



Fifth item on the agenda: Violence and harassment against women and men in the world of work

Reports of the Standard-Setting Committee on Violence and Harassment in the World of Work: Summary of proceedings ¹

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¹ The resolution and proposed Conclusions submitted by the Committee for adoption by the Conference are published in *Provisional Record* No. 8A.

1. The Standard-Setting Committee: Violence and Harassment in the World of Work (first discussion), established by the International Labour Conference (Conference) at its first sitting on 28 May 2018, was initially composed of 181 members (82 Government members, 28 Employer members and 71 Worker members). To achieve equality of strength, each Government member entitled to vote was allotted 497 votes, each Employer member 1,420 votes and each Worker member 560 votes. The composition of the Committee was modified eight times during the session and the number of votes attributed to each member adjusted accordingly.²

2. The Committee elected its Officers as follows:

Chairperson: Mr R. Patry (Government member, Canada) at its first sitting

Vice-Chairpersons: Ms A. Matheson (Employer member, Australia) and Ms M. Clarke Walker (Worker member, Canada) at its first sitting

Reporter: Ms S. Casado García (Government member, Mexico) at its eighth sitting

² The modifications were as follows:

- (a) 29 May: 216 members (103 Government members with 2,436 votes each, 29 Employer members with 8,652 votes each and 84 Worker members with 2,987 votes each);
- (b) 30 May: 152 members (109 Government members with 372 votes each, 31 Employer members with 1,308 votes each and 12 Worker members with 3,379 votes each);
- (c) 31 May: 141 members (109 Government members with 60 votes each, 20 Employer members with 327 votes each and 12 Worker members with 545 votes each);
- (d) 1 June: 130 members (109 Government members with 36 votes each, 9 Employer members with 436 votes each and 12 Worker members with 327 votes each);
- (e) 2 June: 129 members (109 Government members with 24 votes each, 8 Employer members with 327 votes each and 12 Worker members with 218 votes each);
- (f) 4 June: 127 members (111 Government members with 4 votes each, 4 Employer members with 111 votes each and 12 Worker members with 37 votes each);
- (g) 5 June: 128 members (112 Government members with 3 votes each, 4 Employer members with 84 votes each and 12 Worker members with 28 votes each);
- (h) 6 June: 128 members (112 Government members with 3 votes each, 4 Employer members with 84 votes each and 12 Worker members with 28 votes each).

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3. At its seventh sitting, the Committee appointed a Drafting Committee³ composed of the following members:

<i>Government member:</i>	Mr M. Denis (France), assisted by Ms J. Barrett (United States)
<i>Employer member:</i>	Ms A. Vauchez (France), assisted by Mr R. Chacko (International Organisation of Employers)
<i>Worker member:</i>	Ms R. Mackintosh (New Zealand), assisted by Ms C. King (International Trade Union Confederation)
<i>Spanish-speaking observers:</i>	Mr J.I. Martín Fernández (Spain) Ms G. Herzog (Employer, United States) Ms R. Gómez Merayo (Worker, Spain)

4. The Committee had before it Report V(1) entitled *Ending violence and harassment against women and men in the world of work*, and Report V(2) *Ending violence and harassment in the world of work*, prepared by the International Labour Office (Office) for the fifth item on the agenda: “Violence and harassment against women and men in the world of work” (standard-setting, double discussion).
5. The Committee held 17 sittings.

Introduction

6. The representative of the Secretary-General (Ms D. Greenfield, Deputy Director-General for Policy) welcomed the members of the Committee and introduced the secretariat. She reported that a Government representative of Canada had been nominated as Chairperson by the Government group and asked the Committee if it wished to elect him.
7. The Government member of the Bolivarian Republic of Venezuela expressed a lack of support for the candidature of the Chairperson, and noted, as such, that a consensus within the group of the Americas (GRUA) had not been reached. She also stated that her Government would not support any candidature from the Government of Mexico. She explained that this objection was based on the principle of reciprocity, given that the Governments of Canada and Mexico belonged to the so-called “Lima Group”, which, in August 2017, had stated it would not support Venezuelan candidatures in regional and international mechanisms and organizations.

³ Pursuant to article 59(1) and article 6 of the Standing Orders of the International Labour Conference, a Committee Drafting Committee is tasked to ensure legal consistency of the texts of proposed Conventions and Recommendations and the concordance between the English and French versions, which become the authentic texts of Conventions and Recommendations. It also verifies that the proposed texts reflect the decisions of the Committee and makes changes of an editorial nature to align the texts with ILO terminology and reference style. In addition, the Committee Drafting Committee undertakes any other task referred to it.

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8. The representative of the Secretary-General affirmed that the secretariat took note of the statement of the Government member of the Bolivarian Republic of Venezuela and that this would be duly reflected in the Committee report.
 9. The appointment of the Chairperson was then confirmed by the Committee.
 10. Upon his election, the Chairperson observed that the Committee had high expectations regarding the outcome of its work and that the world was watching. The discussion on violence and harassment in the world of work was necessary and long overdue. Workplaces relied on national and international standards to make them safe and productive, and the tripartite partners had the opportunity to make a real, tangible and lasting impact on people's lives around the world. Following the work of the Committee, it was hoped there would be a set of proposed Conclusions to provide guidance on the preparation of a proposed instrument or instruments, in view of a second round of discussions at the 108th Session of the Conference in 2019. To that end, the Chairperson stressed the importance of both dialogue and compromise during discussions of the Committee.
 11. The representative of the Secretary-General provided an overview of the Committee's work and described the historical context in which it had originated, including the adoption of the resolution concerning gender equality at the heart of decent work at the 98th Session of the Conference in 2009. As the discussion had developed, the Governing Body had seen the need for a broader approach to the subject and, at its 325th Session (October–November 2015), it placed a standard-setting item on “Violence against women and men in the world of work” on the agenda of the current session of the Conference. That was followed by a Tripartite Meeting of Experts on Violence against Women and Men in the World of Work in 2016. The Meeting of Experts had suggested adding “harassment” to the title of the related Conference agenda item, a change which was subsequently decided by the Governing Body at its 328th Session (October–November 2016).
 12. The representative of the Secretary-General noted that international standards had not yet defined the term “violence and harassment” at work and did not provide guidance to the world of work actors on how to prevent and respond to it. As such, she emphasized that the world was looking to the International Labour Organization (ILO) for clear guidance on the topic and that there were high expectations among, and beyond, the ILO's constituent groups. The high response rate to the questionnaire circulated by the Office in May 2017 reflected a wide agreement among the tripartite partners.
 13. The Committee had several challenges before it, including negotiating an instrument or instruments that would be applicable to diverse socio-economic and cultural realities and regulatory frameworks, and that would be relevant to tomorrow's world of work. Key questions before the Committee included the definition of violence and harassment, and the scope and form of the possible instrument or instruments. In spite of the challenges, the representative of the Secretary-General observed a genuine desire and a commitment to improve the proposed Conclusions, in order to develop a new standard or standards that would be clear, useful and implementable. She concluded by stating that the ILO Director-General had called upon all members of the ILO community – not only from the Office but also members of the Governing Body, experts, Conference delegates and meeting participants – to be aware of, and prevent, sexual harassment. In that way, the Conference would set an exemplary standard for others.

Opening statements ⁴

14. The Employer Vice-Chairperson stated that the goal of ending violence and harassment at work should unite governments, workers and employers, and that they had an important opportunity to work together towards a common goal. Employers did not want to see violence and harassment in the workplace, and were supportive of efforts and effective measures to tackle the issue. Everyone should have responsibilities to prevent violence and harassment in the workplace as well as a right to work free from violence and harassment to the maximum extent possible.
15. Committee members were encouraged to focus on the most effective approach to address violence and harassment in the workplace, particularly related to effective guidance to member States. It was not the form of the instrument, but rather the effectiveness of the instrument and its wide acceptance that would make a difference. Pragmatism, practical implementation and flexibility of the instrument would be essential to ensure that it could be applied to diverse national contexts.
16. The Employer Vice-Chairperson noted that the Employers' group had some key concerns regarding the proposed Conclusions, although she expressed the hope that the Committee could address those concerns through constructive discussion. One such concern was how to define violence and harassment. Conflating the concepts within a single definition posed significant challenges, not only because of subjective understandings and cultural interpretations, but also because different legal responses to violence and harassment were needed. The scope of the discussion also needed to be clearer and the nexus to the workplace better established. She suggested that efforts should target the workplace, where the responsibilities of employers and workers could be relatively clear. The definitions of "employer" and "worker" also required further consideration. The Employers' group could not accept that someone could be labelled as an employer where no employment relationship existed. Furthermore, the understanding of a worker should be appropriate to national law and practice. As such, defining "employers" and "workers" presented a challenge; an overly prescriptive approach would expand responsibilities beyond what was reasonable and practicable, yet at the same time could exclude those who should have responsibilities and be protected.
17. Employers accepted they had an important role in addressing violence and harassment in the workplace and that they had responsibilities to drive appropriate standards of behaviour. Moreover, responsibilities were only effective if there was accountability. Employer responsibilities should be qualified by what was reasonable and practical, and should be limited to those matters over which employers had control. The instrument should adopt an integrated approach which ensured a shared responsibility between employers, workers and governments. In addition, the Committee would need to further clarify the ambiguity with respect to accountability and responsibility for remedies.
18. The Employer Vice-Chairperson suggested that some text of the proposed Conclusions could potentially be exclusionary and that the right to protection needed to be applied equally to all groups, including employers. In this effort, it was important to emphasize mutual respect. In addition to regulation, education, cultural change and peer-to-peer relationships were important approaches to address violence and harassment in the workplace. The Employer Vice-Chairperson expressed confidence that a constructive discussion would lead

⁴ Unless otherwise specified, all statements made by Government members on behalf of regional groups or 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.

to an effective text. The discussions provided an opportunity to demonstrate the importance of tripartism and of delivering outcomes that could be taken forward to the ILO's centenary Conference.

19. The Worker Vice-Chairperson noted that violence and harassment in the world of work constituted a serious human rights violation, impinged on the ability to exercise other fundamental labour rights, and that it was incompatible with decent work and was a threat to dignity, security, health and the well-being of everyone. It affected all occupations and sectors of economic activity including the public and private sectors, as well as formal and informal work settings, creating a negative impact on workers, employers, their families, their work environment, economies and society.
20. Global social media campaigns on violence and harassment against women – #MeToo, #YoTambién, #BalanceTonPorc and #NiUnaMenos – showed how urgent and relevant the discussion was for the world of work. Women working on film sets, in newsrooms and in parliaments had found it difficult, and it took them so long to speak up against sexual harassment. The situation could be even more challenging for women workers in domestic work, agriculture, garment factories, the hotel industry and transport – particularly in male-dominated workplaces. As referred to in the ILO Director-General's report to the Conference, the revelations showed how pervasive and tolerated violence and harassment was in the world of work, and was endured by a great number of women in order to obtain or keep a job, to be paid their salaries, to be promoted and when commuting to and from work. Violence and harassment must never be accepted as part of the job. Neither could the silence of victims ever be a condition of work.
21. The Worker Vice-Chairperson referred to the affirmation of the Declaration of Philadelphia (1944) that “all human beings, irrespective of race, creed or sex, have the right to pursue both their material well-being and their spiritual development in conditions of freedom and dignity, of economic security and equal opportunity”, but noted that no ILO instrument addressed violence and harassment as its primary aim and focus, none defined such conduct, and none provided clear guidance on the steps needed to address violence and harassment. The Workers' group had a long-standing call for international labour standards to address violence and harassment in the world of work. As such, they were gratified that there had been sufficient support in the questionnaire responses to direct the Office to prepare proposed Conclusions with the view to adopting a Convention supplemented by a Recommendation.
22. It was important to signal without ambiguity that violence and harassment is unacceptable and the antithesis of decent work and therefore demands serious and urgent action. That would help create a level playing field by setting minimum standards for governments, as well as employers and workers and their organizations, to end violence and harassment. The Worker Vice-Chairperson suggested that a Recommendation would supplement a Convention by providing more detail and practical guidance on how to translate principles into action.
23. The proposed Conclusions were a good starting point for the discussions. They were a fair reflection of the conclusions of the Tripartite Meeting of Experts, and of the concerns, comments and proposals raised by constituents in response to the questionnaire. The task of the Committee was to strike a balance between a Convention that was not so complex as to be seen as unratifiable and one that was not so limited in scope, such that it would be ineffective in addressing this most basic and pernicious of human rights violations.
24. While the Workers' group recognized that violence and harassment affected everyone in the world of work, not everyone was affected in the same way and on the same scale. Personal characteristics, working arrangements and sectors of work could all exacerbate the risk of

violence and harassment in the world of work. Women and gender non-conforming people experienced violence and harassment in disproportionate numbers, underlining the need for the gender dimensions of violence and harassment to be addressed in the new instruments. Furthermore, there was a joint responsibility of workers' representatives and employers to minimize the effects of domestic violence on the persons and working environments affected.

- 25.** An integrated approach was essential to effectively address prevent and redress violence and harassment in the world of work. Moreover, the instruments needed to be forward-looking and to be able to stand the test of time, particularly as new forms of violence and harassment could emerge. The Worker Vice-Chairperson concluded by stating that the Committee had an historic opportunity to demonstrate to the world the continued relevance of the ILO's vision and mandate, and its commitment to assuming its contemporary responsibilities.
- 26.** The Government member of Bulgaria, speaking on behalf of the European Union (EU) and its Member States, said that the following countries aligned themselves with the statement: the former Yugoslav Republic of Macedonia, Montenegro, Serbia, Albania, and Bosnia and Herzegovina. She noted the importance and timeliness of a discussion to adopt international labour standards focusing on violence and harassment in the world of work in the light of the Sustainable Development Goals (SDGs). Action was needed to achieve decent work, full and productive employment and gender equality, and to end all forms of discrimination and violence. Violence and harassment affected a significant number of workers globally and was fuelled by unequal power relationships, discrimination and gender inequality. A study published in 2015 revealed that in the EU, 14 per cent of workers reported having been subject to violence or harassment in the workplace, with women disproportionately affected. The economic cost of violence against women and girls could amount to between 1.2 per cent and 3.7 per cent of gross domestic product. Women were more likely than men to become victims of sexual harassment. Thus, 75 per cent of women in top management positions had experienced sexual harassment and more than 60 per cent of women working in the services sector had been subjected to it. Lesbian, gay, bisexual, transgender, intersex and queer (LGBTIQ) people and migrants were often disproportionately affected by violence and harassment.
- 27.** The EU warmly welcomed and supported the development of an ILO instrument that would be effective and have an impact in and on the world of work. The world looked upon the ILO and its global tripartite constituency to provide leadership and guidance on the issue. The EU was open to considering a Convention supported by a Recommendation, but suggested that it might be preferable to discuss the definitions, scope and content of the instrument prior to its form. The provisions of the proposed instruments echoed the principles of universal human rights, dignity, freedom, equality and solidarity on which the EU was based.
- 28.** The EU and its Member States had undertaken numerous initiatives, legal and otherwise, to address violence and harassment at work, and hoped that the experiences and lessons learned from these initiatives would enrich the debate. On the other hand, the outcome of the Committee's deliberations would be an important orientation for shaping further EU action on violence and harassment in the world of work. The standard-setting exercise should focus on key issues and provide adequate guidance and protection, while remaining flexible enough to ensure the widest possible implementation. The new instrument should promote key principles such as a gender-sensitive approach, a focus on prevention and protective measures, and measures to improve enforcement, including the protection of victims from intimidation and re-victimization, as well as appropriate support and assistance for them. Responsibilities of both governments and employers should be addressed and an indication given on how employers' and workers' organizations might contribute to combating violence and harassment in the world of work.

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29. The Government member of the United Kingdom indicated that his country aligned itself with the EU statement and pointed to the timeliness of discussing the pursuit of a new standard on ending violence and harassment in the world of work. The United Kingdom had strong laws to protect against violence and harassment in the world of work, and wished to see the same level of protection extended around the world. The United Kingdom supported the establishment of an appropriate Convention supplemented by a Recommendation and would be working hard to negotiate an instrument consistent with UK criminal and civil protections. Any new instrument needed to be reasonable and justifiable, to allow for practical implementation and to maximize support and buy-in across the ILO's constituents. The United Kingdom would support references to forced labour and child labour, the disproportionate impact on women and girls, and the responsibility of employers to eradicate violence and harassment throughout supply chains. For the United Kingdom, violence and harassment were a significant barrier to women's economic engagement and to gender equality worldwide, besides being an endemic human rights abuse. With a strong emphasis on prevention, the United Kingdom was proud to be a global leader in efforts to eradicate violence against women and girls in all its forms, including through efforts to eradicate modern slavery.
30. The Government member of Uganda, speaking on behalf of the Africa group, stated that despite existing international instruments, violence in the world of work remained a global challenge, which made a strong case for international labour standards on ending violence and harassment in the world of work. The Africa group welcomed the proposed Conclusions and agreed that the international labour standards should take the form of a Convention, supplemented by a Recommendation. Having a Convention would leave no doubt about the international community's commitment to influence domestic legislation, and allowed for scrutiny by the Committee on the Application of Standards.
31. Due to cultural differences, there would be a need for accommodation, understanding and tolerance regarding the meaning and scope of the word "gender", particularly regarding the issue of lesbian, gay, bisexual, transgender and intersex (LGBTI) persons. The Africa group proposed that if a common definition could not be found, a consensus definition should be reached that would provide sufficient flexibility for States to cover local contexts without necessarily imposing particular views on other parties.
32. The Government member of Turkey underlined that every type of violence and harassment in the work life was a human rights violation that should be prevented and eliminated. That was vital for individuals, as well as for constituting a decent and peaceful work environment in countries. While a number of international labour standards existed, which Turkey had also ratified, that provided protection against some forms of workplace violence and harassment, they did not address violence and harassment primarily and explicitly. The initiative of the Conference to adopt an instrument was therefore welcome.
33. The Government member of Mexico observed that while both women and men were subject to harassment in the workplace, women were experiencing a higher vulnerability due to unfavourable labour market conditions. She emphasized that international legal instruments should seek a general empowerment of women in the workplace, including with regard to sustainable development. The Government of Mexico supported a Convention, supplemented by a Recommendation. Mexico had already adopted relevant regulations as well as provisions to combat discrimination against vulnerable groups. The Conference offered an opportunity to outline international instruments that would help women to fully exercise their rights and participate in political, cultural and economic life.
34. The Government member of the United States recalled that, in the recent past, real-life examples of violence and harassment in the world of work had sometimes dominated the media, thus bringing increased attention to the issue. The Committee discussions offered an

opportunity to help provide answers to the question of prevention. The best way to tackle the issues would be through clear, practical and concrete guidance which would be firmly focused on areas within the ILO's mandate, while avoiding duplication with existing ILO standards. The United States delegation subscribed to the view that the provisions of any instrument needed to be adaptable to, and consistent with, national circumstances, specificities and priorities. Issues surrounding the definitions and scope set out in the proposed text would likely be among the most interesting and complex questions to be considered. The proposed definitions and scope would benefit from clarification, and the United States looked forward to sharing some ideas and proposals.

- 35.** The Government member of Colombia clarified that in her country there was not only a constitutional right to work, but also a constitutional protection of dignified and fair working conditions, including a clear notion for the workers of their tasks and functions. Violence in the workplace went beyond physical harm and could also be related to the organization of work, which could have a negative impact on the well-being of the worker and determined effects on health and safety, as well as on the family and social environment. National legislation in Colombia aimed to address the prevention of harassment in the workplace and provided for remedies and sanctions. Colombia was fully committed to having a Convention to prevent workplace harassment.
- 36.** The Government member of Spain aligned the position of his Government with that of the EU. He emphasized that in Spain violence against women was considered a serious human rights violation. Combating this phenomenon was a priority on the public agenda; this fight was shared by all political parties, the social partners and civil society, and required unity. In 2017, the State Pact against Gender-Based Violence (*Pacto de Estado contra la Violencia de Género*) was adopted unanimously. The Pact was approved by the national Government, the autonomous Spanish regions and the State Observatory on Violence against Women, a true manifest of triple consensus – political, regional and social – and one of the most important agreements in the history of democratic Spain. The measures mentioned in the Pact under “institutional responses” included seeking an international agreement against gender-based violence in the workplace. With a view to giving effect to this provision of the Pact and in agreement with the most representative workers’ and employers’ organizations, the Government of Spain proposed that the text to be adopted make an explicit reference to gender-based violence.
- 37.** The Government member of India supported the agenda item, and also supported a focused and short Convention supplemented by a Recommendation. She noted that there were still many terms in the proposed Conclusions that required serious deliberations. The ILO had a rich body of labour standards, many of which had not been ratified by every country, and hence too many cross-references should be avoided in the proposed instrument. Violence and harassment against men and women was a specific workplace issue that needed to be dealt with separately. India would be keen to see the scope of the instrument defined very unambiguously, as enforcement depended on clarity.
- 38.** The Government member of Brazil highlighted that there were direct bearings of violence and harassment in the workplace on health, gender equality and prosperity, and that violence and harassment thus posed serious obstacles to the achievement of the SDGs. Brazil believed that the standard-setting should take the form of a Convention supplemented by a Recommendation. While Brazil would be flexible regarding the exact content of the instruments to be adopted, the subject merited regulation by a Convention, especially given the absence of other international frameworks dedicated to this issue. Considering that women and minorities were in general disproportionately affected, a strong gender and diversity perspective should be taken. The achievement of a concrete and meaningful result in the Committee would be a matter of fulfilling the ILO's main objective of promoting

social justice. The Government saw the standard-setting exercise as an opportunity to raise awareness on the issue and encourage debate on national regulatory and policy gaps.

- 39.** The Government member of Canada observed that power imbalances and gender norms left spaces for unacceptable behaviour, including violence and harassment in the workplace. She emphasized that Canada supported the development of a Convention supplemented by a Recommendation concerning violence and harassment in the world of work. The effects of violence and harassment in the workplace were well known; they included stress, bad health, less job satisfaction for individuals; reduced productivity, increased absenteeism and legal costs for employers; and barriers to diverse and inclusive workplaces for society more broadly, in particular for women, young workers, disabled persons, individuals who identified as LGBTI, indigenous peoples and others. Gender equality was a priority for the Canadian Government. The Committee should work towards instruments that would take an integrated and inclusive approach, considering prevention of violence and harassment, responding appropriately and supporting those affected, as well as employers.
- 40.** The Government member of Israel commended the ILO for taking up the subject of violence and harassment in the world of work. Israel used a variety of tools to prevent and eliminate harassment and violence against workers, including general legislation and specific labour laws. Israel also had robust legislation regarding gender-based violence. For example, the Prevention of Sexual Harassment Law obliged employers to take reasonable steps to prevent harassment or else be considered personally responsible for any acts committed by their employees. In 2017, a resolution on preventing and eliminating sexual harassment in the workplace was adopted by consensus at the 61st Session of the United Nations Commission of the Status of Women. Israel firmly believed in the need for global cooperation on the matter and welcomed the process of creating an international legal standard on the topic of violence and harassment in the world of work, through the adoption of a Convention supplemented by a Recommendation.
- 41.** The Government member of Namibia supported the statement made by the Government member of Uganda on behalf of the Africa group, favouring the adoption of a Convention supplemented by a Recommendation. All persons had the right to work in conditions of freedom, dignity, economic security and equality. The problems of violence and harassment in the world of work had been embedded in every stage of historic economic development, including slavery, master–servant relations, subsistence farming, as well as modern employer and employee relations, including disguised employment, triangular employment, dependent self-employed workers or those working online in virtual workplaces. In Namibia, the remnants of past systems of contract labour and apartheid persisted, even after 28 years of independence. While some research had been conducted on gender-based violence and a five-year National Action Plan on Gender-Based Violence had been adopted, very little research had been done on violence and harassment in the workplace or on how domestic violence affected the world of work. There was a need to define a common understanding of gender-based violence, as well as to agree on the basic principles that united everyone, particularly because some issues were highly sensitive within diverse national and cultural contexts. It was important to create a standard that would be relevant worldwide, not only in developed countries but also in countries with informal and rural economies or where labour migration was prevalent.
- 42.** The Government member of Belgium supported the statement made by the Government member of Bulgaria on behalf of the EU and its Member States. Despite legislation to combat violence and harassment, gender-based violence remained a significant problem in Belgian society. The country’s integrated approach, pursued through national action plans, focused on prevention measures, confidential counselling and informal dispute resolution mechanisms. Formal procedures were available when informal interventions were not successful. Violence, bullying and harassment were linked to safety and health at work.

Research had established that domestic violence generated a high cost to the world of work and it would be important to refer to that problem in any eventual instrument. It was the responsibility of governments, employers and workers to ensure safe, healthy and decent work for all. She supported the adoption of a high-quality, ratifiable Convention supported by a Recommendation, which would send a powerful signal from the Conference.

43. The Government member of Australia welcomed the creation of an instrument on violence and harassment at work, which was not only a labour issue, but also a human rights issue inconsistent with the free functioning of civil society. The discussion was especially timely with regard to the ILO's centenary, when the Committee would complete its work. Australia supported the drafting of a Convention, subject to the text being consistent with two principles. First, the new instrument must be true to the ILO's mandate around work and employment matters. Second, the instrument must recognize the respective roles of governments, employers and unions in addressing violence and harassment in the workplace and agree on effective, practical and reasonable obligations. The standard should stand the test of time and remain relevant as the nature of work continued to change. Women were too often victims of violence and harassment at work; however, it was important that violence and harassment, rather than gender, be the main focus of the discussion. A new standard would send a strong global message that all workers, both men and women, needed to be safe from violence and harassment at work.
44. The Government member of Norway supported the statement made on behalf of the EU and its Member States. An instrument to guide member States of the ILO on how to address and prevent violence and harassment in the world of work was both timely and appropriate. She supported a Convention supplemented by a Recommendation, and emphasized that there were many ways to address violence and harassment in the world of work. A framework Convention which gave guidance and flexibility and left how to implement the appropriate practices and procedures to national discretion was preferable and would thus avoid ratification problems.
45. The Government member of Burkina Faso expressed satisfaction that an international instrument focusing on violence and harassment in the workplace was on the Conference agenda. The issue was a scourge which compromised efforts to promote and protect human rights. Recent events around the world had revealed the scale of the work that the ILO was about to undertake. The eventual instrument should provide a full and specific definition so as to engender the consensus necessary to be an effective standard.
46. The Government member of China said that the proposed instrument was both relevant and timely. He had listened with interest to the views of other countries. The problem of violence and harassment in the workplace was addressed through several different measures in China. The constitutional framework afforded equal rights to all citizens. Legal protection encompassed legislation for workers and for special groups. Special rules for the protection of female employees prohibited sexual harassment. Some Chinese provinces had taken further steps and included references to new technology in their regulations. China was committed to strengthening its legislation to protect workers in the workplace.
47. The Government member of France, aligning with the statement made on behalf of the EU and its Member States, said that various studies showed the wide range of forms that violence and harassment presented in the workplace. It was contrary to the terms of the Declaration of Philadelphia, which stated "all human beings, irrespective of race, creed or sex, have the right to pursue both their material well-being and their spiritual development in conditions of freedom and dignity, of economic security and equal opportunity". He outlined recent measures taken by France to eliminate violence against women and to promote sexual equality at work. The adoption by the Conference of an international labour standard on violence and harassment at work, at a time when thousands of people around the world were

speaking up, would confirm the Organization's relevance and capacity to respond to the needs of society. It would also show that social dialogue and tripartism were the best means to respond to the challenges thrown up by the world of work. France supported the adoption of a Convention supplemented by a Recommendation.

48. The Government member of Ethiopia aligned himself with the statement made by the Government member of Uganda on behalf of the Africa group. He stated that existing international instruments and sometimes domestic legislation did not specifically address violence and harassment in the world of work. Due to cultural differences between the member States, there was a lack of clarity and consensus on the definition and scope of violence and harassment, and he expressed his hope that the new instrument would provide guidance in this area. He expressed his support for a Convention supplemented by a Recommendation.
49. The Government member of Switzerland supported one or more standards on violence and harassment in the world of work, referring to the need for integrated and international leadership. The persistence of violence was unacceptable and fundamentally concerned the promotion of social justice and rights at work, for which the tripartite constituents were responsible. Gender-based realities should be integrated into all themes, including work, and increased protection was necessary as a result of increasing female labour market participation. Gender equality was a precondition for sustainable development and inclusive growth and, since 2013, had been a cross-cutting element for all Swiss economic development projects. The standard-setting discussion was timely in light of the future of work, and increased risk of violence and harassment due to the use of technologies. Adoption of an instrument at the ILO centenary Conference in 2019 would demonstrate the continued importance of international labour standards and of the ILO itself. He encouraged all actors to engage constructively in the elaboration of a new standard.
50. The Government member of the Republic of Korea observed that discussions to set standards to eradicate violence and harassment in the world of work were timely and meaningful. Such violence in various sectors was one of the most pressing social issues in the Republic of Korea: a survey in 2017 had found that some 70 per cent of respondents had suffered workplace violence or harassment, and about 20 per cent had suffered repetitive violence and harassment at work; such incidents undermined profitability. While laws were in place to prevent workplace violence, such as physical assault and sexual harassment, remedies were lacking for verbal and personal harassment. Earlier that year, an expert study had been conducted by the Ministry of Employment and Labour to support the Prime Minister's efforts to establish a government-wide comprehensive policy on workplace violence and harassment. After considering the #MeToo movement, which had been very active in the country, she expressed support for a Convention supplemented by a Recommendation. Flexibility in some of the articles could help take into account each member State's laws and systems, to ensure wide ratification.
51. The Government member of Senegal stated that her country aligned itself with the statement made by the Government member of Uganda on behalf of the Africa group. Workplace violence and harassment were sensitive and complex issues of great concern to actors in the world of work, and all individuals should enjoy a violence-free environment. She recalled that Senegal had ratified all the ILO fundamental Conventions; the Convention on the Elimination of All Forms of Discrimination against Women; the African Charter on Human and People's Rights; and the Protocol to the African Charter on Human and Peoples' Rights on the Rights of Women in Africa. She also recalled article 319*bis* of the Senegalese penal code, which recognized as offences psychological or moral violence and sexual harassment by a person in a position of authority. Despite such political will and the actions undertaken, violence and harassment remained a reality. In supporting the adoption of a standard on violence, she highlighted the importance of adopting an instrument that would allow each

member State and social partners the possibility of identifying appropriate means of fighting violence and harassment at work.

52. The Government member of Argentina welcomed the decision to adopt a new international instrument to eliminate violence in the world of work, recalling that her country's Congress had adopted *Ley No. 26.485 de protección integral para prevenir, sancionar y erradicar la violencia contra las mujeres en los ámbitos en que desarrollen sus relaciones interpersonales*, which included in its definition economic and "patrimonial" violence. Vertical and horizontal occupational segregation were prime factors that put women at risk of violence and harassment. Moreover, eradication of violence was closely linked to social justice; the higher the rate of social inequality, the higher the rates of violence. Finally, marking the occasion of the third anniversary of the *Ni Una Menos* campaign of Argentina, which, as other feminist movements in the world, had achieved important advances in women's rights, she emphasized the importance of tripartite social dialogue in concluding collective agreements, which served to protect the weaker party in a relationship, in this case women, women workers and LGBTI persons, which were those most in need of protection.
53. The Government member of Nepal noted that violence or threats of harassment – whether physical, psychological, sexual or gender-based – were always demeaning to human dignity, threatened workers and damaged productivity. Women suffered more from discrimination in traditionally male-dominated jobs, and workers in the informal economy, migrants, those in precarious situations and public officials were subjected to more discrimination and harassment. Recalling that his country had adopted a zero-tolerance policy towards sexual harassment, he expressed his support for the development of a new ILO instrument in order to bridge gaps in legal protection with regard to violence and harassment, and to protect fundamental principles and rights at work.
54. The Government member of Japan noted that violence and harassment in the world of work unfairly damaged workers' personal dignity, affected order and performance, and should never be tolerated. He therefore supported the establishment of a new standard on violence and harassment in the world of work. Japan's Equal Employment Opportunity Law obliged businesses to take necessary actions against sexual harassment, and harassment of pregnant women and new mothers, and there had been recent domestic discussions with the social partners to seek better approaches. A new international standard should aim to reduce incidents of violence and harassment in the world of work, while remaining sufficiently flexible so as to be implemented in each country context and thus "leave no country behind".
55. The representative of the United Nations Entity for Gender Equality and the Empowerment of Women (UN-Women) supported the call for an instrument in the form of a Convention and a Recommendation, and applauded the fact that Report V(2) acknowledged gender-based violence, intersectionality, and that all workers regardless of work status or contract type should be protected and empowered.
56. The representative of the Inter-Parliamentary Union (IPU) explained first that her organization's objective was to protect and build global democracy, and achieve gender equality in and through parliaments. Referring to global estimates her organization had published in 2016, she stated that 81 per cent of female parliamentarians experienced psychological violence, while 20 per cent experienced sexual harassment and 25 per cent experienced physical violence. She called for a Convention and a Recommendation to end any form of violence and expressed the hope to cooperate with the ILO towards this end, recalling that parliaments were workplaces as well as key stakeholders in implementing international standards.
57. The representative of the International Transport Workers' Federation (ITF) emphasized that gender was a key consideration that should be reflected throughout the language of the text,

citing the ILO *Transport Policy Brief 2013*, which noted that “violence against transport workers is one of the most important factors limiting the attraction of transport jobs for women and breaking the retention of those who are employed in the transport sector”. The outcomes of the discussions should not enable the exclusion of women from employment as a solution – that was of particular concern in male-dominated industries where women were already under-represented in decent work, while being over-represented in informal and precarious work. The Committee’s discussion would have a direct impact on the collective ability to deliver on UN SDG 5 to achieve gender equality and empower all women and girls. Perpetrators needed to be incorporated into the prevention and response language, as the cost and impact of violence at work was often wrongly and largely associated with employing women. She called for safe access to toilets at work as a key preventive measure, the identification of reasonable alternative tasks during pregnancy and the need to address inter-jurisdictional complexities for those workers whose workplaces crossed borders. Freedom of association and collective bargaining for all workers, including workers in the informal economy, was necessary for a Convention to be realized at workplace level.

- 58.** The representative of the International Young Christian Workers, referring to its work in Nicaragua’s textile industry, noted the large number of reports of harassment at work, as well as during the commute to and from work. She noted the prevalence of psychological harassment, including threats, insults, sexual advances and lack of freedom to use the toilet, and cited the importance of understanding its effects on an individual and on business efficiency. A strong Convention was needed to support the elimination of sexual exploitation and to guarantee safe and decent working conditions. Workers in the informal economy, domestic workers, migrant workers and youth were particularly vulnerable, and these groups were insufficiently represented in trade unions. She thus encouraged the inclusion of certain provisions from the Domestic Workers Convention, 2011 (No. 189), regarding voice and representation into the text of the proposed instruments. Promotion of social protection, improved measures against social discrimination and the adequate protection of people with disabilities would also help them confront violence and harassment. More data would help shed light on the importance of the topic.
- 59.** The representative of Women in Informal Employment: Globalizing and Organizing (WIEGO), a member of HomeNet Thailand that represented some 80,000 home-based workers, noted that home-based workers were a hidden workforce that made a significant but unrecognized contribution to the global economy. Many home-based workers were subcontracted and worked at the bottom of value chains, and experienced the economic violence of receiving low wages, and their sub-contractors reducing or withholding payments. Isolation at their workplace – their own homes – also left them vulnerable to violence. Self-employed home-based workers faced violence when selling their products on the market, where, working as street vendors, they were denied access to public spaces, and experienced harassment, confiscation of their goods and evictions by public authorities. Self-employed workers, like other workers in the informal economy, were particularly vulnerable to violence, as they were often excluded from labour protection, occupational safety and health and non-discrimination laws that often only applied to workers in an employment relationship. She called for a Convention supported by a Recommendation that included provisions to protect all workers, including workers in the informal economy.
- 60.** The representative of the International Domestic Workers Federation (IDWF) highlighted that domestic workers worked behind closed doors and high walls, a type of isolation that placed them at risk of daily abuse. Domestic workers had nowhere to run, lacked access to support, protection and their rights and often had no identity. A strong Convention and Recommendation would give domestic workers hope and a voice, and would supplement the rights and freedom they had gained through the adoption of the Domestic Workers Convention, 2011 (No. 189).

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- 61.** The representative of the International Catholic Migration Commission (ICMC) stated that the elimination of violence and harassment in the workplace and gender-based discrimination was the shared responsibility of governments, employers, workers and civil society. She supported the adoption of a Convention supplemented by a Recommendation, with both of them including a strong gender dimension. Women workers, particularly women migrant workers in the informal economy, should be placed at the centre of sustainable development policies and should be the first concern in the debate on violence and harassment in the world of work. The responsibility of the business sector in global value chains should be addressed during the discussion, as companies had a particular responsibility to eliminate violence and harassment in the workplace.
 - 62.** The representative of StreetNet International, an organization representing street vendors, informal market vendors, hawkers and cross-border traders in Africa, the Americas, Asia and Eastern Europe, recounted the daily evictions, violence and harassment perpetrated by local government authorities. Informal economy workers were the majority of workers in the Global South, yet were highly vulnerable to violence and harassment due to their employment status and the lack of regulation or protection afforded to them. A Convention supplemented by a Recommendation would be a historic achievement for the ILO, but needed to include provisions to protect all workers – including in the formal and informal economy – to reduce the discrimination they face.
 - 63.** The representative of the Public Service International (PSI) noted that, while violence and harassment affect workers across sectors represented by the trade union federations, some were particularly affected. For example, among the 10 million workers in sectors represented by the International Union of Food, Agricultural, Hotel, Restaurant, Catering, Tobacco and Allied Workers' Association (IUF), hotel and agricultural workers were particularly affected by violence and harassment at work. With respect to public services, she stressed the importance of recognizing that States were also employers and that the proposed instrument should therefore include public sector employers. Of the 20 million public sector workers, she highlighted workers in the health sector who faced violence at work not only as a result of work intensity, but also at the hands of third parties such as patients or relatives. In the justice, taxation and public oversight sectors, violence at work may stem from workers' interaction with the public, especially in dealing with sensitive matters such as issuing sanctions and fines, conducting inspections, prosecutions and taxation. It was important that the instrument stressed the significance of freedom of association and collective bargaining, and that it made reference to 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 Labour Relations (Public Service) Convention, 1978 (No. 151), and the Collective Bargaining Convention, 1981 (No. 154).
 - 64.** The Employer Vice-Chairperson appreciated the constructive and cooperative nature of the discussions, and reiterated the statement made by the representative of the Secretary-General that the outcomes of the discussions needed to be relevant to the workplaces of today and in the future in order to provide long-lasting guidance. Key concerns that a proposed instrument should not be too detailed or prescriptive, and regarding the level of complexity, scope and applicability to the world of work had been highlighted by several member States and should be taken into account during the Committee discussions. She stated that she had confidence in the Committee to take a constructive approach towards a pragmatic outcome that would enjoy broad consensus.
 - 65.** The Worker Vice-Chairperson appreciated the atmosphere of respect, engagement and preparedness to work towards a new instrument, and particularly thanked the Employers' group for their support in this endeavour. She had heard a strong support for a Convention and Recommendation in the opening statements and hoped the form of the instrument could

be addressed expeditiously in order to focus the discussion on the content, including scope and definitions, of a new instrument.

General discussion guided by the sections of the proposed Conclusions contained in Report V(2)

66. The Chairperson noted that the world was watching the discussion on violence and harassment in the world of work, referring to a plethora of media coverage in countries such as Japan, Mali, South Africa, Switzerland and other member States. He observed that consensus was building slowly towards a Convention supported by a Recommendation, but noted the concerns raised around definitions and scope of the instrument. He urged members of the Committee to continue to be constructive and specific about their concerns, so as to build a strong consensus on how to address them.

Parts A and B

67. The Worker Vice-Chairperson reminded members of the Committee that the Workers' group considered it essential to adopt a Convention supplemented by a Recommendation, noting that Recommendations provided guidance to constituents on actions that ought to or could be taken to address a problem, while Conventions, when ratified, were binding instruments establishing the basic rights and principles, the minimum steps that the ILO constituents must take to address effectively a problem. Conventions could promote positive change prior to ratification, an example being the Domestic Workers Convention, 2011 (No. 189), which had been ratified in 25 countries and had also inspired law and policy reform in approximately 25 other countries.
68. Although there seemed to be consensus that the majority should not be left out of protection from violence and harassment, Report V(1) indicated that only a few countries had used an integrated approach to address violence and harassment, and many responses were piecemeal, resulting in gaps in protections for many workers. It was, therefore, essential to decide on the form of the instrument to ensure the Committee knew what it was negotiating. The Workers' group had no intention of negotiating a Convention that would be difficult to ratify, but instead favoured a Convention that was inclusive, ratifiable and enforceable.
69. She recalled that most international labour standards were flexible, leaving ample room to translate provisions into national law, with due consideration of different and diverse contexts and legal traditions. The proposed Conclusions, in fact, contained significant room for flexibility: for example, point 11 stated that "Each Member should take measures to ensure the prevention of violence and harassment in the world of work", but did not prescribe the measures to be taken. Additionally, point 12 stated that "Each Member should adopt national laws and regulations requiring employers to take steps to prevent all forms of violence and harassment in the world of work ...", but did not prescribe the steps to be taken. Points 13, 14 and 15 provided for similar flexibility in how member States might apply them. Such flexibility notwithstanding, the content of the instrument should be clear and contain authoritative language, in order to ensure it could fulfil its objective. The Maritime Labour Convention, 2006, might serve as an example of a Convention that was detailed and yet highly ratified.
70. Turning to the proposed scope and definition, she welcomed the proposed definition of violence and harassment as a continuum, as it recognized that violence and harassment were intertwined, that harassment could escalate into violence if unchecked and could include multiple and diverse forms of violence and harassment, such as physical abuse, sexual violence, verbal abuse, bullying, mobbing, psychological abuse, intimidation, sexual

harassment, and threats of violence and stalking, as well as other forms of violence and harassment yet to emerge or to be acknowledged. The inclusion of practices, alongside behaviour, recognized that violence and harassment could result from the structural or organizational features of a person's work, as well as from individual or group behaviour. That a range of unacceptable behaviours, including gender-based violence, should be included was among the conclusions of the Tripartite Meeting of Experts on Violence against Women and Men in the World of Work in 2016.

71. Notwithstanding the position of the Workers' group, they were willing to listen to alternative views, given that the scope and definition provided for a range of forms of violence and harassment. Inspiration could be drawn from the European social partners' Framework agreement on harassment and violence at work (2007), as it recognized that harassment and violence could be physical, psychological and/or sexual; be systematic patterns of behaviour or a one-off incident; be among and between colleagues, superiors and third parties; and range from minor cases of disrespect to more serious acts, including criminal offences. It also recognized that the work environment could influence people's exposure to violence and harassment.
72. Given the disproportionate manner in which women and marginalized groups were affected by violence and harassment, the inclusion of gender-based violence within the definition of violence and harassment was particularly appreciated.
73. She stated the Workers' group's support for the definition of "employer", recalling that the ILO's *General principles and operational guidelines for fair recruitment* defined an employer as "a person or an entity that engages employees or workers, either directly or indirectly". She welcomed the definition of "worker" in the proposed Conclusions, and its inclusion of jobseekers, interns, apprentices and volunteers, who were often at higher risk and yet often fell outside of the scope of existing protections against violence and/or harassment in the world of work. She recalled other standards that took an inclusive approach to the definition of "worker", citing the inclusion of jobseekers under the Private Employment Agencies Convention, 1997 (No. 181), and the inclusion of all workers under all forms or arrangements and all workplaces under the HIV and AIDS Recommendation, 2010 (No. 200). She mentioned that a number of countries included potential employees and applicants under labour protections against violence and harassment, as indicated in Report V(1).
74. The concept of the "world of work", as expressed in point 4, clauses (a)–(d), of the proposed Conclusions was also familiar and often taken into account when addressing occupational safety and health risks or the duty of care owed by employers. While recognizing employers' concerns that they could not, and should not, be held liable for all harm caused in environments outside their sphere of control, there were ample examples of the use of "world of work" in national laws and policies, as evidenced in Report V(1), paragraphs 76–79. Referring to the Tripartite Meeting of Experts, the world of work was considered to cover the physical workplace as well as commuting to and from work, work-related social events, public spaces, including for informal workers such as street vendors, and the home, in particular for homeworkers, domestic workers and teleworkers. She concluded by expressing the readiness of the Workers' group to listen to the concerns of the Employers' group and the Government members, and work together towards a successful outcome.
75. The Employer Vice-Chairperson said that the choice of the form of the instrument or instruments should be based on what the aim was. Constructive discussion that led to an effective instrument that could confidently be taken up by member States would help to make a difference for people at risk of workplace violence and harassment.

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76. If a binding text were to be the outcome of the Committee, it would have to be straightforward, including a preamble highlighting the importance of the issue and an operative section clearly stating the objectives and principles of the instrument, and leave the details of implementation to each country, based on national legal traditions.
 77. The proposed text needed some amendments to improve its clarity and avoid legally confusing concepts, which might otherwise discourage ratification. Conventions that were too prescriptive or too detailed did not get ratified, and the increase in under-ratified Conventions would only serve to undermine the standard-setting role of the ILO. Should the Committee choose to include such details, a Recommendation would be more appropriate, more flexible and more expansive, as well as carrying the same constitutional obligations as a Convention. Since they did not need to be ratified, Recommendations could be implemented as countries so chose, taking into account their own contexts.
 78. A lack of clarity around key concepts remained a concern and, if left unresolved, the Employers' group would work towards a Recommendation. If, through discussions, the text changed sufficiently to make it ratifiable, the Employers' group would consider reviewing their position. With that in mind, the Employers' group proposed the deferral of the discussion of points 1 and 2 of the proposed Conclusions.
 79. The Employers' group had some serious reservations regarding the definitions and scope of the proposed Conclusions. The scope of the text was overly selective in parts and lacked conceptual clarity which, she cautioned, would result in challenges to implementation and accountability. The fact that the definition of violence and harassment were combined in point 3(a) suggested the need for a Recommendation rather than a Convention; violence was normally covered by criminal law, whereas harassment might involve subjective judgment, which might range from obviously unacceptable behaviour to discomfort that might only exist in the mind of the person who felt offended. The proposed Conclusions did not suggest where a boundary between the two might lie and risked encompassing reactions of employees to objectively reasonable and legitimate managerial decisions. Concepts needed to be clear and reliable for a court of law. The Employers' group proposed separating "violence" from "harassment", while highlighting that the definition of "world of work" would require a stronger, more direct connection to the workplace. Until the definitional issues were resolved, the Employers' group could not support a Convention.
 80. While the Employers' group did not object to point 3(b), she reiterated that everyone should have the right to work free from violence and that there was a need to be cautious when referencing particular groups, so that others were not marginalized or excluded.
 81. On the other hand, she stated that the Employers' group could not accept the definition of "employer" in point 3(c). She noted that countries were sufficiently equipped to define the notion of "employer" and identify disguised employment relationships at the national level. She discouraged the Committee from reopening contentious debates over employment relationships, citing previous, failed attempts during the first and second discussions of the question of contract labour at the 85th (1997) and 86th (1998) Sessions of the International Labour Conference, the Tripartite Meeting of Experts in 2000, the discussion on the scope of the employment relationship at the 91st (2003) Session of the International Labour Conference, and the discussion on the Employment Relationship Recommendation, 2006 (No. 198). Moreover, she emphasized that it was also unnecessary to define "worker" under point 3(d), as national laws already defined the term. The suggested text was also problematic, as it extended the definition, implying that employers might be responsible for those who are not typically covered by national law.
 82. She asserted that, while violence is unacceptable no matter where it occurred, employers could not control all environments and could only do what was reasonable in a workplace.

Point 4, which proposed a definition of the world of work, risked producing more uncertainty than clarity. The term “world of work” should therefore be replaced with “workplace”, a change that would also pertain to the title of the instrument. In summary, more use should be made of existing definitions at the national level, to avoid unnecessary contention. The Employers’ group was satisfied with the observation in point 5 that anybody could be a perpetrator or a victim, but expressed regret that the operative part of the proposed Conclusions was too exclusive and did not cover everybody.

- 83.** The Government member of Israel supported, in principle, the adoption of a Convention supplemented by a Recommendation. It should strive to eliminate unacceptable behaviour, while remaining practical, for which it would be important to consider the definitions under Part B, which were too broad. She emphasized that a wide variety of tools could be drawn upon to address violence and harassment; however, not all of the tools were relevant or effective for all behaviours and practices that were covered in the continuum of violence and harassment. She observed that a level of flexibility throughout the Convention and Recommendation would allow States to determine the relevant and effective tools.
- 84.** The Government member of the Russian Federation supported the development of a Recommendation over a Convention. Definitions regarding gender-based violence remained unclear and there was a risk that it would lead to an over-emphasis on sexual violence or sexual assault. She voiced specific concerns with regard to the inclusion of jobseekers and job applicants, as well as workers in non-standard forms of employment, as they were not in an employment relationship. The inclusion of commuting to and from work in point 4(c) also did not have a basis, as it did not occur in the workplace.
- 85.** The Government member of Kenya stated that a Convention supplemented by a Recommendation would be a better way forward and noted broad support for that position. The adoption of such instruments would be vital to meet decent work aspirations, including for workers in the informal economy. He added that a push for gender equality, as noted in the Report of the Director-General, *The Women at Work Initiative: The push for equality*, would be important for emerging jobs that resulted from a changing nature of work. It was also vital to accelerate the achievement of gender equality by supporting women and men in taking up paid employment in the care economy. He concluded that a Convention supplemented by a Recommendation would contribute to ensuring women’s entry into paid employment and would help the ILO to realize decent work goals and the ambitions of the ILO’s second centenary.
- 86.** The Government member of Japan reiterated his country’s commitment to leaving no one behind. Comparing the standard-setting process to climbing a mountain, he said there was a need to convince people at the bottom of the mountain to climb upwards. As there was currently no international standard on violence and harassment, there was a need for flexibility. As such, if there were to be a Convention, it would need to be a flexible framework instrument. Aligning with the statements delivered by Government members of Australia and India, he noted that the aim of ILO standards was to protect workers.
- 87.** The Government member of Bulgaria, speaking on behalf of the EU and its Member States, supported an international standard on violence and harassment in the world of work, and stated they had broad support for a Convention supplemented by a Recommendation. The Convention had to be ratifiable, for which it required sufficient openness and flexibility for the ratifying countries. The EU and its Member States supported a wide scope of the term “violence and harassment” that encompassed violence and harassment in the world of work in all its forms, including gender-based violence. She added that the instrument would need to focus only on the most relevant issues, as issues not linked to the core objectives risked making it too vague. Specific attention also needed to be paid to any obligations contained

in the possible instruments, so as to ensure that these were appropriately addressed and did not create obligations outside of the parties' control.

- 88.** The Government member of Cuba said that the draft document was a good starting point for discussions. Whether it was a Convention or a Recommendation, the instrument should be developed within the strict framework of the working environment, so as to limit its scope. Protecting the worker in the working environment should be the focus of discussions, rather than redefining the concepts. Point 4 of the proposed Conclusions was very broad in terms of the place where violence and harassment took place. It would be difficult to decide on an approach if the scope included places where the employer had no influence or control. Referring to point 6(j), he noted that domestic violence was often covered by penal and civil law, not labour law, even if there were work-related impacts. He remarked that the world of work could not eradicate domestic violence, but it could raise awareness and therefore contribute to its eradication. Similarly, it appeared to the Cuban Government that point 9 on the adoption of national laws and regulations could go too far. Substantive labour law regarding violence and harassment existed in many countries, such that there was no need for specific new legislation governing those matters.
- 89.** The Government member of Canada strongly supported the development of a Convention supplemented by a Recommendation. The latter would account for differences in national circumstances and be flexible enough to facilitate its application in a variety of legal and social contexts. The definitions and scope of the instruments needed to recognize evolving workplaces and could note the role of technology in both perpetrating and addressing violence and harassment in the world of work. The spillover of domestic violence into the workplace was part of the continuum of workplace violence which negatively affected the work performance of the targeted worker, putting them at risk, as well as possibly posing a threat to co-workers. It was important to determine how and in what situations an employer should intervene, such as providing support to the employee and training employees on how to identify warning signs. Confidentiality was particularly important for sexual harassment or sexual violence complaints. The release of identities of those involved could have extremely damaging consequences, not only to the workplace, but also for the complainant, the respondent and witnesses. Prevention was the most critical step to effectively reduce the number of incidents of harassment and violence. It also reduced the need for outside mediators or specialists to be involved in the resolution process and thus alleviated the financial burden on employers. The gender dimension of violence needed to be specifically addressed, with special attention to socially constructed roles and responsibilities assigned to particular sexes or genders, and gender-nonconforming persons.
- 90.** The Government member of Australia supported the suggestion of the EU and its Member States that the scope and definition be decided first, before looking at the form which the instrument would take.
- 91.** The Government member of India underlined that violence and harassment in the world of work was unacceptable and said that the instrument should only cover work circumstances. Many countries had a criminal law framework separate from labour law. It was vital to contextualize the issue and restrict its scope, or the instrument would encompass all forms of violence, including in areas where employers had little or no influence. Limiting the scope would result in a more practical and concrete instrument.
- 92.** The Government member of Argentina said that work-related violence raised issues around human rights, decent work, and the health and social security of workers. It encompassed diverse situations, such as physical aggression, sexual, moral or psychological harassment. Argentina had a long legislative tradition in the field of worker protection and had subscribed to the principal treaties on human rights and work-related violence, as well as specific international standards such as the United Nations Convention on the Elimination of All

Forms of Discrimination against Women, and the Inter-American Convention on the Prevention, Punishment and Eradication of Violence against Women. As such, the Government of Argentina understood that there should be a Convention supplemented by a Recommendation. The Convention in particular should be effective in practice; the text should be accessible and clear with respect to the allocation of responsibilities so as ensure the greatest number of ratifications and its early entry into force.

- 93.** The Government member of the Islamic Republic of Iran said that all forms of violence and harassment were unacceptable. The agenda item was therefore crucial and the discussion important. The definitions and scope should be clear and free of ambiguity. For example, point 3(d)(iii) required clarification, as did point 4(c) and 4(d), and responsibilities needed to be defined.
- 94.** The Worker Vice-Chairperson said that she had listened carefully to the discussions on Parts A and B of the proposed Conclusions. She agreed that some legislation existed which covered some of the issues. However, the debate was about the impact of violence and harassment on those who were subject to it. The world of work was changing and the need for a Convention was long overdue. Had the problem been addressed in a more proactive way in the past, then perhaps the problems would not be as severe in the present day. If the situation were not dealt with, then it would get worse, so it was imperative to take action now. Some delegates had talked about public and private areas, but the two often converged, as was the case for homeworkers, accountants, doctors and first responders. The Workers' group was not asking for employers to be held responsible in all situations, but workers needed to be protected, for example, in work-related social events, and employers could take moves to increase the safety of workers travelling to and from work. She understood the concerns, but wanted to emphasize that protection was for everybody in the workplace, including employers.
- 95.** The Employer Vice-Chairperson said that the challenges faced by employers were consistent with the views expressed by some Governments. She reiterated the importance of developing a flexible instrument in order to avoid obstacles to ratification. The Employers' group looked forward to working with Governments and the Workers' group in a constructive discussion. The question of scope was very important to the Employers' group, but she noted the determination of the Committee to overcome those issues.

Part C

- 96.** The Employer Vice-Chairperson noted that, concerning point 6, the proposal could be made simpler by recalling only the Universal Declaration of Human Rights and the Philadelphia Declaration. The sentiment of point 6(d) could be included to affirm what the text was about: recognizing the right to work free from violence. The recognition that the right to work free of violence was a human right could be drawn from the Universal Declaration referenced in 6(c), so she suggested (e) was not required. Clauses (f)–(i) could be removed, since they did not change the meaning of the definitions or operative paragraphs and did not add to the purpose or character of the instrument.
- 97.** Concerning point 6(j), the Employers' group was concerned about extending responsibility to matters outside an employer's reasonable control. It was unclear what "impact on the workplace" meant or how "world of work institutions" could contribute to ending violence in the home. Employers would normally offer support and assistance to a person who was in distress, injured or unable to come to work, but could not be made legally responsible for matters they could not control. The vagueness of "impact on the workplace" would make it challenging for legislators to consider ratification. Many employers had already voluntarily

adopted a range of initiatives through policies, systems and other measures to support employees facing difficult personal circumstances.

- 98.** Not all businesses had the same capacity; many were small and medium-sized, so the imposition of binding legal obligations and related costs on an employer for matters outside their control was unreasonable. Countries should deal with domestic violence, but not through binding labour market mechanisms and institutions. The Employers' group was mostly in agreement with point 7, but asked that "world of work" be replaced with "workplace". The perpetrator should be liable for reparations, and employers should only be liable when they had clearly failed to do something that could reasonably be required. The group had reservations about including in the operative part of a potential Convention the fundamental principles and rights at work of the 1998 Declaration, due to implications for countries that had not ratified the related Conventions. Including such references would create the risk that countries not having ratified the referenced instruments would refrain from ratifying this one.
- 99.** Concerning point 10 on the right to equality and non-discrimination, the Employer Vice-Chairperson emphasized that as a general principle, protections should be for all, including employers, which would also be more consistent with point 5.
- 100.** The Employers' group recalled that they did not want to see violence in their workplaces. However, regarding point 12, it was important to acknowledge that violence and harassment involved complex human behaviours, so a person's actions could not always be foreseen. It was reasonable for employers to set and enforce appropriate standards of workplace behaviour, but any requirement on them needed to be qualified by what was reasonable and could be practically implemented. Employers' responsibilities should not extend to matters beyond their control and should take into account their varying capacities based on size and circumstances.
- 101.** With regard to point 15, the Employers' group was supportive of collective bargaining at "appropriate levels", in accordance with national practices, although that should not replace national laws where those applied. For example, a criminal act could not be referred to collective bargaining for resolution, as criminal law was above such agreements.
- 102.** The Worker Vice-Chairperson recognized that, while the preamble had no legally binding effect and could never take precedence over operative provisions, it guided constituents in interpreting the instrument. She expressed her group's support for the preambular clauses. She highlighted in particular that violence and harassment constituted a serious human rights violation that impeded the exercise of other fundamental human rights; that they were a threat to equal opportunities, as stated in clause (e); and that discrimination and inequality often lay at the root of violence and harassment. For those reasons, her group supported including the reference to instruments in clause (c). She further expressed support for clauses (d)–(j) due to their strong focus on the gender dimensions of violence and harassment. Clause (g) was important, for it recognized that such violence and harassment could impede women's ability to enter and remain in the workforce – thus negating or obstructing efforts to achieve gender equality, as well as equality across the board. That was because groups of workers marginalized through discrimination were also disproportionately impacted by violence and harassment.
- 103.** She further noted that clause (j) of the preamble reflected the consensus of the Tripartite Meeting of Experts on Violence against Women and Men in the World of Work in 2016 on the need to mitigate impacts of certain forms of violence – including domestic violence – on the world of work without attributing responsibility to the social partners for preventing or redressing those forms.

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- 104.** The Worker Vice-Chairperson stated that point 7 of the proposed Conclusions, which affirmed the need for an integrated approach in consultation with representative employers' and workers' organizations, was essential to effectively address violence and harassment in the world of work, and the proposed wording provided a framework for obligations as well as flexibility to adapt the instruments to national contexts. The denial of freedom of association was a significant factor in increasing the risk of experiencing violence and harassment. The point had been made in the conclusions of the Tripartite Meeting of Experts, recognizing that "workers who cannot exercise their rights to freedom of association and collective bargaining, due to the inappropriate use of contractual arrangements leading to decent work deficits, including the misuse of self-employment, are also likely to be more at risk of violence and harassment".
- 105.** The core Conventions related to equality and the elimination of discrimination in respect of employment and occupation were also essential to an integrated approach and to address some root causes of violence and harassment, while the worst forms of child labour, forced labour and trafficking inherently included physical and psychological violence and harassment. The Worker Vice-Chairperson noted point 9, which reaffirmed the importance of including all forms of gender-based violence within national laws and regulations that prohibit violence and harassment, as well as point 10, which explicitly recognized that inequality and discrimination based on the grounds listed in clauses (a)–(i) often lay at the root of violence and harassment. Where grounds of discrimination intersected – such as gender with race or with disability – the risk of such violence was exacerbated. Recognizing factors that could lead to heightened risk of violence and harassment would help develop targeted, effective and appropriate interventions. It was noteworthy that clauses (a) and (b) of point 11 of the proposed Conclusions spoke to the role of governments, in consultation with social partners, in determining the sectors, occupations and work arrangements in which workers were more exposed to violence and harassment to ensure that such workers were effectively protected. The Recommendation provided useful guidance that could facilitate identification of sectors, occupations and work arrangements.
- 106.** The inclusion of psychosocial risks in point 12 was particularly welcome. Point 12 set out steps for employers to take to prevent violence and harassment. That was helpful in delineating employer liability for violence and harassment. It was also consistent with occupational safety and health laws in several jurisdictions, as well as with limits on liability for breach of the employer's duty of care.
- 107.** The Worker Vice-Chairperson reiterated the importance of ensuring that prevention measures protected workers in the informal economy who may not have an employer, but for whom violence and harassment from public authorities or officials might be a regular occurrence. She recalled the Transition from the Informal to the Formal Economy Recommendation, 2015 (No. 204), which urged member States to ensure that an integrated policy framework to facilitate the transition from the informal to the formal economy included measures to promote equality and the elimination of all forms of discrimination and violence, including gender-based violence.
- 108.** Safe, fair and effective dispute resolution mechanisms, including access to appropriate and effective remedies, were central, and her group saw a crucial role for workers' representatives in that regard. She welcomed point 13(d), (f) and (g), regarding specialized dispute resolution mechanisms, remedies and services for victims of gender-based violence, the rights of workers to remove themselves from a work situation without penalty, and the role of labour inspectors. She further emphasized the need for the labour inspectorates and administrations to be properly resourced and equipped to monitor and enforce measures concerning violence and harassment in the world of work. Education, training and awareness raising, provided for in point 14, were equally important to include in any integrated

approach. She concluded by reiterating that point 15 allowed a considerable degree of flexibility for member States to determine the means of implementation.

- 109.** The Government member of New Zealand drew attention to the importance of including particular groups in order to give them more visibility. It was clear that the groups specified in point 10, and particularly LGBTI people, were among those most likely to be affected by violence and harassment, and therefore should be explicitly included. Deeply embedded homophobic and transphobic attitudes, often combined with a lack of adequate legal protection against discrimination on grounds of sexual orientation and gender identity, exposed many LGBTI people in all regions to serious violations of their human rights, including discrimination in the labour market. Labour rights were human rights and human rights applied to all; however, different groups were affected differently and had different needs. Therefore, they needed to be visible and acknowledged, in order that their rights could be recognized and promoted.
- 110.** In response to a request for clarification from the Government member of Canada on the word “sanctions” in clause 7(f), the deputy representative of the Secretary-General (Ms M. Tomei, Director, Conditions of Work and Equality Department) indicated that they were understood as legal consequences of infractions of law, which could be civil, penal or of any other nature according to the circumstances and as appropriate.
- 111.** The Government member of Japan stated that violence in the home should not be addressed as part of violence in the workplace. Concerning point 13(d), he stated that the inclusion of “additional” was not necessary.
- 112.** The Government member of South Africa, who referred to her country’s ground-breaking Constitution, as well as to the Declaration of Philadelphia, stated that the future Convention and Recommendation should indeed protect all workers, including LGBTI workers, against violence and harassment in the workplace.
- 113.** The Government member of India stated that the scope should be restricted to violence and harassment emanating from the workplace. Given that understanding, domestic violence should not be included, as it was a household issue and not every woman worker who was experiencing such violence would be comfortable speaking about it at her workplace. She referred to points 13(e), 19(a) and 31 as particularly relevant to that position and stated that the reference to domestic violence in the proposed Conclusions would have to be reconsidered. She emphasized that that did not in any way absolve the relevant authorities from addressing domestic violence, but that it should be the subject of specific legislation and measures.
- 114.** The Employer Vice-Chairperson reserved further comment and noted that her group would take into consideration the points raised.
- 115.** The Worker Vice-Chairperson stressed that her group did not support deferral on the form of the instruments. Furthermore, employers were not being asked to end domestic violence, but rather to help protect victims through the safe space of their workplace. She also noted that perpetrators sometimes followed victims to the workplace, so policies and procedures should deal with that issue. She also observed that if a Convention were highly ratified but so vague as to be meaningless, then it would be just as ineffective as a Convention that was so prescriptive as to be seen as unratifiable.

Part D

- 116.** The Worker Vice-Chairperson stated that her group's view on the proposed Conclusions regarding a Recommendation would depend on the agreed content of the Convention and therefore the Workers' group was not in a position to support deferral of the decision on the form of the instrument. She requested clarification from the Employers' group on the suggested titles of Parts C and D, should the decision on the form of the instrument be deferred, and whether the negotiations would be focusing only on the text of a Recommendation. She took note of certain "red lines" mentioned by the Employers' group in respect of the discussion with a view to a Recommendation. Comments by the Workers' group on Part D would be preliminary, although she clarified that the group supported much of Part D, even if no specific reference was made to a particular point.
- 117.** The Workers' group agreed that the preamble to the Recommendation should indicate that the provisions of the Recommendation should be considered in conjunction with those of a Convention. The Workers' group supported point 17 on an inclusive and integrated approach, and agreed with the Office that it did not prescribe or limit the measures to be taken by member States. The Workers' group strongly supported point 18. Point 20 was also supported and should be applied, regardless of the migrant workers' status, consistent with the Migrant Workers (Supplementary Provisions) Convention, 1975 (No. 143), and the 2006 Multilateral Framework on Labour Migration.
- 118.** She welcomed point 27, but expressed hope that the guidance contained therein would be strengthened. Regarding point 29(e) on specialized dispute resolution mechanisms for gender-based violence, the shifting of the burden of proof was important and consistent with the way discrimination cases were addressed by some member States, whereby once a prima facie case was established by the worker experiencing discrimination, the employer then had to explain why certain behaviours or practices did not constitute unjustified discrimination.
- 119.** The Workers' group welcomed point 36, as it acknowledged that discrimination, unequal power relations, and gender, cultural and social norms could enable violence and harassment in the world of work and such recognition would be important to tackle the pervasive nature of violence and harassment.
- 120.** The Worker Vice-Chairperson reiterated that the group was ready to listen and respond to proposals that would help achieve agreement on a Convention supplemented by a more detailed Recommendation. All parties would need to be open to negotiation, not only the workers. At the same time, the Workers' group was not prepared to agree on vague or minimal text that might result in a Convention that, even if universally ratified, made no meaningful contribution to eliminating violence and harassment in the world of work.
- 121.** The Employer Vice-Chairperson called for the text of the Recommendation to be actionable and transferrable to legislation. Moreover, the text should not be overly prescriptive, so as not to lose the instrument's flexibility or risk its ongoing relevance as work and workplaces changed. While the Employers' group supported the notion of freedom of association and collective bargaining, they questioned the need for the specific reference in point 18. She expressed the willingness of the Employers' group to discuss that point.
- 122.** Regarding point 20, the Employers' group did not support mentioning specific groups. In the context of extraterritorial action by governments, such joint action could be considered when discussing a general policy document, but not during a discussion on an international labour standard where accountability for implementation lay at the national level.

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123. The Employers' group did not see the value of the list of previously adopted standards in point 22 and suggested its inclusion might create difficulties when countries prepared article 19 reports.
 124. Point 23 was considered to be an overly prescriptive, process-driven approach that would not enable a focus on the outcomes of the policies on violence and harassment. The employer responsibilities created by that point would need to take into account that the majority of enterprises were small in size and it might be unreasonable to ask them to assume extensive administrative processes to meet their obligations. She highlighted again the need for flexibility in order to enable innovative workplace practices.
 125. While the Employers' group supported a risk-based approach to preventing workplace violence and harassment, the group felt that point 24 included matters beyond the control of the employer. It could not be assumed that every factor identified gave rise to higher risks. In particular, the reference to unequal power relations was unclear, as workplaces were naturally a space where some workers might exercise more authority and have greater accountability than others. According to that interpretation, such structures were necessary to deliver healthy and safe workplaces and should not be considered as a risk which would increase the likelihood of violence and harassment.
 126. Point 25 made assumptions as to the sectors, occupations and work arrangements in which the problems were most severe, and the text could be improved if, instead, member States were encouraged to collect data and evidence to determine where problems existed and, in consultations with workers and employers, identify sectoral-specific measures and the means to monitor their effectiveness.
 127. From the perspective of the Employers' group, point 27 needed revision, as it was ambiguous with respect to who was liable to pay for remedies. Furthermore, the remedies listed were not seen as relevant to all cases of violence and harassment. The Employers' group saw no added value to point 28 and stated that it lacked clarity as to the meaning of compensation and who was responsible to pay it.
 128. Point 29(e) was seen by the Employers as most problematic, as it would not be appropriate to place a person in a position of having to prove their innocence when dealing with behaviours and actions of a most serious, including criminal, nature.
 129. The list of obligations arising out of the measures related to victims of gender-based and domestic violence, as listed in points 30 and 31, were directed at member States. However, there needed to be consideration of when or how these might translate into employer obligations. Point 32, discussing support and counselling extended to perpetrators, remained ambiguous as to who would be paying for compensation and remedies.
 130. The Employer Vice-Chairperson noted that domestic violence was a serious community issue that was unacceptable, and called on member States to implement appropriate preventive and remedial actions. It could not, however, be assumed that the issue could be resolved solely at the workplace or through additional paid entitlements. She cited voluntary initiatives by employers that were already being implemented to support employees confronted with challenging personal circumstances, such as time out of the workplace and flexible working arrangements. Many businesses, especially smaller ones, would not be in a position to offer new forms of paid leave on top of those that already existed. She concluded by reiterating that the Employers' group stood ready to be part of an effective response to addressing violence and harassment at the workplace, but wanted to ensure that barriers to an instrument's workability and practical implementation were addressed in order to ensure its effectiveness.

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- 131.** The Government member of the Russian Federation expressed concerns related to Part D and sought guidance from the secretariat on a number of points, including: 19, 20, 23, 24, 25, 28, 29(a) and (d), 30, 31, 35, and 36(a), (b) and (d).
- 132.** The Government member of Japan enquired whether having experts involved in the existing courts could be consistent with point 29 and queried the shifting of the burden of proof referred to in clause (e).
- 133.** The deputy representative of the Secretary-General clarified that point 29 did not aim to establish special courts for cases of gender-based violence, but rather that current courts should have sufficient expertise to address cases of gender-based violence. The points included in Part D were based on good practices identified in Report V(1) and supplemented by the responses received from tripartite constituents in the questionnaire. The secretariat would be pleased to provide further information on points included in Part D and, to that end, requested questions from the Government member of the Russian Federation in writing.
- 134.** The Government member of Cuba raised concerns regarding point 29(e), as it was unclear how it would impact current procedures of law and handling of court cases. He further expressed his concern regarding point 30, saying that not only gender-based violence but also all forms of violence should be addressed. The viability of having specialized personnel in current courts or creating specialized courts would also depend on national circumstances.
- 135.** The Government member of Bulgaria, speaking on behalf of the EU and its Member States, reiterated that there was openness to a Convention, supplemented by a Recommendation. She further expressed support for the plan of work, as agreed in the Committee's first sitting.
- 136.** The Government member of the Russian Federation asked whether they could submit questions related to Part C to the secretariat, for inclusion in the *Provisional Record*.
- 137.** The Chairperson clarified that discussion of the points under Part C was closed and only points under Part D were being discussed. However, these could be addressed again when submitting amendments. He explained that the secretariat would be pleased to receive these questions, but they would not be included in the *Provisional Record*.
- 138.** The Government member of Indonesia supported the concern raised by the Government member of the Russian Federation relating to domestic violence under point 31.
- 139.** The Worker Vice-Chairperson reiterated that the Workers' group was prepared to negotiate a Convention that was flexible and not too prescriptive, and which would avoid difficulties in implementation. She noted that the information requested by the Government member of the Russian Federation and others could be provided by the secretariat. Furthermore, workers, employers and governments had provided documentation and research on violence and harassment in the world of work in preparation for the Committee's work, which was reflected in its technical reports.
- 140.** The Worker Vice-Chairperson cited statistics from a study on the effects of domestic violence in the workplace in Vermont (United States) which focused on male offenders as subjects of the research. She noted, for example, that 29 per cent of respondents in the study contacted their partners while at work to say something that might have scared or intimidated them; 40 per cent of supervisors were aware that that type of contact occurred at work; 31 per cent of respondents took paid and/or unpaid time off to be abusive or to deal with the aftermath of abuse during a specific incident. Furthermore, other research indicated the high percentage of women who had experienced gender-based violence. She emphasized that the Workers' group was open to flexibility, but supported a Convention, supplemented by a

Recommendation, and reminded the Committee that the world was watching its discussion closely.

- 141.** The Employer Vice-Chairperson welcomed support for greater flexibility in the potential instrument and reiterated that it should not be too prescriptive. The current text contained a number of problems and the Employers' group wanted to address those through constructive discussions. The Employers' group noted similar concerns voiced by a number of Governments, including in relation to point 29(e), as that clause would impact existing legal principles in many jurisdictions. She said that additional work was needed on Part D and that regardless of the form of the instrument, many issues required further discussion by the Committee. She noted that the Employers' group was looking forward to working towards solutions.

Consideration of amendments to the proposed Conclusions

- 142.** The Chairperson noted that the members of the Committee were also the Members of a historic institution. He emphasized the importance of maintaining a spirit of cooperation and dialogue. It would be vital to demonstrate flexibility in adopting a practical and rational approach that would take into account the best interest of the issue, as well as the workers, employers and governments.
- 143.** The Employer Vice-Chairperson, citing article 63, paragraph 2(2)(b), of the Standing Orders of the International Labour Conference, moved a motion to defer discussion of Part A of the proposed Conclusions on the form of the instrument until the discussion on Part B had been concluded. She reminded the Committee that they would have to vote on the outcome of the discussion in 2019 – the centenary of the ILO – and reiterated the desire of the Employers' group to adopt an instrument with the full support of all constituents.
- 144.** The Worker Vice-Chairperson stressed that the Workers' group wished to work towards a Convention supplemented by a Recommendation. The Tripartite Meeting of Experts on Violence against Women and Men in the World of Work in 2016 had provided valuable information, pertinent to workers, employers and governments, which could inform the Committee's discussions. Recognizing that the definitions and scope posed challenges to the Employers' group and to some member States, she agreed with the proposal to reorganize the discussion.
- 145.** The Government member of Uganda, speaking on behalf of the Africa group, supported the views expressed by the Workers' group. Violence and harassment in the world of work had been, and continued to be, a major issue and a Convention was long overdue. Since content tended to define form, he did not support the motion moved by the Employers' group.
- 146.** The Government members of Bulgaria, on behalf of the EU and its Member States, Australia, Bangladesh, Canada, Guinea, Iraq, Japan, Mexico, Namibia, Norway, the Philippines and Uruguay agreed to the motion put forward by the Employers' group. Violence and harassment had serious impacts on workers, employers, workplaces and beyond, and must be brought to an end.
- 147.** The motion was carried.
- 148.** The Chairperson encouraged members of the Committee not to make their interventions on Part B contingent on the form of the instrument. Issues of scope and definition notwithstanding, a consensus was emerging to move towards a Convention supplemented by a Recommendation.

A. Form of the instruments

149. The form of the instruments was discussed at the Committee's 11th sitting, following the completion of the Committee's deliberations on Part B of the proposed Conclusions.

150. The title of Part A was adopted without amendment.

Point 1

151. In the light of the discussions on Part B of the proposed Conclusions, the Employer Vice-Chairperson withdrew an amendment to replace "world of work" with "workplace".

152. Point 1 was adopted without amendment.

Point 2

153. The Employer Vice-Chairperson introduced an amendment to delete "a Convention supplemented by" in point 2. While violence and harassment anywhere were unacceptable and meaningful action must be taken to address the issue, the low ratification rate of ILO technical Conventions was concerning: since 2010, only 52 ratifications had been received. While the Worst Forms of Child Labour Convention, 1999 (No. 182), was highly ratified, the remaining 18 Conventions adopted since 1990 had an average of 22 States parties out of 187 ILO member States. A poorly ratified standard on violence and harassment would not be desirable. The Employers' group wanted an outcome that could be implemented fully and was flexible enough to address violence and harassment effectively. Any future instrument should be relevant to the ILO's mandate and should be directly translatable into national law. Employers had a responsibility to address violence and harassment, including through a risk-based approach and by driving positive behaviour in the workplace. At the same time, they were concerned that their responsibilities would be extended to areas over which they had no control, which was a particular concern for smaller enterprises. The draft text did not provide sufficient guidance for constituents on how to effectively address violence and harassment, which could result in an important opportunity being lost for the ILO and the world. While the amendment proposed working towards a Recommendation, the Employers' group had not arrived at a firm position on the form of the instruments. Further consultations would be held with employers around the world, in the hope that her group's concerns could be discussed further during the Committee's proceedings in 2019.

154. The Worker Vice-Chairperson reiterated the relevance of and urgent need for a Convention supplemented by a Recommendation. Every effort had been made during discussions on Part B of the proposed text to prepare a strong and ratifiable instrument. The ILO should play a proactive, forward-looking role when dealing with violence and harassment, and the tripartite constituents should work collectively towards an outcome that would make a real difference in the lives of employers and workers in both the formal and informal economy. The world was watching. A Convention addressing violence and harassment in the world of work was long overdue.

155. The Government members of Argentina, Canada, China, Colombia, Cuba, France on behalf of the EU and its Member States, India, New Zealand, the Philippines, and Uganda on behalf of the Africa group agreed that they remained in favour of a Convention supplemented by a Recommendation. A Convention on violence and harassment in the world of work was indeed overdue, and the ILO centenary in 2019 would provide a good opportunity for its adoption. Such a Convention needed to reflect the shared goals of the social partners and must be ratified as widely as possible. They therefore did not support the amendment.

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- 156.** The Government member of the United States said that while the views of the constituents might differ on certain specificities, all agreed that violence and harassment was unacceptable, and that action must be taken. Clear guidance was therefore required on how to address violence and harassment effectively. Such guidance should focus on the mandate of the ILO and its expertise. She supported the proposed amendment.
- 157.** The Government member of Japan underscored the importance of ensuring that the instrument, in whatever form it would take, would be clear and flexible. The scope of the text currently before the Committee seemed too broad. His delegation wished to reserve its position on whether a Convention or a Recommendation would be more appropriate until the whole text was discussed.
- 158.** The amendment was not adopted.
- 159.** Two subsequent amendments in part C fell as a result.
- 160.** Point 2 was adopted without amendment.
- 161.** Part A was adopted.

B. Definitions and scope

- 162.** The title of Part B was adopted without amendment.

Point 3

Chapeau

- 163.** The chapeau of point 3 was adopted without amendment.

Point 3(a)

- 164.** The Employer Vice-Chairperson introduced an amendment to replace point 3(a) with the following two clauses: “workplace violence is the exercise of physical force in a workplace that causes or could cause harm, injury or illness; workplace harassment is unwanted behaviour in a workplace that could reasonably be expected to offend, humiliate or intimidate;”. The purpose of the amendment was to separate and to treat distinctly the definition of violence and harassment. Violence was absolute, normally involving physical force, and was unacceptable in all circumstances, while harassment might be subjectively interpreted by the victim, the perpetrator or others. The introduction of the word “workplace” before “violence” and “harassment” clarified that the instruments would address realms in which employers could make a difference and exercise control. While violence involved criminal acts, harassment could potentially represent a broader spectrum of behaviours, including non-physical forms of violence, which called for a more nuanced set of responses and remedies.
- 165.** The Worker Vice-Chairperson did not support the amendment, as it was too limited in scope. The Committee’s mandate was not to redefine violence and harassment, but rather to discuss the forms it could take in the world of work. Combining subjective and objective views was common when determining a case of discrimination. The Tripartite Meeting of Experts had indicated that violence and harassment consisted of a range of unacceptable behaviours which were often present in combination and evolved or escalated. Moreover, many laws on discrimination treated both direct and indirect discrimination. The Workers’ group therefore wished to adopt the original text without amendment.

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- 166.** The Government member of Uganda, speaking on behalf of the Africa group, did not agree to the separation of violence and harassment, as small incidences could escalate into violence. The word “workplace” should not be added; violence and harassment could occur between an employer and worker, or between colleagues, and could occur outside the workplace, but still in the world of work. He therefore did not support the amendment.
- 167.** The Government member of Bulgaria, speaking on behalf of the EU and its Member States, while in favour of separate definitions of violence and harassment, could not support the amendment, as the definition would be rendered too narrow, not taking due account of psychological or other harm caused by violence. Harassment was also not a subcategory of violence. The Government member of the United States also supported separate definitions of violence and harassment, and agreed that harassment was not a subcategory of violence.
- 168.** The amendment was not adopted.
- 169.** An amendment submitted by the Africa group proposing a definition of violence was withdrawn.
- 170.** The Government member of Bulgaria, speaking on behalf of the EU and its Member States, introduced an amendment to delete the term “harassment” from point 3(a). The amendment should be considered in conjunction with two others to separate the definitions of “violence” and “harassment”, as they were often separated in national law. While acts of violence were normally covered by criminal law, acts of harassment were not necessarily. In addition, separating the two concepts would facilitate the implementation of the instrument. Harassment not only had an impact on the victim, but also on the work environment in general. The language proposed had already been agreed in other international agreements, such as the Council of Europe Convention on preventing and combating violence against women and domestic violence (Istanbul Convention).
- 171.** The Government member of Namibia, speaking on behalf of the Africa group, expressed concern that a decision had not been taken on whether to discuss a single definition or separate definitions of “violence” and “harassment”. Other related amendments and their potential impact on the proposed instrument should also be taken into consideration.
- 172.** The Worker Vice-Chairperson clarified that she did not support the deletion of the term “harassment” in point 3(a) and emphasized that the Workers’ group was not in favour of a conceptual separation of “violence” and “harassment”; however, the group wanted to hear the views of other Committee members on the issue.
- 173.** The Employer Vice-Chairperson said that while the Employers’ group understood violence and harassment as interrelated concepts, it would prefer the terms to be defined individually. Although harassment could turn into violence, it was not equivalent to violence, so different legal responses, including those in criminal law, would apply. Given the implications for liability, clear definitions were essential. A more appropriate place to recognize the practical link between violence and harassment might be in the preamble of the proposed instrument. She noted that the Government members of the United States and Japan had also submitted amendments with the aim of discussing the concepts of violence and harassment separately.
- 174.** The Government member of Uganda, speaking on behalf of the Africa group, and supported by the Government members of Australia, Brazil, Cuba and New Zealand, underscored that the Africa group was in favour of keeping the issues of violence and harassment together, as although not synonymous, they were interrelated. Various types of harm could result from the continuum of violence and harassment. If the terms were not addressed together, the point of the proposed instrument would be lost. The text as prepared by the Office was therefore preferable.

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175. The Government member of the Russian Federation supported the position put forward on behalf of the EU and its Member States. Addressing violence and harassment together could pose problems, as harassment was just one form of violence. The proposed instrument should address all forms of violence. Deleting “harassment” could give member States greater flexibility to respond to violence through national legislation.
 176. The Government member of the United States agreed that harassment could lead to violence and that the two concepts were therefore closely interrelated. Her delegation had, however, submitted amendments proposing definitions for the two terms. While preferring to define the two concepts separately, her Government would consider amending the chapeau of point 3 to show the potential range, and link, between the two. Both violence and harassment were unacceptable and could not be tolerated.
 177. The Worker Vice-Chairperson underlined the importance of being able to address both violence and harassment through a variety of means. Some forms of harassment could also be considered criminal, such as stalking. Criminal justice systems could be difficult to access due to the cost, procedural requirements and the high burden of proof, which could dissuade victims from seeking reparation.
 178. The Employer Vice-Chairperson clarified that harassment must indeed be addressed; however, the provisions of a legally binding instrument would be translated into legal and regulatory measures by Member States. The issues of liability, responsibility and sanctions were of concern. Considerable caution would need to be exercised if a unified definition of violence and harassment was accepted to ensure that the concepts were clearly understood.
 179. The Government member of Bulgaria, speaking on behalf of the EU and its Member States, while underscoring that the EU would prefer two separate definitions, withdrew the amendment.
 180. The Government member of the United States, speaking also on behalf of the Government members of Australia, Canada, Israel, New Zealand, Norway and Switzerland, introduced an amendment to add after “violence and harassment” the phrase “in the world of work”, for the purposes of consistency with the title of the instrument.
 181. The Employer Vice-Chairperson stated that the reference to “world of work” was unnecessary and that the Employers’ group preferred the term “workplace”.
 182. The Worker Vice-Chairperson expressed her support for the amendment, as similar terminology had been agreed during the Tripartite Meeting of Experts on Violence Against Women and Men in the World of Work in 2016. The phrase “world of work” captured the changing nature of work, including new types of work and platforms.
 183. The Government member of Uganda, speaking on behalf of the Africa group, and the Government members of Brazil and Uruguay, supported the amendment. The modernization of jobs meant that there were many different modalities of work, including travelling while working from place to place, and thus it was more realistic to refer to the “world of work”.
 184. The amendment was adopted.
 185. The Government member of Bulgaria, speaking on behalf of the EU and its Member States, withdrew an amendment proposing a definition of the term “violence”.
 186. The Government member of Brazil, speaking also on behalf of the Government members of Mexico and Peru, withdrew an amendment to replace “a continuum of” by “any and all”.

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- 187.** The Government member of Australia, speaking also on behalf of the Government members of Canada, Israel, Norway, Switzerland and the United States, introduced an amendment to point 3(a) to replace “continuum” with “range”, as the term “continuum” implied a value judgement. The term “range” was also a simpler term.
- 188.** The Worker Vice-Chairperson supported the amendment.
- 189.** The Employer Vice-Chairperson agreed that the term “range” was preferable to “continuum”, but underscored that combining the concepts of violence and harassment created difficulties, both in terms of legal concepts and legal remedies.
- 190.** The Government member of Uganda, speaking on behalf of the Africa group, and the Government member of Bulgaria, on behalf of the EU and its Member States, supported the amendment.
- 191.** The amendment was adopted.
- 192.** The Worker Vice-Chairperson withdrew an amendment to replace “continuum” with “spectrum”.
- 193.** The Government member of Japan introduced an amendment, seconded by the Government member of Thailand, to replace “, or threats thereof” with “beyond business necessities”. For an act to constitute an act of harassment, it needed to go beyond business needs and necessities. For example, physical harm experienced by a police officer in pursuit of evidence, or economic harm experienced by a worker whose wages had been reduced, would not constitute harassment, as they were related to business necessities.
- 194.** The Employer Vice-Chairperson agreed that appropriate actions by managers should not be seen as violence and harassment. A combined definition of violence and harassment was complex; the intention behind behaviours could be misinterpreted. The issue could potentially be addressed, however, through the use of exclusionary language, defining circumstances that did not constitute violence and harassment.
- 195.** The Worker Vice-Chairperson did not support the amendment.
- 196.** The Government member of New Zealand did not support the amendment. It was well within the competencies of member States to define what did, or did not, constitute violence and harassment in their national contexts.
- 197.** The Government member of Uganda, speaking on behalf of the Africa group, explained that the concern expressed by the Government member of Japan was already covered by the term “unacceptable behaviours”. He therefore did not support the amendment.
- 198.** The Government member of Indonesia, supported by the Government member of Bulgaria, on behalf of the EU and its Member States, and the Government member of the Philippines, added that the deletion of “threats” would limit the range of violence and harassment. He also did not support the amendment.
- 199.** The amendment was not adopted.
- 200.** The Government member of Switzerland, speaking also on behalf of the Government member of Canada, introduced an amendment to replace “having the aim or effect of causing” with “that result in, or are likely to result in,”, which had been informed by language included in the Istanbul Convention. Any behaviour related to violence and harassment should be recognized as unacceptable, without needing any further clarification. The words

“aim” or “effect” narrowed the scope of the definition. Violence and harassment were not necessarily motivated by a particular intention. Moreover, proving intention could be difficult. Additionally, a given behaviour could be unacceptable even without effect.

201. The Worker Vice-Chairperson supported the amendment.
202. The Employer Vice-Chairperson expressed regret that the nuances of harassment required discussion. The combined definition of violence and harassment continued to create problems. Unlike violence, harassment could not be defined in absolute terms. To demonstrate that, she gave the example of someone complimenting a female colleague’s clothing. While the intention might have been innocent, the woman in question could feel offended, which could lead to a sanction for the person making the comment. The notion of intentionality should be maintained in view of the subjectivity inherent in harassment. The Employers’ group therefore did not support the amendment.
203. The Government member of Namibia, speaking on behalf of the Africa group, while agreeing with the amendment to a certain extent, was concerned that removing the word “aim” would make the provision too narrow. There could be an aim to harass with a malicious intent, which might not be effective. She proposed a subamendment, which would read “having the aim or effect of causing, or is likely to result in,”.
204. The Chairperson suggested a formulation that would reflect the positions of the Government members of the Africa group, Canada and Switzerland, such that the text would read “that aim at, result in, or are likely to result in,”.
205. The Worker Vice-Chairperson also supported the proposed formulation.
206. The Employer Vice-Chairperson reiterated that the Committee should work towards the adoption of a Convention that would be implementable at the country level and that the proposed text could cause problems in that regard, owing to the complex combination of behaviours falling under a single definition.
207. The Government member of India did not support the amendment, which could give rise to ambiguities in interpretation.
208. The Government member of Australia proposed a subamendment to include the word “reasonably”, to read “reasonably likely to result in”.
209. The Government member of Namibia, speaking on behalf of the Africa group, did not support that subamendment.
210. The Government member of India expressed her understanding that when an unacceptable behaviour or practice was intended to cause some kind of harm, it would be likely to do so. “Or are likely to” was therefore superfluous.
211. The Government member of Canada explained that the intention of the amendment was to focus on the impacts of violence and harassment, whether intended or unintended.
212. The Government member of Australia withdrew his subamendment.
213. The Government member of Peru supported the amendment, as proposed by the Government member of Canada.
214. The Government member of Cuba, noting the importance of including language on intent, supported the subamendment proposed by the Africa group.

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- 215.** The amendment was adopted as subamended.
- 216.** The Government member of Brazil, speaking also on behalf of Mexico and Peru, introduced an amendment to insert “, moral” after the word “sexual”, so as to include certain behaviours which could harm the moral integrity of either an individual or an entire group, for example, a sexist or racist comment.
- 217.** The Employer Vice-Chairperson did not support the amendment, which would render the amended text difficult to interpret.
- 218.** The Government member of Cuba, supported by the Government members of Australia and New Zealand, while sympathetic to the motivation behind the amendment, felt it was inadvisable to introduce concepts outside the realm of labour law and therefore did not support the amendment.
- 219.** The Worker Vice-Chairperson, given the Governments’ views, did not support the amendment.
- 220.** The amendment was not adopted.
- 221.** The Government member of the United States, speaking also on behalf of the Government members of Australia, Canada, Israel, New Zealand, Norway and Switzerland, introduced an amendment to add the words “and harassment” after “gender-based violence” for the purposes of consistency.
- 222.** The Worker Vice-Chairperson supported the amendment.
- 223.** The Employer Vice-Chairperson did not object to the amendment.
- 224.** The Government member of Bulgaria, speaking on behalf of the EU and its Member States, introduced a subamendment to add the words “and gender-based harassment” after the words “gender-based violence”, since two separate legal terms would be required.
- 225.** The Employer Vice-Chairperson supported the subamendment, which added greater legal clarity to the definitions.
- 226.** The Worker Vice-Chairperson did not support the subamendment.
- 227.** The Government member of Uganda, speaking on behalf of the Africa group, supported by the Worker Vice-Chairperson, recalled that the Committee had already agreed that violence and harassment would be treated as one concept. If accepted, the term “gender-based harassment” would need to be defined separately, which could be complex; he did not support the subamendment.
- 228.** The Employer Vice-Chairperson cautioned that the definition was becoming overly complicated. The response required in a case of sexual harassment might be very different to that required in a case of severe physical assault. The Committee must reflect on the practicalities and remain pragmatic.
- 229.** The Government member of Brazil cited linguistic reasons in the French and Spanish translations to suggest there was no need to introduce “gender-based” twice. She did not support the subamendment as proposed by the Government member of Bulgaria, on behalf of the EU and its Member States, and supported the original amendment that introduced “and harassment”.

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- 230.** The Chairperson clarified that the Committee had not yet adopted point 3(a) and that the previous amendments discussed had also addressed the language of clause (a). Returning to the subamendment before the Committee, he suggested that there was support for the original amendment, but not for the subamendment.
- 231.** The Employer Vice-Chairperson, while not satisfied with the overall definition, indicated that the Employers' group could accept either the subamendment or the amendment.
- 232.** The Government member of Bulgaria, speaking on behalf of the EU and its Member States, in view of upcoming amendments that provided clear guidance on the definitions and given the lack of support, withdrew the subamendment. She did not, however, support the amendment and would prefer to maintain the original text.
- 233.** The amendment was adopted.
- 234.** Point 3(a) was adopted as amended.

New sub-clauses after point 3(a)

- 235.** The Government member of the United States, also speaking on behalf of the Government of Japan, introduced two amendments to add two sub-clauses to point 3(a) to read: “(i) violence means violent acts, including physical assaults and threats of assault, directed towards persons at work or on duty”; and “(ii) harassment means unwelcome, discriminatory conduct that creates an intimidating, hostile or abusive working environment, or when submission to such conduct is a term or condition of employment, or when submission to or rejection of such conduct is used as the basis for employment.”.
- 236.** The Worker Vice-Chairperson reiterated her group's hesitancy to separate the terms “violence” and “harassment”.
- 237.** The Employer Vice-Chairperson supported the amendments proposed by the Government member of the United States, which provided a constructive way forward that would allow the Committee to move on to more substantive provisions of the text. It represented a compromise. The Employers' group was satisfied with the way in which violence was being defined.
- 238.** The Government member of Uganda, speaking on behalf of the Africa group, and supported by the Government member of Cuba, stated that the Committee had already decided that the definition of violence and harassment would be dealt with in a consolidated form. The amendment being proposed was another attempt to introduce two separate definitions, within a clause that had already been adopted. The amendments should have fallen with the closure of the discussion on point 3(a).
- 239.** The Chairperson explained that while the Committee had indeed closed the debate on point 3(a), the amendments pertained to the introduction of new sub-clauses and must therefore be given due consideration.
- 240.** The Government member of Cuba requested that the amendments be put to a vote.
- 241.** The Legal Adviser added that, according to article 63, paragraph 7(2), of the Standing Orders of the Conference, the order in which the amendments would be discussed was at the discretion of the Chairperson. The amendments currently under consideration pertained to new sub-clauses and therefore would not have fallen with the adoption of point 3(a).

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- 242.** The Government member of Brazil did not support the amendments, as she considered the proposed definition too restrictive.
- 243.** The Government member of Bulgaria, speaking on behalf of the EU and its Member States, considered the proposed amendments constructive and suggested that greater clarity would allow for a widely ratifiable Convention. She introduced a subamendment to add “and practices” after “violent acts”. She also suggested a need to mention psychological and economic acts, and proposed that an informal discussion could be held to find an acceptable compromise.
- 244.** The Worker Vice-Chairperson expressed hesitation about separating violence from harassment, but understood the rationale behind the proposed amendments. She introduced a subamendment to replace “at work or on duty” with “in circumstances related to work” in line with language contained in the European framework agreement on harassment and violence at work (2007).
- 245.** The Government member of Argentina stated that violence should be understood as physical assault or threat thereof in the work environment and in the delivery of services.
- 246.** The Government members of Australia and Panama supported the proposed amendments.
- 247.** The Government member of Canada, while preferring a single definition of violence and harassment, including the psychological dimension, supported the amendments, as subamended by the EU and its Member States, and further subamended by the Workers’ group.
- 248.** The Government member of the Russian Federation stated that the proposed instrument would be widely disseminated and, to enable the majority of member States to ratify it, the definitions should be succinct. For that reason, he did not support the subamendment.
- 249.** The Employer Vice-Chairperson reiterated her concern about conflating the two concepts of violence and harassment. In the proposed new sub-clauses, the definition of violence was meant to be read in conjunction with the definition of harassment. The terms would require different responses, which would need to be considered when discussing remedies. She supported the subamendment proposed by the Workers’ group.
- 250.** The Worker Vice-Chairperson was concerned that the proposed sub-clauses were too prescriptive and could result in a Convention that would be difficult to implement. She emphasized the importance of a broad definition of violence and harassment that could be adopted into the policies of member States and interpreted through criminal law, labour laws and other domestic legislation.
- 251.** The Employer Vice-Chairperson reiterated the importance of ensuring a clear definition of the acts employers would be responsible for preventing and for which they would be held accountable. Without clear definitions, it would be challenging for employers to take appropriate measures in line with their obligations under points 11 and 12 of the proposed Conclusions. If harassment was defined by considering only how a victim felt, any act could be deemed harassment on the basis of the perception of offence. The Employers’ group was not seeking to absolve employers of responsibility to set standards in their workplaces; on the contrary, enterprises of all sizes could implement some prevention policies. Prescribing liability, sanctions and assigning blame, however, would be a step too far. Her group required reassurance in that regard.
- 252.** The Worker Vice-Chairperson recalled that the Committee was discussing cases of actual harm. A definition of violence and harassment did not prescribe employer obligations.

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- 253.** The Government member of Paraguay, speaking on behalf of the group of Latin American and Caribbean countries (GRULAC) emphasized that clarity of concepts would be vital to ensure ratification of the proposed instrument.
- 254.** The Government member of France, speaking on behalf of the EU and its Member States, shared the view of the Employers' group that the obligations of all parties must be defined clearly to facilitate implementation of the proposed instrument at the national level.
- 255.** The Government member of Uganda, speaking on behalf of the Africa group, supported by the Government member of New Zealand, favoured broad and flexible definitions of violence and harassment, with more detailed definitions determined at the national level. While it was not reasonable to expect employers alone to prevent violence and harassment at work, point 12 called on member States to adopt national laws and regulations requiring employers to "take steps" to prevent violence and harassment, not to prevent it completely.
- 256.** The Government member of Canada, added that a flexible definition, as well as being more inclusive, would cover behaviours that were likely to become more prevalent in future, such as cyberbullying.
- 257.** The Employer Vice-Chairperson appreciated the recognition that employer obligations were not absolute. However, in light of the definition of violence and harassment contained in point 3(a), which referred only to the subjective impact of the behaviour, she remained concerned.
- 258.** The Government member of India said that the effectiveness of an instrument would be contingent on its implementation. She supported the addition of sub-clauses (a)(i) and (ii) as proposed, as long as they were consistent with point 3(a).
- 259.** The Government member of Cuba reiterated that he did not support the amendments, as the Committee had already agreed to treat violence and harassment as one concept; adding the sub-clauses would be counter to that agreement. Furthermore, the Committee was not competent to address human rights issues. Violence and harassment manifested in different ways, depending on context, and a broad scope of definitions would therefore be preferable.
- 260.** The Government member of New Zealand, supported by the Government member of Zambia, added that freedom from violence and harassment was the ultimate expression of a healthy and safe workplace. Employers could not, however, be held responsible for everything.
- 261.** Following informal consultations, the Government member of France, speaking on behalf of the EU and its Member States, withdrew his subamendment.
- 262.** The Government member of Australia, speaking on behalf of the Asia and Pacific group (ASPAG), acknowledged the importance of clear language to ensure an instrument that could be broadly approved and potentially easily ratified. She moved a motion to establish a small tripartite working group to work in parallel to the Committee to consider the proposed new sub-clauses and the subamendments thereto.
- 263.** The Government member of France, on behalf of the EU and its Member States, the Government member of the United States and the Employer Vice-Chairperson supported the motion.
- 264.** The Government member of Cuba, supported by the Government member of Uganda on behalf of the Africa group, did not support the motion, which constituted another attempt to

reopen a matter that the Committee had already decided. Time was being wasted and discussions were not progressing.

- 265.** The Chairperson clarified that if a working group were to be established, its terms of reference would have to be clearly defined. Such a group would be mandated to discuss the amendments submitted by the Government members of the United States and Japan on the addition of the two sub-clauses after point 3(a) and nothing more. It would comprise representatives of the Employers' and Workers' groups and the four regional Government groups.
- 266.** The Worker Vice-Chairperson did not support the idea of a working group.
- 267.** The Government member of Namibia maintained that point 3(a) was adequate and that overly prescriptive Conventions tended not to be well ratified. She did not support the establishment of a working group.
- 268.** The Employer Vice-Chairperson said that the idea of smaller working groups should not be discarded altogether; they could be useful to solve contentious questions. However, she no longer saw merit in establishing a working group on the proposed sub-clauses to point 3(a).
- 269.** The Government member of the United States withdrew the two amendments.
- 270.** The Government members of France, on behalf of the EU and its Member States, and of Uganda, on behalf of the Africa group, withdrew their respective amendments to add a new clause defining the term "harassment".

Point 3(b)

- 271.** The Employer Vice-Chairperson introduced an amendment to replace clause (b) with "workplace violence or workplace harassment is gender-based if it is directed at persons because of their sex or gender, or affects persons of a particular sex or gender disproportionately;". For the sake of consistency, she proposed a subamendment to delete the word "workplace" in both instances.
- 272.** The Worker Vice-Chairperson and the Government member of New Zealand supported the subamendment.
- 273.** The Government member of Israel introduced a further subamendment which sought to add the words "including sexual harassment" at the end of the clause. The #MeToo campaign highlighted the significance of sexual harassment in the workplace. Even though gender-based violence included sexual harassment, a clear statement should be made in that regard, in the light of current public debates.
- 274.** The Government members of Australia, Brazil, Canada and Switzerland supported the subamendment proposed by the Government member of Israel.
- 275.** The Worker Vice-Chairperson also supported the subamendment.
- 276.** The Employer Vice-Chairperson was of the opinion that the additional subamendment made the text repetitive. Since gender-based violence included sexual harassment, the Employers' group could not support the subamendment from the Government member of Israel. The Government members of Argentina and Chile agreed.

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- 277.** The Government member of France, speaking on behalf of the EU and its Member States, wished to introduce a further subamendment which sought to replace the words “including sexual harassment” by “and includes sexual harassment”.
- 278.** The Employer Vice-Chairperson supported the subamendment proposed by the Government member of France, on behalf of the EU and its Member States.
- 279.** The Government member of Cuba, supported by the Government members of Angola, India, and Uganda on behalf of the Africa group, wished to introduce a further subamendment to add the words “world of work” at the end of the sentence.
- 280.** The Worker and Employer Vice-Chairpersons deemed the subamendment redundant.
- 281.** The Government member of Cuba withdrew his subamendment.
- 282.** The subamendments proposed by the Employers’ group, the Government member of Israel and the Government member of France, on behalf of the EU and its Member States, were adopted.
- 283.** The amendment was adopted as subamended. As a result, two amendments fell.
- 284.** Point 3(b) was adopted as amended.

Point 3(c) and (d)

- 285.** Following informal consultations, the Worker Vice-Chairperson explained that her group had been engaging with the Employers’ group, as well as with some Government members, with the aim of reaching agreement on the definitions of “employer” and “worker”, as respectively contained in point 3(c) and (d) of the proposed Conclusions.
- 286.** The Employer Vice-Chairperson noted that definitions of the terms “employer” and “worker” varied at the national level, or even between different federal states of one country. An even more serious problem with the definition was the idea of indirect employment, which the employers would never accept because they could only take an employer responsibility for persons in their direct employment. For those reasons, her group did not support the definitions in the original text.
- 287.** The Worker Vice-Chairperson added that during informal discussions between the social partners, the Workers’ group had shared definitions of “worker” and “employer” that were used in other instruments, for example the Transition from the Informal to the Formal Economy Recommendation, 2015 (No. 204), as well as definitions that had been used in various meetings of experts.
- 288.** The Government member of Brazil introduced an amendment, also on behalf of the Government member of Mexico, to delete the definition of “employer”. If the definition were deleted, member States could use national definitions or refer to definitions found in international standards.
- 289.** The Employer Vice-Chairperson understood the intention of the amendment, but pointed out that the term “employer” appeared repeatedly throughout the text and would continue to be problematic for the Employers’ group.
- 290.** The Government member of France, speaking on behalf of the EU and its Member States, noted that the issue of responsibility concerned not only workers and employers, but also governments.

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291. The Government members of Brazil, Chile and India noted that it was important to define both “employer” and “worker”, since the terms appeared further on in the text.
292. The Government member of New Zealand stated that the parties to whom the instrument would apply needed to be identified.
293. The Government member of Cuba understood that the essence of the discussion was to identify who was to be protected from violence and harassment in the world of work. While there were a limited number of complaints of employers being abused by workers, the majority of victims were workers. It was therefore important to have a minimum definition of both terms.
294. The Employer Vice-Chairperson emphasized that the definition of the persons who had responsibilities needed to be clear, and those responsibilities needed to be reasonable, clear and within appropriate areas of control and influence. The current conflated definition of violence and harassment created significant challenges within the broader operational provisions; as such, it would be difficult for the group to support a Convention. That position would not change, even if the definitions of “worker” and “employer” were deleted. Including concepts that had no single, universal definition was challenging. While the terms did appear in other instruments, those were for different purposes.
295. The Worker Vice-Chairperson agreed with the Office definition of “employer”, as contained in the *General principles and operational guidelines on fair recruitment* agreed by the tripartite partners. The Workers could agree to delete the definition of “employer” on condition that the Committee worked on an inclusive definition of “worker”. It was her understanding that the usual practice of the Conference had been to work on the broadest definition of “worker”, and her group was also willing to work on the broadest definition of “employer”. Violence and harassment could occur between workers, be directed from workers to employers, or involve interactions with the public.
296. The deputy representative of the Secretary-General noted that very few ILO Conventions defined the term “employer”; for example, the Occupational Safety and Health Convention, 1981 (No. 155), contained no definition of “employer”. However, that did not preclude the Convention from clarifying that employers had certain responsibilities.
297. The Worker Vice-Chairperson, the Government member of Uganda, on behalf of the Africa group, and the Government member of Brazil agreed that, on that basis, a definition of “employer” was not needed, as responsibilities could still be assigned to the employer. The definition of “employer” could be deleted if that of “worker” remained as proposed by the Office.
298. The Employer Vice-Chairperson also supported the amendment to delete point 3(c).
299. The Government member of Chile supported the amendment. The absence of a definition of “employer” would not impede implementation of the proposed instrument at the national level. He hoped that a balanced and broad definition of “worker” could be found, lending itself to a future Convention which was ratifiable and capable of implementation in all regulatory and legal contexts.
300. Following an exchange of views, the Committee agreed to discuss proposed amendments to point 3(d) on the definition of “workers” before pronouncing on amendments to point 3(c) on the definition of “employers”. The Employer Vice-Chairperson had, however, expressed her reluctance to proceed in that manner. The discussion on the amendment proposed by the Government member of Brazil was therefore suspended.

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- 301.** The Government member of Brazil withdrew an amendment proposing to delete point 3(d).
- 302.** The Employer Vice-Chairperson resubmitted the amendment, in accordance with article 63(8)(2) of the Standing Orders of the Conference. The group did not wish to limit the scope of an instrument, and it was clearly understood that employers had a responsibility in addressing violence and harassment. However, the challenge was to find a common definition of “workers” that worked for all parties and all countries. The Employers’ group questioned how individuals who were not workers could be protected from violence and harassment by an employer; there would be considerable difficulties in applying such a broad definition in the operational provisions. A deletion of clause 3(d) might be a way to move the discussion forward.
- 303.** The Government member of Cuba doubted the usefulness of resubmitting the amendment. He urged the Committee to discuss a definition of “worker”.
- 304.** The Government member of Namibia wondered whether the resubmission of the amendment could be deferred. If the discussion was now about whether or not a definition of “worker” was sought, it was still unclear to her whether the Employers’ group wanted a definition or not, as the group had also prepared its own amendments to point 3(d).
- 305.** The Government member of Japan sought clarity about the implications of not defining “employer”, while providing a definition for the term “worker”. He asked the secretariat if there were any existing instruments in which there was no definition of “employer”, but a definition of “worker”.
- 306.** The deputy representative of the Secretary-General confirmed that there were instruments in which no definition of “employer” was provided, but a definition of “worker” was; one example was the Domestic Workers Convention, 2011 (No. 189), which contained no definition of “employer”, but a definition of “domestic worker”, to ensure that those workers who usually would fall outside of the application of labour law would be covered by the instrument.
- 307.** The Government member of New Zealand, supported by the Government member of Australia, considered that a discussion on a definition should not start by deleting the text altogether. He did not support the amendment that had been resubmitted by the Employers’ group and preferred to base the discussion on clause (d) on the original text of the proposed Conclusions.
- 308.** The Government member of Japan asked whether a general definition of “worker” was given without providing a general definition of “employer” in any instrument other than the Domestic Workers Convention, 2011 (No. 189), in general.
- 309.** The deputy representative of the Secretary-General provided information on other instruments which provided no definition of “employer”, but did provide a definition of “worker”, including the Occupational Safety and Health (Dock Work) Convention (No. 152), and Recommendation (No. 164), 1979; the Occupational Safety and Health Convention (No. 155), and Recommendation (No. 164), 1981; the Asbestos Convention, 1986 (No. 162); the Protection against Accidents (Dockers) Convention (Revised), 1932 (No. 32); and the HIV and AIDS Recommendation, 2010 (No. 200).
- 310.** The Government members of Cuba, Canada, and France, on behalf of the EU and its Member States, did not support the resubmission of the amendment by the Employers’ group.
- 311.** The amendment was not adopted.

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- 312.** The Employer Vice-Chairperson introduced an amendment to replace clause (d) with the following text: “the term ‘worker’ should cover all workers as defined in national law and practice and should include those in the formal and informal economy, whether in urban or rural areas”. The Employers’ group had tried on a number of occasions to work towards a definition of “worker” which would be appropriate in all national contexts. The eight fundamental Conventions did not contain a definition of either “worker” or “employer” and that was perhaps why they enjoyed high rates of ratification. The Employers’ group disagreed with including individuals who were not workers in a definition of “worker”.
- 313.** The Worker Vice-Chairperson could not agree to the amendment, as it was limiting in scope. Workers were not defined in a restrictive manner in other ILO Conventions, such as in the Private Employment Agencies Convention, 1997 (No. 181). The list of “workers” identified in the proposed Conclusions were those most vulnerable to violence and harassment. The Workers’ group had noted the concerns of the Governments regarding the definition of “workers”, but supported the original text in the proposed Conclusions.
- 314.** The Government member of France, speaking on behalf of EU and its Member States, did not support the amendment, as the definition of “workers” should be inclusive and not restricted by domestic legislation.
- 315.** The Government member of Uganda, speaking on behalf of the Africa group, and the Government members of Argentina and Cuba did not support the amendment.
- 316.** The Employer Vice-Chairperson expressed concern that although all persons should be protected from violence and harassment in the workplace, not all persons should necessarily be defined as workers. Not all of the potential measures that could be taken for workers would also be appropriate for jobseekers, job applicants or others. For example, anti-harassment trainings for employees were not measures that employers could reasonably take for jobseekers. A reference to “other persons” could be made separately from the definition of “worker”. Attributing the term “worker” to persons who were not workers might not be in line with national law and policy, and could stand as a barrier to achieving a widely supported instrument.
- 317.** The amendment was not adopted.
- 318.** The Government member of Canada, speaking also on behalf of the Government members of Australia, Switzerland and the United States, introduced an amendment to delete all of the sub-clauses related to the definition of “worker”. The definitions should not be overly prescriptive, applicable to different contexts and flexible enough to cover emerging forms of violence and harassment.
- 319.** The Worker Vice-Chairperson could not support the amendment, since there was a need to protect the broadest possible number of workers and it was crucial not to leave anyone behind.
- 320.** The Employer Vice-Chairperson also could not support the amendment, since it covered all persons whether or not they were in a workplace and whether or not they were in an employment relationship.
- 321.** The Government member of Canada withdrew the amendment.
- 322.** The chapeau of point 3(d) was adopted without amendment.
- 323.** The Government member of France, speaking on behalf of the EU and its Member States, introduced an amendment to replace sub-clause (i) with “employees as defined by national

law and practice” and noted that the amendment was part of a package with the objective of dividing the sub-clauses under clause (d) into two categories. Groups currently listed under sub-clauses (i) and (ii) would be covered by the Convention, while the remaining groups under sub-clauses (iii)–(v) would be covered by the Recommendation. The intention was to achieve the most inclusive definition of workers, while also conforming with national law. A subsequent amendment by his group would propose that “the term ‘worker’ could also include: persons in any employment or occupation, irrespective of their contractual status; laid-off and suspended workers; volunteers; and jobseekers.”.

- 324.** The Employer Vice-Chairperson appreciated the intention of narrowing the definition of “worker”, but pointed out that it would still include some people who were not technically workers and for whom employer obligations could not be extended.
- 325.** The Worker Vice-Chairperson could not accept the amendment, which raised the question as to who was considered an employee in national law. National definitions of “employee” often excluded many categories of workers who were typically most at risk of violence and harassment. She did not understand the objection to including “persons in any employment or occupation”, since that was the formulation enshrined in the Discrimination (Employment and Occupation) Convention, 1958 (No. 111). Discrimination was a widely recognized cause of violence and harassment.
- 326.** The phrase “irrespective of contractual status” was also important language, because it covered workers with fixed-term, part-time and zero-hours contracts, as well as other emerging working arrangements that represented high risk factors for violence and harassment. Her group preferred the original text. The persons listed in the sub-clauses were those most vulnerable to violence and harassment, who usually fell outside the scope of protections. It would not be possible to have a forward-looking instrument if they were excluded. Job applicants, jobseekers and volunteers were especially vulnerable to violence and harassment, such as requests for sexual favours.
- 327.** The Government member of Uganda, speaking on behalf of the Africa group, stressed that the definition of “worker” would vary across and within jurisdictions. Given that the proposed instrument was intended for global application, it was important that protections were applied irrespective of contractual status. The Africa group did not support the amendment.
- 328.** The Government member of Namibia noted that all parties were considering the text from the perspective of their own circumstances. It was important to remember that the definition of “worker” would change across contexts and over time. Nevertheless, there appeared to be broad agreement that no one should be excluded.
- 329.** The Government member of France, speaking on behalf of the EU and its Member States, clarified that the objective of the amendment was to seek a compromise between the positions of the Employers’ and Workers’ groups. The objective remained to protect women and men, clients, third parties and others, in line with point 5 of the proposed Conclusions.
- 330.** The Employer Vice-Chairperson stated that the Employers’ group could not support the amendment. That notwithstanding, she agreed that violence against volunteers was totally unacceptable, as was the request of sexual favours from job applicants. It was vital to keep in mind that labels could pose problems when engaging in legal processes.
- 331.** The Government member of Australia introduced a subamendment to add the words “as well as persons in training, including interns and apprentices; laid-off and suspended workers; volunteers; and jobseekers and job applicants” after “law and practice”.

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- 332.** The subamendment was seconded by the Government member of Canada.
- 333.** The Government member of the Dominican Republic did not support the subamendment proposed by the Government member of Australia.
- 334.** The Worker Vice-Chairperson emphasized that she could not support the subamendment because national laws and policies did not necessarily cover all the workers the Committee was seeking to protect, including workers with fixed-term, part-time and zero-hours contracts, as well as work arrangements that would emerge in the future. Many workers with such types of contract were women. It was well known that workers in tipping schemes, such as waitresses, often suffered harassment, which took power away from workers to negotiate their working conditions. It was therefore also imperative to ensure that they would be protected.
- 335.** The Employer Vice-Chairperson noted that challenges persisted with regard to the inclusion of some of the sub-categories, which did not fit well with certain national contexts. She did not support the subamendment.
- 336.** The Government member of Namibia, speaking on behalf of the Africa group, said that the phrase in sub-clause (d)(i) “irrespective of their contractual status” was critical, because it was through that phrase that most working people in the world would be covered. Indeed, the majority of workers in the Africa region were in the informal economy.
- 337.** The Government member of Brazil agreed that volunteers were a type of worker and, while not opposed to including job applicants, considered that jobseekers would be more difficult to include, as defining who would be responsible for their protection could be complex.
- 338.** The Government member of Canada proposed a further subamendment to include “persons irrespective of their contractual status” after the words “as well as”.
- 339.** The Government member of Australia considered that the chapeau of the clause was already broad enough to be sufficiently inclusive.
- 340.** The Government member of Indonesia supported the amendment as subamended by the Government member of Australia.
- 341.** The Government member of Brazil considered that the chapeau, as adopted, already provided coverage to workers, such as waitresses, who were particularly vulnerable to harassment.
- 342.** The Government member of Uganda, speaking on behalf of the Africa group, stressed the importance of specifying the inclusion of all persons irrespective of contractual status in the text. If that were to be omitted, the most vulnerable people in the informal economy would be left unprotected.
- 343.** The subamendment proposed by the Government of Australia, and further subamended by the Government of Canada, was not adopted.
- 344.** Following consultations, the Government member of Canada introduced a proposed subamendment to read “employees as defined by national law and practice, as well as persons working irrespective of their contractual status, persons in training, including interns and apprentices, laid-off and suspended workers, volunteers, jobseekers and job applicants”.
- 345.** The Worker Vice-Chairperson welcomed the efforts to seek consensus and supported the proposed subamendment.

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- 346.** The Employer Vice-Chairperson expressed concern regarding linking “employees” with “persons working”. The two would be better separated. She proposed a further subamendment to replace “as well as” with “. This instrument also covers”, to read: “employees as defined by national law and practice. This instrument also covers persons working irrespective of their contractual status, persons in training, including interns and apprentices, laid-off and suspended workers, volunteers, jobseekers and job applicants.” The proposal decoupled the persons who were not workers from those who were, while clarifying that both categories were covered by the instrument.
- 347.** The Government member of Uganda, speaking on behalf of the Africa group, explained that the subamendment presented by the Government member of Canada was the result of lengthy negotiations during an adjournment of the meeting intended to allow for tripartite discussion, which had been endorsed by the Chairperson. The regional representatives from the Governments, as well as the Workers’ group had participated. Unfortunately, the Employers’ group had not. The proposal of a further amendment by the Employers’ group, in spite of the consensus that had been reached, was disappointing. Many workers in irregular employment needed protection. The proposed definition was only for the purposes of the present instrument. He did not support the Employers’ proposal.
- 348.** The Government member of the Dominican Republic did not support the proposal of the Employers’ group.
- 349.** The Government member of the Islamic Republic of Iran noted that the suggested text might differ from definitions used in national laws. He suggested a new subamendment to break the sub-clause after “practice”, so that the second sentence would read: “The coverage extends to persons working irrespective of their contractual status, persons in training, including interns and apprentices, laid-off and suspended workers, volunteers, jobseekers and job applicants.” He added that on-the-job training might be defined in national law and practice.
- 350.** The Government members of Namibia and New Zealand sought clarification on the intentions of the Employers’ group, as “coverage extends to” would preclude any groups not subsequently listed from protection under the proposed Conclusions.
- 351.** The Employer Vice-Chairperson explained that her group disagreed with the coupling of concepts and definitions of workers with others that were not technically workers. While such groups should not be excluded from protection under the instrument, the definitions were not in line with some of the proposed operative provisions.
- 352.** The Worker Vice-Chairperson disagreed with the Employer Vice-Chairperson’s suggestion that those groups were not workers and noted that the proposed definitions could be found in other instruments.
- 353.** The Government member of Cuba, supported by the Government members of Australia, Brazil, the Dominican Republic, Indonesia, Israel, Japan, the Republic of Korea, Zambia, and Uganda, on behalf of the Africa group, proposed a subamendment to add “as appropriate” at the end of the text under discussion, which he felt could meet the concerns of all parties.
- 354.** The Government member of Namibia agreed with the Workers’ group; indeed, in Namibia, most of the people defined as working people would fall into those categories. Splitting the text under discussion into two sentences would give the impression that the Committee was working towards two standards: one applicable to the developed world, and another for the developing world. The proposed instrument should be applicable to all.

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- 355.** The Government member of Australia supported the subamendment, as proposed by Canada, following the informal consultations. As pointed out by the Government member of Namibia, the Committee would have to decide to which of the two categories of workers each of the operative provisions would apply. Employers would struggle to fully apply the provision on providing workers with information and training, if workers included jobseekers. Categorizing workers would facilitate implementation.
- 356.** The Government members of Brazil, India and Zambia also preferred not to include jobseekers in the definition of workers. A categorical division of workers would not be welcome, as everybody deserved protection against violence and harassment.
- 357.** The Government member of France, speaking on behalf of the EU and its Member States, reminded the Committee members that the EU proposal to delete entire categories under point 3(d) had been made with the intention of including them in the draft text for a Recommendation. He concurred with the statements made by the Government members of the Dominican Republic and the Islamic Republic of Iran regarding the contractual status of workers and supported the proposal by the Government member of Cuba.
- 358.** The Government member of Argentina stated that including laid-off persons as a category of worker could also be a potential barrier to implementation, as they were persons with a void contractual relationship.
- 359.** The Government members of Israel and the United States welcomed the result of the informal tripartite consultations, which would provide a good basis for discussion in 2019.
- 360.** The Government member of Israel was aware that the conceptual division of workers into two categories would have implications for parts of the remaining text and therefore might not be helpful.
- 361.** The Worker Vice-Chairperson requested clarification on the implications of adding “as appropriate” at the end of the current text, as proposed by the Government member of Cuba.
- 362.** The deputy representative of the Secretary-General clarified that adding “as appropriate” would mean that coverage of workers under the instrument would be a matter for each government’s own discretion. The text under discussion was about categories, whereas subsequent sections referred to operational measures. Depending on the types of operational measures foreseen in an instrument, “as appropriate” could be added to the text for the different relevant measures.
- 363.** The Employer Vice-Chairperson reiterated that the core concern for the Employers’ group was that the instrument would cover persons who were not workers, including job applicants and persons who were no longer in the workforce. Under point 12(d), that would mean that employers, for example, would be obliged to train jobseekers on the risks of violence and harassment. Another contentious issue would be access to collective bargaining, which was not an applicable concept for jobseekers and volunteers. Furthermore, the proposed point 23, interpreted in conjunction with the text under discussion, would mean that jobseekers and volunteers were also to be involved in the design, implementation and monitoring of policies on violence and harassment. She hoped that the Committee would be able to work through some of these issues in 2019, as they would otherwise stand as a barrier to the implementation of the instrument.
- 364.** The Worker Vice-Chairperson proposed to add “as appropriate” only after “persons in training, including interns and apprentices”.

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- 365.** The Government member of Cuba withdrew his proposal to add “as appropriate”, which had been intended to address the concerns of the Employers’ group, as the Employers’ group did not support it.
- 366.** The Government member of Namibia reiterated her support for the consolidated subamendment, as presented by the Government member of Canada.
- 367.** The subamendment was adopted.
- 368.** Point 3(d) was adopted as subamended, and several proposed amendments fell as a result.
- 369.** The Government member of Brazil reintroduced an amendment, also on behalf of the Government member of Mexico, to delete clause (c), discussion of which had been postponed pending the adoption the adoption of clause (d).
- 370.** The Employer Vice-Chairperson noted that the Employers’ group had intended to present an amendment to replace the clause with: “the term ‘employer’ is as defined in national law and practice”. However, since the eight fundamental Conventions did not provide a definition of “employer”, the instrument would not require one. The definition of “employer” could be defined at the national level. Her group supported the deletion of clause (c).
- 371.** The Worker Vice-Chairperson agreed with her Employer counterpart.
- 372.** The Government member of France, speaking on behalf of the EU and its Member States, stated that in the light of the foregoing, he could support the proposal for deletion.
- 373.** The amendment was adopted and four amendments fell as a result.
- 374.** Point 3(c) was deleted.
- 375.** Point 3 was adopted as amended.

Point 4

Chapeau and clauses (a)–(e)

- 376.** The Employer Vice-Chairperson introduced an amendment to replace point 4 and its clauses with “The workplace is the location where a worker is employed and/or where work is performed”. For an instrument to be implemented, the concepts and definitions needed to be clear. The phrase “world of work” did not appear in any national legislation or texts and was very broad. Her group proposed replacing it with “workplace” since, in the latter, employers had control and influence, without which they could not be held accountable for violence and harassment. The Occupational Safety and Health Convention, 1981 (No. 155), had defined the term “workplace” as “cover[ing] all places where workers need to be or to go by reason of their work and which are under the direct or indirect control of the employer”. The broad definition of “workers” as adopted by the Committee offered limited guidance on the parameters and extent of employer responsibility, and presented practical difficulties for ratification and implementation.
- 377.** The Worker Vice-Chairperson emphasized that the instrument should be forward-looking, since the typical place of work, and the world of work, were changing. She recognized that employers should not be held responsible for everything. However, she recalled that the Employers had agreed, at the Tripartite Meeting of Experts on Violence and Harassment against Women and Men in the World of Work in 2016, that the concept of “world of work”

should include a broader range of situations, among other things, commuting to work and work-related social events. While her group supported the original text and could not agree with the proposed amendment, she would be open to finding solutions to address the concerns of the Employers' group.

- 378.** The Government member of Cuba did not support the amendment, as protection should go beyond the workplace.
- 379.** The Government member of Namibia did not support the amendment by the Employers' group. It would not be fair for employers to be responsible for things that were beyond their control. The provision dealt with definitions and scope, and it was not appropriate to exclude categories of people from specific protections. Other language could be found to help address the concerns raised.
- 380.** The Government member of Uganda, speaking on behalf of the Africa group, supported by the Government member of France, on behalf of the EU and its Member States, and the Government member of New Zealand, agreed with the Employers' group, noting there should be a limit to the accountability and liability of employers. It was well known that violence and harassment occurred in areas beyond the control of employers. The aim was to protect the workers in the world of work more broadly. He did not support the amendment.
- 381.** The Government member of France, speaking on behalf of the EU and its Member States, added that a definition of "the world of work" was long overdue. Such a definition would need to go beyond the workplace.
- 382.** The amendment was not adopted.
- 383.** The Government member of Mexico, speaking also on behalf of the Government member of Brazil, introduced an amendment to insert, at the end of the chapeau, "in the course of and arising out of work." The proposed language would extend the scope.
- 384.** The Government member of Australia, speaking also on behalf of the Government members of Canada, the United States, Israel, Japan, Norway and Switzerland, introduced a related amendment to replace "occurring" with "with a clear and direct connection to work, such as" after "should cover situations". He explained that the amendment related to the concerns expressed by the Employers' group regarding the lack of control over certain areas in the context of violence and harassment, and aimed to focus on violence and harassment directly related to work which would be within the control of employers.
- 385.** The Worker Vice-Chairperson did not support the amendment introduced by the Government member of Australia, given that the world of work was changing. Increasingly, there were situations where there was no clear connection to a workplace.
- 386.** The Employer Vice-Chairperson reiterated concerns regarding the overall definition. Clarity of concepts was essential. The "what" had a broad definition of violence and harassment; the "where" had a broad definition of world of work; and the "who" had a broad definition of workers. The inclusion of jobseekers and other such groups who were not working continued to be problematic. With the combination of "what, where and who", the broad definition would pose a serious challenge to employers as well as governments. The Employers' group therefore did not accept the definition as a whole.
- 387.** The Government member of France, speaking on behalf of the EU and its Member States, noted the preference for the amendment proposed by the Government member of Brazil, as it introduced more clarity. He proposed a subamendment to insert " , in connection with"

after “in the course of”. He explained that the definition would be in line with the definition used in the Occupational Safety and Health Convention, 1981 (No. 155).

- 388.** The Government member of New Zealand supported the subamendment proposed by the Government member of France, on behalf of the EU and its Member States. The text was referring to places where violence and harassment occurred. He noted that New Zealand had witnessed cases of violence and harassment in all the places listed in clauses (a)–(e) of the proposed Conclusions. It was important to be forward-looking, given that work no longer needed to be performed physically in a given place, and that violence and harassment could occur, for example, in cyberspace.
- 389.** The Government members of the Dominican Republic, India, the Islamic Republic of Iran, the United States, and the Government member of Uganda, on behalf of the Africa group, also supported the subamendment proposed by the Government member of France on behalf of the EU and its Member States.
- 390.** The Government member of Namibia took note that the clauses (a)–(e) of the proposed Conclusions explicitly referenced “work”. Given that those clauses already mentioned the word “work”, she questioned the need for the additions proposed both in the amendment of the Government member of Brazil and the subamendment proposed by the Government member of France, on behalf of the EU and its Member States.
- 391.** The Employer Vice-Chairperson noted that clause (e), “work-related communications enabled by information and communication technologies”, was problematic. For example, under the proposed definition, two employees having an argument while utilizing employer-provided mobile phones outside of the workplace could constitute harassment under the proposed definition, yet the employer would not have any control over the situation.
- 392.** The Government member of Brazil observed that the intent of the amendment was to ensure comprehensive wording, so as to not limit the scope. It was proposed in conjunction with another amendment, which would delete the clauses.
- 393.** The Worker Vice-Chairperson welcomed the amendment proposed by the Government members of Brazil and Mexico, and subamended by the Government member of France, on behalf of the EU and its Member States, which was in line with the Occupational Safety and Health Convention, 1981 (No. 155). Actors other than employers, including workers and governments, also had a responsibility. She did not support the amendment introduced by the Government member of Australia.
- 394.** The Employer Vice-Chairperson reiterated the concern of the Employers’ group regarding control of areas outside of the workplace, as employers could not be responsible for how people behaved in their private lives.
- 395.** The subamendment proposed by the Government member of France, on behalf of the EU and its Member States, was adopted.
- 396.** The amendment was adopted as subamended.
- 397.** The chapeau of point 4 was adopted as subamended.
- 398.** The Government member of Brazil, speaking also on behalf of the Government member of Mexico, introduced an amendment to delete clauses (a)–(e), in light of the amendment that had been made to the chapeau.

399. The Employer Vice-Chairperson said that the Employers' group could support the amendment to delete clauses (a)–(e).

400. The Worker Vice-Chairperson did not support the deletion of clauses (a)–(e).

401. The Government member of Uganda, speaking on behalf of the Africa group, said that he had supported the previous amendment on the understanding that clauses (a)–(e) would be retained. Therefore, he could not support the amendment.

402. The Government member of Brazil withdrew the amendment.

Point 4(a)

403. Point 4(a) was adopted without amendment.

Point 4(b)

404. The Worker Vice-Chairperson introduced an amendment to insert, at the end of point 4(b), “or uses sanitary and washing facilities” after “meal”. The lack of adequate sanitary and washing facilities put women at higher risk of violence and harassment, and deterred others from taking up employment. Inaction by employers with regard to the provision of toilets had led in certain cases to women developing urinary tract infections, the indignity of wearing diapers and further health complications. Women construction workers might not have access to a toilet, or might have to share facilities with male workers.

405. The Government member of France, speaking on behalf of the EU and its Member States, said that it was important to act to prevent sexual harassment and violence against women. The EU supported the Workers' group's proposed amendment, as did the Government member of Uganda, on behalf of the Africa group, and the Government member of the Islamic Republic of Iran.

406. The Government member of Cuba introduced a subamendment, seconded by the Government member of Mexico to insert “, as appropriate,” at the end of the clause to allow for situations where employers did not have control and could not be held responsible for the occurrence of violence or harassment. He gave the example of a worker being attacked in a place where he was eating a meal, which would not be covered by workplace legislation, but by the other legislation at the country level.

407. The Government member of Namibia, speaking on behalf of the Africa group, said that an act could be defined as violence under the law, yet still not be under the control of the employer. The section under discussion related to definition and scope and places where violence and harassment could take place, and it did not matter whether they were under the control of the employer, such as the example of being stalked by a customer outside of work. She did not support the subamendment.

408. The Government member of Brazil supported the subamendment.

409. The Employer Vice-Chairperson expressed concerns about employers being held accountable, but supported the subamendment.

410. The Worker Vice-Chairperson did not support the subamendment, because, as already agreed, “as appropriate” should not be used in the definitions section.

411. The Government member of Cuba withdrew the subamendment.

412. The amendment proposed by the Workers' group was adopted.

413. Point 4(b) was adopted as amended.

Point 4(c)

414. The Government member of Australia introduced an amendment, seconded by the Government member of Singapore and the Employers' group, to delete clause (c), as the way in which workers travelled to and from work was outside the control of employers. The Government member of Singapore stated that she could also accept a forthcoming amendment proposing to insert "if the commute is under the employer's control" at the end of clause (c).

415. The Worker Vice-Chairperson said it was important to avoid putting workers in high-risk situations. For example, a female bus conductor finishing work late at night might have to choose between sleeping outside the bus depot, sleeping inside a bus with a male colleague or walking home alone in a dangerous setting. The intention was not to make employers responsible for acts of violence, but to ensure that they took adequate measures to reduce risk. Workers also had a responsibility not to harass or assault their co-workers on the journey to or from work. The Workers' group did not support the amendment.

416. The Employer Vice-Chairperson said that commuting took place in public spaces, over which employers had no control and so could not be held responsible for acts of violence or harassment taking place between co-workers. The Employers' group supported the amendment.

417. The Government member of Namibia, speaking on behalf of the Africa group, gave the example of a worker who stalked a co-worker, following her home. The act would not be under the employer's control, but the employer could charge the stalker with misconduct. She hoped for a future with different relationships than those currently existing in the world of work. Employers could make a positive difference, such as by providing transport for employees who worked at night. Workers must be sent a message that violent behaviour was not acceptable. She did not support the amendment.

418. The Government member of Cuba recalled that protection already existed for workers who had accidents while travelling to or from work, so the same principle should apply to violence and harassment while commuting. He did not support the amendment.

419. The Government members of India, and France, on behalf of the EU and its Member States, did not support amendment.

420. The Government member of Australia reminded the Committee that point 12 of the proposed Conclusions stated that "Each Member should adopt national laws and regulations requiring employers to take steps to prevent all forms of violence and harassment in the world of work ...". It would be far-fetched to consider employers responsible for preventing the harassment of jobseekers, who were included in the definition of "workers" adopted by the Committee, while they were travelling. He urged the Committee to bear that in mind during deliberations.

421. The Employer Vice-Chairperson appreciated the clarification given by the Government member of Australia. Under point 12 and connecting the scope of the world of work, it indeed appeared that employers would be responsible for incidents that occurred in public spaces. Employers were being asked to take responsibility for what their employees did in their private lives and, moreover, for people they had never met, including jobseekers.

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422. The Government member of New Zealand, supported by the Government member of Canada, did not support the amendment, agreeing that the question was not whether employers were, or were not, in control, but what they do could to respond to violence and harassment. Point 4 of the proposed Conclusions addressed parts of the world of work where violence and harassment could occur. The concerns of the Employers' group regarding responsibility would be discussed under point 12. He did not support the proposed amendment.
423. The amendment was not adopted.
424. The Government member of the United States, speaking also on behalf of the Government members of Australia, Israel, Norway and Switzerland, introduced amendment to insert "if the commute is under the employer's control" at the end of clause (c).
425. The Worker Vice-Chairperson did not support the amendment and suggested that the concerns expressed by the Government member of the United States could be addressed under the operational sections of the proposed Conclusions. Emphasis should be placed on the notion of collective responsibility. That notwithstanding, employers could put policies and sanctions in place to deal with violence and harassment.
426. The Employer Vice-Chairperson, in light of the provisions of proposed point 12, argued that many of the situations described in the proposed Conclusions were outside employers' sphere of control. She therefore supported the amendment.
427. The Government members of Argentina, Chile, India, Indonesia, Japan and Singapore supported the amendment, as the government would be responsible for violence and harassment in public spaces.
428. The Government member of France, speaking on behalf of the EU and its Member States, did not support the amendment, since point 4 defined the world of work, not the responsibility of employers, which would be covered in point 12.
429. The Government member of Uganda, speaking on behalf of the Africa group, did not support the amendment and, instead, supported the arguments made by the Government member of France on behalf of the EU and its Member States. He noted that violence and harassment could take place during commuting. He gave the hypothetical example of a man in a position of influence who stalked a female colleague on public transport. In that situation, there would be two levels of responsibility – under criminal law and under the code of conduct on violence and harassment applicable at the workplace. He suggested that the Employers' group would certainly be against an employer harassing a worker on a bus.
430. The Government member of Brazil asked to propose a subamendment to replace the proposal by the Government member of the United States with "when appropriate".
431. The Chairperson explained that the proposal did not meet the criteria for a subamendment.
432. The Government member of Brazil, supported by the Government member of Zambia, did not support the amendment, which was too restrictive.
433. The Employer Vice-Chairperson clarified that the Employers' group did not dispute that employers were in a position to take some action, but stressed that they could not be held liable for things over which they had no control.
434. The Worker Vice-Chairperson reiterated the importance of collective responsibility.

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435. The Government member of the United States stated that the difficulties could arise in various scenarios, such as someone commuted to work, stopped to have a coffee, and was harassed by someone completely unknown to the employer.
 436. The Government member of Australia underscored that the limits to what employers could control should be acknowledged.
 437. The Government members of China and Cuba did not support the amendment.
 438. The amendment was not adopted.
 439. Point 4(c) was adopted without amendment.

Point 4(d)

440. The Government member of the United States introduced an amendment, also on behalf of the Government member of Switzerland, to delete “work-related” before “trips” and insert “required for work” after “social activities”. The purpose of the amendment was to tie workers’ and employers’ responsibilities in those situations more closely to their actual work.
441. The Employer Vice-Chairperson supported the amendment, as it created a clearer nexus to the workplace.
442. The Worker Vice-Chairperson expressed concern regarding the amendment. Workers attending a work-sponsored holiday, for example, should be covered under the provision. The amendment restricted the scope of the clause, as many activities were not strictly required for work but were part of the work environment.
443. The Government members of Cuba, and Uganda, on behalf of the Africa group, did not support the amendment.
444. The amendment was not adopted.
445. Point 4(d) was adopted without amendment.

Point 4(e)

446. No amendments had been submitted to point 4(e).
447. Point 4(e) was adopted without amendment.

New clause after point 4(e)

448. The Worker Vice-Chairperson introduced an amendment to add, after clause (e), a new clause: “in employer-provided accommodation”. She noted that the amendment was in line with clauses (a) and (b) of point 4, which identified that violence and harassment could take place in public or private spaces and in places where the worker was paid or took a rest. One example was on-site accommodation provided for persons working on a pipeline.
449. The Employer Vice-Chairperson did not support the amendment. Accommodation was a private space, albeit provided by the employer, and the actions taken within that space were beyond the employer’s control.

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450. The Government member of India noted that the amendment proposed by the Workers' group appeared to be in contradiction to views raised during the discussion on commuting, whereby even places beyond the control of the employer would be part of the Convention. The reason for the amendment seemed contradictory, as employer-provided accommodation was, additionally, a private space.
451. The Government member of Japan considered employer-provided accommodation an area over which employers should exercise control, and therefore supported the amendment.
452. The Worker Vice-Chairperson referred specifically to the case of domestic workers and live-in carers who were required to reside in employer-provided accommodation, whose vulnerability to abuse and sexual assault had been well documented. Employers needed to take responsibility and reduce risks when workers were employed in a household, to ensure that they were protected from violence and harassment.
453. The Government member of Argentina supported the amendment.
454. An indicative show of hands among the Government members demonstrated clear support for the amendment.
455. The amendment was adopted.
456. Point 4 was adopted as amended.

Point 5

457. The Government member of Japan withdrew an amendment to delete "victims and".
458. The Employer Vice-Chairperson withdrew an amendment to replace "world of work" with "workplace".
459. The Government member of the United States, also speaking on behalf of the Government members of Israel and Norway, introduced an amendment to replace the phrase "employers, workers and third parties, including," with "employers and workers, and may include third parties, such as". The intention was to clarify that workers and employers could be victims or perpetrators, and that some third parties could also be either. Different measures would need to be taken for victims and perpetrators, depending on whether they were workers, employers or third parties. The words "such as" would indicate that the list of third parties would not be seen as exhaustive.
460. The Worker Vice-Chairperson did not support the amendment. The aim of point 5 was to describe the various actors, including public sector workers who worked in very stressful environments, and their possible roles within the broad context of the world of work. While liability could shift between parties, it seemed evident that if a worker were to assault a member of the public, the employer would be held liable if no prevention measures had been taken.
461. The Employer Vice-Chairperson supported the amendment.
462. The Government member of the United States was concerned that grouping victims and perpetrators together could cause confusion as to which provisions of an eventual Convention would be reasonably applicable to them.
463. The Government member of Cuba proposed a subamendment to remove the term "third parties, such as".

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464. The Government members of Brazil and Mexico seconded the subamendment.
465. The Government members of Argentina, Canada, China and New Zealand, and of Namibia, on behalf of the Africa group, did not support the amendment, as workers, employers and third parties could be victims or perpetrators of violence and harassment in the world of work. The original text was more appropriate.
466. The Government member of Japan recalled that international labour standards covered the world of work, which pertained to workers and employers, not third parties. He therefore supported the amendment.
467. The Government member of Cuba withdrew the subamendment and did not support the amendment.
468. The Government member of the United States proposed a subamendment to insert the words “and in some instances” before the words “may include”.
469. The Government members of the Republic of Korea and Japan and the Employer Vice-Chairperson supported the subamendment.
470. The Worker Vice-Chairperson drew the Committee’s attention to the prevalence of third-party violence, particularly physical and psychological violence, towards women workers, and reiterated that she did not support the subamendment.
471. The Government member of New Zealand did not support the subamendment.
472. The Government member of India noted that it was reasonable for the proposed instrument to protect victims who were workers and employers; third parties should only be included as possible perpetrators.
473. The Government member of France, speaking on behalf of the EU and its Member States, pointed out that victims and perpetrators would be covered by the instrument only if the incident occurred in the world of work. He did not support the amendment.
474. The subamendment was not adopted.
475. The amendment was not adopted.
476. The Employer Vice-Chairperson introduced an amendment to replace “, workers” with “and workers and their representatives”, and specified that the phrase “and their representatives” was intended to apply to both workers and employers alike. Everyone, including workers’ and employers’ representatives, could be victims and perpetrators of violence and harassment.
477. The Worker Vice-Chairperson recalled that workers’ representatives were workers by definition, and cited article 3 of the Workers’ Representatives Convention, 1971 (No. 135). They were therefore already covered by the original wording of point 5 and she did not support the amendment.
478. The Government member of Uganda, speaking on behalf of the Africa group, supported the amendment and considered that not all workers’ representatives were necessarily workers.
479. The Government members of Cuba and the Islamic Republic of Iran did not support the amendment.

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- 480.** The Employer Vice-Chairperson confirmed that employers' representatives were willing to play their part in addressing violence and harassment at the workplace. If the inclusion of workers' representatives was superfluous, as the Workers' group seemed to be suggesting, it would have consequences for other points of the proposed Conclusions where similar references were made.
- 481.** The Government members of Argentina, Australia and Canada supported the amendment, as it was balanced and stated clearly that workers' and employers' representatives alike could be considered victims and perpetrators.
- 482.** The Government member of the Islamic Republic of Iran did not support the amendment. While the Committee had decided on a definition of worker, it had not done so for employer.
- 483.** The Government member of France, speaking on behalf of the EU and its Member States, emphasized that workers' and employers' representatives were first and foremost workers and employers. He did not support the amendment. The Worker Vice-Chairperson shared that position.
- 484.** The Government member of Philippines observed that there could be violence and harassment in the workplace during industrial negotiations or disputes, which deserved to be included; the text should also include a definition of employers' and workers' representatives.
- 485.** Responding to requests to ensure that clear reference was made to both workers' and employers' representatives, the Employer Vice-Chairperson proposed an editorial subamendment. The point would read: "Victims and perpetrators of violence and harassment in the world of work can be employers, workers, and their representatives ...".
- 486.** The Worker Vice-Chairperson reminded the Committee that point 5 did not seek to attribute responsibility, but rather to delineate who could be perpetrators or victims of violence and harassment.
- 487.** The Government member of New Zealand observed that the definition of violence and harassment, as adopted in point 3(a) of the proposed Conclusions, included economic harm. Addressing the Employers' group, he asked whether the inclusion of workers' representatives in point 5 would have implications for industrial negotiations.
- 488.** The Government member of Australia added that everyone should be free from violence and harassment, including when exercising the right to freedom of association and when exercising rights as a workers' representative.
- 489.** The Employer Vice-Chairperson stated, to allay any concerns, that her group was not seeking to undermine industrial relations in any way and was simply looking for all persons, including workers' and employers' representatives, to stand together against violence and harassment.
- 490.** The Worker Vice-Chairperson, to ensure that the text could not be misinterpreted, proposed a subamendment to replace "employers, workers" with "employers and workers, and their respective representatives".
- 491.** The Government member of France, speaking on behalf of the EU and its Member States, found the Employers' group's explanation to be satisfactory. He supported the amendment as subamended.

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- 492.** The Government member of New Zealand felt that the new text described the universal discourse and was appropriate. He also supported the amendment as subamended.
- 493.** The amendment was adopted as subamended.
- 494.** The Government member of Brazil withdrew an amendment to delete “, including clients, customers, service providers, users, patients and the public” in point 5.
- 495.** The Worker Vice-Chairperson withdrew an amendment to insert “public authorities and law enforcement bodies,” after “users”.
- 496.** The Government member of France, speaking on behalf of the EU and its Member States, introduced an amendment to delete “and the public”. The purpose of the amendment was to ensure protection for victims. He requested clarification as to what was understood by the term “the public” in the English version, as the French version referred to “members of the public”.
- 497.** The deputy representative of the Secretary-General clarified that the intention had been to refer to the public in general. Given that the list in point 5 was not exhaustive, the term “members of the public” would ensure that those not mentioned explicitly were covered by the instrument.
- 498.** The Government member of France, speaking on behalf of the EU and its Member States, therefore introduced a subamendment to the amendment to insert “members of” before “the public” in the English version.
- 499.** The Employer and Worker Vice-Chairpersons supported the subamendment.
- 500.** The Government member of Spain, expressed concern regarding the Spanish translation and emphasized the importance of according due consideration to the Spanish language version of the text. Spanish-speaking countries would apply the Spanish version of the eventual instruments domestically, which must therefore be of equivalent quality to the English and French versions.
- 501.** Both the Employer and the Worker Vice-Chairpersons acknowledged the concerns expressed by the Government member of Spain.
- 502.** The Government member of Cuba proposed a linguistic amendment affecting the Spanish version only, and added that Spanish, as one of the most widely spoken languages in the world, must be given equal treatment in the Committee Drafting Committee.
- 503.** The Government member of the Dominican Republic recommended the use of Spanish-language formulations found in previously adopted ILO instruments.
- 504.** The Government member of Brazil, supported by the Government members of Cuba, the Islamic Republic of Iran and Spain, proposed a further subamendment to delete “members of the public”.
- 505.** The Worker Vice-Chairperson did not support that proposal, or the previous subamendment proposed by the Government member of France, on behalf of the EU and its Member States, and preferred the original wording of point 5.
- 506.** The Employer Vice-Chairperson, given her group’s concern regarding prescriptive definitions and the use of lists that would make implementation difficult, supported the proposed deletion.

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- 507.** The Government member of Cuba, owing to concerns regarding translation, no longer supported the proposed subamendments or amendment, and agreed with the Worker Vice-Chairperson that the original text of point 5 should be retained.
- 508.** The Government member of Brazil withdrew her proposed subamendment.
- 509.** The Government member of France, speaking on behalf of the EU and its Member States, withdrew the amendment.
- 510.** Point 5 was adopted as amended.
- 511.** Part B was adopted as amended.

C. Proposed Conclusions with a view to a Convention

- 512.** A proposed amendment to replace “Convention” with “Recommendation” fell as a result of the discussion under point 2.
- 513.** The title of Part C was adopted without amendment.

Point 6

Chapeau

- 514.** A proposed amendment to replace “Convention” with “Recommendation” fell as a result of the discussion under point 2.
- 515.** The chapeau of point 6 was adopted without amendment.

Point 6(a) and (b)

- 516.** Clauses (a) and (b) were adopted without amendment.

New clause after point 6(b)

- 517.** The Worker Vice-Chairperson introduced an amendment to add a new clause after clause (b): “noting the particular relevance of the Private Employment Agencies Convention, 1997 (No. 181); the Employment Relationship Recommendation, 2006 (No. 198); the HIV and AIDS Recommendation, 2010 (No. 200); and the Transition from the Informal to the Formal Economy Recommendation, 2015 (No. 204);”, the inclusion of which would ensure that the eventual instrument would reference the most vulnerable groups.
- 518.** The Employer Vice-Chairperson stated that her group had been clear about the need for a less prescriptive instrument. The amendment would present a barrier to ratification. Her group did not support it.
- 519.** The Government member of Uganda, speaking on behalf of the Africa group, did not support the amendment. Reference to other instruments did not add value, and listing some relevant international instruments risked missing out others.
- 520.** The Worker Vice-Chairperson withdrew the amendment.

Point 6(c)

- 521.** The Government member of France, speaking on behalf of the EU and its Member States, introduced an amendment which would add at the end of clause (c): “as well as the Sustainable Development Goals and the Beijing Declaration and Platform for Action;”. He also proposed a subamendment to add a reference to the *United Nations Guiding Principles on Business and Human Rights*.
- 522.** The Worker Vice-Chairperson noted the importance of the Beijing Platform for Action, as well as the SDGs on achieving gender equality and empowering all women and girls, and on promoting sustained, inclusive and sustainable economic growth, full and productive employment and decent work for all.
- 523.** The Employer Vice-Chairperson did not support the amendment, preferring to avoid prescription in the text and in view of the time-bound nature of the SDGs. The Government members of the Islamic Republic of Iran, and Uganda, on behalf of the Africa group, agreed.
- 524.** The Government members of Brazil, China and Cuba supported the amendment, although recognizing the standard would not be limited to responding to violence against women. They did not support the subamendment.
- 525.** The subamendment was not adopted.
- 526.** The amendment was not adopted.
- 527.** Point 6(c) was adopted without amendment.

Point 6(d)

- 528.** The Employer Vice-Chairperson withdrew an amendment which had been contingent on other amendments having been adopted.
- 529.** The Government member of the United States, speaking also on behalf of the Government members of Israel, Japan and Norway, introduced an amendment to replace “the right of everyone to” with “that it is vital to pursue”, which better captured the motivating spirit of Part C of the proposed Conclusions.
- 530.** The Worker Vice-Chairperson did not agree to replacing the reference to rights, as everyone had the right to be free from violence. She did not support the amendment.
- 531.** The Government members of Cuba, New Zealand, Uganda, on behalf of the Africa group, and France, on behalf of the EU and its Member States, did not support the amendment.
- 532.** The amendment was not adopted.
- 533.** The Government member of the United States, speaking also on behalf of Israel, Japan and Norway, introduced an amendment to insert “and harassment” after “gender-based violence”, to bring the text into line with parts of the text already discussed.
- 534.** The Worker and Employer Vice-Chairpersons supported the amendment, along with the Government members of Uganda, on behalf of the Africa group, France, on behalf of the EU and its Member States, and Argentina, Brazil, Canada, Mexico and Qatar.
- 535.** The amendment was adopted.

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- 536.** The Government member of Spain proposed a linguistic amendment to the Spanish version.
- 537.** Point 6(d) was adopted as amended.
- 538.** The Government member of Mexico, speaking on behalf of the Latin American Government representatives to the Committee, expressed concern regarding the status of the Spanish language as a working language of the Committee, and particular disappointment that a Spanish-speaking representative of the Office of the Legal Adviser was not present in the Committee Drafting Committee. The matter was not just one of language, but of ensuring harmonized language versions of the instruments in order to provide clear protections for workers and employers.
- 539.** The Chairperson assured the Government member of Mexico that her concerns would be addressed.

Point 6(e)

- 540.** The Employer Vice-Chairperson withdrew an amendment to replace clause (e) with “recalling that workplace violence and workplace harassment are human rights violations, are a threat to equal opportunities, are unacceptable and incompatible with decent work;”.
- 541.** The Government member of the United States, speaking also on behalf of the Government member of Israel, introduced an amendment to replace “is a human rights violation” with “cannot be tolerated”, and proposed a subamendment to read: “can impair the fulfilment of human rights and cannot be tolerated”. She stated that there was no specific right to freedom from violence and harassment in the world of work in international human rights law, and since the aim was to develop a legally binding instrument, legal clarity and precision were critical.
- 542.** The Government member of France, speaking on behalf of the EU and its Member States, seconded the subamendment. Violence and harassment could indeed impair the fulfilment of human rights.
- 543.** The Government members of Argentina, Australia, Brazil and India supported the subamendment.
- 544.** The Worker Vice-Chairperson emphasized that violence and harassment was a violation that also impinged on the human rights of other people.
- 545.** The Employer Vice-Chairperson favoured legal certainty and clarity.
- 546.** The Government member of Cuba introduced a subamendment to delete “can”, which was seconded by the Government member of Uganda, on behalf of the Africa group, and supported by the Government members of Brazil and Mexico.
- 547.** The Worker Vice-Chairperson emphasized the importance of making a firm statement on human rights in the preamble. She proposed a further subamendment, to insert “which impairs the fulfilment of other human rights” after “human rights” in the original text. The clause would thus read “recalling that violence and harassment in the world of work is a human rights violation which impairs the fulfilment of other human rights and is a threat to equal opportunities, and is unacceptable and incompatible with decent work;”.
- 548.** The Government member of Cuba cautioned against going beyond the mandate of the ILO and causing an obstacle to ratification of the Convention in countries where human rights were not widely recognized. He proposed a further subamendment to add the words “a form

of” before “human rights violation”. The subamendment was seconded by the Government members of China, Islamic Republic of Iran, and Uganda, on behalf of the Africa group.

- 549.** The Government member of the Congo supported the subamendment by the Government member of Cuba.
- 550.** The Worker Vice-Chairperson did not support the subamendment by the Government member of Cuba. She introduced a further subamendment so that the clause would read “recalling that violence and harassment in the world of work violates human rights and is a threat to equal opportunities, and is unacceptable and incompatible with decent work;”.
- 551.** The Government member of New Zealand supported the subamendment proposed by the Worker Vice-Chairperson.
- 552.** The Government member of Uganda, speaking on behalf of the Africa group, supported the subamendment proposed by the Workers’ group. He proposed a further subamendment for the text to read: “recalling that violence and harassment in the world of work is a form of human rights violation, is a threat to equal opportunities, is unacceptable and incompatible with decent work”.
- 553.** The Government member of Cuba, supported by the Government member of China, emphasized the importance of recognizing that freedom from violence and harassment in the world of work was not a new human right, but one that had already been defined implicitly in other texts. Ultimate responsibility to protect human rights lay with governments. He supported the subamendment proposed by the Africa group.
- 554.** The Worker Vice-Chairperson, referring to the definition of gender-based violence, and other relevant provisions of General Recommendations No. 19 (1992) and No. 35 (2017) of the United Nations Committee on the Elimination of All Forms of Discrimination against Women, supported the subamendment by the Africa group.
- 555.** The Government member of the United States recalled that the Convention would be legally binding and must therefore be legally precise. She proposed a further subamendment, supported by the Government members of Argentina, India and Japan, to replace “violates human rights” with “can contribute to violations of human rights”.
- 556.** The Government member of Cuba did not support that subamendment.
- 557.** The Government member of Japan questioned whether it was possible to put all forms of harassment in that same category, as a mild form of harassment may fall outside the scope of the instrument.
- 558.** The Worker Vice-Chairperson reminded the Committee that the Committee of Experts on the Application of Conventions and Recommendations had consistently expressed the view that sexual harassment in the form of sex discrimination was a violation of human rights. Therefore, she wanted to revert to the Workers’ group’s subamendment, which stated: “violence and harassment in the world of work violates human rights and is a threat to equal opportunities, and is unacceptable and incompatible with decent work;”.
- 559.** The Government member of the United States, supported by the Government member of the Islamic Republic of Iran, sought the opinion of the Legal Adviser on the definition of all forms of harassment as a violation of human rights. Specifically, she asked whether an inappropriate remark, which would fall under the existing definition of violence and harassment, would constitute a human rights violation.

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- 560.** The Legal Adviser responded that violence and harassment might, but might not, always constitute a human rights violation. He recalled that the preamble of the prospective Convention was a declaratory statement, not a substantive provision constitutive of rights and obligations. Although it carried legal weight, it was not legally binding.
- 561.** The Government member of Cuba said that the preamble would set the context for the instrument as a whole. He reiterated his support for the subamendment proposed by the Africa group.
- 562.** The Government member of Brazil reflected that violence and harassment, wherever it took place, violated human rights. It therefore seemed reasonable to use such a formulation.
- 563.** The Government member of France, speaking on behalf of the EU and its Member States, introduced a subamendment to insert the words “some forms of” after “recalling that”, such that the text would read: “recalling that some forms of violence and harassment in the world of work constitute a violation of human rights, is a threat to equal opportunities, and is unacceptable and incompatible with decent work;”.
- 564.** The Government members of India, the Islamic Republic of Iran and the United States supported the subamendment.
- 565.** The Worker Vice-Chairperson and the Government member of Argentina did not support the subamendment.
- 566.** The Employer Vice-Chairperson and the Government member of Canada questioned the use of expressions such as “some forms” and “the world of work” in a preamble.
- 567.** The Worker Vice-Chairperson, supported by the Government member of Brazil, stated that “some forms” would suggest that not all forms of violence and harassment were unacceptable, which was contrary to the intention of the instruments.
- 568.** The Government member of France, on behalf of the EU and its Member States, withdrew the subamendment.
- 569.** After an indicative show of hands, the subamendment proposed by the Government member of the United States was not adopted.
- 570.** After a further indicative show of hands, the subamendment proposed by the Africa group was adopted.
- 571.** The Government member of the United States expressed her Government’s concern regarding the wording that the Committee had adopted. In her view, there was no difference between saying that violence and harassment in the world of work are a violation of human rights, and that they are a form of human rights violation. She indicated that there would be a need to return to that issue the following year.
- 572.** The Employer Vice-Chairperson also expressed serious concerns that the conflated definition of violence and harassment was already introducing difficulties in the text, as minor offences could now be considered to be human rights violations. She voiced the hope that the Committee’s discussions in 2019 could resolve the issue. The Government member of France, speaking on behalf of the EU and its Member States, concurred.
- 573.** The amendment was adopted as subamended.
- 574.** Point 6(e) was adopted as amended.

New clause after point 6(e)

- 575.** The Government member of France, speaking on behalf of the EU and its Member States, introduced an amendment to add a new clause: “recalling that Members have an important responsibility to promote a general environment of zero tolerance to violence and harassment to facilitate the prevention of such behaviours and recalling that all actors in the world of work have to abstain from, prevent and address violence and harassment;”.
- 576.** The Employer and Worker Vice-Chairpersons supported the amendment.
- 577.** The Government member of Uganda, on behalf of the Africa group, and the Government members of Argentina, Brazil, China, Cuba, Indonesia, Islamic Republic of Iran and New Zealand supported the amendment.
- 578.** The amendment was adopted.
- 579.** The new clause after point 6(e) was adopted.

Point 6(f)

- 580.** The Employer Vice-Chairperson withdrew an amendment to replace “violence and harassment” with “workplace violence and workplace harassment” in light of the Committee’s discussions.
- 581.** The Government member of the United States, speaking also on behalf of the Government members of Israel and Norway, introduced an amendment to replace the word “affects” with the words “may affect”, as not all acts of violence and harassment would necessarily have an effect on workers’ psychological, physical and sexual health, dignity, family and social environment.
- 582.** The Worker Vice-Chairperson did not support the amendment, as a bold preamble was needed.
- 583.** The Employer Vice-Chairperson and the Government member of Argentina supported the amendment.
- 584.** The Government members of Canada, Cuba, New Zealand, the Philippines, and Uganda, on behalf of the Africa group, did not support the amendment.
- 585.** The amendment was not adopted.
- 586.** The Employer Vice-Chairperson introduced an amendment to replace “workers” with “persons” to ensure that nobody was excluded.
- 587.** The Worker Vice-Chairperson proposed a subamendment to add “in the world of work” after “violence and harassment”.
- 588.** The Employer Vice-Chairperson supported that proposal, as did the Government members of Australia, Brazil, China, Cuba, Mexico, the Philippines, the United States, and Uganda, on behalf of the Africa group.
- 589.** The amendment was adopted as subamended.
- 590.** Point 6(f) was adopted as amended.

Point 6(g)

- 591.** The Employer Vice-Chairperson introduced an amendment seeking to delete the words “also affects the quality of public and private services, and”. It was conceptually unclear why the issue of women’s labour market participation was included in a clause addressing the quality of public and private services.
- 592.** The Worker Vice-Chairperson reiterated the importance of a strong and broad preamble. The clause covered workers in both the public and private sectors, including categories of workers such as nurses, domestic workers and teachers. Violence and harassment had an impact on workers in both sectors.
- 593.** The Government members of Cuba and New Zealand suggested addressing the two concepts separately.
- 594.** The Worker Vice-Chairperson requested an explanation of the background behind the original wording of clause (g).
- 595.** The deputy representative of the Secretary-General explained that the availability and quality of private and public services such as childcare and elder care were essential for the advancement of women in the labour market. Violence and harassment negatively affected private and public services, and the erosion thereof would severely restrict women’s labour market participation. The text drew on the discussions of the Tripartite Meeting of Experts on Violence against Women and Men in the World of Work as well as Report V(1).
- 596.** The Government member of France, speaking on behalf of the EU and its Member States, and supported by the Government members of China, the Philippines, and Uganda, on behalf of the Africa group, did not support the amendment. The quality of public and private services was negatively impacted by violence and harassment, and the link with women’s participation in the labour market was clearly established.
- 597.** The Employer Vice-Chairperson did not agree with the conflation of different concepts in the clause, despite the clarification from the secretariat.
- 598.** The amendment was not adopted.
- 599.** The Government member of the United States, also on behalf of the Government members of Israel and Norway, withdrew an amendment to replace the word “affects” with “may affect”.
- 600.** Point 6(g) was adopted.

Point 6(h)

- 601.** The Government member of the United States, also on behalf of the Government members of Norway and Israel, withdrew an amendment to replace the word “affects” with “may affect”.
- 602.** The Employer Vice-Chairperson introduced an amendment to add “the organization of work” after “impacts negatively on”, to read: “noting that violence and harassment is incompatible with the promotion of sustainable enterprises and impacts negatively on the organization of work, workplace relations, worker engagement, enterprise reputation and productivity;”, which highlighted that the effects of violence and harassment on employers could manifest in many ways; workers could be injured or ill, requiring staff replacement and other organizational adjustments.

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603. The Worker Vice-Chairperson would support the amendment, provided there was due recognition that violence and harassment also had an impact on workers and their performance.
 604. The Employer Vice-Chairperson agreed and considered that the amendment covered that concern.
 605. The Government members of Brazil, Canada, Cuba, Norway and the Philippines, and the Government member of Uganda, on behalf of the Africa group, supported the amendment.
 606. The amendment was adopted.
 607. Point 6(h) was adopted as amended.

Point 6(i)

608. The Government member of France, speaking on behalf of the EU and its Member States, introduced an amendment to add, at the beginning of the clause: “acknowledging that gender-based violence disproportionately affects women and girls, and”.
609. The Employer and Worker Vice-Chairpersons supported the amendment, as did the Government members of Argentina, the Philippines, and Uganda, on behalf of the Africa group.
610. The Government member of the United States proposed a subamendment, for consistency, to add “and harassment” after “violence”.
611. The subamendment was seconded by the Government members of Australia, Argentina, Brazil, Canada, Chile, India and Mexico, and Uganda, on behalf of the Africa group, and France, on behalf of the EU and its Member States.
612. The Employer and Worker Vice-Chairpersons also supported the subamendment.
613. The amendment was adopted as subamended.
614. The Government member of France, speaking on behalf of the EU and its Member States, introduced an amendment to replace the term “gender-responsive” with “gender-sensitive”, which was the more common term in international standards.
615. The Employer Vice-Chairperson queried the objective and effect of the amendment.
616. The Government member of New Zealand requested clarification from the secretariat of the term “gender-responsive”.
617. The deputy representative of the Secretary-General explained that “gender-sensitive” alluded to an awareness of, and sympathy for, gender-related issues. “Gender-responsive” had proactive connotations of actually taking action to address problems, as well as the notion of awareness and sympathy.
618. In light of that explanation, the Government member of Canada did not support the amendment.
619. The Government member of France, on behalf of the EU and its Member States, withdrew the amendment.

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- 620.** The Worker Vice-Chairperson introduced an amendment to insert “and multiple and intersecting forms of discrimination” after “stereotypes”.
- 621.** The Government members of Brazil, Canada, and France, on behalf of the EU and its Member States, supported the amendment.
- 622.** The Government member of Cuba, while supporting the amendment, requested clarification on the meaning of intersectionality.
- 623.** The Worker Vice-Chairperson explained that a woman with a disability could face double discrimination, with increased negative impacts.
- 624.** The Government members of Argentina, India, the Republic of Korea and the Philippines supported the amendment.
- 625.** The Employer Vice-Chairperson, querying the understanding of the term “intersecting forms of discrimination”, expressed concern about the use of terms that were not well understood.
- 626.** The amendment was adopted.
- 627.** The Government member of France, speaking on behalf of the EU and its Member States, introduced an amendment to add the words “and unequal power relations” after “gender stereotypes”, such that the text would read: “acknowledging that gender-based violence and harassment disproportionately affects women and girls, and recognizing that an inclusive, integrated and gender-responsive approach which tackles underlying causes and risk factors, including gender stereotypes, multiple and intersecting forms of discrimination, and unequal power relations, is essential to ending violence and harassment in the world of work; and”. The aim was to recognize unequal power relations as a fundamental consideration concerning violence and harassment in society.
- 628.** The Worker Vice-Chairperson supported the amendment.
- 629.** The Employer Vice-Chairperson understood the amendment to capture organizational hierarchies and persons therein who abuse their positions of power. Organizational hierarchies were common and did not produce violence and harassment per se, but could present a risk factor when abused. She proposed a subamendment to replace “unequal” with “abuse of” such that the phrase would read “and the abuse of power relations”.
- 630.** The Worker Vice-Chairperson recalled that the clause was not meant to refer only to employers or to organizational hierarchies, but rather to the nature of power relations more broadly.
- 631.** The Government member of France, speaking on behalf of the EU and its Member States, noted that while his group’s amendment referred to unequal power relations as a risk factor, the subamendment proposed by the Employers’ group referred to a consequence of those unequal power relations. The difference between the two was significant.
- 632.** The subamendment was not adopted.
- 633.** The Government member of Brazil proposed a subamendment, seconded by the Government member of Mexico, to add the words “gender-based” after the word “unequal” such that the phrase read “and unequal gender-based power relations”. The intention was to speak to the concerns of the Employers’ and Workers’ groups.
- 634.** The Worker and Employer Vice-Chairpersons supported the subamendment.

635. The amendment was adopted as subamended.

636. The Employer Vice-Chairperson withdrew her group's amendment to replace the phrase "world of work" with the word "workplace", as a similar amendment had already been discussed and had not been adopted.

637. Point 6(i) was adopted as amended.

Point 6(j)

638. The Worker Vice-Chairperson introduced an amendment to replace clause 6(j) such that it would read: "noting that domestic violence often affects employment, productivity and health and safety, and that the world of work and its institutions can help recognize, respond to and address domestic violence". While employers could not be held responsible for ending domestic violence, the world of work was an important entry point to prevent or mitigate its effects. Employers might be in a position to offer assistance to persons in distress who were injured or unable to come to work. Evidence showed that domestic violence had a widespread impact on the world of work, including on co-workers, productivity and costs to the employer. A workplace could be a refuge from domestic violence, but also a place where a perpetrator could target their domestic partner. Perpetrators of domestic violence could also be co-workers. That domestic violence impacted everyone in the workplace was evident and an important issue for her group.

639. The Employer Vice-Chairperson appreciated the recognition that employers could play only a limited role in addressing domestic violence.

640. The Government member of India noted that any form of violence and harassment was unacceptable and recognized the role of the competent public authority to implement prevention measures. As in India, domestic violence was treated as a specific issue and not a separate workplace matter, she questioned the appropriateness of addressing domestic violence in the instrument.

641. The Government member of Canada supported the inclusion of a specific reference to domestic work in the preamble. While domestic and family violence might not occur at work, it did affect workers, co-workers, employment and productivity in the world of work, and could occur between co-workers. The workplace could also be a refuge from domestic and family violence for some workers. Employers were not expected to prevent domestic violence, but had a role to play in mitigating its impacts.

642. The Government member of New Zealand endorsed the statement made by the Government member of Canada. He supported the original text, as well as the amendment introduced by the Workers' group.

643. The Government member of Japan stated that domestic violence should never be tolerated and must be eradicated, and employers could implement useful measures. However, he considered that the clause should be deleted because the matter was beyond the scope of the proposed instruments. Employers must respect workers' privacy, and given the definition of violence and harassment adopted by the Committee, treating it as one concept, it was not clear that domestic harassment was included.

644. The Government member of Singapore said that domestic violence should never be tolerated, but that it should not be included within the scope of the instrument because it was a private issue which took place outside of the workplace and would be addressed by other legislation. She did not support the amendment.

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- 645.** The Government member of Namibia, speaking on behalf of the Africa group, agreed with the opinions expressed by the Government members of Canada and New Zealand. The proposed Conclusions with a view to a Convention would be incomplete if the relationship between domestic violence and the world of work was not recognized. The current discussion, and the inclusion of the reference to domestic violence in the preamble, acknowledged the importance of a multi-sectoral approach, and was an opportunity to support people who were victims of domestic violence.
- 646.** The Government member of the Philippines highlighted the spillover effects of domestic violence on the workplace, including through absenteeism and productivity loss to employers and enterprises. Her country's legislation recognized the effects of domestic violence in the world of work and included an entitlement of ten days of paid leave in addition to other paid leave. She supported the amendment put forward by the Workers' group.
- 647.** The Government member of China noted that while domestic violence did have a physical and psychological impact on individuals and on the workplace, it should be addressed through a separate comprehensive framework. He agreed with the Government members of Japan and Singapore.
- 648.** The Government member of France, speaking on behalf of the EU and its Member States, reiterated that all forms of domestic violence were unacceptable. He supported the amendment, as it pointed to the role the different partners could play, including governments. He proposed a subamendment to add, at the end of the sentence, the words "by supporting workers who are victims of domestic violence, as well as persons affected in the world of work".
- 649.** The Government member of Egypt stated that there was no need to include references to domestic violence in the Convention.
- 650.** The Government member of Brazil supported the original text, and found the amendment and subamendment interesting. Brazilian legislation acknowledged the link between domestic violence and the world of work, and provided that women who were victims of domestic violence and who had to leave their homes in order to safeguard their physical integrity were entitled to have their employment relationship preserved for up to six months by judicial authorization.
- 651.** The Government member of the United States supported the original text and the amendment by the Workers' group, because they recognized a breadth of possible measures that could be taken, such as training and risk assessments. In contrast, the subamendment seemed too narrow. Moreover, the text stated simply that domestic violence often, but not always, affected the world of work.
- 652.** The Government member of New Zealand supported the subamendment introduced by the Government member of France, on behalf of the EU and its Member States. The language of the proposed text referred to the world of work and its institutions, not just employers. Governments as well would be adopting prevention measures.
- 653.** The Government member of Jordan stated that, while domestic violence had an impact on the workplace, institutions could not be held responsible for eliminating it. It should be addressed by national legislation but not through the proposed instrument. She supported the statements made by the Government members of Japan and Singapore, and the deletion of clause 6(j).

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- 654.** The Worker Vice-Chairperson found the subamendment too narrow and did not support it. Beyond supporting workers, actions such as risk assessments, trainings and other policies and procedures should be taken by several actors.
- 655.** The Employer Vice-Chairperson observed that domestic violence did not stem from the workplace, and that it normally occurred in private homes, unless the victim and the perpetrator of domestic violence were co-workers. Institutions in the world of work were not best placed to address domestic violence; the responsibility sat with governments. The Employers' group had originally proposed the deletion of the clause, but after hearing the discussion, was supportive of maintaining the clause with some amendments to reflect the group's views. As noted by some Governments, many difficult personal circumstances occurring outside the workplace had the capacity to impact people at work. Overall, employers portrayed compassion and sensitivity in these circumstances and were sympathetic to the effects of domestic violence. However, small and medium-sized enterprises, in urban and rural settings, might not have the resources to address the issue of domestic violence. The Committee would need to be mindful of smaller businesses. Moreover, when employees were ill or injured and unable to attend work on account of violence, there was typically an existing paid safety net or leave entitlement that employers already honoured. There was a need to limit employers' responsibility for circumstances outside their control. She proposed a subamendment to replace "the world of work and its institutions" by "member States".
- 656.** The Worker Vice-Chairperson said that the responsibility to address violence and harassment was the responsibility of all actors in the world of work. There were many examples of national laws and policies to address domestic violence, including through public-private partnerships. In addition, some companies were already implementing measures, such as trainings, as well as leave and support, to assist victims of domestic violence. There was a clear business imperative for employers to address domestic violence.
- 657.** The Government member of Mexico raised a discrepancy in the translation of the word "address" into Spanish ("*remediar*"). She proposed a further subamendment, seconded by the Government member of Brazil, to replace the words "member States" by "the world of work, its institutions and governments".
- 658.** The Government member of Cuba supported the further subamendment proposed by the Government member of Mexico, but did not support the subamendment proposed by the Government member of France, on behalf of the EU and its Member States. He proposed a further subamendment, seconded by the Government members of the Dominican Republic, Indonesia and Saudi Arabia to add the words "as part of other national measures, to recognize" before the word "respond".
- 659.** The Worker Vice-Chairperson supported the further subamendment proposed by the Government member of Cuba, with the understanding that all actors, and not just governments, were responsible for addressing the impacts of domestic violence.
- 660.** The Employer Vice-Chairperson stated that victims of domestic violence should indeed have access to support, but that the workplace was not necessarily the best place to address it, and that not all enterprises would have the capacity to do so. She supported the further subamendment proposed by the Government member of Cuba, because it reflected that all actors would have responsibilities.
- 661.** The Government member of Chile supported the further subamendment proposed by the Government member of Cuba.

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- 662.** The Government member of Australia said that it was important to keep a reference to domestic violence in the preamble, which should recognize domestic violence and its impact on the world of work, without assigning responsibilities. She therefore supported the Workers' group amendment, but not the subsequent subamendments.
- 663.** The Government member of France, speaking on behalf of the EU and its Member States, supported the text as subamended by the Government member of Cuba. He also noted, in response to the observations made by the Government member of Chile, that domestic violence did indeed affect the workplace.
- 664.** The Government member of Cuba supported the comments made by the Government members of Chile and France, on behalf of the EU and its Member States, and proposed a further subamendment to replace "often affects" with "can affect".
- 665.** The amendment was adopted with the latest subamendment, which meant that several other amendments fell.
- 666.** Clause (j) was adopted as subamended.
- 667.** Point 6 was adopted as amended.

Point 7

Chapeau

- 668.** The Employer Vice-Chairperson withdrew a proposed amendment to delete "which ratifies the Convention".
- 669.** The Government member of the United States, speaking also on behalf of the Government members of Australia, Israel, Japan and Norway, withdrew a proposed amendment to delete "recognize the right to a world of work free from violence and harassment and" and a proposed amendment to replace "the right to" with "it is vital to pursue".
- 670.** The Government member of the United States, speaking also on behalf of the Government members of Australia, Israel, Japan and Norway, introduced an amendment to insert, before "an inclusive and integrated approach", the words "in accordance with national laws and circumstances". Integrated approaches, including the measures referred to in the clauses of point 7, would have to be developed within such a framework.
- 671.** The Employer Vice-Chairperson supported the amendment.
- 672.** The Worker Vice-Chairperson asked whether the proposed amendment meant that consultations should take place "in accordance with national laws and circumstances".
- 673.** The Government member of Israel clarified that the phrase was meant to apply to the clauses under point 7 and not to the wording on consultations in the chapeau.
- 674.** The Worker Vice-Chairperson did not support the amendment.
- 675.** The Government members of Brazil, Chile, India, Qatar, Singapore, Thailand, and Uganda, on behalf of the Africa group, supported the amendment.
- 676.** The Government member of Brazil proposed a subamendment for clarification, so that the text would read: "Each Member ... should recognize the right to a world of work free from

violence and harassment and, in accordance with national laws and circumstances, adopt, in consultation with representative employers' and workers' organizations ...”.

- 677.** The Government members of Côte d'Ivoire, Cuba, the Dominican Republic, Mexico, Uganda, on behalf of the Africa group, and the Bolivarian Republic of Venezuela seconded the subamendment.
- 678.** The Worker Vice-Chairperson supported the subamendment and proposed a further subamendment to replace the word “circumstances” with the word “regulations”.
- 679.** The Government member of the Islamic Republic of Iran supported the amendment, but not the subamendment proposed by the Government member of Brazil.
- 680.** The Government member of New Zealand did not support the amendment or the subamendments, and preferred the original text, as a Convention would necessarily be implemented in line with national circumstances.
- 681.** The Government member of China supported the subamendment proposed by the Government member of Brazil.
- 682.** The Government member of Canada agreed with the logic of the subamendment proposed by the Government member of Brazil, but preferred the original text.
- 683.** The Government members of Chile and Argentina supported the subamendment.
- 684.** The Employer Vice-Chairperson noted that her group was initially leaning towards the term “practice” instead of “circumstances”. She did not support the Workers’ group subamendment. She supported the subamendment by the Government member of Brazil.
- 685.** The Worker Vice-Chairperson preferred the original text, but could support the subamendment proposed by the Government member of Brazil.
- 686.** The Worker Vice-Chairperson withdrew the further subamendment.
- 687.** The amendment was adopted as subamended.
- 688.** The Worker Vice-Chairperson stated that the Workers’ group strongly supported the initial language proposed, but had agreed to the amendment in the spirit of furthering the discussion.
- 689.** The Employer Vice-Chairperson withdrew an amendment which sought to replace “world of work” with “workplace” in both occurrences in point 7, as the same issue had been discussed earlier.
- 690.** The Government member of the Islamic Republic of Iran and the Government member of Japan withdrew two related amendments which sought to insert the words “taking into account national circumstances and specificities” in point 7.
- 691.** The Employer Vice-Chairperson introduced an amendment to insert “where appropriate,” after “workers’ organizations” in the chapeau of point 7. She recalled the broad definitions used of “world of work” and of “violence and harassment” and questioned how active governments wanted workers’ and employers’ representatives to be in all aspects of national policy. It was important to consult with the representatives of workers’ and employers’ organizations regarding work-related matters, but some strategies would involve issues of criminal law or policing policies and consultations with workers’ and employers’

organizations would not be appropriate at all times. She also cautioned against the proposed Convention going beyond the mandate of the ILO.

- 692.** The Worker Vice-Chairperson disagreed. Consultations with the representatives of workers' and employers' organizations were part of the basic principle of social dialogue, and point 7 made reference to the world of work and not to other issue areas.
- 693.** The Government member of the United States found the argumentation of the Employers' group convincing and supported their proposed amendment.
- 694.** The amendment lacked sufficient support and was thus not adopted.
- 695.** The Government member of France, speaking on behalf of the EU and its Member States, introduced an amendment to insert the term "gender-sensitive" after the word "inclusive". The draft instrument focused on gender-based violence, and should reference gender in point 7. He also offered a subamendment to refer to "gender-responsive" rather than "gender-sensitive".
- 696.** The Worker and Employer Vice-Chairpersons and the Government members of Brazil and Canada supported the subamendment.
- 697.** The amendment was adopted as subamended.
- 698.** The Government member of Brazil introduced an amendment to insert "but is not limited to" at the end of the chapeau, so as to clarify that clauses (a)–(g) were not a comprehensive list and that other policies could be implemented.
- 699.** The Employer Vice-Chairperson expressed the preference of her group for a less prescriptive instrument and did not support the amendment.
- 700.** The Worker Vice-Chairperson said that the Workers' group had interpreted the list as being examples, not a definitive list. The Workers' group preferred the original text but would not object to the amendment.
- 701.** The Government members of the Plurinational State of Bolivia, Cuba, and Uganda, on behalf of the Africa group, supported the amendment.
- 702.** The deputy representative of the Secretary-General explained that whenever the term "includes" or "including" was used in the text of ILO Conventions, the terms which followed were not intended to constitute an exhaustive list.
- 703.** The Government member of Brazil withdrew the amendment.
- 704.** The chapeau to point 7 was adopted as amended.

Point 7(a)

- 705.** The Government member of France, speaking on behalf of the EU and its Member States, withdrew an amendment to delete clauses (a)–(g) of point 7.
- 706.** The Government member of the United States, also speaking on behalf of the Government member of Japan, withdrew an amendment to point 7(a), which would have replaced "all forms of violence and harassment" with "violence and harassment in the world of work".
- 707.** Point 7(a) was adopted without amendment.

Point 7(b)

- 708.** The Government member of the United States introduced an amendment to add the words “in the world of work” after “harassment”. The intent was to keep the focus on work-related policies.
- 709.** The Worker Vice-Chairperson said that an integrated approach was necessary to tackle violence and harassment. The Workers’ group did not support the amendment.
- 710.** The Employer Vice-Chairperson supported the amendment.
- 711.** The Government members of Cuba, Namibia, on behalf of the Africa group, and France, on behalf of the EU and its Member States, did not support the amendment. An integrated policy approach was needed; the chapeau and the original text of point 7(b) were clear enough.
- 712.** The Government member of India supported the amendment, as she considered a limitation to the world of work as crucial.
- 713.** The amendment did not receive sufficient support and was not adopted.
- 714.** Point 7(b) was adopted without amendment.

Point 7(c)

- 715.** The Government member of Cuba, seconded by the Government members of the Plurinational State of Bolivia, El Salvador, Indonesia, Mexico and the Russian Federation, introduced an amendment to replace point 7(c) with “adopting appropriate measures to prevent and combat violence and harassment in work;”. The amendment sought to expand the text to the possibility of other measures that would combat violence and harassment. He also proposed a subamendment, seconded by the Government members of Islamic Republic of Iran, and Namibia, on behalf of the Africa group, to delete “in work” from the amendment.
- 716.** The Employer Vice-Chairperson supported the amendment as subamended, as non-prescriptive and flexible text.
- 717.** The Worker Vice-Chairperson did not support the use of the word “appropriate”. The Workers’ group largely preferred the original text.
- 718.** The Government member of Cuba wanted to strengthen the text and broaden the scope of protection, thus making it possible for governments to deal with violence and harassment in general through tripartite negotiations at the national level. The proposed text “appropriate measures” was intended to encompass that idea.
- 719.** The Government member of Canada preferred the original text, as she considered a strategy to be the framework, while measures were actions. She proposed a further subamendment to change “measures” to “strategies”.
- 720.** That subamendment was seconded by the Government members of El Salvador, New Zealand, Norway and Switzerland, and Namibia, on behalf of the Africa group.
- 721.** The Worker Vice-Chairperson noted that in the chapeau for point 7, her group had not supported a reference to national laws and circumstances. She found the suggested amendments to be a duplication of that and did not consider that the proposal strengthened the text.

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- 722.** The Employer Vice-Chairperson preferred the wording proposed by the Government member of Cuba, but could accept the use of the word “strategies”.
- 723.** The Government member of Israel noted that “measures” had been adopted in the chapeau for point 7; now there appeared to be duplication. He found the original language more specific and inquired if the secretariat saw the new proposal as repetitive.
- 724.** The deputy representative of the Secretary-General stated that “strategy” was a more comprehensive term which referred to a framework with objectives and guidelines, including specific measures.
- 725.** The Government member of Israel concluded that the original text was better, as it emphasized prevention, which was sensible.
- 726.** The Worker Vice-Chairperson stated that the “comprehensive” component had been lost. She preferred the original text for its precision.
- 727.** The Government member of Brazil proposed a further subamendment, seconded by the Government member of Mexico, to replace clause (c) with “adopting a comprehensive strategy in order to implement measures to prevent and combat violence and harassment;”, with the intent to focus on implementation.
- 728.** The Government member of El Salvador expressed her agreement with the Government members of Canada and Cuba, and wished to propose an additional subamendment which would delete the word “appropriate” from the text as amended by the Government member of Cuba and subamended by the Government member of Canada.
- 729.** The Government member of Cuba agreed with the further subamendment proposed by the Government member of Brazil. Protection needed to be strengthened through an integrated national-level approach.
- 730.** The Worker Vice-Chairperson expressed her support for the further subamendment proposed by the Government member of Brazil, as it was a sensible way to move forward.
- 731.** The Employer Vice-Chairperson questioned whether the subamendment limited flexibility, and asked for the views of the Government members concerning the implication at national level.
- 732.** The Government members of Switzerland, and France, speaking on behalf of the EU and its Member States, supported the further subamendment proposed by the Government member of Brazil.
- 733.** The amendment was adopted as further subamended, which resulted in two amendments falling.
- 734.** Point 7(c) was adopted as amended.

Point 7(d)

- 735.** The Government member of Brazil introduced an amendment, also on behalf of the Government member of Canada, to insert “and strengthening” after “establishing”. Some countries needed to establish enforcement and monitoring mechanisms, while others already had them in place but they needed to be strengthened.
- 736.** The Worker Vice-Chairperson strongly supported the amendment for the same reasons.

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737. The Employer Vice-Chairperson observed that the terms used were active ones – which implied, for example, “strengthening” in perpetuity – and for that reason she queried the implications for national law and practice.
738. The Government member of France, on behalf of the EU and its Member States, supported the amendment. He also proposed a subamendment for application to all contexts: “... establishing mechanisms and/or strengthening enforcement and monitoring mechanisms;”.
739. The Worker Vice-Chairperson asked the secretariat to clarify the implications of the use of the words “and/or”.
740. The deputy representative of the Secretary-General explained that it was not common practice to include that phrasing in international legal instruments. If enforcement and monitoring mechanisms existed, they could be strengthened. In instances where they did not exist, they could be established.
741. The Government representative of France, on behalf of the EU and its Member States, proposed to replace “and/or” with “or”.
742. Upon request of the Committee members, the deputy representative of the Secretary-General advised that a more succinct formulation could be “establishing or strengthening enforcement and monitoring mechanisms”, as the two verbs could apply to both aims.
743. The Government member of Cuba proposed a further subamendment by adding “, as appropriate,” after “strengthening”, since legal provisions were often needed to establish mechanisms; in addition, issues of jurisdiction could require flexibility. It was seconded by the Government members of the Plurinational State of Bolivia, El Salvador, the Islamic Republic of Iran, and by France, on behalf of the EU and its Member States.
744. The Government member of Uganda, speaking on behalf of the Africa group, expressed strong opposition to superfluous discussion of subamendments that did not make substantial changes to the original text.
745. The Government members of Australia and Egypt expressed a preference for the original text.
746. The Government member of Israel expressed support for the subamendment as well as the original text.
747. The Worker Vice-Chairperson’s preference was to revert to the original text, but her group could also support the amendment introduced by the Government member of Brazil. The insertion of the words “as appropriate” seemed confusing.
748. The Employer Vice-Chairperson questioned whether the use of the word “strengthening” meant that governments would be obligated to strengthen their enforcement and monitoring systems into perpetuity. Her group did not have a strong opinion on point 7(d), as it was a government obligation. They could support the original text as well as the amendment introduced by the Government member of Brazil.
749. Subsequent subamendments fell due to insufficient support.
750. The amendment was adopted.

751. The Government member of Brazil withdrew an amendment which had sought to insert the word “investigation” after “enforcement”, as the idea would be contemplated in a future amendment.

752. Point 7(d) was adopted as amended.

Point 7(e)

753. Point 7(e) was adopted without amendment.

Point 7(f)

754. The Employer Vice-Chairperson withdrew an amendment that had sought to replace clause (f) with “providing sanctions for perpetrators”.

755. Clause (f) was adopted without amendment.

Point 7(g)

756. The Government member of the Islamic Republic of Iran introduced an amendment, which was seconded by the Government member of Cuba, to add at the end of the clause: “, and raising awareness.”. The amendment sought to strengthen the clause and provide a wider range of guidance.

757. The Employer and Worker Vice-Chairpersons both supported the amendment, citing the importance of awareness-raising activities.

758. The Government members of Colombia, El Salvador, Egypt, India, the Philippines, France, on behalf of the EU and its Member States, and Uganda, on behalf of the Africa group, also supported the amendment.

759. The amendment was adopted.

760. Point 7(g) was adopted as amended.

New clause after point 7(g)

761. The Government member of Brazil introduced an amendment, also on behalf of the Government member of Peru, to add a new clause after clause (g): “strengthening means of inspection and investigation of cases of violence and harassment in the workplace through labour inspection bodies.”. The amendment sought to acknowledge the role of labour inspection bodies and to ensure they had the appropriate conditions and skills to combat violence and harassment.

762. The Employer Vice-Chairperson found the amendment unnecessary and prescriptive. Clause (d) addressed the actions of labour inspection bodies as a subset of enforcement and monitoring mechanisms.

763. The Government member of Peru explained that even though aspects of the amendment were addressed in clauses (d) and (g), it was necessary to establish specific labour inspection measures in order to combat violence and harassment in the workplace. Clause (d) addressed enforcement and monitoring mechanisms, whereas labour inspection bodies were a distinct body with a specific role. In many countries in Latin America, it was common to have a distinction between inspection and enforcement bodies.

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764. The Government members of Colombia and El Salvador supported the amendment. Labour inspection bodies were responsible for prevention, investigation and issuing sanctions.
765. The Government member of the Philippines did not support the amendment. She noted that issues such as psychological abuse would be better addressed by competent medical professionals rather than labour inspectorates.
766. The Government member of Canada supported the amendment, noting that some regimes administered enforcement and inspection functions separately.
767. The Government member of Chile supported the amendment.
768. The Government member of France, speaking on behalf of the EU and its Member States, felt that the obligation was already covered by points 7(d) and 13(g), but he would not oppose the amendment.
769. The Government member of Australia requested clarification from the secretariat on the legal obligations of using “strengthening” and “effective” and the consequences they may have for reporting on implementation.
770. The deputy representative of the Secretary-General noted that the objective was to ensure effective prevention and protection against violence and harassment in the world of work. National authorities would need to strengthen their inspection or enforcement mechanisms to ensure effective prevention and protection. As the world of work changed and as new risks arose, that might require a process of adjustment, bearing in mind that the ultimate objective was to ensure effective prevention and protection.
771. She explained that “monitoring” was included in clause (d) and was a mechanism to determine that the actions taken to prevent violence and harassment were yielding results. It was not possible to say that one effort of strengthening would remain valid for the years ahead, as that assessment would need to be based on the results of the actions which had been implemented.
772. The Government member of India commented that the points were already covered in clause (d), and that, as the overall definition of violence and harassment included a wide range of behaviours, including domestic violence, which was a criminal offence, other competent bodies would need to be involved. She could not support the amendment.
773. The Government member of Brazil acknowledged the concerns raised by the Government member of Australia regarding “strengthening”, and proposed that a less contentious wording could be “ensuring effective means”.
774. The Government member of Singapore joined the views expressed by the Government members of India and the Philippines, and did not support the amendment. She added that, given the broad definitions adopted for “worker” and “workplace” under the proposed Conclusions with a view to a Convention, it was difficult to see how it could be implementable.
775. The Worker Vice-Chairperson indicated her support for the amendment, however, sought more views from governments, as it was important to develop a text for a Convention that was ratified by governments.
776. The Employer Vice-Chairperson reiterated that an instrument should be flexible enough and that the amendment might mean that member States were required to continuously strengthen labour inspection bodies. According to article 22 of the ILO Constitution,

signatories of a Convention were required to submit an annual report to the Office on the measures which they had taken to give effect to the provisions of the Convention. Thus, member States would also have to report on the measures contained in the proposed amendment. She wondered whether ending the clause after “workplace” would be helpful and wished to submit a subamendment to delete the words “through labour inspection”.

- 777.** The Government member of Japan was concerned about the implications of the proposed amendment in the national legal context. In Japan, labour inspection bodies would not be the competent authorities to deal with the matter.
- 778.** The Government member of Australia remained concerned about “strengthening” and noted that not only labour inspection bodies but also other authorities would have an essential role to play.
- 779.** The Government member of Israel proposed a subamendment so that the new clause would read “ensuring effective means of inspection and investigation of cases of violence and harassment in the workplace through labour inspection and other competent bodies”.
- 780.** The Government members of Brazil, France, on behalf of the EU and its Member States, Australia, Japan, Switzerland and the United States seconded the new subamendment.
- 781.** The Worker Vice-Chairperson supported the subamendment.
- 782.** The Employer Vice-Chairperson supported the subamendment proposed by the Government member of Israel.
- 783.** The subamendment was adopted.
- 784.** The new clause after point 7(g) was adopted.
- 785.** The Government member of Canada, speaking also on behalf of the Government members of Israel and the United States, proposed an amendment to add an additional new clause with the text “protecting the privacy and confidentiality of those involved, to the extent possible”. Those were important elements in addressing violence and harassment. Disclosure of sensitive information had damaging consequences not only for the workplace as a whole, but also for victims and persons accused as perpetrators. A Canadian study had shown that cases of violence and harassment were often not reported to employers because of the fear that confidentiality and privacy were not guaranteed.
- 786.** The Employer Vice-Chairperson supported the amendment and stressed the importance of confidentiality for all parties involved, including accused persons and victims.
- 787.** The Worker Vice-Chairperson said that the Workers’ group was sympathetic to the amendment, however, did not believe that point 7 was the appropriate place in the text to address the issue of confidentiality. The inclusion of the issue in point 7 could prevent victims from speaking out.
- 788.** The Government member of Uganda, speaking on behalf of the Africa group, supported the protection of privacy but sought clarity on whether perpetrators would also be protected.
- 789.** The Government member of El Salvador proposed a subamendment, which was not seconded and therefore was not discussed.
- 790.** The Government member of Cuba expressed doubts about the proposed amendment; the right to privacy should not serve to protect those who had done wrong.

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791. The Government member of Canada, responding to the question of the Africa group, clarified that the amendment was intended to protect all persons involved, both victims and persons accused of violence and harassment.
792. The Government member of Uganda, speaking on behalf of the Africa group, agreed with the need to protect the privacy and confidentiality of victims. An amendment to protect victims in clause (b) on appropriate and effective remedies, and safe, fair and effective dispute resolution mechanisms would be more appropriate.
793. The Government member of Namibia agreed with those in the Committee who had said that the sensitivity of information might discourage people from speaking up.
794. The Government member of Canada withdrew the amendment.
795. Point 7 was adopted as amended.

Fundamental principles and rights at work and protection

796. The title “Fundamental principles and rights at work and protection” was adopted without amendment.

Point 8

797. The Government member of Uganda, speaking on behalf of the Africa group, withdrew an amendment which had proposed to delete point 8.
798. The Government member of Brazil, speaking also on behalf of the Government members of Mexico and Paraguay, introduced an amendment to add after “occupation”, the words “, as well as promote safe and decent work”. The intent was to highlight principles of decent work by including an explicit reference to it.
799. The Employer Vice-Chairperson stated that the Employers’ group supported the ILO Declaration on Fundamental Principles and Rights at Work of 1998, but did not support the amendment, as the language was not in accordance with the fundamental principles and rights at work.
800. The Worker Vice-Chairperson stated that violence and harassment was incompatible with decent work and the Workers’ group had no objection to the amendment.
801. The Government member of Uganda, speaking on behalf of the Africa group, supported the amendment.
802. The Employer Vice-Chairperson noted that Governments had not expressed concerns regarding the ratification of the instrument if the text was added, therefore despite its concerns, the group would not oppose the amendment.
803. The amendment was adopted.
804. Point 8 was adopted as amended.

Point 9

- 805.** The Government member of Uganda, speaking on behalf of the Africa group, introduced an amendment which sought to insert the words “, taking into account its national context,” between the words “should” and “adopt”, as one of the underlying threads of the Committee’s discussion had been national practice, context and circumstances.
- 806.** The Worker Vice-Chairperson disagreed with the amendment. All forms of violence and harassment needed to be tackled and there was no need for a qualification.
- 807.** The Government member of Cuba informed the Committee that another amendment submitted by the Government members of Cuba and the Islamic Republic of Iran addressed the concerns of the Africa group.
- 808.** The Government member of France, speaking on behalf of the EU and its Member States, recognized the value of flexibility and its impact on the ease of ratification of a Convention, but argued that the amendment was too vague and would weaken the idea of combating violence and harassment. Hence they could not accept the amendment.
- 809.** The Africa group withdrew the amendment.
- 810.** The Government member of Cuba, speaking also on behalf of the Islamic Republic of Iran, introduced an amendment to replace “adopt national laws and regulations to prohibit” with “include in its national laws and regulations the prohibition of”. Countries had different types of legislation and, without the amendment, they would feel obligated to enact new legislation specifically concerning violence and harassment.
- 811.** The Government members of Chile and the Russian Federation supported the amendment. It facilitated ratification, since countries had the flexibility to introduce legislation in the appropriate manner.
- 812.** The Government member of Namibia, speaking on behalf of the Africa group, disagreed with the amendment. The original text was standard ILO language used in Conventions. If a country had an appropriate law, it did not need to adopt another law; if existing legislation had to be modified, that could also be done.
- 813.** The Worker Vice-Chairperson considered that the original text offered sufficient flexibility. States could adopt, adapt or amend legislation, as they saw fit.
- 814.** The Employer Vice-Chairperson sought clarity from the secretariat on how point 7(a) was intended to differ from point 9.
- 815.** The deputy representative of the Secretary-General explained that point 7 alluded to the importance of an integrated approach which relied on multiple measures, while the subsequent sections of the text unpacked the different types of measures. Whenever countries had adopted a law, there was no need for the adoption of another law. In ILO Conventions and Recommendations, the term “adopt” also included amending or expanding existing laws.
- 816.** The Government member of Cuba withdrew the amendment, with the clear understanding that the original text did not imply the need to adopt a specific piece of legislation.
- 817.** The Government member of Israel, supported by the Government member of the United States, introduced an amendment which sought to delete the words “all forms of” between

“prohibit” and “violence”. The amendment represented one in a series of similar amendments that attempted to provide flexibility.

- 818.** The Employer Vice-Chairperson understood and appreciated the desire to mitigate the absolute nature of the text, and understood the reservations of some Governments.
- 819.** The Worker Vice-Chairperson asked whether deleting the reference to “all forms” implied that some forms of violence were permissible.
- 820.** Responding to questions from the Committee members, the deputy representative of the Secretary-General explained that the absence of “all forms of” would mean that the definition the Committee had given to “violence and harassment” would apply, namely, a range of unacceptable behaviours and practices.
- 821.** The Workers’ group and the Government member of France, on behalf of the EU and its Member States, agreed to the amendment on that basis.
- 822.** The Government member of India strongly supported the deletion, also in the light of the fact that the phrase “all forms of violence” had not been defined in contrast to the term “violence and harassment”.
- 823.** The Government member of Israel considered that more countries would be ready to ratify the Convention if the reference to all forms of violence was deleted.
- 824.** The Government member of Zambia opposed the deletion, as no forms of violence and harassment were permissible. Similarly, the Government members of Brazil and Cuba, and Uganda, on behalf of the Africa group, preferred to retain the words “all forms of”.
- 825.** The Employer Vice-Chairperson saw no legal effect attached to the deletion, preferred the clearer drafting without the words “all forms”, and thus accepted the amendment.
- 826.** The amendment was adopted.
- 827.** The Employer Vice-Chairperson withdrew an amendment which proposed replacing “world of work” with “workplace”.
- 828.** The Government member of Israel, speaking also on behalf of the Government member of the United States, introduced an amendment to insert “as appropriate” after “world of work” in point 9. The intention was to provide flexibility to member States, which would improve possibilities for ratification.
- 829.** The Employer Vice-Chairperson supported the amendment, emphasizing her group’s support for flexibility and principle-based responsibility.
- 830.** The Worker Vice-Chairperson did not support the amendment, as it caused confusion.
- 831.** The Government members of Brazil and Cuba did not support the amendment, because it would undermine the ILO’s work to promote fundamental principles and rights at work. Furthermore, the Government member of Argentina and the Government member of Uganda, speaking on behalf of the Africa group, also did not support the amendment.
- 832.** The Government member of France, speaking on behalf of the EU and its Member States, requested the secretariat to clarify whether or not the obligations outlined in point 9 were restricted to criminal law.

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833. The deputy representative of the Secretary-General confirmed that the provisions of point 9 were not restricted to criminal law, but applied to a wider context.
834. The Government member of Israel explained that “as appropriate” had been intended to refer to the form of action. However, taking into account the comments expressed, he withdrew the amendment.
835. The Employer Vice-Chairperson introduced an amendment to replace “in particular” with “including” before “all forms of gender-based violence”. The amendment would emphasize that gender-based violence needed to be addressed, but without the notion of a hierarchy implied by “in particular”.
836. The Worker Vice-Chairperson did not support the amendment, because discrimination played a significant role in violence and harassment, and there was a particular gender dimension.
837. The Government member of Uganda, speaking on behalf of the Africa group, supported the amendment, as it made clear that gender-based violence was just one of many forms of violence and harassment.
838. The Government member of France, speaking on behalf of the EU and its Member States, said that the future Convention should adopt a specific attitude to gender-based violence, therefore he supported the proposed amendment.
839. The amendment was adopted.
840. The Government member of the United States introduced an amendment to delete “all forms of” before “violence and harassment”, to read: “Each Member should adopt national laws and regulations to prohibit violence and harassment in the world of work, including all forms of gender-based violence.”. That would be consistent with a previous deletion of “all forms of” in the text.
841. The Worker Vice-Chairperson did not support the amendment, but wanted to hear from Government members.
842. The Employer Vice-Chairperson and the Government member of Uganda, on behalf of the Africa group, supported the amendment.
843. The amendment was adopted.
844. The Government member of the United States introduced an amendment to add “and harassment” after “gender-based violence”, in the interests of consistency in the text.
845. The Worker and the Employer Vice-Chairpersons supported the amendment.
846. The amendment was adopted.
847. Point 9 was adopted as amended.

Point 10

848. The Government member of United States introduced an amendment to replace point 10, including clauses (a)–(i), with “Members should recognize that discrimination can lead to increased vulnerability to violence and harassment at work and take appropriate measures to

address this problem.”, to establish a nexus between discrimination, and violence and harassment.

- 849.** The Employer Vice-Chairperson preferred a less prescriptive approach and supported the amendment.
- 850.** The Worker Vice-Chairperson did not support the amendment, as some groups of workers were indeed more affected by violence and harassment than others. Studies had shown that younger women workers experienced greater sexual harassment than women overall. Furthermore, Report V(1) referred to a number of global and national studies showing that LGBTI workers reported a considerably greater incidence of violence in the workplace compared with other workers. Migrant workers and pregnant workers were also at greater risk.
- 851.** The Government members of Argentina, Australia, Brazil, Canada, Chile, Mexico, New Zealand, the Philippines, Switzerland, and France, on behalf of the EU and its Member States, did not support the amendment, as it was important to indicate those groups of workers most vulnerable to violence and harassment, rather than their being subsumed under “all workers”. Furthermore, the word “including” signified that the list was not exhaustive.
- 852.** The Government members of Kuwait, on behalf of the Gulf Cooperation Council, and the Government members of Indonesia, the Islamic Republic of Iran, Japan, Uganda, on behalf of the Africa group, and Zambia supported the amendment, as all workers should be protected; it was not desirable to create a hierarchy of vulnerable workers. There were also some vulnerable groups that were not included in the list. Furthermore, there would be difficulties for some countries in ratifying and implementing an instrument that contained a reference to LGBTI workers which was contrary to their national legislations.
- 853.** The Employer Vice-Chairperson stated that everybody should be protected from discrimination, violence and harassment, including LGBTI persons. Her support for the amendment was based on the understanding that it made the text more inclusive.
- 854.** The Worker Vice-Chairperson emphasized that it was a priority to retain the list of clauses under point 10. She hoped that a solution could be found to ensure that vulnerable groups, including LGBTI workers, enjoyed protection.
- 855.** The Government member of Cuba, noting that the list of workers disproportionately affected by violence and harassment was problematic for some countries, proposed the term “vulnerable groups”, as used by the UN Human Rights Council. Many Committee members understood that the list was not exhaustive. The basic principle was to have a minimum standard that could take account of national realities. One possible solution would be to amend the chapeau of point 10 and delete all references to specific groups.
- 856.** The Government member of Dominican Republic supported the statement by the Government member of Cuba. She proposed additional language regarding “groups in situations of vulnerability” in the chapeau of point 10.
- 857.** The Government member of Australia stated that it was unfortunate that point 10(i) on LGBTI and gender non-conforming persons was causing difficulty for so many. He asked how clauses (a)–(i) could be moved to the proposed Recommendation.
- 858.** The Chairperson explained that that could be done either through a subamendment of an existing amendment related to the proposed Recommendation or by submitting an amendment to the draft Recommendation which would be prepared and submitted for the second Conference discussion in 2019.

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- 859.** The Government member of New Zealand emphasized that the visibility of the groups identified in clauses (a)–(i) was critical. The idea of the proposed Convention was to take active steps to protect workers, such as LGBTI workers, who were often particularly vulnerable. He hoped to discuss the list of groups under the proposed Recommendation.
- 860.** The Government member of Brazil suggested adding “based on gender, age, ethnicity, race, nationality, religion, disability and diversity, among others”.
- 861.** The Government member of Uganda, speaking on behalf of the Africa group, expressed his appreciation for the flexibility of the Committee members and agreed to the proposed text that spoke generally of vulnerable groups. The current discussion of the Committee should be taken into account in the second discussion.
- 862.** The Government member of Australia asked whether it would be possible to return to the issue later in the discussions on the Recommendation, for example, in the context of a forthcoming amendment.
- 863.** The Chairperson confirmed that it would be possible to insert the list later in the text by subamending an existing amendment.
- 864.** The Government member of the Islamic Republic of Iran supported the proposed text that spoke generally about vulnerable groups but not “groups in conditions of vulnerability”, as those were already included within “vulnerable groups”. He did not support listing specific grounds for discrimination as proposed by the Government member of Brazil.
- 865.** The Worker Vice-Chairperson voiced her strong support for the original text. The discussion of point 10 had been very difficult, because discrimination in any form, against any group was completely unacceptable. However, her group was willing to accept the language proposed by the Government member of Brazil in the spirit of compromise, albeit reluctantly.
- 866.** The Government member of France, speaking on behalf of the EU and its Member States, noted that equality of treatment and non-discrimination were fundamental values of the EU, and was strongly in favour of including a reference to LGBTI and gender-nonconforming workers. However, there did not appear to be consensus among Committee members. Seeking to achieve a compromise and the potential for widespread ratification of the future Convention, he would not oppose the amendment. He noted that there would be an opportunity to include the deleted reference to specific grounds, including gender, religion, disability, age, sexual orientation or racial and ethnic origin, under the text of the proposed Conclusions with a view to a Recommendation.
- 867.** The Government member of Kuwait supported the proposed language that spoke of vulnerable groups in general, rather than a list. However, he did not consider that any of the groups mentioned in the original text was unimportant.
- 868.** The Government member of Uganda, speaking on behalf of the Africa group, agreed that it was not appropriate to include a list, which could not be exhaustive. He did not support adding the series of grounds proposed in the Government member of Brazil’s list; moreover, the term “diversity” was unclear. He understood that the reference to “vulnerable groups” should cover all of those groups of workers.
- 869.** The Employer Vice-Chairperson maintained that all persons should be protected from violence and harassment, and be free from discrimination. The Employers shared the views of the Government member of New Zealand, and would insist that if the list was retained, it must include sexual orientation.

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- 870.** The Government member of Canada supported the original text. The proposal of the Government member of Brazil was welcome, but there were also gaps. The omission of LGBTI persons and indigenous and tribal peoples was especially concerning. However, if the list from the original text had to be deleted, she preferred the more generic language regarding vulnerable groups.
- 871.** The Government member of Argentina said that he could accept the more general reference to vulnerable groups.
- 872.** The Government member of the Islamic Republic of Iran did not support the original list or the proposal by the Government member of Brazil.
- 873.** The Government member of Indonesia supported the general language on vulnerable groups.
- 874.** The Worker Vice-Chairperson stated that, reluctantly, and with a heavy heart, her group was willing to align with others who supported the general language on vulnerable groups.
- 875.** The Government member of Australia recalled that a number of Government members had already stated that the Committee could return to the issue when discussing the proposed Conclusions with a view to a Recommendation. He asked whether the list could easily be moved there, or whether it would still be problematic.
- 876.** The Employer Vice-Chairperson remarked that her group had been profoundly offended by the course of the discussion and did not want to be associated with the present outcome. While the initial position of the Employers' group had been to remove the specific listing with a view to making the text less prescriptive and not exclusionary, as the discussion had evolved it had become clear that there was an intent to exclude LGBTI persons. That had upset her group, which was adamant that LGBTI persons needed to be included in protection. She underscored that her group emphatically did not agree with the amended text and requested that the group's position not be recorded as an abstention. She also urged the Chairperson to guide the Committee towards an inclusive outcome.
- 877.** The Government member of Brazil expressed regret at the fact that the Committee had not succeeded in agreeing on more ambitious language.
- 878.** The Chairperson remarked that, in spite of significant reservations expressed with regard to the proposed language, that was the only text that the Committee could come up with. He noted that there was enough support for it to be adopted.
- 879.** The final language of point 10 read: "Each Member should adopt laws, regulations and policies ensuring the right to equality and non-discrimination for all workers, including women workers, as well as workers belonging to one or more vulnerable groups or groups in situations of vulnerability that are disproportionately affected by violence and harassment in the world of work."
- 880.** Point 10 was adopted as amended.
- 881.** As a result, 14 amendments fell.

Prevention measures

- 882.** The title "Prevention measures" was adopted without amendment.

Point 11**Chapeau**

- 883.** The Employer Vice-Chairperson introduced an amendment to insert in the chapeau the word “appropriate” before the word “measures”, to take into account that measures undertaken might vary according to business size.
- 884.** The Worker Vice-Chairperson preferred the text without the qualifier.
- 885.** The Government members of Uganda, on behalf of the Africa group, France, on behalf of the EU and its Member States, Cuba, Switzerland and the United States supported the amendment.
- 886.** The Government members of Argentina, Canada and New Zealand did not support the amendment.
- 887.** The amendment was adopted.
- 888.** The Government member of the United States, also on behalf of the Government members of Australia, Canada, Israel, New Zealand, Norway and Switzerland, introduced an amendment to replace “ensure the prevention of” with “prevent” in the chapeau of point 11, as member States were not necessarily able to ensure that the measures they took would ultimately prevent violence and harassment in the world of work.
- 889.** The Worker and Employer Vice-Chairpersons and the Government members of Indonesia, Japan, and Uganda on behalf of the Africa group supported the amendment.
- 890.** The amendment was adopted.
- 891.** The Employer Vice-Chairperson introduced an amendment to replace the rest of the chapeau after “harassment in the” with “workplace, applying a risk-based approach, and in consultation with employer and worker representatives, as appropriate”. The amendment sought to streamline the provisions and refer to the workplace specifically, as it was the area where employers could make the greatest difference.
- 892.** The Worker Vice-Chairperson could not support the amendment. Point 11 addressed governments’ responsibilities, not employers’. Moreover, the amendment would entail the deletion of the reference to employers’ and workers’ organizations.
- 893.** The Government member of Uganda, speaking on behalf of the Africa group, did not support the amendment as it departed from the concept of the world of work, which had already been agreed upon.
- 894.** The Government member of Cuba did not support the amendment, as it was too general and did not capture the objective of preventing violence and harassment.
- 895.** The Government member of France, speaking on behalf of the EU and its Member States, understood the desire to include “risk-based approaches”, but did not support the amendment, because measures should be taken in consultation with workers’ and employers’ organizations.
- 896.** The amendment was not adopted.
- 897.** The chapeau of point 11 was adopted as amended.

New clause after the chapeau

898. An amendment by the Government member of the Philippines to add a new clause after the chapeau, “taking measures to ensure good working conditions and compliance with international labour standards”, was not seconded and therefore fell.

Point 11(a)

899. The Government member of France, speaking on behalf of the EU and its Member States, introduced an amendment to insert “where appropriate,” after “identifying”, as at times there would be measures taken by member States themselves that would not require a consultative process.

900. The Employer Vice-Chairperson supported the amendment.

901. The Government member of Uganda, speaking on behalf of the Africa group, stated that the proposed amendment would undermine the well-established practice of tripartite consultation. He did not support the amendment.

902. The Government member of Canada noted that the term “where appropriate” had just been adopted in the chapeau and it was therefore not necessary to repeat it in clause (a). She did not support the amendment.

903. The Worker Vice-Chairperson could not think of a situation where it was not appropriate to consult with the social partners and therefore did not support the amendment.

904. The Government member of France, on behalf of the EU and its Member States, withdrew the amendment.

905. The Government member of Brazil, supported by the Government members of Mexico and Paraguay, introduced an amendment to add “or through other applicable means,” after “concerned,” as there could be other means of identifying the sectors, occupations and work arrangements in which workers were more exposed to violence and harassment, such as consultation with civil society groups, data from official government databases, or surveys, among others.

906. The Worker and Employer Vice-Chairpersons did not support the amendment, as it seemed to imply governments could proceed without consulting the social partners.

907. The Government member of Brazil clarified that the intention was not to bypass tripartism or social dialogue. She introduced a subamendment, seconded by the Government members of Argentina, Mexico and the United States, to replace “or” with “and” before “other applicable means”.

908. The Government member of New Zealand observed that in such a process, governments might not need to consult with workers or employers, since they might already know which sectors were vulnerable. He did not support the amendment.

909. The Government members of Argentina, France, on behalf of the EU and its Member States, and the United States supported the subamendment.

910. The Employer Vice-Chairperson supported the subamendment since it was obvious that it was not a means of circumventing social dialogue.

911. The Worker Vice-Chairperson observed that the subamendment would not prevent governments from circumventing tripartism.

912. The amendment was adopted as subamended.

913. Point 11(a) was adopted as amended.

Point 11(b)

914. The Government member of the United States, also on behalf of the Government members of Australia, Canada, Israel, Norway, New Zealand and Switzerland, introduced an amendment to replace “ensure that workers are effectively protected” with “effectively protect such workers”, as governments could not necessarily ensure protection.

915. The Employer Vice-Chairperson supported the amendment.

916. The Worker Vice-Chairperson observed that the clause asked simply that member States “take measures to ensure”. The impact of the proposed amendment was not clear.

917. The amendment was adopted.

918. Point 11(b) was adopted as amended.

New clause after point 11(b)

919. The Worker Vice-Chairperson introduced an amendment that would add a new clause: “addressing underpinning causes and risk factors.”. Root causes, including their broader, systemic and structural underpinnings, were necessary to prevent future incidents of violence and harassment, which would entail reviewing policies and procedures.

920. The Employer Vice-Chairperson commented that underpinning causes and risk factors of violence were complex, and asked how they could be addressed in practice by member States.

921. The Government member of the United States supported the amendment.

922. The Government member of Cuba questioned the meaning of “underpinning causes and risk factors”, and whether they actually fell within the scope of an international labour standard, or if they stemmed from issues beyond the world of work.

923. The Worker Vice-Chairperson explained that the aim was to ensure that all workers were effectively protected. Some instances of violence and harassment happened due to accidents or oversights, such as a door left open, giving a perpetrator access to possible victims. Understanding the underpinning factors could help prevent that incident from reoccurring. A gender-responsive approach would take into account discrimination, which was consistent with the text of clause (i) as adopted.

924. The Government members of Argentina, Australia, Canada, Cuba, and France, on behalf of the EU and its Member States, did not support the amendment because the text was too abstract. The Government member of Cuba also felt that the chapeau provided adequate coverage.

925. The Employer Vice-Chairperson understood that the proposed clause addressed a broad range of social factors. Those factors should be addressed, but they did not fall within the

ILO's mandate. The scope of employer responsibilities should, if anything, be narrower, not broader. She did not support the amendment.

926. The Worker Vice-Chairperson withdrew the amendment.

927. The new clause after point 11(b) was not adopted.

Further new clause after point 11(b)

928. The Government member of the United States, also on behalf of the Government member of Canada, introduced an amendment to add a further new clause after point 11(b) that would read: "protecting the privacy and confidentiality of those involved, to the extent possible.". The objective was to remove barriers to reporting and to protect the reputation of those people who were falsely accused.

929. The Worker Vice-Chairperson was concerned that that language would protect perpetrators, and noted that, under such conditions, the #MeToo campaign might never have come to light.

930. The Employer Vice-Chairperson supported the amendment. An accused person was innocent until proven guilty, and it was also necessary to protect victims and others making allegations while due process was taking place.

931. The Government member of Cuba expressed concern that the amendment would protect people who did not deserve protection; the aim should be to prevent acts of violence and harassment from being committed, while protecting those who were deserving of protection.

932. The Government member of New Zealand introduced a subamendment, seconded by the Government member of Canada, to insert the word "workers" before the word "involved", such that the text read: "protecting the privacy and confidentiality of those workers involved, to the extent possible.".

933. The Worker Vice-Chairperson asked how that subamendment would affect due process in grievance procedures.

934. The Government member of Canada replied that the subamendment would not affect due process in grievance procedures, but would simply limit those involved in an investigation until a conclusion was reached.

935. The Government member of New Zealand added that workers would not necessarily bring their cases to a joint health and safety committee, but that the safety of victims who filed grievances should not be affected.

936. The Government members of Brazil, India, and France, speaking on behalf of the EU and its Member States, felt that the language in question was best placed in sub-clause (b)(iv), which dealt with protection of claimants.

937. The Government member of the United States introduced a subamendment, seconded by the Employers' group, to replace the word "workers" with the word "individuals", and to insert the words "and as appropriate" after the words "to the extent possible". The new clause would thus read: "protecting the privacy and confidentiality of those individuals involved, to the extent possible and as appropriate.". The subamendment might ensure protection for people other than workers and people who might be falsely accused.

938. The Government member of Argentina supported the subamendment.

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939. The Worker Vice-Chairperson understood that the amendment intended to protect people who wished to come forward, as part of prevention measures. If that wording would not affect due process or use of grievance procedures, she could support the subamendment.
940. The amendment was adopted as further subamended.
941. The further new clause after point 11(b) was adopted as amended.
942. Point 11 was adopted as amended.

Point 12

Chapeau

943. The Government member of France, speaking on behalf of the EU and its Member States, introduced an amendment to the chapeau of point 12 to insert after “employers” the words “, as far as it is in their sphere of influence,”. The amendment sought to provide clear and realistic guidelines with respect to the responsibilities of employers, recognizing that there were limits to what they could do to prevent violence and harassment in the world of work.
944. The Worker Vice-Chairperson supported the spirit of the amendment. It was important to limit what employers could and could not do. She proposed a subamendment to replace “, as far as it is in their sphere of influence,” with “, as far as it is reasonably practicable,” as it was consistent with terminology used in occupational safety and health legislation.
945. The Employer Vice-Chairperson agreed that employers should have responsibilities to address violence and harassment, and that there were also limits to them. She supported the subamendment.
946. The Government member of Cuba questioned who would determine what was “reasonably practicable”, and suggested that the wording “as appropriate” would be more straightforward.
947. The Government members of Australia, Canada, New Zealand, France, on behalf of the EU and its Member States, and Uganda, on behalf of the Africa group, supported the subamendment.
948. The amendment was adopted as subamended.
949. The Government member of Australia, also on behalf of Canada, the United States, Israel, Japan, New Zealand, Norway and Switzerland, withdrew an amendment which had proposed to insert the word “reasonable” after the words “requiring employers to take”.
950. The Employer Vice-Chairperson introduced an amendment to replace the text after the words “take steps” with “to prevent all forms of violence and harassment in the workplace” and to delete the clauses, such that employer obligations would be stated generally, and not as a list. The text would thus read: “Each Member should adopt national laws and regulations requiring employers to take steps, as far as it is reasonably practicable, to prevent all forms of violence and harassment in the workplace.” While it was important to ensure measures were feasible for smaller enterprises, the previous amendments to the point that had been adopted sufficiently reflected that concern.
951. The Worker Vice-Chairperson introduced a subamendment to change the word “workplace” to “world of work”.

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- 952.** The Employer Vice-Chairperson did not support the subamendment, as employers had far more control over the workplace than the world of work.
- 953.** The Worker Vice-Chairperson noted that, since the amendment was seeking to delete all the clauses, her group could not support it. The Workers' group withdrew its subamendment.
- 954.** The Government member of Canada did not support the amendment and stressed the importance of retaining the clauses.
- 955.** The Government member of the United States introduced a subamendment, seconded by the Government members of India and Japan, to delete the words "all forms of", such that the text would read: "Each Member should adopt national laws and regulations requiring employers to take steps, as far as it is reasonably practicable, to prevent violence and harassment in the workplace."
- 956.** The Employer Vice-Chairperson supported the subamendment.
- 957.** The Government member of Brazil preferred to retain the words "all forms of", as well as the clauses.
- 958.** The Government member of New Zealand did not support the amendment or the subamendment, and preferred the phrase "world of work" over "workplace".
- 959.** The Government member of France, speaking on behalf of the EU and its Member States, did not support the amendment. He also did not support the subamendment introduced by the Government member of the United States.
- 960.** The subamendment proposed by the Government member of the United States was not adopted.
- 961.** The Government member of Uganda, speaking on behalf of the Africa group, did not support the deletion of clauses (a) and (b) of point 12, and thus did not support the amendment.
- 962.** The Employer Vice-Chairperson explained that the rationale for introducing the amendment was to delete the prescriptive clauses so as to recognize the situation of small businesses, who might have difficulties in implementing clause (b) to "adopt, in consultation with workers and their representatives, a policy on all forms of violence and harassment;"
- 963.** The amendment was not adopted.
- 964.** The Worker Vice-Chairperson sought clarification as to whether the original text, "to prevent all forms of violence and harassment in the world of work", in point 12 would ensure having a working environment free from violence and harassment.
- 965.** The deputy representative of the Secretary-General clarified that "working environment" would already be encompassed by the original text but that adding the term would make the text more specific as it would capture aspects such as the physical conditions, atmosphere and relationships among co-workers and managers.
- 966.** The Worker Vice-Chairperson therefore withdrew an amendment.
- 967.** The Government member of the United States, supported by the Government member of Norway, introduced an amendment which proposed to delete "all forms of" after "prevent" to ensure consistency with previously amended text.

968. The Worker Vice-Chairperson reiterated her group’s concerns about deleting “all forms of” but, given the Committee’s previous discussions, and the fact that the definition in point 3(a) covered all forms of violence and harassment, she supported the amendment.

969. The Employer Vice-Chairperson and the Government members of India, and France, on behalf of the EU and its Member States, supported the amendment to maintain consistency.

970. The amendment was adopted.

971. The chapeau of point 12 was adopted as amended.

Point 12(a)

972. Point 12(a) was adopted without amendment.

Point 12(b)

973. Given that the chapeau of point 12 had been adopted, the Government member of France, on behalf of the EU and its Member States, withdrew an amendment which had proposed to add “taking into account, where appropriate, the specific needs of small and medium-sized enterprises” at the end of the clause.

974. The Employer Vice-Chairperson reintroduced the amendment and proposed a subamendment to insert “characteristics” before “needs”. She highlighted that the majority of employers were small businesses with specific needs; many did not have a union or formal policies in place.

975. The Worker Vice-Chairperson did not support the amendment, as it undermined institutions of collective bargaining and industrial relations.

976. The Government member of France, speaking on behalf of the EU and its Member States, explained that the amended chapeau offered sufficient flexibility to take into account the needs of small and medium-sized enterprises. Consequently, he no longer supported the amendment.

977. The Government member of Cuba did not support a detailed itemization of different types of companies. If a reference to small and medium-sized enterprises was included, large or transnational companies would also have to be mentioned. He did not support the amendment.

978. The Government members of New Zealand and of Uganda, on behalf of the Africa group, did not support the proposed text, as it had been dealt with in the adopted chapeau of point 12. The latter also noted that there was no universal definition of the term “small and medium-sized enterprises”.

979. The Employer Vice-Chairperson replied that there was a general understanding of the term. However, the amendment would create obligations for businesses of all sizes, including family-run businesses, which would face greater challenges in implementation. She underscored that further consideration should be given to small and medium-sized enterprises in the second discussion in 2019.

980. The amendment was not adopted.

981. Point 12(b) was adopted without amendment.

Point 12(c)

982. Point 12(c) was adopted without amendment.

Point 12(d)

983. The Worker Vice-Chairperson introduced an amendment to clause (d) to insert the words “managers, supervisors and designated support persons” after “workers”, as they should also have access to information and training. The term “designated support persons” would include workers’ and employers’ representatives.

984. The Employer Vice-Chairperson contended that the wording was not needed, as the Committee had already agreed on a broad definition of “worker”. Furthermore, the proposed amendment would be difficult for small and medium-sized enterprises. Also, the meaning of “designated support persons” was unclear.

985. The Worker Vice-Chairperson explained that it included persons who represented workers or employers, for example, human resources representatives.

986. The Government member of Brazil supported the amendment.

987. The Government members of Uganda, on behalf of the Africa group, of France on behalf of the EU and its Member States, and of Australia did not support the amendment as the broad definition of “worker” under point 3(d) would also encompass managers and supervisors.

988. The Worker Vice-Chairperson withdrew the amendment on the understanding that the relevant persons were all covered by the definition of “worker” in point 3(d).

989. The Worker Vice-Chairperson introduced an amendment which proposed to add, after “measures”, the words “, including the objective and effective handling of complaints”, as that could prevent harassment from escalating.

990. The Employer Vice-Chairperson said that the provision of training and information should be understood as a general obligation. She did not support the amendment.

991. The Government members of Canada, New Zealand, Uganda, on behalf of the Africa group, and France, on behalf of the EU and its Member States, did not support the amendment, as complaint mechanisms were covered by point 13(b).

992. The Worker Vice-Chairperson withdrew the amendment.

993. Point 12(d) was adopted without amendment.

994. Point 12 was adopted as amended.

Enforcement, monitoring and victim support

995. The title “Enforcement, monitoring and victim support” was adopted without amendment.

Point 13

Chapeau

- 996.** The Government member of France, on behalf of the EU and its Member States as well as Australia, Canada, United States, Israel, Japan, Norway and Switzerland, introduced an amendment to add, at the end of the chapeau of point 13, the words “take appropriate measures to”.
- 997.** The Worker Vice-Chairperson observed that the term “appropriate” was already included in clauses (b) and (c), which provided enough flexibility for the implementation of the proposed Convention. Using the qualifier in the chapeau would be problematic and, as such, she could not support the amendment.
- 998.** The Employer Vice-Chairperson supported the more flexible approach sought by the proposed amendment. She welcomed the wording as the text should speak about taking measures, rather than about absolute obligations.
- 999.** The Government members of Brazil, Mexico, New Zealand, and Uganda, on behalf of the Africa group, supported the amendment.
- 1000.** The amendment was adopted.
- 1001.** The chapeau of point 13 was adopted as amended.

Point 13(a)

- 1002.** The Government member of the United States, speaking also on behalf of Australia, Canada, Israel, Japan, Norway and Switzerland, introduced an amendment to replace in clause (a) “take appropriate measures to ensure the monitoring and enforcement of” with “monitor and enforce”, as “take appropriate measures” would now be included in the chapeau, and as Governments themselves would monitor and enforce.
- 1003.** The Worker Vice-Chairperson did not support the amendment, as employers would also need to monitor and enforce provisions.
- 1004.** The Employer Vice-Chairperson stated that the Employers’ group understood monitoring and enforcement to be an obligation of member States.
- 1005.** The Government member of Australia understood the amendment as being broader, as it would remove the word “ensure”. She supported the amendment.
- 1006.** The Government members of New Zealand, the Philippines, Thailand, and France, on behalf of the EU and its Member States, supported the amendment.
- 1007.** The Government member of Cuba and the Employer Vice-Chairperson noted issues with the French and Spanish translations, to which the Chairperson replied that the Committee Drafting Committee would address any translation issues.
- 1008.** The deputy representative of the Secretary-General, responding to a question from the Worker Vice-Chairperson, said that the adoption of the amendment would have no impact on the current content of point 27.
- 1009.** The amendment was adopted.

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- 1010.** The Employer Vice-Chairperson withdrew an amendment which proposed replacing “world of work” with “workplace”, while stressing that the broad concept of “world of work” would pose challenges for practical enforcement and monitoring measures.
- 1011.** The Worker Vice-Chairperson introduced an amendment to clause (a) which sought to add “, including allocation of adequate financial and human resources;” after “the world of work”, as governments needed to make available sufficient financial and human resources, as well as effective systems, to ensure monitoring and enforcement.
- 1012.** The Employer Vice-Chairperson expressed doubts about the amendment, as it directed governments on where to allocate resources, and the word “adequate” was difficult to define.
- 1013.** The Government member of France, speaking on behalf of the EU and its Member States, said that it was the duty of governments to allocate the necessary resources. That also applied to many other sections of the text, and, hence, the EU and its Member States could not support the amendment.
- 1014.** The Government member of Namibia speaking on behalf of the Africa group, and the Government members of India, Indonesia, New Zealand, Thailand and Qatar did not support the amendment.
- 1015.** The Worker Vice-Chairperson withdrew the amendment.
- 1016.** Point 13(a) was adopted as amended.

Point 13(b)

- 1017.** The Government member of Australia introduced an amendment, also on behalf of the Government members of Canada, Israel, Japan, Norway, Switzerland and the United States, which sought to replace “ensure” with “provide” at the beginning of clause (b), in line with earlier amendments.
- 1018.** The Worker Vice-Chairperson opposed the amendment, as the clause would then only apply to State-provided remedies.
- 1019.** The Employer Vice-Chairperson, the Government member of France, on behalf of the EU and its Member States, and the Government members of Jordan, India and New Zealand supported the amendment.
- 1020.** The Government member of Zambia, on behalf of the Africa group, and the Government members of Kuwait and Egypt did not support the amendment.
- 1021.** The Government member of Cuba also did not support the amendment, as conflict resolution measures were needed for victims and alleged perpetrators.
- 1022.** The Government member of Brazil suggested that “provide all workers with easy access” might be a better formulation than “provide that all workers have easy access”.
- 1023.** The Government member of Australia explained that the intention was not to water down the text. Governments were able to provide remedies but it was difficult for them to ensure that workers had access to them.
- 1024.** The Employer Vice-Chairperson stated that “ensure” was too absolute, as governments could only take reasonable and realistic steps to provide services.

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- 1025.** The Government member of Cuba said the discussion of whether to use “ensure” or “provide” was unnecessary, since the member States would have an obligation to implement the Convention at national level to oblige the employers to protect the rights of workers. As the word “provide” was potentially unclear, he did not support the amendment.
- 1026.** The deputy representative of the Secretary-General explained that the intent of the original text was that member States should take measures with a view to achieving certain results, but not necessarily to secure the results.
- 1027.** In the light of the explanation provided by the secretariat, the Government members of Argentina, Brazil, Chile, the Dominican Republic, Mexico, the Philippines, Thailand, and Uganda on behalf of the Africa group did not support the amendment.
- 1028.** The amendment was not adopted.
- 1029.** The Employer Vice-Chairperson introduced an amendment to replace “workers” with “persons at work” in clause (b), to ensure that persons other than workers were not excluded.
- 1030.** The Worker Vice-Chairperson noted that there was a definition of “workers” under point 3, and so did not support the amendment. The Government member of Uganda, on behalf of the Africa group, agreed.
- 1031.** The Government member of Egypt supported the amendment, noting that anybody at work, including employers, could be affected by violence and harassment.
- 1032.** The Government member of Cuba was of the view that the phrase “persons at work” was not sufficiently inclusive. He introduced a subamendment to replace “persons at work” with “persons involved in violence and harassment”.
- 1033.** The Government member of Brazil seconded the subamendment.
- 1034.** The Government member of Cuba noted that the proposal for the subamendment took into account the concerns of other member States.
- 1035.** The deputy representative of the Secretary-General explained that the measures outlined under point 13(b) were intended to cover not only workers, but other persons such as witnesses and, as such, were consistent with point 5 of the proposed Conclusions, as amended. She suggested the text might be clarified by adding “and other persons concerned” after “workers”.
- 1036.** The Employer Vice-Chairperson preferred the text of the original amendment, to replace “workers” with “persons at work”.
- 1037.** The Worker Vice-Chairperson asked the Employer Vice-Chairperson to confirm that the proposed wording would not undermine industrial action; the latter confirmed that was the case.
- 1038.** The Government member of Cuba felt it important to include language that was inclusive of victims, perpetrators, witnesses and even family members of victims, who themselves could be affected by the psychological impact of violence and harassment.
- 1039.** The Government member of Brazil proposed a further subamendment, seconded by the Government members of the United States and Uganda, on behalf of the Africa group, to simplify the text by replacing the phrase “persons involved in cases of violence and harassment” with “persons concerned”.

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- 1040.** The Employer Vice-Chairperson supported the further subamendment, as it was more inclusive.
- 1041.** The Worker Vice-Chairperson supported the further subamendment with the understanding that it included third parties and persons involved in violence and harassment, and that industrial action was not undermined.
- 1042.** The amendment was adopted as further subamended.
- 1043.** The Employer Vice-Chairperson withdrew an amendment which sought to delete “and effective” in the first line of clause (b), and an amendment which sought to remove “effective” before “dispute resolution mechanisms”.
- 1044.** The Worker Vice-Chairperson introduced an amendment to insert “reporting” before “dispute resolution mechanisms”, as safe reporting mechanisms would encourage workers to come forward, without fear of retaliation.
- 1045.** The Employer Vice-Chairperson did not support the amendment.
- 1046.** The Government members of Brazil and Canada supported the amendment because it improved the text and included the important issue of confidentiality.
- 1047.** The Government member of France, on behalf of the EU and its Member States, emphasized that it was essential to provide reporting mechanisms, but as there were different national mechanisms, the issue would better be covered under a Recommendation. Moreover, sub-clauses to clause (b) already covered the aspect of reporting. However, he did not oppose the amendment.
- 1048.** The Government members of Mexico and Cuba supported the amendment.
- 1049.** The Worker Vice-Chairperson noted that reporting was a basic right, which deserved to be in a Convention, as victims needed to be able to safely report cases.
- 1050.** The deputy representative of the Secretary-General clarified that sub-clause (iv) focused on the protection of whistle-blowers and others, while reporting established a channel where information could be provided. Therefore, the two issues were connected but distinct.
- 1051.** The Government member of Israel noted that his country had separate reporting and complaint mechanisms. However, he found the amendment to be potentially superfluous.
- 1052.** The Government member of India noted that the issue was covered in sub-clause (i) and therefore did not support the amendment.
- 1053.** The Government member of Brazil emphasized that reporting was essential, did not necessarily require any resources, and that all member States could support it.
- 1054.** The amendment was adopted.
- 1055.** The Employer Vice-Chairperson introduced an amendment to delete “including” and sub-clauses (i)–(v), as her group considered them to be overly prescriptive and that they should be considered under the Recommendation. Such prescription would be reviewed during the Employers’ group’s deliberations in support of the Convention.

1056. The Worker Vice-Chairperson did not support the amendment, as the sub-clauses provided clear guidance to governments on what constituted effective remedies, and safe, fair and effective reporting and dispute resolution mechanisms.

1057. The Government members of Uganda, on behalf of the Africa group, France, on behalf of the EU and its Member States, Kuwait and the Philippines did not support the amendment.

1058. The amendment was not adopted.

1059. The chapeau of point 13(b) was adopted as amended.

Point 13(b)(i)–(iii)

1060. Sub-clauses (i)–(iii) were adopted without amendment.

Point 13(b)(iv)

1061. The Government member of the United States introduced an amendment, also on behalf of the Government members of Australia, Canada, Israel, Japan, Norway and Switzerland to insert after “victimization of” the words “or retaliation against”. The change pertained to whistle-blowers, who were known to be subjected to retaliation.

1062. The Worker Vice-Chairperson, the Employer Vice-Chairperson, the Government member of France, on behalf of the EU and its Member States, and the Government member of Brazil supported the amendment.

1063. The amendment was adopted.

1064. The Worker Vice-Chairperson withdrew an amendment to add the words “designated support persons”.

1065. Point 13(b)(iv) was adopted as amended.

Point 13(b)(v)

1066. The Government member of Uganda introduced an amendment on behalf of the Africa group to add “medical” after “legal, social”.

1067. The Employer Vice-Chairperson, the Worker Vice-Chairperson and the Government members of Argentina, Cuba, Brazil, and France, on behalf of the EU and its Member States, supported the amendment.

1068. The amendment was adopted.

1069. Point 13(b)(v) was adopted as amended.

1070. Point 13(b) was adopted as amended.

Point 13(c)

1071. The Government member of Israel introduced an amendment, also on behalf of the Government members of Australia, the United States, Japan and Norway, to replace “appropriate” after “sanctions” with “where appropriate”. The proposed formulation was drawn from the Istanbul Convention.

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- 1072.** The Worker Vice-Chairperson did not support the amendment as it changed the meaning of the clause. The clause provided for sanctions when necessary, but it did not mean that they must be used.
- 1073.** The Government member of Israel noted that the need to apply sanctions depended on the results of investigations, and might not always be an appropriate response.
- 1074.** The Employer Vice-Chairperson supported the amendment.
- 1075.** The Government members of Canada, Switzerland, and Uganda, on behalf of the Africa group, supported the amendment; the latter noted that other measures such as dialogue, counselling or advice could also be taken.
- 1076.** The Government member of Cuba noted that sanctions fell within the State’s mandate, and that the appropriateness of response was important.
- 1077.** The Government member of Kuwait supported the original text, which provided for appropriate sanctions.
- 1078.** The amendment was adopted.
- 1079.** The Employer Vice-Chairperson withdrew an amendment to insert “against the perpetrators” after “sanctions”, and an amendment to replace “world of work” with “workplace”.
- 1080.** Point 13(c) was adopted as amended.

Point 13(d)

- 1081.** The Employer Vice-Chairperson introduced an amendment to delete clause (d), in order to remove overly prescriptive language. Furthermore, specialized dispute resolution mechanisms were already included in points 29 and 30.
- 1082.** The Worker Vice-Chairperson and the Government members of Australia, Brazil, Canada, Cuba, India, Israel, the Philippines and New Zealand did not support the amendment, as they considered that gender-based violence did indeed require specialized dispute mechanisms.
- 1083.** The amendment was not adopted.
- 1084.** The Government member of the United States introduced an amendment, also on behalf of the Government members of Australia, Canada, Israel, Japan, Norway and Switzerland, to replace the words “adopt additional measures to ensure” with “provide”. If measures were already in place, additional measures might not be needed; moreover, ensuring effective access may be outside governments’ control.
- 1085.** The Worker Vice-Chairperson asked the secretariat whether “additional measures” referred to those measures listed under point 13, or to measures governments might take in the future.
- 1086.** The deputy representative of the Secretary-General responded that the inclusive, gender-responsive and integrated approach under point 7 was relevant to all points under Part C of the proposed Conclusions. That did not necessarily mean introducing additional mechanisms, but taking steps to include a gender-responsive perspective in existing judicial systems.
- 1087.** The Government member of France, on behalf of the EU and its Member States, and the Employer Vice-Chairperson supported the amendment.

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- 1088.** The Government member of Australia noted that the wording “additional measures” raised questions about when the requirements stipulated by the eventual Convention would be met. The term “provide” introduced the same principle, but set a clearer benchmark.
- 1089.** The Government member of Cuba proposed a subamendment to insert after “provide” the words “specific measures so”, to resolve the concerns raised by the Government member of Australia.
- 1090.** The Employer Vice-Chairperson and the Government member of Israel did not support the subamendment.
- 1091.** The Worker Vice-Chairperson supported the subamendment.
- 1092.** The subamendment was not adopted.
- 1093.** The amendment was adopted, and a subsequent amendment fell.
- 1094.** The Government member of Israel introduced an amendment, also on behalf of the Government members of Canada, the United States, Japan, Norway and Switzerland, to replace “specialized” with “effective”. The amendment sought to clarify that gender-based violence should be addressed effectively within the regular judicial system.
- 1095.** The Government member of France, on behalf of the EU and its Member States, introduced a subamendment to add the words “, safe and gender-responsive” before the words “dispute resolution mechanisms”. Point 13(b) already ensured access to specialized dispute resolution mechanisms, but these were often not gender-responsive.
- 1096.** The Employer Vice-Chairperson was of the view that the text as proposed was overly prescriptive, and expressed concern that it would act as a barrier to support for an eventual Convention. She could nonetheless support the amendment and the subamendment.
- 1097.** The Worker Vice-Chairperson stated that there were unique aspects of gender-based violence and harassment that required specialized training for persons dealing with victims. She supported the subamendment.
- 1098.** The Government members of Brazil and Cuba supported the subamendment.
- 1099.** The amendment was adopted as subamended.
- 1100.** Point 13(d) was adopted as subamended.

Point 13(e)

- 1101.** The Employer Vice-Chairperson introduced an amendment to delete clause (e), “recognize the effects of domestic violence on the world of work and take measures to address them”. In her group’s view, the text was repetitive and overly prescriptive.
- 1102.** The Government member of Japan, also speaking on behalf of the Government members of China, India and Singapore, withdrew an identical amendment. Domestic violence was already referred to in the text of point 6(j) as amended, and the chapeau in point 13 as amended provided a sufficient amount of flexibility.
- 1103.** The Worker Vice-Chairperson said that the impact of domestic violence should appear in the operative part of the future instrument as well as the preamble. Report V(1) had provided

examples of governments having taken action requiring employers to adopt measures in cases of domestic violence. The Workers' group did not support the amendment.

- 1104.** The Government member of New Zealand stated that domestic violence had impacts on the world of work, and that the clause required only that member States recognize and address it. He fully supported the inclusion of the clause and did not support the amendment.
- 1105.** The Government members of Australia, Brazil, Canada and France, on behalf of the EU and its Member States, did not support the amendment.
- 1106.** The amendment was not adopted.
- 1107.** Point 13(e) was adopted without amendment.

Point 13(f)

- 1108.** The Employer Vice-Chairperson introduced an amendment to insert the words “where appropriate” after “ensure that”, such that the text would read: “ensure that, where appropriate, workers have the right to remove themselves ...”. The aim was to introduce some flexibility, as the implications for certain persons, such as those working in emergency services, was not clear.
- 1109.** The Worker Vice-Chairperson noted that the text simply gave people the right to remove themselves from danger, as provided for in Article 13 of the Occupational Safety and Health Convention, 1981 (No. 155).
- 1110.** The Government members of Canada, New Zealand, and Uganda on behalf of the Africa group did not support the amendment, the latter specifying that workers had the right to remove themselves from situations of imminent danger, and that the term “reasonable justification” already conveyed the spirit of the amendment.
- 1111.** The amendment was not adopted.
- 1112.** The Employer Vice-Chairperson introduced an amendment to delete “and harassment” after “violence”. It was unclear in which kinds of situations workers might have to remove themselves due to harassment, given the breadth of its definition as adopted by the Committee.
- 1113.** The Worker Vice-Chairperson and the Government members of Canada, New Zealand, Brazil, and Uganda on behalf of the Africa group did not support the amendment. Harassment could have enduring psychological impacts; also, the word “imminent” set a high threshold for the provision.
- 1114.** The Employer Vice-Chairperson agreed to withdraw the amendment on the understanding that the clause would mean workers had the right to remove themselves from a work situation because of a form of harassment that presented an imminent and serious danger to life or health.
- 1115.** The Government member of the United States, also speaking on behalf of the Government members of India and Switzerland, introduced an amendment to replace the word “and” with the word “or”, such that the text would read “violence or harassment”. Referring to violence and harassment suggested that someone would have to experience both before having the right to remove themselves from the situation.

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- 1116.** The Worker Vice-Chairperson stated that the definition of “violence and harassment” had been agreed under point 3(a). She did not support the amendment.
- 1117.** The Employer Vice-Chairperson supported the amendment, as her group preferred to separate the terms.
- 1118.** The Government members of Canada, Egypt, and Uganda on behalf of the Africa group did not support the amendment.
- 1119.** The amendment was not adopted.
- 1120.** Point 13(f) was adopted without amendment.

Point 13(g)

- 1121.** The Employer Vice-Chairperson introduced an amendment to replace “labour inspectors” with “appropriate authorities”, to accommodate practices in different jurisdictions.
- 1122.** The Worker Vice-Chairperson did not support the amendment. It was important to empower labour inspectors, although other actors might also have a role.
- 1123.** The Government member of France, on behalf of the EU and its Member States, did not support the amendment.
- 1124.** The amendment was not adopted.
- 1125.** The Government member of France, on behalf of the EU and its Member States, introduced an amendment, also on behalf of the Government members of Australia, the United States, Israel, Japan, New Zealand, Norway and Switzerland to insert, after “labour inspectors”, “or other relevant authorities”.
- 1126.** The Worker Vice-Chairperson introduced a subamendment to replace “or” with “and”, since other authorities may also have to be empowered to do so.
- 1127.** The Employer Vice-Chairperson did not support the subamendment as it might cause challenges in certain countries where the powers of various public authorities had to remain separate.
- 1128.** The Government members of Australia, India, Israel and France, on behalf of the EU and its Member States, observed that in their countries it was important to keep the responsibilities of various competent authorities separate. They did not support the subamendment.
- 1129.** The Worker Vice-Chairperson noted that the subamendment was also of relevance to point 33 of the proposed Conclusions, which read, “Labour inspectors and other competent authorities should undergo gender-responsive training ...”.
- 1130.** The Government members of Israel and of the United States observed that there was a qualitative difference between training other competent authorities, as mentioned in point 33, and empowering other competent authorities.
- 1131.** The Government member of Uganda, speaking on behalf of Africa group, recalled that it was essential to take a multi-sectoral approach involving labour inspectors, health inspectors, policy-makers, courts and others, all of which would need to be empowered to ensure the effective monitoring and enforcement of an eventual Convention. Where labour

inspectors could not play a role, such as in the case of violent crimes, other competent authorities such as the police could provide support. He supported the subamendment.

- 1132.** The Government members of Argentina and Egypt also supported the subamendment.
- 1133.** The Government members of the Republic of Korea, New Zealand and China did not support the subamendment.
- 1134.** The Worker Vice-Chairperson sought to clarify whether, by using the word “or”, it would mean that either the labour inspectorate or another authority would be empowered to address a specific situation, but not both.
- 1135.** The Government member of Israel recognized that labour inspectors had an important role to play, but that certain powers would need to be mandated to other relevant authorities in order to accommodate different national circumstances.
- 1136.** The deputy representative of the Secretary-General clarified that “and” would be more suitable if there was a clear intention to empower the labour inspectorate. “Or” would be more suitable if there was uncertainty as to which competent authority would be empowered.
- 1137.** The Employer Vice-Chairperson observed that the scope of the proposed instruments went well beyond labour standards and working conditions, and was addressing threats to life. Such a scope might require interventions beyond the labour inspectorate. Governments must understand the implications that they would be required to train and empower those actors.
- 1138.** The Government member of Brazil proposed a further subamendment, seconded by the Government members of Mexico, the Dominican Republic and Argentina, to add “, as appropriate,” after “and”, to take into account that labour inspectorates were essential and would need to be empowered, but also that other relevant authorities might be needed in some circumstances.
- 1139.** The Worker Vice-Chairperson supported the subamendment.
- 1140.** The Employer Vice-Chairperson observed that the subamendment could be a barrier to ratification in cases where labour inspectorates were not the appropriate authority. She did not support the further subamendment.
- 1141.** The Government member of the Islamic Republic of Iran preferred “or” and did not support the further subamendment.
- 1142.** The Government member of France, speaking on behalf of the EU and its Member States, introduced a further subamendment that read: “ensure that labour inspectorates and other relevant authorities, as appropriate ...”. The aim of the subamendment was to reference inspection, not individual inspectors, and to cover other types of inspection. In some countries, labour inspection did not have a legal mandate but could have a technical possibility to address violence and harassment. In response to a query by the Government member of Brazil regarding the effects of the words “as appropriate”, he explained that it was important not to constrain a member State in empowering its labour inspectors to deal with violence and harassment, to make a future Convention more ratifiable.
- 1143.** The Worker Vice-Chairperson accepted the proposed compromise.
- 1144.** The Employer Vice-Chairperson pointed out that governments would need to have the capacity to implement that requirement.

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- 1145.** The Government members of Israel, and Ethiopia, on behalf of the Africa group, supported the further subamendment.
- 1146.** The Government member of Australia expressed his preference for the original amendment but would not oppose the subamendment.
- 1147.** The Government member of Brazil could accept the subamendment, while emphasizing that it was the labour inspectors who needed to be empowered.
- 1148.** The amendment was adopted as further subamended.
- 1149.** An amendment proposed by the Philippines was not seconded and so fell.
- 1150.** The Employer Vice-Chairperson withdrew an amendment that would have inserted the words “in accordance with national law” after “harassment”, in noting that her group would likely resubmit it for consideration during the discussion in 2019.
- 1151.** Point 13(g) was adopted as amended.

New clause after point 13(g)

- 1152.** The Worker Vice-Chairperson introduced an amendment to add a new clause after point 13(g), to read: “ensure access to adequate social protection for victims and their dependent survivors, including workers’ compensation, medical care and psycho-social care”, which took into account the inclusive and integrated approach that members of Committee had agreed was important.
- 1153.** The Employer Vice-Chairperson did not support the proposed amendment, as it duplicated other text and also could not be achieved in practice, taking into account the broad definition of the term “workers” adopted by the Committee. It was unnecessary to add further prescriptions.
- 1154.** The Government member of France, on behalf of the EU and its Member States, recognized the importance of including a reference to social protection. However, the proposal was far-reaching and would be better placed in the proposed Recommendation.
- 1155.** The Government members of Australia, Israel, New Zealand, Switzerland, and Uganda on behalf of the Africa group also did not support the amendment.
- 1156.** The Worker Vice-Chairperson withdrew the amendment.

Further new clause after point 13(g)

- 1157.** The Employer Vice-Chairperson subamended an amendment proposed by her group to insert a new clause after point 13(g), which would read: “ensure that all persons at work who are subjected to violence and harassment during the course of, or arising from, industrial disputes, have access to protection, and that appropriate remedies and sanctions are applied”. The proposal sought to protect workers and employers. The Employers’ group recalled that the Committee had decided to take an expansive approach to the definitions and scope of violence and harassment as well as the world of work. The world of work, and risks of violence and harassment, must encompass what happened when work was withdrawn or where an employer excluded workers from work. Both were potential points of risk for violence and harassment, which could be suffered by employers, striking workers and non-striking workers. Overall, both employers and workers should not suffer violence and harassment based on their part in or decision to participate in industrial disputes.

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- 1158.** The Worker Vice-Chairperson viewed the proposed amendment as undermining the right to take industrial action and therefore did not support the proposal, which crossed an important line.
- 1159.** The Employer Vice-Chairperson replied that her group did not seek to impinge in any way on legitimate industrial action activities; the rationale of the amendment was to ensure that all persons would be protected from violence and harassment in those circumstances.
- 1160.** The Government member of Uganda, on behalf of the Africa group, observed that the Employers' group had often warned against over-prescription. The proposed amendment, which he did not support, could result in laws that would undermine the right to collective bargaining and strike action.
- 1161.** The Government member of Cuba could not accept an amendment that sought to dismantle the achievements of union movements worldwide in a bid to protect employers.
- 1162.** The Employer Vice-Chairperson drew attention to a range of case studies available demonstrating that people were subjected to unreasonable behaviour during industrial actions putting their health and safety at risk. In her view, the proposed amendment was not duplicative; industrial action took place in the world of work and any violence and harassment that arose as a result was not acceptable.
- 1163.** In response to the Worker Vice-Chairperson's comment that a high number of trade unionists had been killed for taking legitimate industrial action, the Employer Vice-Chairperson clarified that they would also be covered by the proposed amendment.
- 1164.** The Government member of New Zealand acknowledged the sensitivities of the issue for both the Workers' and Employers' groups. There were examples of lockouts and strikes that had been unlawful; at the same time, workers had been harassed by employers when taking part in union activities and vice versa. He asked the Workers' group to articulate where in the proposed Conclusions with a view to a Convention such situations were already covered, and conversely, asked the Employers' group to identify in what way the issue was not yet covered by the text.
- 1165.** The Worker Vice-Chairperson explained that her group had repeatedly asked the Employers' group to state that it was not seeking to undermine the right to take industrial action through the proposed instruments. Her group did not support the amendment.
- 1166.** The Employer Vice-Chairperson explained that her group was not seeking to interfere with legitimate industrial activities. The proposed amendment would make it absolutely clear that no form of violence and harassment was acceptable.
- 1167.** The Government members of Argentina and Chile supported the amendment. The broad definition of violence adopted by the proposed Conclusions included all forms of unacceptable conduct. Various ILO Conventions defined acts of violence as those that involved the use of force. The proposed Conclusions would not affect workers' collective rights.
- 1168.** The Government member of Cuba observed that the legality of industrial action would be determined by the applicable national law. However, there was a risk that the proposed amendment provided for compensation beyond that already foreseen. He therefore could not support the amendment.

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- 1169.** The Government member of France, on behalf of the EU and its Member States, agreed that the amendment was superfluous as the term “victim” had been defined to include workers, employers, and their respective representatives.
- 1170.** The Government member of Japan agreed and also did not support the amendment.
- 1171.** The Government member of Uganda, on behalf of the Africa group, agreed that it would not be necessary to list all circumstances where violence could occur, or to be overly prescriptive. Collective bargaining and industrial action were adequately covered under points 4 and 5. The Africa group did not support the amendment.
- 1172.** The Government member of Australia noted that a protection gap existed, particularly in situations where a worker might boycott or picket another workplace in the spirit of solidarity. He asked the secretariat to clarify whether such a situation would be covered by the term “world of work” in the proposed Convention.
- 1173.** The deputy representative of the Secretary-General wished to clarify that it was not in the secretariat’s mandate to provide an interpretation of the text that was currently being negotiated by the tripartite constituents. The meaning of the points that had been discussed was to be provided by the Committee itself. Notwithstanding, she could confirm that the amendment touched on issues covered in previously adopted points. For example, point 4 covered a wide range of circumstances in which violence and harassment in the world of work could occur. Further, point 5 acknowledged that workers, employers and third parties could be both victims and perpetrators of violence and harassment. The reference solely to “workers” in point 13(b) had been amended to “persons concerned” to broaden the support to victims beyond the definition of “worker” adopted in point 3(d). Moreover, point 8 under “Fundamental principles and rights at work and protection” stated clearly that freedom of association and the effective recognition of the right to collective bargaining were protected. Those different points should be read together for an understanding of the protection provided by the proposed instrument. The kind of situation envisaged by the Government member of Australia would therefore be covered.
- 1174.** The Employer Vice-Chairperson expressed concern about the interpretation provided by the secretariat, as the Employers’ group wished to address all dimensions of violence and harassment. The Committee had already addressed issues which were outside the workplace, for example domestic violence. The Employers’ group was not against legitimate industrial action, but wished to address occurrences of violence and harassment during or arising from industrial action. The discussions on points 18, 24 and 25 would provide further opportunities to address the issue. She also indicated that if the Employers’ group had been able to make amendments to point 4 at that juncture, it would have included the situation of industrial action. She expressed doubt about the ability of the Employers’ group to vote for a legally binding instrument if the issue was not addressed. She also expressed hope that governments would give the issue further consideration before the second discussion in 2019.

1175. The amendment was not adopted.

1176. Point 13 was adopted as amended.

Support and guidance

1177. The title “Support and guidance” was adopted without amendment.

Point 14**Chapeau**

- 1178.** The Government member of the United States, speaking also on behalf of Australia, Israel, Japan, Norway and Switzerland, proposed an amendment to add in the chapeau of point 14, after “should”, the words “seek to”. The intention was not to limit consultations but to acknowledge that governments could not ultimately ensure the effectiveness of measures.
- 1179.** The Worker Vice-Chairperson stated that the amendment weakened the objective of the point and that governments already had a choice of measures to take. She did not support the amendment.
- 1180.** The Employer Vice-Chairperson and the Government member of the Islamic Republic of Iran supported the amendment.
- 1181.** The amendment was adopted.
- 1182.** The chapeau of point 14 was adopted as amended.

Point 14(a)

- 1183.** Point 14(a) was adopted without amendment.

Point 14(b)

- 1184.** The Government member of Australia, also on behalf of Israel, Japan, Norway and the United States, introduced an amendment to replace “and other tools” with “or other tools”, so that governments would be obliged to provide only those tools deemed appropriate for a specific context.
- 1185.** The Worker Vice-Chairperson sought clarity from the secretariat on whether the original text already provided flexibility in the choice of tools to be provided by governments.
- 1186.** The deputy representative of the Secretary-General stated that the choice of tools depended on the circumstances. The wording “and other tools” pointed to the need to use tools beyond guidance, resources and training.
- 1187.** The Worker Vice-Chairperson preferred the original text.
- 1188.** The Government member of Brazil introduced a subamendment, which was seconded by the Government member of Kuwait to replace “or” with “among”, as a compromise.
- 1189.** The Worker Vice-Chairperson supported the subamendment.
- 1190.** The Employer Vice-Chairperson did not support the subamendment because it reduced governments’ flexibility in their choice of tools.
- 1191.** The Government member of New Zealand, and the Government member of Australia, also on behalf of the United States, Israel, Japan and Norway, did not support the subamendment.
- 1192.** The subamendment was not adopted.
- 1193.** The Worker Vice-Chairperson accepted the original amendment.

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- 1194.** The amendment was adopted.
- 1195.** The Employer Vice-Chairperson introduced an amendment to replace in point 14(b) from “provided to” to the end of the clause with “made freely available to employers and workers and their organizations.”. She stated that the inclusion of enforcement authorities was not needed and that receiving information from the government free of charge would benefit employers and workers.
- 1196.** The Government member of Cuba said the amendment was an attempt to shift the responsibility of protecting workers from employers to governments.
- 1197.** The Worker Vice-Chairperson did not support the amendment, as the wording “made freely available” was a passive formulation, whereas the original text implied a more active role for governments in the dissemination of information. The amendment also removed the reference to enforcement authorities and awareness-raising campaigns.
- 1198.** The Government member of France, speaking on behalf of the EU and its Member States, considered the references to both the enforcement authorities and to awareness-raising campaigns to be important and therefore did not support the amendment.
- 1199.** The Employer Vice-Chairperson stated that point 14(b) placed an obligation on member States. If guidance, resources, training and other tools were developed for the social partners, the amendment sought to establish that they would be free of charge.
- 1200.** The amendment was not adopted.
- 1201.** The Government member of France introduced an amendment on behalf of the EU and its Member States to replace “enforcement” with “relevant” before “authorities”, in order to include other authorities, such as social services.
- 1202.** The Employer Vice-Chairperson, the Worker Vice-Chairperson and the Government member of Uganda, on behalf of the Africa group, supported the amendment.
- 1203.** The amendment was adopted.
- 1204.** Point 14(b) was adopted as amended.
- 1205.** Point 14 was adopted as amended.

Means of implementation

- 1206.** The title “Means of implementation” was adopted without amendment.

Point 15

- 1207.** The Government member of the United States, speaking also on behalf of the Government members of Australia, Israel, Japan and Norway, withdrew an amendment that would have inserted “, where necessary,” after “including” in point 15.
- 1208.** Point 15 was adopted without amendment.
- 1209.** Part C was adopted as amended.

D. Proposed Conclusions with a view to a Recommendation

- 1210.** In relation to Part D, four amendments to replace the words “world of work” with the word “workplace”, one amendment to add “and harassment” after “gender-based violence”, and three amendments to replace “gender-based violence” with “violence and harassment” were withdrawn, in the light of decisions made by the Committee.
- 1211.** The title of Part D, “Proposed Conclusions with a view to a Recommendation”, was adopted without amendment.

Point 16

- 1212.** The Employer Vice-Chairperson withdrew an amendment to delete point 16.
- 1213.** The Government member of the United States, speaking also on behalf of the Government members of Australia, Canada and Switzerland, introduced an amendment to replace from “indicating that” until the end of the point, with “that is concise and focused.”, so that it would read: “The Recommendation should include a preamble that is concise and focused.”
- 1214.** The Worker Vice-Chairperson pointed out that the original text was standard wording, which should be maintained.
- 1215.** The Employer Vice-Chairperson supported the amendment and regretted that a similar proposal had not been made under the proposed Conclusions with a view to a Convention.
- 1216.** The Government members of New Zealand and Uganda, speaking on behalf of the Africa group, while appreciating the sentiment of the amendment, preferred to maintain the standard wording.
- 1217.** The Government member of France, speaking on behalf of the EU and its Member States, proposed a subamendment to restore the original text and insert it after “concise and focused”.
- 1218.** The Worker Vice-Chairperson sought clarification from the secretariat on how the wording would translate to the content of the Recommendation.
- 1219.** The deputy representative of the Secretary-General clarified that in the case of a Recommendation supplementing a Convention, the language of the preamble was usually short and often contained factual information, such as the date and location of its adoption, and the title of the Convention it accompanied. The original text of the point had been drawn from Paragraph 1 of the Domestic Workers Recommendation, 2011 (No. 201).
- 1220.** The Worker Vice-Chairperson preferred the original text and did not support the subamendment. The text was already concise.
- 1221.** The Employer Vice-Chairperson preferred to keep the words “concise and focused”.
- 1222.** The Government member of France, on behalf of the EU and its Member States, withdrew the subamendment.
- 1223.** The amendment was not adopted.
- 1224.** Point 16 was adopted without amendment.

Fundamental principles and rights at work and protection

1225. The title “Fundamental principles and rights at work and protection” was adopted without amendment.

Point 17

1226. The Government member of the United States, also on behalf of the Government member of Norway, introduced an amendment to delete “all forms of” after “Members should address”, such that the text would read: “... Members should address violence and harassment in the world of work ...”.

1227. The Employer Vice-Chairperson supported the amendment.

1228. The Worker Vice-Chairperson had no objections to the amendment.

1229. The amendment was adopted.

1230. The Government member of the United States, also on behalf of the Government member of Norway, introduced an amendment to insert “and employment” in the third line after “labour”, to recognize that employment laws were also relevant in covering violence and harassment in the world of work in some national contexts.

1231. The Worker Vice-Chairperson supported the amendment.

1232. The Government members of New Zealand and France, on behalf of the EU and its Member States, supported the amendment.

1233. The amendment was adopted.

1234. The Worker Vice-Chairperson introduced an amendment to insert “and domestic violence” after “non-discrimination”. Many governments had adopted legislation on domestic violence and the world of work; such legislation should be further encouraged.

1235. The Employer Vice-Chairperson did not support the amendment, as such laws were not in place in all member States, and domestic violence was already dealt with in other types of laws.

1236. The Government member of France, speaking on behalf of the EU and its Member States, noted that domestic violence deserved to be addressed specifically, as agreed by the Committee in its discussions on points 6(g) and 13(e). Since the specific reference to domestic violence legislation raised some concerns, he did not support the amendment.

1237. The Government member of Australia aligned with the EU and its Member States. He proposed a subamendment, to move the words “including domestic violence” to after “in the world of work”.

1238. The Government member of Cuba observed that the proposed subamendment would broaden the scope of the Convention and Recommendation. He did not, however, support the subamendment.

1239. The Government members of Argentina, Israel and Mexico agreed with the Government members of Cuba and France, on behalf of the EU and its Member States.

1240. The Government member of Australia withdrew the subamendment.

1241. The Worker Vice-Chairperson withdrew the amendment.

1242. Point 17 was adopted as amended.

Point 18

1243. The Employer Vice-Chairperson introduced an amendment to replace “Members should ensure that all workers, including those in sectors, occupations and work arrangements in which they are more exposed to violence and harassment, fully enjoy freedom of association and the right to collective bargaining in accordance with” with “In addressing violence and harassment in the workplace, Members should respect, promote and realize principles and rights set out in”.

1244. The Worker Vice-Chairperson and the Government members of Uganda, on behalf of the Africa group, and France, on behalf of the EU and its Member States, did not support the amendment.

1245. The Employer Vice-Chairperson expressed disappointment at the lack of support for the amendment, as the language proposed was consistent with that of the ILO Declaration on Fundamental Principles and Rights at Work. Employers should also enjoy the right to freedom of association, as should governments that were employers. While her group was prepared to defer the discussion, it would take the issue up again during the Committee’s deliberations in 2019.

1246. The amendment was not adopted.

1247. The Government member of the United States, also on behalf of the Government members of Australia, Israel, the Republic of Korea and Norway, withdrew an amendment to replace “are” with “may be” in the second line, before “more exposed”.

1248. Point 18 was adopted without amendment.

Point 19

Chapeau

1249. The Employer Vice-Chairperson introduced an amendment to insert “appropriate” before “measures”, because measures may not be universally applicable.

1250. The Worker Vice-Chairperson did not support the amendment. Social dialogue was the bedrock through which workers and employers could address problems in the world of work. Workers were best placed to identify risks and solutions.

1251. The Government members of New Zealand and of Uganda, on behalf of the Africa group, did not support the amendment. The Government member of New Zealand found it superfluous; it was implicit that measures taken would be appropriate.

1252. The Government members of Argentina, Australia, Israel, Thailand, the United States and France, on behalf of the EU and its Member States, supported the amendment.

1253. The Worker Vice-Chairperson and the Government member of New Zealand agreed to support the amendment, with the understanding that the word “appropriate” would not have substantial ramifications.

1254. The amendment was adopted.

1255. The chapeau of point 19 was adopted as amended.

Point 19(a)

1256. The Government member of Israel, speaking also on behalf of the Government members of Australia and the United States, introduced an amendment to replace “encourage collective bargaining at all levels as a means of preventing” with “encourage social partners to include in collective bargaining agreements provisions aimed at preventing”. The text would then read: “encourage social partners to include in collective bargaining agreements provisions aimed at preventing and addressing violence and harassment in the world of work and dealing with the effects of domestic violence on the world of work; and”. The amendment was not intended to impinge on collective bargaining, but rather to clarify the role and responsibilities of member States in line with the Right to Organise and Collective Bargaining Convention, 1949 (No. 98).

1257. The Employer Vice-Chairperson noted that collective agreements would not prevent violence and harassment in the world of work, and that member States should not necessarily be encouraging social partners beyond the promotion of collective bargaining. She introduced a subamendment to replace the clause with “promote the role of collective bargaining in addressing violence and harassment in the world of work and dealing with the effects of domestic violence on the world of work; and”.

1258. The Worker Vice-Chairperson believed the intention of the clause was to create an environment for collective bargaining to help prevent violence and harassment. That could be accomplished through collective bargaining at all levels, and should thus be encouraged, in line with Convention No. 98. The Workers’ group did not support either the subamendment or the amendment.

1259. The Government members of Argentina, Canada and Uganda, on behalf of the Africa group, did not support either the subamendment or the amendment. Governments could encourage collective bargaining, but not the content of resulting agreements.

1260. The Employer Vice-Chairperson withdrew the subamendment.

1261. The Government member of Israel withdrew the amendment.

1262. The Employer Vice-Chairperson withdrew an amendment to replace “encourage” with “promote the role of”.

1263. The Employer Vice-Chairperson introduced an amendment to replace “at all levels” with “, where appropriate,”. Not all workplaces used collective bargaining; it was one, but not the only, means of addressing violence and harassment.

1264. The Worker Vice-Chairperson did not support the amendment.

1265. The Government members of Argentina, France, on behalf of the EU and its Member States, and Uganda, on behalf of the Africa group, did not support the amendment. There were different levels at which collective bargaining could take place, such as the enterprise or sectoral levels.

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- 1266.** The Employer Vice-Chairperson recalled that legal frameworks varied, and that collective bargaining did not always happen at all levels.
- 1267.** The amendment was not adopted.
- 1268.** The Government member of France, speaking on behalf of the EU and its Member States, introduced an amendment to replace “all” with “different”, such that the text of clause (a) would read “encourage collective bargaining at different levels ...”.
- 1269.** The Employer Vice-Chairperson supported the amendment, referring to her previous comments on the matter.
- 1270.** The Worker Vice-Chairperson did not support the amendment, as her group could not accept the implication that governments could encourage only one form of collective bargaining over others.
- 1271.** The Government member of Uganda, speaking on behalf of the Africa group, aligned himself with the Workers’ group, and, together with the Government member of Argentina, did not support the amendment.
- 1272.** The Government members of Australia and the United States supported the amendment.
- 1273.** The Government member of France, on behalf of the EU and its Member States, withdrew the amendment.
- 1274.** The Government member of Switzerland, speaking also on behalf of the Government member of Israel, introduced an amendment to insert “and other forms of workers’ participation, as appropriate,” after “collective bargaining”. The proposal aimed to broaden the scope of actors with whom consultations could take place, to ensure a voice for workers who might not be tied to a formal bargaining process.
- 1275.** The Worker Vice-Chairperson did not support the amendment.
- 1276.** The Employer Vice-Chairperson supported the amendment in so far as it mitigated the broad scope of the wording “at all levels”.
- 1277.** The Government members of Argentina, Egypt and Uganda, on behalf of the Africa group, did not support the amendment.
- 1278.** The amendment was not adopted.
- 1279.** The Employer Vice-Chairperson said that she had received feedback suggesting that the motives behind the Employers’ group’s stand in supporting the principle that all persons should be protected from violence and harassment, including LGBTI persons, were being questioned. She stressed that the Employers’ group had grave concerns with the adopted text so far, as it was formulated on the basis of exclusion of certain groups from protection. She also expressed disappointment that essential amendments were being withdrawn without sufficient discussion and noted that collective bargaining issues – such as “bargaining at all levels” – had led to lack of support for certain international labour standards in the past, such as the Human Resources Development Recommendation, 2004 (No. 195). The inclusion of that text would seek to have governments encouraging all levels of collective bargaining regarding the prevention of violence and harassment, and it would be highly problematic for the Employers’ group. The phrase “bargaining at all levels” introduced unnecessary uncertainty, as different practices existed that applied at each national level. She also expressed concerns around the lack of debate and lack of exchange of meaningful dialogue

in issues of significant importance to employers. She stated that, as the text stood now, it was not sufficient to be considered as a starting point for the Committee's second round of discussions in 2019. In addition, the Employers' group questioned whether tripartism was working effectively in the Committee, as it seemed that the diversity of views were not being heard; rather, the loudest voices were being taken into account. Finally, she stressed that the Employers' group had come with an open mind to address very human and pressing concerns, and urged the Committee to make a genuine effort to find ways to deliver an instrument or instruments that could be widely supported and make a real difference.

- 1280.** The Worker Vice-Chairperson reiterated her position that violence and harassment was despicable and LGBTI persons were particularly affected by it. Her group was committed to including LGBTI workers but recognized that would pose a challenge for some member States. In order to achieve a highly ratified Convention, supplemented by a Recommendation, all parties to the discussion must be heard.
- 1281.** The Chairperson reiterated that the ILO had the opportunity to show the world its constituents had the tools to address violence and harassment. Although there might be different understandings on how best to proceed, there was consensus that the issue needed to be tackled. He hoped that the polarization seen on other issues could be avoided. Although discussions were moving slowly, the Committee could move forward, in a spirit of cooperation and mutual understanding.
- 1282.** The Government member of France, speaking on behalf of the EU and its Member States, introduced an amendment to replace the words "and dealing with the effects of domestic violence on the world of work" with "and supporting workers who are victims of domestic violence". Then he proposed a subamendment to read "and take measures to address the effects of domestic violence", in order to align the wording of the clause with the text of point 13(e).
- 1283.** The Government member of Uganda, speaking on behalf of the Africa group, did not support the amendment.
- 1284.** The Worker Vice-Chairperson said that the amendment, as subamended, changed the meaning substantially. She said that point 31 also referred back to point 13(e).
- 1285.** The Government member of France, speaking on behalf of the EU and its Member States, withdrew the amendment.
- 1286.** Point 19(a) was adopted without amendment.

Point 19(b)

- 1287.** The Government member of France, speaking on behalf of the EU and its Member States, introduced an amendment to replace in clause 19(b) the word "facilitate" with "encourage". He explained that the proposed change would better reflect the realities in countries where governments might not be in the position to facilitate collective bargaining.
- 1288.** The Worker Vice-Chairperson stated that the idea of the clause was to create a conducive environment for collective bargaining without interference by the government. She did not support the amendment.
- 1289.** The Employer Vice-Chairperson supported the amendment. The Government member of Australia concurred.
- 1290.** The Government member of Argentina did not support the amendment.

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- 1291.** The Government member of Israel requested clarification from the secretariat as to whether the term “facilitate” would entail over-intervention by governments in the affairs of the social partners.
- 1292.** The deputy representative of the Secretary-General explained that the term “facilitate” in the context of the text entailed providing information, such as those related to good practices, to facilitate collective bargaining.
- 1293.** The Employer Vice-Chairperson proposed a subamendment to replace “encourage” with “support”.
- 1294.** The Worker Vice-Chairperson and the Government members of Israel and Argentina supported the subamendment.
- 1295.** The amendment was adopted as subamended.
- 1296.** The Employer Vice-Chairperson withdrew an amendment which sought to insert “, when necessary,” after “bargaining”.
- 1297.** The Government member of France, speaking on behalf of the EU and its Member States, introduced an amendment to replace “through” with “on the basis of” to ensure that the individual situations of different member States were respected.
- 1298.** The Employer Vice-Chairperson considered the amendment a matter of semantics.
- 1299.** The Worker Vice-Chairperson, supported by the Government member of the United States, did not support the amendment. The original text sought active support from governments in sharing trends and good practices on negotiations and collective bargaining.
- 1300.** The Government member of France, speaking on behalf of the EU and its Member States, withdrew the amendment.
- 1301.** The Employer Vice-Chairperson introduced an amendment to delete the end of the clause after “information”, as it was overly prescriptive.
- 1302.** The Worker Vice-Chairperson did not support the amendment and underscored that the role of a Recommendation was to provide guidance, including through good practices.
- 1303.** The Government members of Argentina and Canada did not support the amendment.
- 1304.** The amendment was not adopted.
- 1305.** Point 19(b) was adopted as amended.
- 1306.** Point 19 was adopted as amended.

Point 20

- 1307.** The Employer Vice-Chairperson introduced an amendment to delete point 20, observing it could create extraterritorial issues for member States.
- 1308.** The Worker Vice-Chairperson and the Government member of France, speaking on behalf of the EU and its Member States, stressed the importance of having a provision on migrant workers, and, thus, did not support the amendment.

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- 1309.** The Government members of Argentina and Mexico did not support the amendment.
- 1310.** The Employer Vice-Chairperson withdrew the amendment.
- 1311.** The Worker Vice-Chairperson introduced an amendment to insert “regardless of migrant status” after “protect migrant workers”.
- 1312.** The Employer Vice-Chairperson emphasized that, indeed, everybody should be protected.
- 1313.** The Government members of Argentina, Brazil, Kuwait, France, on behalf of the EU and its Member States, and Uganda, on behalf of the Africa group, supported the amendment.
- 1314.** The Government member of Mexico supported the amendment and recalled discussions from the ILO’s Committee for Labour Migration and the forthcoming Global Compact for Safe, Orderly and Regular Migration.
- 1315.** The Government member of the United States noted that migrant workers should be protected, for example by occupational safety and health provisions. However, she wondered what the implications were of the broad view of violence and harassment in point 20, together with the definition of “worker” in Part B, which also covered jobseekers. Would employers have to hire migrants who did not have work authorization? There was also the issue of extraterritoriality in the context of origin, destination and transit countries. She did not support the amendment.
- 1316.** The Government member of Cuba explained that the rationale behind the instrument was to protect workers from violence and harassment. Migrant workers must be protected.
- 1317.** The Government member of the Dominican Republic was concerned that the scope of the amendment went beyond the workplace. She could, however, support the amendment.
- 1318.** The Government member of Egypt asked whether that amendment was in fact recommending that member States should protect illegal migrants.
- 1319.** The Employer and Worker Vice-Chairpersons said that point 20 would ensure protection for all migrant workers, regardless of migrant status.
- 1320.** The Government member of Argentina underscored the importance of the point, which related to protections against exploitation and forced labour, to which migrant workers were particularly vulnerable.
- 1321.** The amendment was adopted.
- 1322.** The Government member of Australia, speaking also on behalf of the Government members of Canada, Israel, Norway, New Zealand and Switzerland, introduced an amendment to replace “, in origin, destination and transit countries, against violence and harassment” with “from violence and harassment in the world of work.” in point 20. The amendment addressed the issue of extraterritoriality, and linked protection to violence and harassment in the world of work.
- 1323.** The Employer Vice-Chairperson supported the amendment.
- 1324.** The Worker Vice-Chairperson said that point 20 provided useful guidance for member States that were origin, destination and transit countries.

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- 1325.** The Government member of Kuwait, supported by the Government members of Argentina and Brazil, did not support the amendment. Employment might begin in a country of origin, and later move to a country of destination.
- 1326.** The Government member of Israel explained that the purpose of the amendment was to remove any ambiguity from point 20. The original text might imply that a member State destination country would have to provide protections to migrant workers in the origin and transit countries.
- 1327.** The Government member of Cuba, seconded by the Government member of Brazil, proposed a subamendment to insert “as appropriate” after “origin, destination and transit countries”.
- 1328.** The Government members of France, speaking on behalf of the EU and its Member States, and the Dominican Republic supported the subamendment.
- 1329.** The subamendment was adopted.
- 1330.** Point 20 was adopted as amended.

Point 21

- 1331.** The Government member of the United States, supported by the Government member of Norway, introduced an amendment to insert “as appropriate” after “ensure that”, since some member States had not yet ratified the instruments listed.
- 1332.** The Worker Vice-Chairperson did not support the amendment, which would remove reference to fundamental Conventions. She clarified that, according to the ILO Declaration on Fundamental Principles and Rights at Work, member States were committed to respect and promote the principles and rights in the fundamental Conventions, regardless of whether they had ratified them or not.
- 1333.** The Employer Vice-Chairperson considered that listing instruments could create barriers to ratification. She supported the amendment.
- 1334.** The Government member of Kuwait reiterated that the fundamental Conventions listed should be taken into consideration, even if they had not been ratified.
- 1335.** The Government member of the United States withdrew the amendment.
- 1336.** The Government member of the United States, speaking also on behalf of the Government members of Australia, Norway and Switzerland, introduced an amendment to insert “in employment” after “non-discrimination”.
- 1337.** The Employer Vice-Chairperson supported the amendment.
- 1338.** The Worker Vice-Chairperson did not support the amendment, because “employment” did not cover all the appropriate Conventions, such as the Discrimination (Employment and Occupation) Convention, 1958 (No. 111), which included occupation, in addition to employment.
- 1339.** The Government member of Uganda, speaking on behalf of the Africa group, did not support the amendment.

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1340. The amendment was not adopted.
1341. The Government member of France, speaking on behalf of the EU and its Member States, introduced an amendment to add “and other relevant instruments” at the end of the point.
1342. The Government members of Argentina, Brazil, Canada and Kuwait supported the amendment.
1343. The amendment was adopted.
1344. Point 21 was adopted as amended.

Prevention measures

1345. The title “Prevention measures” was adopted without amendment.

Point 22

1346. The Government member of Australia introduced an amendment to replace “the” with “relevant” so that the text read “... regulations and policies should take into account relevant occupational safety and health instruments of the International Labour Organization,” so the document would be future-oriented.
1347. The Employer Vice-Chairperson supported the amendment.
1348. The Worker Vice-Chairperson did not support the amendment, noting that the Recommendation provided guidance, and all occupational safety and health instruments were relevant to violence and harassment at work.
1349. The amendment was adopted.
1350. The Government member of Uganda, speaking on behalf of the Africa group, introduced an amendment to delete the remainder of point 22 following “International Labour Organization”. The list of instruments was long and incomplete and created an unnecessary hierarchy.
1351. The Employer Vice-Chairperson supported the amendment, which was identical in substance to the amendment of the Employers’ group. Listing instruments, many of which had not been widely ratified, could be divisive and created obstacles.
1352. The Worker Vice-Chairperson did not support the amendments. The reference to other instruments provided useful guidance.
1353. The Government member of the United States supported the proposal. The list of instruments distracted from the main issue and might become redundant over time.
1354. The amendments were adopted, and a related amendment fell.
1355. Point 22 was adopted as amended.

Point 23

Chapeau

- 1356.** The Employer Vice-Chairperson introduced an amendment that would replace the entire chapeau with: “Members should encourage employers to consult, where appropriate and consistent with existing national laws, with workers and their representatives on violence and harassment policies referred to in point 12(b), and such policies, where possible, should:”. Small and family-run businesses might not be able to fulfil that consultation requirement.
- 1357.** The Worker Vice-Chairperson noted that flexible language was appropriate in Recommendations, because they provided guidance. Workers should be involved in the design, implementation and monitoring of an employer’s policy on violence and harassment. She did not support the amendment.
- 1358.** The Government member of Australia noted an obligation for governments to require that workers took part in consultation processes. However, as the definition of “workers” was extremely broad, it would be difficult to consult with some within that category, such as jobseekers.
- 1359.** The Government members of Canada, France, on behalf of the EU and its Member States, and Uganda, on behalf of the Africa group, did not support the amendment.
- 1360.** Following a question from the Government member of Israel, the Worker Vice-Chairperson asked the secretariat to clarify whether the text suggested consultation with jobseekers.
- 1361.** The deputy representative of the Secretary-General stated that point 12, which had been discussed at length and had been adopted the previous day, covered occupational safety and health management systems at workplaces, including policies and risk-mapping, which would apply to persons who were actually working.
- 1362.** The Employer Vice-Chairperson referred to point 12(b), which required particular steps, and point 16, which considered the provisions in the Recommendation in conjunction with those of the Convention. As such, she maintained that the broad definitions and scope that the Committee had agreed on were problematic throughout the text.
- 1363.** The Government member of Uganda, on behalf of the Africa group, proposed a subamendment which after “Members should” would insert: “as appropriate, specify that workers and their representatives should take part in the design, implementation and monitoring of the policy adopted by the employer on violence and harassment, referred to in point 12(b), and such policy.”.
- 1364.** The Government members of the United States and Israel asked for clarification on the use of “specify”.
- 1365.** The deputy representative of the Secretary-General stated that “specify” had been used in the sense of “indicate” or “spell out”. It was not specifying how or when such consultations should take place.
- 1366.** The Government member of the United States remained concerned that future readers of the Convention would read it without the benefit of having heard the Committee’s discussions. Thus, it was important to be clear which persons were, or were not, covered.

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- 1367.** The Employer Vice-Chairperson said it was important to take into account a wide range of employers, including family-owned businesses, who would need to understand the practical application of the text. She preferred the amendment, as the subamendment complicated the matter.
- 1368.** The Worker Vice-Chairperson preferred the original text, as it would be appropriate to use “should take part” and not “encourage”.
- 1369.** The Government member of Australia preferred the subamendment, as did the Government member of France on behalf of the EU and its Member States.
- 1370.** The amendment was adopted as subamended, and a number of amendments fell.
- 1371.** The chapeau of point 23 was adopted as amended.

Point 23(a)

- 1372.** The Government member of the United States introduced an amendment which, for the sake of consistency, would delete “no form of” and, after “will”, insert “not”. It was seconded by the Government members of Argentina and India.
- 1373.** The Worker Vice-Chairperson, the Employer Vice-Chairperson and the Government member of France, on behalf of the EU and its Member States, supported the amendment.
- 1374.** The amendment was adopted.
- 1375.** Point 23(a) was adopted as amended.

Point 23(b)

- 1376.** The Employer Vice-Chairperson introduced an amendment which would replace the text of point 23(b) with: “include measures to prevent violence and harassment”. The reference to programmes and measurable objectives was too onerous for small businesses.
- 1377.** The Worker Vice-Chairperson did not support the proposal, as it removed the reference to prevention programmes.
- 1378.** The Government members of Canada, France on behalf of the EU and its Member States, and Brazil preferred the original text, although the latter requested that the secretariat provide examples of “measurable objectives”.
- 1379.** The deputy representative of the Secretary-General explained these were targets set on the basis of identified problems, such as reducing cases of psychological stress. In determining concrete improvements, it was a valid point to take into account the size and nature of the business.
- 1380.** The Government member of Israel echoed the sentiments of the Government member of Brazil regarding the endorsement of prevention programmes, but noted these might not always include measurable objectives. He proposed a subamendment to introduce “where appropriate” before “measurable objectives”, which was seconded by the Government member of Brazil.
- 1381.** The Employer Vice-Chairperson and the Worker Vice-Chairperson supported the subamendment.

1382. The amendment was adopted as subamended.

1383. Point 23(b) was adopted as amended.

Point 23(c)

1384. Point 23(c) was adopted without amendment.

New clause after point 23(c)

1385. The Government member of Switzerland, supported by the Government member of the United States, introduced an amendment to insert a new clause after clause (c) of point 23 to read “promote organizational measures that reduce tensions and conflicts in the workplace”. The amendment was supporting primary prevention programmes that would tackle the problems at source, to remove triggers of violence and harassment.

1386. The Employer Vice-Chairperson did not support the amendment as more prescription would make it difficult for small businesses to implement such policies.

1387. The Government member of France, speaking on behalf of the EU and its Member States, did not agree with the introduction of two new concepts – “tension” and “conflict” – at that point in the text. He introduced a subamendment to replace “tension and conflicts in the workplace” with “the risks of violence and harassment in the world of work”.

1388. The Worker Vice-Chairperson and the Government members of Canada, and Uganda on behalf of the Africa group, did not support the amendment.

1389. The amendment was not adopted.

Point 23(d)

1390. The Employer Vice-Chairperson introduced an amendment to delete clause (d) of point 23. The broad definition of “worker” adopted by the text meant that it was difficult to identify who should be consulted, informed or trained. Furthermore, workers’ representatives might not be present in small businesses and the reference to “relevant modalities” was unclear.

1391. The Worker Vice-Chairperson expressed support for the original text and believed it was important for workers and their representatives to be consulted. Two Conventions, the Occupational Safety and Health Convention, 1981 (No. 155), and the Promotional Framework for Occupational Safety and Health Convention, 2006 (No. 187), contained provisions on consultation with workers regardless of the size of enterprise.

1392. The Government member of Australia agreed with the amendment put forward by the Employers’ group but did not see the added value of clause (d) given that the chapeau of point 23 already stated workers and their representatives should take part in the design, implementation and monitoring of these policies.

1393. The Government member of Israel asked for clarification from the secretariat on the intent of clause (d).

1394. The deputy representative of the Secretary-General stated the intention had been to emphasize the way in which workers and their representatives could be consulted, informed and trained, such as through posters, newsletters and emails. Especially when workers were not conversant in the workplace language, all intended parties should be reached.

1395. The Government member of Israel suggested that clause (d) did not fulfil the Office’s intent and, therefore, supported the amendment.

1396. The amendment was adopted. A subsequent amendment fell.

1397. Point 23(d) was deleted.

Points 23(e) to 26

1398. The Government member of France, speaking on behalf of the EU and its Member States, moved a motion in accordance with article 63 of the Standing Orders of the Conference to postpone discussion of amendments to points 23(e) to 25 and proceed with consideration of point 26. During the discussion on point 10, a list of vulnerable groups had been deleted from the text, on the understanding that the discussion on vulnerable groups would be reopened as a subamendment under point 26 of the proposed Conclusions with a view to a Recommendation.

1399. The Government member of Uganda, speaking on behalf of the Africa group, saw no reason to depart from the established procedure of advancing clause by clause. It was evident that the goal was to bring about a discussion on LGBTI, but that was not an issue where consensus could be reached, which was why the term “vulnerable groups” had been adopted: to accommodate the different national realities. Furthermore, Africa could not be party to any instrument where sexual orientation or LGBTI was mentioned. While the Africa group had accepted the inclusion of the reference “sexual orientation” in Recommendations Nos 200 and 205, its position was no longer the same. If the Committee wished to continue along that path, the Africa group could take no further part in the discussions. The Committee appeared to disrespect African culture and heritage.

1400. The Employer Vice-Chairperson opposed any exclusion of LGBTI persons and recalled the difficult compromise reached on point 10; she supported the motion.

1401. The Government member of New Zealand also supported the motion.

1402. The Government member of the Islamic Republic of Iran reminded the Committee that the ultimate goal, which was shared by all, was to stop violence and harassment in the world of work. Members of the Committee would be advised not to reopen the debate on vulnerable groups. Nobody had been excluded from the provisions of the instrument. The Africa group should not be put in a difficult position. He opposed the motion.

1403. The Government member of Brazil observed that different countries had different positions and difficulties to overcome. Brazil was proud of its LGBTI community and supported its right to protection against violence and harassment. She urged members of the Committee not to deny the opportunity to debate the issue and find language that would accommodate everybody’s concerns. It would be important to discuss the special vulnerabilities of all people appearing on the list. She therefore supported the motion put forward by the Government member of France on behalf of the EU and its Member States.

1404. The Government member of Israel rejected the suggestion that the Committee did not respect some cultures. It had been possible to talk about other issues and to highlight other groups of people. He supported the motion.

1405. The Government member of Canada regretted the departure of the Africa group from the discussion. In light of the compromise reached on point 10, she supported the motion. The Government members of Australia, Iceland, Norway and Switzerland concurred.

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- 1406.** The Worker Vice-Chairperson did not believe that the decision taken to amend point 10 had been intended to exclude the listed people. Many members of the Committee had made impassioned statements about vulnerable groups, including the Africa group. The list included not only LGBTI workers, but also indigenous peoples, workers with disabilities, caste-affected workers and members of ethnic groups, among others. Everyone was trying to find a way forward, through difficult and at times emotional discussions, in order to reach the objective of developing a ratifiable Convention. Homosexuality had been illegal in her former country at one time, but the law had changed. The purpose of the debate was to have an exchange of views with others, to give each other the space to reflect and to keep open the possibility that opinions could change. For many years, some countries had imposed their laws, rules and beliefs on other countries. It was time to stop and consider what others were feeling. Everyone was pursuing the same objective, but it was vital to do it together. Countries that found certain ideas difficult to accept should not be spurned, but engaged. She requested the Chairperson to indicate what would be possible, procedurally, to close the Committee's discussion on that matter and keep the dialogue with all members open.
- 1407.** The Government member of Saudi Arabia, speaking on behalf of the Gulf Cooperation Council, stated that she was against restarting the discussion and opposed the motion.
- 1408.** The Chairperson expressed his regrets about the departure of the Africa group. It was unfortunate that the Committee could not agree on how to protect vulnerable groups – and much less on who those groups were. After conducting an indicative show of hands, he saw large support in the Committee for the motion of the EU and its Member States.
- 1409.** The motion to move the discussion to point 26 was adopted.
- 1410.** An amendment was introduced to replace the text of point 26, starting from “or the other groups” until the end of the point, with “and other vulnerable groups”.
- 1411.** The Government member of New Zealand proposed a subamendment, seconded by the Government members of Canada, and France on behalf of the EU and its Member States, to insert, after “and other vulnerable groups”, the list of vulnerable groups originally included in the clauses under point 10 of the proposed Conclusions with a view to a Convention: “including: (a) younger and older workers; (b) pregnant and breastfeeding workers, and workers with family responsibilities; (c) workers with disabilities; (d) workers living with HIV; (e) migrant workers; (f) workers from indigenous and tribal peoples; (g) workers who are members of ethnic or religious minorities; (h) caste-affected workers; and (i) lesbian, gay, bisexual, transgender, intersex and gender-nonconforming workers.”.
- 1412.** The Government member of France, speaking on behalf of the EU and its Member States, specified that the objective of the subamendment was to integrate the list of vulnerable groups into the Recommendation, as had been agreed as part of the negotiations around point 10. Their intention had never been to exclude anyone from the dialogue. As such, and since the Committee seemed unwilling to continue the discussions, he moved a motion for closure and requested that the amendment with the subamendment be included in point 26 and placed, together with the text from point 23(e) to point 37, in square brackets.
- 1413.** In the absence of any objection among the Committee members, the Chairperson stated that there was consensus in the room to include the text of the amendment with the subamendment in point 26 and that the motion for closure was carried.
- 1414.** The Chairperson proposed that, with a view to preparing the proposed instruments for examination at the next session of the Conference, the Committee could defer the discussion on the points that had not been discussed and include them in the proposed Conclusions in square brackets. Bracketing text, either for lack of time or for other reasons, was not

unprecedented. The brackets would simply indicate that the text had not been discussed and had thus been neither rejected nor agreed due to lack of time. The bracketed text would be reproduced in the proposed Recommendation which would be prepared and communicated, together with the proposed Convention, to the governments for comments within two months after the closing of the current session of the Conference. As a consequence, all the related amendments would fall, but they would be taken into account in the preparation of the final report containing the proposed texts of the proposed instruments to be communicated to the governments not later than three months before the opening of the 2019 session of the Conference. The information would also be included in the next report on the matter, to be communicated to the governments two months after the closure of the current session of the Conference.

1415. The Committee placed the points from 23(e) to point 37 in square brackets.

1416. The Committee adopted the entire proposed Conclusions as amended, subject to the above understanding and any modifications by the Committee Drafting Committee.

Resolution

1417. The Committee adopted the draft resolution to place an item entitled “Violence and harassment in the world of work” on the agenda of the next ordinary session for the second discussion with a view to the adoption of a Convention supplemented by a Recommendation.

Concluding statements

1418. In their closing statements, all speakers expressed particular gratitude to the Chairperson for his leadership and patience, and to the secretariat for their guidance and support throughout the discussions. They also thanked the Worker Vice-Chairperson, the Employer Vice-Chairperson and Government members for their willingness to engage in constructive dialogue, as well as the members of the Committee Drafting Committee for their tireless efforts.

1419. The Government member of Israel acknowledged the complexity of the issues discussed and the real need to discuss certain points of contention at length. He expressed hope that the Committee in its entirety would come together the following year to continue engaging in open discussions. Violence and harassment in the world of work was a serious issue that his Government remained committed to addressing at a global level through a Convention and Recommendation. The instruments should be ambitious, flexible, practical and effective. The broad definition adopted by the Committee meant that a wide range of tools would need to be used to implement its provisions. It would be important to protect other rights, such as the right to privacy. The proposed Conclusions contained many positive elements, but more work was needed to reach a balanced instrument that was acceptable to all.

1420. The Government member of Bulgaria, speaking on behalf of the EU and its Member States, said that the following countries aligned themselves with the statement: Albania, Iceland and Norway. She expressed the desire to build constructively on the principles discussed in order to address the important topic of violence and harassment in the world of work. The issue represented a gap in international law, which needed to be addressed through a good Convention supplemented by a Recommendation that was widely supported by the tripartite constituents. The text as adopted provided a sound basis on which to build further discussions, as it included a strong gender perspective, a focus on prevention and protection, measures to provide support to victims, and a recognition of the effects of gender-based violence and domestic violence in the world of work. The definitions of “violence and

harassment” and “worker” needed further attention. A more focused scope could increase the level of protections afforded and facilitate the ratification of the proposed Convention. The instruments should protect all persons in the world of work, especially those who were most vulnerable, including LGBTIQ persons. It was a matter of human rights. She noted the Committee members’ shared responsibility to stay in dialogue, and expressed commitment to that end.

- 1421.** The Government member of New Zealand said that violence and harassment was a topic of high relevance and could stir up emotions, as it could affect all persons in the world of work, including employers and workers. The Committee’s aim was to set an international labour standard that would be general enough to be adopted by many member States, and thus needed broad definitions, including for the “world of work”. The Convention would confer rights and thus required a certain degree of prescription, but it should also be aspirational; only then would it be relevant and bring protection to those in need.
- 1422.** The Government member of Canada stated that her Government supported a Convention, supplemented by a Recommendation. She appreciated that the Committee had adopted a definition of “violence and harassment” that recognized a range of behaviours and practices. Discrimination against diverse groups was an important issue to take into account when discussing violence and harassment. The Committee’s responsibility was to aim high, which required a broad concept of “world of work”, among other things. The current points relating to the scope and definitions of the instruments were indeed ambitious, whereas the operative sections were balanced and focused. She looked forward to the discussions in 2019, which would prove the strong *raison d’être* of the ILO on its centenary.
- 1423.** The Government member of the United States recalled that the discussions had started on the heels of media spotlights on violence and harassment that often occurred in the shadows. The Committee had made some real progress; it would now be important to analyse carefully the draft text and consider how the provisions related to one another. The draft scope and definitions of the instruments were overly broad, running the risk that governments, employers and workers might find it difficult to understand and implement the provisions. The Government of the United States would consider how the definition and scope might be refined in 2019, and looked forward to continuing to participate in a constructive manner.
- 1424.** The Government member of Australia congratulated all members on the success achieved by the Committee. He reiterated Australia’s commitment to a standard that helped to stamp out violence and harassment at work worldwide, and emphasized the need for any new standard to be widely ratifiable in order to be effective.
- 1425.** The Government member of India expressed her Government’s commitment to making workplaces free from violence and harassment. There were different views on the scope and flexibility of the instrument to accommodate national laws and circumstances. Her Government strongly supported a Convention and Recommendation that would be widely supported, and thus, the scope of the instruments should be restricted. Existing national frameworks for addressing violence and harassment should be taken into account in the discussions.
- 1426.** The Government member of Brazil observed that important progress had been made on several points, and that the Committee was capable of working towards a consensus-based, meaningful and comprehensive Convention, supplemented by a Recommendation. She expressed regret at the absence of the Africa group, and acknowledged the constructive role that group had played, along with other groups and delegations.
- 1427.** The Government member of China stated that the Committee had made substantive progress, although further challenges laid ahead. He strongly supported a Convention, supplemented

by a Recommendation. With concerted efforts, he believed the Committee could achieve instruments that could effectively address violence and harassment in the world of work.

- 1428.** The Government member of Mexico stated that violence and harassment was an important topic with relevance in all countries. It had many different forms that affected health, institutions, workers and their families. Violence and harassment would have to be addressed holistically, and through tripartite social dialogue. She hoped that the discussion could be continued in a constructive spirit in 2019, with a view to adopting a Convention, supplemented by a Recommendation.
- 1429.** The Employer Vice-Chairperson stated that protection from violence and harassment was essential to be able to work and live together. She expressed her satisfaction about addressing that important issue at a global level, but was concerned about the form of the instrument to be chosen. Recent technical Conventions had low levels of ratification. She expressed her disappointment that the proposed Conclusions were a list of concerns rather than principles that could be used for translation into national laws. The text was too prescriptive and not flexible enough, which would particularly pose a challenge to small and medium-sized companies. Employers were recognized as potential victims of violence in point 5, but they were not protected in the operative provisions. The links between violence and harassment and industrial actions would require clarification in 2019. The conflation of violence and harassment into one single concept was problematic, the adopted definition of “worker” was too broad and the rest of the text entailed a high level of ambiguity with regard to the responsibilities related to their protection. The notion of “world of work” used in the text, which extended employer responsibilities beyond the workplace where targeted measures could yield concrete results, would also need to be addressed. As in some countries, the text of a ratified Convention would become national law, words used in a Convention needed to be very clear so as to be interpreted in a practical way.
- 1430.** The Worker Vice-Chairperson observed that the Committee had undertaken a historic task when it began discussing violence and harassment in the world of work. The Committee had accomplished a first few important steps towards achieving a new standard on that important issue. Disagreements were to be expected, but there was a spirit of fruitful cooperation that would continue in the year ahead. The discussion was also timely, following the emergence of social movements such as #MeToo, #YoTambién, #NiUnaMenos, and many others. Women workers were speaking out, and it was important to adopt a Convention, supplemented by a Recommendation, to address situations such as theirs. The Convention should not be so prescriptive as to be unratifiable, nor so weak and narrow in scope that it failed to protect. Violence and harassment were the antithesis of decent work, and attention must be paid to the most vulnerable. The Committee was breaking new ground by beginning to address the impacts of domestic violence in the world of work. She hoped the instruments would be the product of a visionary ILO that would stand the test of time. She hoped to adopt a standard that left no one behind and that would make the eradication of violence and harassment in the world of work a reality.
- 1431.** The Workers’ group was saddened by the absence of the Africa group. It seemed the Committee had forgotten to apply many of the principles that it had been discussing: the need to focus on impact, not on intentions; to be forward-thinking; to leave no one behind. When views diverged significantly, it was especially important to strive to understand where others were coming from. It was unfortunate that the Committee was unable to ensure compromise, inclusion and leaving no one behind within its work. A Convention, supplemented by a Recommendation, would show the world that the ILO and its Conference were forward-thinking, and had the interests of vulnerable groups in the forefront of their minds. She hoped the Committee members would return for the second discussion with open hearts and minds.

1432. The representative of the Secretary-General recalled the important and ground-breaking nature of the Committee's work, as it was the first time an international labour standard on violence and harassment in the world of work was being negotiated. It was therefore no surprise that the discussions had proved challenging and intense; yet, the discussion also showcased the full power of the ILO's tripartite approach, which was particularly important when discussions were difficult. The Committee members' determination to explain, dialogue and find consensus, as well as their passion and patience, were crucial to ensuring progress. The Committee had managed to adopt proposed Conclusions with a view to a Convention, and had started the discussion on the proposed Conclusions with a view to a Recommendation. Although it had not covered the draft Conclusions in their entirety, it had adopted the proposed Conclusions with a view to a Convention without bracketed text. That was a remarkable result.

1433. The Chairperson highlighted that the Committee had a rare opportunity to address an issue that was attracting global attention. It had been a challenging, emotional and rewarding experience. The challenge stemmed from the expectations of the house, the governments and the global community. The discussion touched on personal, rather than abstract, issues that touched everyone. It was also rewarding because much had been accomplished in a short period of time. There was much work ahead, and there would be wins and losses for everyone, as in every negotiation. While the task ahead would be difficult, he was confident that the Committee was capable of achieving a lot through dialogue and hard work, and expressed commitment to continuing that work before and during the second discussion. He hoped future generations would one day see that this was the Committee that had set the standards to eliminate violence and harassment in the world of work.

Geneva, 8 June 2018

(Signed) R. Patry
Chairperson

A. Matheson
Employer Vice-Chairperson

M. Clarke Walker
Worker Vice-Chairperson

S. Casado García
Reporter