to as "the Convention", and the Abolition of Forced Labour Convention, 1957 (No. 105), in combating all forms of forced or compulsory labour, but that gaps in their implementation call for additional measures, and

Recalling that the definition of forced or compulsory labour under Article 2 of the Convention covers forced or compulsory labour in all its forms and manifestations and is applicable to all human beings without distinction, and

Emphasizing the urgency of eliminating forced and compulsory labour in all its forms and manifestations, and

Recalling the obligation of States party to the Convention to make forced or compulsory labour punishable as a penal offence, and to ensure that the penalties imposed by law are really adequate and are strictly enforced, and

Noting that the transitional period provided for in the Convention has expired, and the provisions of Article 1, paragraphs 2 and 3, and Articles 3 to 24 are no longer applicable, and

Recognizing that the context and forms of forced or compulsory labour have changed and trafficking in persons for the purposes of forced or compulsory labour, which may involve sexual exploitation, is the subject of growing international concern and requires urgent action for its effective elimination, and

Noting that there is an increased number of workers who are in forced or compulsory labour in the private economy, that certain sectors of the economy are particularly vulnerable, and that certain groups of workers have a higher risk of becoming victims of forced or compulsory labour, especially migrants, and

Noting that the effective and sustained suppression of forced or compulsory labour contributes to ensuring fair competition among employers as well as protection for workers, and

Recalling the relevant international labour standards, including, in particular, the Freedom of Association and Protection of the Right to Organise Convention, 1948 (No. 87), the Right to Organise and Collective Bargaining Convention, 1949 (No. 98), the Equal Remuneration Convention, 1951 (No. 100), the Discrimination (Employment and Occupation) Convention, 1958 (No. 111), the Minimum Age Convention, 1973 (No. 138), the Worst Forms of Child Labour Convention, 1999 (No. 182), the Migration for Employment Convention

(Revised), 1949 (No. 97), the Migrant Workers (Supplementary Provisions) Convention, 1975 (No. 143), the Domestic Workers Convention, 2011 (No. 189), the Private Employment Agencies Convention, 1997 (No. 181), the Labour Inspection Convention, 1947 (No. 81), the Labour Inspection (Agriculture) Convention, 1969 (No. 129), as well as the ILO Declaration on Fundamental Principles and Rights at Work (1998), and the ILO Declaration on Social Justice for a Fair Globalization (2008), and

Noting other relevant international instruments, in particular the Universal Declaration of Human Rights (1948), the International Covenant on Civil and Political Rights (1966), the International Covenant on Economic, Social and Cultural Rights (1966), the Slavery Convention (1926), the Supplementary Convention on the Abolition of Slavery, the Slave Trade, and Institutions and Practices Similar to Slavery (1956), the United Nations Convention against Transnational Organized Crime (2000), the Protocol to Prevent, Suppress and Punish Trafficking in Persons, especially Women and Children (2000), the Protocol against the Smuggling of Migrants by Land, Sea and Air (2000), the International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families (1990), the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment (1984), the Convention on the Elimination of All Forms of Discrimination against Women (1979), and the Convention on the Rights of Persons with Disabilities (2006), and

Having decided upon the adoption of certain proposals to address gaps in implementation of the Convention, and reaffirmed that measures of prevention, protection, and remedies, such as compensation and rehabilitation, are necessary to achieve the effective and sustained suppression of forced or compulsory labour, pursuant to the fourth item on the agenda of the session, and

Having determined that these proposals shall take the form of a Protocol to the Convention;

adopts this … day of June two thousand and fourteen the following Protocol, which may be cited as the Protocol of 2014 to the Forced Labour Convention, 1930.

Article 1

1. In giving effect to its obligations under the Convention to suppress forced or compulsory labour, each Member shall take effective measures to prevent and eliminate its use, to provide protection and access to appropriate and effective remedies, such as compensation, to victims, and to sanction the perpetrators of forced or compulsory labour.

2. Each Member shall develop a national policy and plan of action for the effective and sustained suppression of forced or compulsory labour in consultation with employers' and workers' organizations, which shall involve systematic action by the competent authorities and, as appropriate, in coordination with employers' and workers' organizations, as well as with other groups concerned.

3. The definition of forced or compulsory labour contained in the Convention is reaffirmed, and therefore the measures referred to in this Protocol shall include specific action against trafficking in persons for the purposes of forced or compulsory labour.

Article 2

The measures to be taken for the prevention of forced or compulsory labour shall include:

(a) educating and informing people, especially those considered to be particularly vulnerable, in order to prevent their becoming victims of forced or compulsory labour;

(b) educating and informing employers, in order to prevent their becoming involved in forced or compulsory labour practices;

(c) undertaking efforts to ensure that:

(i) the coverage and enforcement of legislation relevant to the prevention of forced or compulsory labour, including labour law as appropriate, apply to all workers and all sectors of the economy; and

(ii) labour inspection services and other services responsible for the implementation of this legislation are strengthened;

(d) protecting persons, particularly migrant workers, from possible abusive and fraudulent practices during the recruitment and placement process;

(e) supporting due diligence by both the public and private sectors to prevent and respond to risks of forced or compulsory labour; and

(f) addressing the root causes and factors that heighten the risks of forced or compulsory labour.

Article 3

Each Member shall take effective measures for the identification, release, protection, recovery and rehabilitation of all victims of forced or compulsory labour, as well as the provision of other forms of assistance and support.

Article 4

1. Each Member shall ensure that all victims of forced or compulsory labour, irrespective of their presence or legal status in the national territory, have access to appropriate and effective remedies, such as compensation.

2. Each Member shall, in accordance with the basic principles of its legal system, take the necessary measures to ensure that competent authorities are entitled not to prosecute or impose penalties on victims of forced or compulsory labour for their involvement in unlawful activities which they have been compelled to commit as a direct consequence of being subjected to forced or compulsory labour.

Article 5

Members shall cooperate with each other to ensure the prevention and elimination of all forms of forced or compulsory labour.

Article 6

The measures taken to apply the provisions of this Protocol and of the Convention shall be determined by national laws or regulations or by the competent authority, after consultation with the organizations of employers and workers concerned.

Article 7

The transitional provisions of Article 1, paragraphs 2 and 3, and Articles 3 to 24 of the Convention shall be deleted.

Proposed Recommendation on supplementary measures for the effective suppression of forced labour

The General Conference of the International Labour Organization,

Having been convened at Geneva by the Governing Body of the International Labour Office, and having met in its 103rd Session on 28 May 2014, and

Having adopted the Protocol of 2014 to the Forced Labour Convention, 1930, hereinafter referred to as "the Protocol", and

Having decided upon the adoption of certain proposals to address gaps in implementation of the Forced Labour Convention, 1930 (No. 29), hereinafter referred to as "the Convention", and reaffirmed that measures of prevention, protection, and remedies, such as compensation and rehabilitation, are necessary to achieve the effective and sustained suppression of forced or compulsory labour, pursuant to the fourth item on the agenda of the session, and

Having determined that these proposals shall take the form of a Recommendation supplementing the Convention and the Protocol;

adopts this … day of June of the year two thousand and fourteen the following Recommendation, which may be cited as the Forced Labour (Supplementary Measures) Recommendation, 2014.

1. Members should establish or strengthen, as necessary, in consultation with employers' and workers' organizations as well as other groups concerned:

(a) national policies and plans of action with time-bound measures using a gender and a child-sensitive approach to achieve the effective and sustained suppression of forced or compulsory labour in all its forms through prevention, protection and access to remedies, such as compensation of victims, and the sanctioning of perpetrators;

(b) competent authorities such as the labour inspectorates, the judiciary and national bodies or other institutional mechanisms that are concerned with forced or compulsory labour, to ensure the development, coordination, implementation, monitoring and evaluation of the national policies and plans of action.

2. (1) Members should regularly collect, analyse and make available reliable, unbiased and detailed information and statistical data, disaggregated by relevant characteristics such as sex, age and nationality, on the nature and extent of forced or compulsory labour which would allow an assessment of progress made.

(2) The right to privacy with regard to personal data should be respected.

PREVENTION

3. Members should take preventive measures that include:

(a) respecting, promoting and realizing fundamental principles and rights at work;

(b) the promotion of freedom of association and collective bargaining to enable at-risk workers to join workers' organizations;

(c) programmes to combat the discrimination that heightens vulnerability to forced or compulsory labour;

(d) initiatives to address child labour and promote educational opportunities for children, both boys and girls, as a safeguard against children becoming victims of forced or compulsory labour; and

(e) taking steps to realize the objectives of the Protocol and the Convention.

4. Taking into account their national circumstances, Members should take the most effective preventive measures, such as:

(a) addressing the root causes of workers' vulnerability to forced or compulsory labour;

(b) targeted awareness-raising campaigns, especially for those who are most at risk of becoming victims of forced or compulsory labour, to inform them, inter alia, about how to protect themselves against fraudulent or abusive recruitment and employment practices, their rights and responsibilities at work, and how to gain access to assistance in case of need;

(c) targeted awareness-raising campaigns regarding sanctions for violating the prohibition on forced or compulsory labour;

(d) skills training programmes for at-risk population groups to increase their employability and income-earning opportunities and capacity;

(e) steps to ensure that national laws and regulations concerning the employment relationship cover all sectors of the economy and that they are effectively enforced. The relevant information on the terms and conditions of employment should be specified in an appropriate, verifiable and easily understandable manner and preferably through written contracts in accordance with national laws, regulations or collective agreements;

(f) basic social security guarantees forming part of the national social protection floor, as provided for in the Social Protection Floors Recommendation, 2012 (No. 202), in order to reduce vulnerability to forced or compulsory labour;

(g) orientation and information before departure and upon arrival for migrants in order for them to be better prepared to work and live abroad and to create awareness and better understanding about trafficking for forced labour situations;

(h) coherent policies, such as employment and labour migration policies, which take into account the risks faced by specific groups of migrants, including those in an irregular situation, and address circumstances that could result in forced labour situations;

(i) promotion of coordinated efforts by relevant government agencies with those of other States to facilitate regular and safe migration and to prevent trafficking in persons, including coordinated efforts to regulate, license and monitor labour recruiters and employment agencies and eliminate the charging of recruitment fees to workers to prevent debt bondage and other forms of economic coercion; and

(j) in giving effect to their obligations under the Convention to suppress forced or compulsory labour, Members should provide guidance and support to employers and businesses to take effective measures to identify, prevent, mitigate and account for how they address the risks of forced or compulsory labour in their operations or in products, services or operations to which they may be directly linked.

PROTECTION

5. (1) Targeted efforts should be made to identify and release victims of forced or compulsory labour.

(2) Protective measures should be provided to victims of forced or compulsory labour. These measures should not be made conditional on the victim's willingness to cooperate in criminal and other proceedings.

(3) Steps may be taken to encourage the cooperation of victims for the identification and punishment of perpetrators.

6. Members should recognize the role and capacities of workers' organizations and other organizations concerned to support and assist victims of forced or compulsory labour.

7. Members should, in accordance with the basic principles of their legal systems, take the necessary measures to ensure that competent authorities are entitled not to prosecute or impose penalties on victims of forced or compulsory labour for their involvement in unlawful activities which they have been compelled to commit as a direct consequence of being subjected to forced or compulsory labour.

8. Members should take measures to eliminate abuses and fraudulent practices by labour recruiters and employment agencies, such as:

(a) eliminating the charging of recruitment fees to workers;

(b) requiring transparent contracts that clearly explain terms of employment and conditions of work;

(c) establishing adequate and accessible complaint mechanisms;

(d) imposing adequate penalties; and

(e) regulating or licensing these services.

9. Taking into account their national circumstances, Members should take the most effective protective measures to meet the needs of all victims for both immediate assistance and long-term recovery and rehabilitation, such as:

(a) reasonable efforts to protect the safety of victims of forced or compulsory labour as well as of family members and witnesses, as appropriate, including protection from intimidation and retaliation for exercising their rights under relevant national laws or for cooperation with legal proceedings;

(b) adequate and appropriate accommodation;

(c) health care, including both medical and psychological assistance, as well as provision of special rehabilitative measures for victims of forced or compulsory labour, including those who have also been subjected to sexual violence;

(d) material assistance;

(e) protection of privacy and identity; and

(f) social and economic assistance, including access to educational and training opportunities and access to decent work.

10. Protective measures for children subjected to forced or compulsory labour should take into account the special needs and best interests of the child, and, in addition to the protections provided for in the Worst Forms of Child Labour Convention, 1999 (No. 182), should include:

(a) access to education for girls and boys;

(b) the appointment of a guardian or other representative, where appropriate;

(c) when the person's age is uncertain but there are reasons to believe him or her to be less than 18 years of age, a presumption of minor status, pending age verification; and

(d) efforts to reunite children with their families, or, when it is in the best interest of the child, provide family-based care.

11. Taking into account their national circumstances, Members should take the most effective protective measures for migrants subjected to forced or compulsory labour, irrespective of their legal status in the national territory, including:

(a) provision of a reflection and recovery period in order to allow the person concerned to take an informed decision relating to protective measures and participation in legal proceedings, during which the person shall be authorized to remain in the territory of the member State concerned when there are reasonable grounds to believe that the person is a victim of forced or compulsory labour;

(b) provision of temporary or permanent residence permits and access to the labour market; and

(c) facilitation of safe and preferably voluntary repatriation.

REMEDIES, SUCH AS COMPENSATION AND ACCESS TO JUSTICE

12. Members should take measures to ensure that all victims of forced or compulsory labour have access to justice and other appropriate and effective remedies, such as compensation for personal and material damages, including by:

(a) ensuring, in accordance with national laws, regulations and practice, that all victims, either by themselves or through representatives, have effective access to courts, tribunals and other resolution mechanisms, to pursue remedies, such as compensation and damages;

(b) providing that victims can pursue compensation and damages from perpetrators, including unpaid wages and statutory contributions for social security benefits;

(c) ensuring access to appropriate existing compensation schemes;

(d) providing information and advice regarding victims' legal rights and the services available, in a language that they can understand, as well as access to legal assistance, preferably free of charge; and

(e) providing that all victims of forced or compulsory labour that occurred in the member State, both nationals and non-nationals, can pursue appropriate administrative, civil

and criminal remedies in that State, irrespective of their presence or legal status in the State, under simplified procedural requirements, when appropriate.

ENFORCEMENT

13. Members should take action to strengthen the enforcement of national laws and regulations and other measures, including by:

(a) making available to the relevant authorities, such as labour inspection services, the necessary mandate, resources and training to allow them to effectively enforce the law and cooperate with other organizations concerned for the prevention and protection of victims of forced or compulsory labour;

(b) providing for the imposition of penalties, in addition to penal sanctions, such as the confiscation of profits of forced or compulsory labour and of other assets in accordance with national laws and regulations;

(c) ensuring that legal persons can be held liable for the violation of the prohibition to use forced or compulsory labour in applying Article 25 of the Convention and clause (b) above;

(d) strengthening efforts to identify victims, including by developing indicators of forced or compulsory labour for use by labour inspectors, law enforcement services, social workers, immigration officers, public prosecutors, employers, employers' and workers' organizations, non-governmental organizations and other relevant actors.

INTERNATIONAL COOPERATION

14. International cooperation should be strengthened between and among Members and with relevant international and regional organizations, which should assist each other in achieving the effective suppression of forced or compulsory labour, including by:

(a) strengthening international cooperation between labour law enforcement institutions in addition to criminal law enforcement;

(b) mobilizing resources for national action programmes and international technical cooperation and assistance;

(c) mutual legal assistance;

(d) cooperation to address and prevent use of forced or compulsory labour by diplomatic personnel; and

(e) mutual technical assistance, including the exchange of information and the sharing of good practice and lessons learned in combating forced or compulsory labour.

CONTENTS