Reader's note

Overview of the ILO supervisory mechanisms

Since its creation in 1919, the mandate of the International Labour Organization (ILO) has included adopting international labour standards, promoting their ratification and application in its member States, and the supervision of their application as a fundamental means of achieving its objectives. In order to monitor the progress of member States in the application of international labour standards, the ILO has developed supervisory mechanisms which are unique at the international level. [1]

Under article 19 of the ILO Constitution, a number of obligations arise for member States upon the adoption of international labour standards, including the requirement to submit newly adopted standards to national competent authorities and the obligation to report periodically on the measures taken to give effect to the provisions of unratified Conventions and Recommendations.

A number of supervisory mechanisms exist whereby the Organization examines the standards-related obligations of member States deriving from ratified Conventions. This supervision occurs both in the context of a regular procedure through periodic reports (article 22 of the ILO Constitution), [2] as well as through special procedures based on representations or complaints to the Governing Body made by ILO constituents (articles 24 and 26 of the Constitution, respectively). Moreover, since 1950, a special procedure has existed whereby complaints relating to freedom of association are referred to the Committee on Freedom of Association of the Governing Body. The Committee on Freedom of Association may also examine complaints relating to member States that have not ratified the relevant freedom of association Conventions.

Role of employers' and workers' organizations

As a natural consequence of its tripartite structure, the ILO was the first international organization to associate the social partners directly in its activities. The participation of employers' and workers' organizations in the supervisory mechanisms is recognized in the Constitution under article 23, paragraph 2, which provides that reports and information submitted by governments in accordance with articles 19 and 22 must be communicated to the representative organizations.

In practice, representative employers' and workers' organizations may submit to their government's comments on the reports concerning the application of international labour standards. They may, for instance, draw attention to a discrepancy in law or practice regarding the application of a ratified Convention. Furthermore, any employers' or workers' organization may submit comments on the application of international labour standards directly to the Office. The Office will then forward these comments to the government concerned, which will have an opportunity to respond before the comments are examined by the Committee of Experts except in exceptional circumstances. [3]

[1] For detailed information on all the supervisory procedures, see the *Handbook of procedures relating to international labour Conventions and Recommendations*, International Labour Standards Department, International Labour Office, Geneva, Rev., 2012.

[2] Reports are requested every three years for the fundamental Conventions and governance Conventions, and from now on, every six years for other Conventions. In fact, at its 334th Session the Governing Body decided to expand the reporting cycle for the latter category of Conventions from five to six years (Document GB.334/INS/5). Reports are due for groups of Conventions according to subject matter.

[3] See paras 88–96 of the General Report.

Origins of the Conference Committee on the Application of Standards and the Committee of Experts on the Application of Conventions and Recommendations

During the early years of the ILO, both the adoption of international labour standards and the regular supervisory work were undertaken within the framework of the plenary sitting of the annual International Labour Conference. However, the considerable increase in the number of ratifications of Conventions rapidly led to a similarly significant increase in the number of annual reports submitted. It soon became clear that the plenary sitting of the Conference would not be able to examine all of these reports at the same time as adopting standards and discussing other important matters. In response to this situation, the Conference in 1926 adopted a resolution [4] establishing on an annual basis a Conference Committee (subsequently named the Conference Committee on the Application of Standards) and requesting the Governing Body to appoint a technical committee (subsequently named the Committee of Experts on the Application of Conventions and Recommendations) which would be responsible for drawing up a report for the Conference. These two committees have become the two pillars of the ILO supervisory system.

Committee of Experts on the Application of Conventions and Recommendations

Composition

The Committee of Experts is composed of 20 members, who are outstanding legal experts at the national and international levels. The members of the Committee are appointed by the Governing Body upon the recommendation of its Officers based on proposals by the Director-General. Appointments are made in a personal capacity from among impartial persons of competence and independent standing drawn from all regions of the world, in order to enable the Committee to have at its disposal first-hand experience of different legal, economic and social systems. The appointments are made for renewable periods of three years. In 2002, the Committee decided that there would be a limit of 15 years' service for all members, representing a maximum of four renewals after the first three year appointment. At its 79th Session (November–December 2008), the Committee decided that its Chairperson would be elected for a period of three years, which would be renewable once for a further three years. At the start of each session, the Committee would also elect a Reporter.

Work of the Committee

The Committee of Experts meets annually in November–December. In accordance with the mandate given by the Governing Body, [5] the Committee is called upon to examine the following:

– the periodic reports under article 22 of the Constitution on the measures taken by member States to give effect to the provisions of the Conventions to which they are parties;

– the information and reports concerning Conventions and Recommendations communicated by member States in accordance with article 19 of the Constitution;

– information and reports on the measures taken by member States in accordance with article 35 of the Constitution. [6]

The task of the Committee of Experts is to indicate the extent to which each member State's legislation and practice are in conformity with ratified Conventions and the extent to which member States have fulfilled their obligations under the ILO Constitution in relation to standards. In carrying out this task, the Committee adheres to its principles of independence, objectivity and impartiality. [7] The comments of the Committee of Experts on the fulfilment by member States of their standards-related obligations take the form of either observations or direct requests. Observations are generally used in more serious or long-standing cases of failure to fulfil obligations. They are reproduced in the annual report of the Committee of Experts, which is then submitted to the Conference Committee on the Application of Standards in June every year. Direct requests are not published in the report of the Committee of Experts, but are communicated directly to the government concerned and are available online. [8] In addition, the Committee of Experts examines, in the context of the General Survey, the state of the legislation and practice concerning a specific area covered by a given number of Conventions and

[4] Appendix VII, *Record of Proceedings* of the Eighth Session of the International Labour Conference, 1926, Vol. 1.

[5] Terms of reference of the Committee of Experts, Minutes of the 103rd Session of the Governing Body (1947), Appendix XII, para. 37.

[6] Article 35 covers the application of Conventions to non-metropolitan territories.

[7] See para. 32 of the General Report.

[8] See para. 66 of the General Report. Observations and direct requests are accessible through the NORMLEX database available at: www.ilo.org/normes.

Recommendations chosen by the Governing Body. [9] The General Survey is based on the reports submitted in accordance with articles 19 and 22 of the Constitution, and it covers all member States regardless of whether or not they have ratified the concerned Conventions. This year's General Survey covers the Social Protection Floors Recommendation, 2012 (No. 202).

Report of the Committee of Experts

As a result of its work, the Committee produces an annual report. The report consists of two volumes.

The first volume (Report III (Part A)) [10] is divided into two parts:

– **Part I:** the **General Report** describes, on the one hand, the progress of the work of the Committee of Experts and specific matters relating to it that have been addressed by the Committee and, on the other hand, the extent to which member States have fulfilled their constitutional obligations in relation to international labour standards.

– **Part II: Observations concerning particular countries** on the fulfilment of obligations in respect of the submission of reports, the application of ratified Conventions grouped by subject matter and the obligation to submit instruments to the competent authorities.

The second volume contains the **General Survey** (Report III (Part B)).

Committee on the Application of Standards of the International Labour Conference

Composition

The Conference Committee on the Application of Standards is one of the two standing committees of the Conference. It is tripartite and therefore comprises representatives of governments, employers and workers. At each session, the Committee elects its Officers, which include a Chairperson (Government member), two Vice-Chairpersons (Employer member and Worker member) and a Reporter (Government member).

Work of the Committee

The Conference Committee on the Application of Standards meets annually at the Conference in June. Pursuant to article 7 of the Standing Orders of the Conference, the Committee shall consider:

– measures taken to give effect to ratified Conventions (article 22 of the Constitution);

– reports communicated in accordance with article 19 of the Constitution (General Surveys);

– measures taken in accordance with article 35 of the Constitution (non-metropolitan territories).

The Committee is required to present its report to the plenary sitting of the Conference.

Following the independent technical examination carried out by the Committee of Experts, the proceedings of the Conference Committee on the Application of Standards provide an opportunity for the representatives of governments, employers and workers to examine together the manner in which States are fulfilling their standards-related obligations. Governments are able to elaborate on information previously supplied to the Committee of Experts, indicate any further measures taken or proposed since the last session of the Committee of Experts, draw attention to difficulties encountered in the fulfilment of obligations and seek guidance as to how to overcome such difficulties.

The Conference Committee on the Application of Standards discusses the report of the Committee of Experts, and the documents submitted by governments. The work of the Conference Committee starts with a general discussion based essentially on the General Report of the Committee of Experts. The Conference Committee then discusses the General Survey. It also examines cases of serious failure to fulfil reporting and other standards-related obligations. Finally, the

[9] By virtue of the follow-up to the ILO Declaration on Social Justice for a Fair Globalization, 2008, a system of annual recurrent discussions in the framework of the Conference has been established to enable the Organization to gain a better understanding of the situation and varying needs of its members in relation to the four strategic objectives of the ILO, namely: employment; social protection; social dialogue and tripartism; and fundamental principles and rights at work. The Governing Body considered that the recurrent reports prepared by the Office for the purposes of the Conference discussion should benefit from the information on the law and practice of member States contained in General Surveys, as well as from the outcome of the discussions of General Surveys by the Conference Committee. In principle, the subjects of General Surveys have therefore been aligned with the four strategic objectives of the ILO. The importance of the coordination between the General Surveys and recurrent discussions was reaffirmed in the context of the adoption of a five-year cycle of recurrent discussions by the Governing Body in November 2016. In the context of discussing measures to strengthen the supervisory system in November 2018, the Governing Body invited the Committee of Experts to make proposals on its possible contribution to optimizing the use made of article 19, paragraphs 5(e) and 6(d), of the Constitution, in particular by considering measures to improve the presentation of General Surveys, so as to ensure a user-friendly approach and format that maximizes their value for constituents (document GB.334/INS/5).

[10] This citation reflects the agenda of the International Labour Conference, which contains as a permanent item, item III relating to information and reports on the application of Conventions and Recommendations.

Conference Committee examines a number of individual cases concerning the application of ratified Conventions which have been the subject of observations by the Committee of Experts. At the end of the discussion of each individual case, the Conference Committee adopts conclusions on the case in question.

In its report [11] submitted to the plenary sitting of the Conference for adoption, the Conference Committee on the Application of Standards may invite the member State whose case has been discussed to accept a technical assistance mission by the International Labour Office to increase its capacity to fulfil its obligations, or may propose other types of missions. The Conference Committee may also request a government to submit additional information or address specific concerns in its next report to the Committee of Experts. The Conference Committee also draws the attention of the Conference to certain cases, such as cases of progress and cases of serious failure to comply with ratified Conventions.

The Committee of Experts and the Conference Committee on the Application of Standards

In numerous reports, the Committee of Experts has emphasized the importance of the spirit of mutual respect, cooperation and responsibility that has always existed in relations between the Committee of Experts and the Conference Committee. It has accordingly become the practice for the Chairperson of the Committee of Experts to attend the general discussion of the Conference Committee and the discussion on the General Survey as an observer, with the opportunity to address the Conference Committee at the opening of the general discussion and to make remarks at the end of the discussion on the General Survey. Similarly, the Employer and Worker Vice-Chairpersons of the Conference Committee are invited to meet the Committee of Experts during its sessions and discuss issues of common interest within the framework of a special session held for that purpose.

[11] The report is published in the *Record of Proceedings* of the Conference. Since 2007, it has also been issued in a separate publication. See, for the last report, *Conference Committee on the Application of Standards: Extracts from the Record of Proceedings*, International Labour Conference, 107th Session, Geneva, 2018.

Part I. General Report

I. Introduction

1. The Committee of Experts on the Application of Conventions and Recommendations, appointed by the Governing Body of the International Labour Office to examine the information and reports submitted under articles 19, 22 and 35 of the Constitution by member States of the International Labour Organization on the action taken with regard to Conventions and Recommendations, held its 89th Session in Geneva from 21 November to 8 December 2018. The Committee has the honour to present its report to the Governing Body.

Composition of the Committee

2. The composition of the Committee is as follows: Mr Shinichi AGO (Japan), Ms Lia ATHANASSIOU (Greece), Ms Leila AZOURI (Lebanon), Mr Lelio BENTES CORRÊA (Brazil), Mr James J. BRUDNEY (United States), Mr Halton CHEADLE (South Africa), Ms Graciela Josefina DIXON CATON (Panama), Mr Rachid FILALI MEKNASSI (Morocco), Mr Abdul G. KOROMA (Sierra Leone), Mr Alain LACABARATS (France), Ms Elena E. MACHULSKAYA (Russian Federation), Ms Karon MONAGHAN (United Kingdom), Mr Vitit MUNTARBHORN (Thailand), Ms Rosemary OWENS (Australia), Ms Monica PINTO (Argentina), Mr Paul-Gérard POUGOUÉ (Cameroon), Mr Raymond RANJEVA (Madagascar), Ms Kamala SANKARAN (India), Ms Deborah THOMAS-FELIX (Trinidad and Tobago) and Mr Bernd WAAS (Germany). Appendix I of the General Report contains brief biographies of all the Committee members.

3. The Committee noted that Mr Cheadle, who had been a member of the Committee since 2004, would be completing his 15-year mandate at the end of this session. The Committee expressed its deep appreciation for the outstanding manner in which Mr Cheadle had carried out his duties during his service on the Committee.

4. During its session, the Committee functioned with a full composition of 20 members and welcomed Ms Kamala Sankaran, nominated by the Governing Body at its 334th Session (October–November 2018).

5. For the sixth year, Mr Koroma continued his mandate as Chairperson of the Committee. As per the 2008 Committee decision that its Chairperson would be elected for a period of three years, renewable once, the Committee elected Judge Graciela Dixon Caton as its new Chairperson as from 2019. Mr Ago was elected as Reporter.

Working methods

6. Consideration of its working methods by the Committee of Experts has been an ongoing process since its establishment. In this process, the Committee has always given due consideration to the views expressed by the tripartite constituents. In recent years, in its reflection on possible improvements and the strengthening of its working methods, the Committee of Experts directed its efforts towards identifying ways to adapt its working methods so as to perform its functions in the best and most efficient manner possible and, in so doing, assist member States in meeting their obligations in relation to international labour standards and enhance the functioning of the supervisory system.

7. In order to guide the Committee's reflection on continuous improvement of its working methods, a subcommittee on working methods was set up in 2001 with the mandate to examine the working methods of the Committee and any related subjects, in order to make appropriate recommendations to the Committee. This year, under the guidance of Mr Bentes Corrêa, who was elected as its Chairperson, the subcommittee on working methods met for the 18th time. The subcommittee on working methods focused its discussions on four main issues: (i) the implications of the Governing Body discussions and decisions on the Standards Initiative for the working methods of the Committee; (ii) the treatment of observations submitted by employers' and workers' organizations under article 23, paragraph 2, of the ILO Constitution; (iii) improvements in the streamlining of the treatment of repetitions and urgent appeals; and (iv) reinforcement of the deadlines for receipt of article 22 reports.

8. With regard to point (i) above, the subcommittee discussed the important decisions taken by the Governing Body at its 334th Session and their implications for the Committee's working methods. The subcommittee gave particular consideration to the Governing Body's request for proposals with a view to optimizing the use made of article 19, paragraphs 5(e) and 6(d), of the Constitution, in particular measures to improve the presentation of General Surveys, so as to ensure a user-friendly approach and format that maximizes their value for constituents. The Committee advised the secretariat which will seek to present the General Survey in a revised format next year possibly with an executive summary highlighting salient points. It also discussed various modalities for the examination of General Surveys taking full advantage of the electronic document management system and other Information Technology (IT) enhancements under way following previous Governing Body decisions to strengthen the supervisory mechanism. The Committee also had an opportunity to discuss the pilot project for the establishment of electronic baselines which would facilitate reporting by governments and information sharing on compliant practices. The Experts were particularly interested in this project and will continue to follow closely its development in collaboration with the Office.

9. With regard to point (ii) above, at its last session, the Committee discussed the implications that a new six-year reporting cycle for technical Conventions might have on the criteria for the examination of observations submitted by employers' and workers' organizations outside the regular reporting cycle. The Committee indicated its willingness to consider the manner in which it might broaden the very strict criteria for breaking its cycle of review when receiving comments from workers' or employers' organizations on a specific country under article 23, paragraph 2, of the ILO Constitution and decided that inspiration in this regard could be drawn from those criteria used for "footnoting" cases. At its 334th Session, the Governing Body decided to approve a thematic grouping of Conventions for reporting purposes under a six-year cycle for the technical Conventions with the understanding that the Committee of Experts further reviews, clarifies and, where appropriate, broadens the criteria for breaking the reporting cycle with respect to technical Conventions. Based on an in-depth discussion, the Committee reached decisions in this regard. The result of its discussion is reflected in paragraphs 94–104 below.

10. With regard to point (iii) above, the Committee decided to reinforce the practice of urgent appeals [1] that it launched last year drawing on experience with the implementation of this decision. Already at this session, the Committee has issued urgent appeals to eight countries which have failed to send a first report for at least three years (see below paragraph 59). The Committee decided that, as of its next session, it will generalize this practice by issuing urgent appeals in all cases where article 22 reports have not been received for three consecutive years. As a result, repetitions of previous comments will be limited to a maximum of three years, following which the Convention's application will be examined in substance by the Committee on the basis of publicly available information, even if the government has not sent a report, thus ensuring a review of the application of ratified Conventions at least once within the regular reporting cycle. The repetition language will follow a certain "escalation" in relation to how many times the government has failed to report:

– first year: simple repetition, the Committee will note that the report has not been received;
– second year: the Committee will note with regret that the report has not been received;
– third year: the Committee will note with deep regret that the report has not been received and issue an urgent appeal, informing the government that if a report is not received in time for examination by the Committee at its next session, the latter will proceed to examine the application of the Convention in the country in question on the basis of information at its disposal;
– fourth year: the Committee will carry out an examination even if the government has not sent its report.

11. With regard to point (iv) above, the Committee decided to distinguish more clearly between article 22 reports received after the 1 September deadline, the examination of which might be deferred due to the late arrival, and reports received by this deadline, the examination of which might be deferred for other reasons (for example need for translation into the ILO working languages). The Committee was pleased to note the information provided by the Office on the potential medium-term impact of the Governing Body decisions in the framework of the Standards Initiative, from the point of view of maintaining the sustainability and effectiveness of the supervisory mechanism in the light of the constantly increasing number of ratifications and consequent reporting obligations.

Relations with the Conference Committee on the Application of Standards

12. A spirit of mutual respect, cooperation and responsibility has consistently prevailed over the years in the Committee's relations with the Committee on the Application of Standards of the International Labour Conference. In this context, the Committee once again welcomed the participation of its Chairperson in the general discussion of the Committee on the Application of Standards at the 107th Session of the International Labour Conference (May–June 2018). It noted the decision by the Conference Committee to request the Director-General to renew this invitation to the Chairperson of the Committee of Experts for the 108th Session (June 2019) of the Conference. The Committee of Experts accepted this invitation.

[1] See para. 59 of the General Report.

13. The Chairperson of the Committee of Experts invited the Employer Vice-Chairperson (Ms Sonia Regenbogen) and the Worker Vice-Chairperson (Mr Marc Leemans) to participate in a special sitting of the Committee at its present session. They both accepted this invitation. An interactive and thorough exchange of views took place on matters of common interest.

14. Both Vice-Chairpersons appreciated the opportunity to exchange views and experiences between supervisory bodies in a positive environment.

15. The Worker Vice-Chairperson said that the special sitting was an opportunity to share experiences and mutually learn from each other. He observed that both Committees were part of an authoritative supervisory system, sharing the goal of effectively contributing towards the implementation of international labour standards even though they had distinctive ways to accomplish this goal. Their collaboration was of critical importance for the fulfilment of the ILO's mandate and the Declaration of Philadelphia in the light of the ILO's Centenary. The Conference Committee had great respect for the neutral, principled and independent manner in which the Committee of Experts had been carrying out its mandate. The Worker Vice-Chairperson congratulated the Committee for the enormously valuable work it carried out and underlined the contribution of workers' and employers' organizations to the good functioning of the supervisory mechanism through the high number of observations they had made again this year under article 23, paragraph 2, of the ILO Constitution. The report delivered to the Conference Committee in 2018 was once again of very high quality and allowed for rich and robust discussions. The Worker Vice-Chairperson appreciated that the Committee of Experts functioned as the backbone of the entire supervisory system by regularly examining the follow-up to the discussions of the Conference Committee, the recommendations of ad hoc tripartite committees established to examine representations under article 24 of the ILO Constitution and the recommendations of Commissions of Inquiry established under article 26 of the ILO Constitution to ensure overall coherence in the supervisory system.

16. The Worker Vice-Chairperson indicated that the new practice of urgent appeals introduced by the Committee of Experts was an innovative and compelling approach to address the longstanding problem of serious reporting failures. He thanked the Committee for the balance it maintained in the selection of double-footnoted cases on both technical and fundamental Conventions. He also referred to the need to maintain a regional balance in the selection of double footnotes and suggested that the two Committees be aligned as much as possible in this regard, account being taken of the gravity of each case which should remain the main criterion for double footnotes. In light of the secretariat's heavy workload it was also important to devise ways to ensure that serious cases and observations by the social partners were not excluded from review in the year in which they were due. He called for attention to be given to technical Conventions such as those concerning social security and occupational safety and health for example. This was all the more important in the light of the decision taken in the framework of the Standards Initiative to extend the reporting cycle for technical Conventions to six years. In this respect, he welcomed the Committee's indication in last year's report that it was considering broadening the criteria for breaking the reporting cycle when observations were received from employers' and workers' organizations under article 23, paragraph 2, of the ILO Constitution and the information shared by the Committee on the decisions reached on this question at its current session.

17. While an accessible and transparent report was necessary, the Worker Vice-Chairperson emphasized that it was in the interest of all constituents to have a complete report. Making comments in the form of observations where possible, instead of direct requests, was important to the workers so that they could have a discussion at the Conference Committee. Clear criteria for distinguishing observations from direct requests were important for reasons of coherence and legal certainty. More generally, the shortening of the report in recent years was seen as having an unexpected impact on tripartite engagement both at the national and ILO levels. The previously more complete and elaborate format of the report allowed for a better discussion of cases by the Conference Committee as details and clarity were necessary both for a good discussion and in order to guide the constituents on measures conducive to the effective application of ratified Conventions.

18. The Worker Vice-Chairperson, responding to certain comments by the Employer Vice-Chairperson, added that, as the Experts had no doubt observed, the right to strike remained a subject of divergence between the Worker and Employer members of the Conference Committee. Despite this, the tripartite constituents had recognized the mandate of the Committee of Experts and in this framework the Experts continued to examine the application of the Freedom of Association and Protection of the Right to Organise Convention, 1948 (No. 87), stating for the last 70 years that the right to strike was an inherent part of the right to freedom of association and the Convention. Judicial bodies and other institutions continued to rely on the views of the Experts and cite them in reaching important decisions like the one recently adopted by the European Court of Human Rights, confirming that the right to strike fell under Article 11 of the European Convention on Human Rights as an important aspect of freedom of association. [2] In reaching this decision, the Court had relied explicitly on the recommendations of the Committee of Experts and the Committee on Freedom of Association. To maintain its authoritativeness, the Committee of Experts must remain impartial and consistent in exercising its mandate. Concerns related to the interpretation of Conventions as per the ILO Constitution have to be addressed by provisions contained in its article 37. He concluded by wishing the Committee success in its deliberations.

19. The Employer Vice-Chairperson underlined that constant and direct dialogue between the two Committees, along with the Office, was of utmost importance, not only in order to guide constituents towards a better application of ratified

[2] Application No. 44873/09; ECHR 393 (2018).

instruments but also for the Experts to understand the realities and needs of the constituents as users of the system. This year the Experts' work would have particular visibility and draw much interest in light of the Centenary. This was an opportunity to discuss how transparency, participation and good governance could be further improved among the supervisory bodies. The Employer Vice-Chairperson briefed the Experts on the outcomes of the Conference Committee which had demonstrated once again its capacity to lead a results-oriented tripartite dialogue and allow for divergent views, where these existed, to be voiced in a spirit of respect and mutual understanding. The place reserved for cases of progress in the discussion before the Conference Committee was of central importance for the Employers, and the Centenary year was the appropriate time to ensure that discussion in the Conference Committee served to highlight important cases of progress. She invited the Experts to highlight cases showcasing exemplary practice in order to facilitate the work of the Conference Committee.

20. The Employer Vice-Chairperson also referred to her group's position on the right to strike in a spirit of constructive dialogue highlighting the viewpoint of the users of the Committee of Experts' report. She observed that around two-thirds of the observations on Convention No. 87, as well as most of the 52 direct requests on this Convention, dealt in one way or another with that right. According to these figures, hardly any country fully lived up to the Experts' interpretations on the right to strike, reflecting a significant discrepancy between the Experts' one-size-fits-all-type rules on the right to strike and the much more diverse reality of industrial relations systems. While she recognized a right to industrial action in principle, she considered that the right level to set detailed rules on this sensitive matter was at the national level. This had been the point of view of the tripartite constituents at the International Labour Conference at the time of adoption of Convention No. 87 and was in essence reconfirmed in the 2015 joint statement of the employers' and workers' groups, as well as in the Government group's statement.

21. Another subject she highlighted was the differentiation between observations and direct requests. The criteria set by the Committee of Experts were not fully clear and much latitude seemed to apply in classifying comments under one or the other category. As direct requests were not included in the Committee of Experts' report the substantive questions they concerned were removed from tripartite scrutiny. She suggested that the Experts might wish to consider refining the criteria and erring towards classifying a comment as an observation except if it clearly fell in the category of direct requests.

22. The Employer Vice-Chairperson was pleased to note that the Experts consistently followed up on the conclusions reached by the Conference Committee on individual cases and expressed the hope that the Experts would continue to provide this consideration which created important synergies and coherence between the two pillars of the supervisory system. Looking forward to 2019, the Employer Vice-Chairperson informed the Committee of Experts that the working group on working methods of the Conference Committee had met twice this year in March and November 2018, taking a number of concrete decisions to make the work of the Conference Committee more transparent, efficient and impactful. For example, the Conference Committee reports as of 2019 would contain verbatim records of all discussions thereby increasing transparency even further while saving the Office costs and time in preparing these reports. Given the emphasis placed by the government members of the Conference Committee to ensuring balance in the list of cases considered from a geographical and subject matter point of view, it would be very helpful if the Experts provided a short explanation of the reasons for double footnoting cases. This would allow the two Vice-Chairpersons to better present the reasons for selecting these cases during the briefing they provided to government delegates. She fully supported the comments of the Worker Vice-Chairperson on the need for additional attention to be given to technical Conventions both when placing double footnotes and more generally. Both Vice-Chairpersons sought observations on technical Conventions that would constitute a good basis for a meaningful discussion.

23. The Employer Vice-Chairperson finally sought clarification concerning the progress of discussions on the working methods of the Committee of Experts, with respect in particular of the constantly increasing workload, and invited, to the extent operationally possible, further dialogue between the two bodies. The Centenary year was not only an occasion to reflect on past successes but also an opportunity to continue to reflect on ways to strengthen the supervisory system with courage and ambition, based on a better grasp of constituents' needs and priorities and a more user-friendly, clear and concise presentation of findings and recommendations. The Office made an important contribution towards improved effectiveness as well as support to governments that failed to comply with their reporting obligations. She concluded by expressing her appreciation for the serious and important work of the Committee of Experts and looked forward to continuing dialogue with them.

24. The Committee recalled that the ILO supervisory mechanism of which both Committees were part, was the oldest in the United Nations (UN) system and solidly anchored on freedom of association as a fundamental condition for its functioning. On the eve of the Centenary, the two Committees should continue to mutually respect each other's role and jurisdiction while engaging closely. Recognizing the independent nature of the Committee of Experts as its raison d'être helped the fruitful dialogue in which the two bodies had been engaging. Any evolution of the supervisory system must be based on the system's strengths. International labour standards constituted not only the main source of international labour law but also the foundation of national labour law in many countries throughout the world. International labour standards had managed to exert this influence and maintain their relevance over the years largely thanks to the supervisory body comments linking ratified Conventions to constantly changing national circumstances, and through the integration of these recommendations and comments in numerous decisions reached by national judicial bodies. The Committee of Experts' comments would not have produced the same results if they were not enhanced by the political impact of discussion at the Conference Committee in a tripartite context. An important condition for maintaining the impact of the Experts' comments

was the coherence between the two bodies, based on their complementary mandates and the cooperation they had built over time. The meeting with the two Vice-Chairpersons of the Conference Committee had become over time a privileged moment of dialogue and cooperation with the invaluable support of the secretariat. The latter did not detract in any way from each body's autonomy over its working methods and the personal commitment that the members of each supervisory body shared for international labour standards. The contribution of the Office was essential to maintaining a permanent collaboration between the two Committees as well as the other ILO supervisory bodies. This triumvirate between the two Committees and the Office should be developed even further within the framework of each body's respective mandates.

25. The Standards Initiative, aimed at a useful and healthy tripartite discussion on the future of the supervisory system, had encouraged both supervisory bodies to further improve the way in which they discharged their responsibilities in order to increase their impact. The Committee of Experts sought over the years to deliver a rigorous, consistent and impartial assessment of compliance with ratified Conventions, constantly introducing gradual improvements to produce more user-friendly, precise and concise comments. This was necessary not only in order to give clear guidance to governments but also to facilitate follow-up action and technical assistance by the Office. The need to be consistent over time meant that the Committee's wording should be carefully refined and simplified in an ongoing delicate endeavour. The subcommittee on the working methods of the Committee of Experts had been established since 2001 and had held its 18th meeting this year. The subcommittee had introduced many improvements over the years and this year again, it had taken important decisions reproduced in paragraphs 8–11 of this General Report, paying due attention to the requests made by the Governing Body in the context of the Standards Initiative.

26. Conscious of the synergies between the two bodies, the Committee of Experts had been referring to the conclusions reached by the Conference Committee in its comments. It had also introduced urgent appeals and planned to extend this practice even further to address serious lack of cooperation in reporting in synergy with the Conference Committee. The Committee of Experts placed special emphasis on the Conference Committee's conclusions, carefully reviewing their follow-up in its comments, and was pleased to note the dynamic discussion that had occurred during the last session of the Conference Committee based on the consolidated comments it had made on Haiti, Republic of Moldova and Ukraine.

27. The Committee attached great importance to the clarity of the criteria for making a distinction between observations and direct requests, in order to ensure the visibility, transparency and coherence of the Committee's work and legal certainty over time in light of the Committee's evolving membership and practices. This distinction was the outcome of a long gestation initiated in 1957. The criteria involved careful consideration of both timing and substance. Even though the criteria might appear clear at first sight, their application sometimes called for a delicate balancing. The Committee needed some room for reasoned discretion in this area, with a view to maintaining dialogue with governments and facilitating effective progress in the application of ratified Conventions. This having been said, the Committee was willing to give due consideration to the suggestions made by the two Vice-Chairpersons in future discussions on this issue.

28. Finally, the Committee appreciated the opportunity to exchange views with regard to Convention No. 87 and the right to strike and also the use made in the Committee's comments of conclusions and recommendations reached by the Committee on Freedom of Association. The latter issue had been raised by the Employer Vice-Chairperson at the last session of the Conference Committee in May–June 2018. The position of the Committee of Experts on the right to strike had been set forth in numerous exchanges with the Vice-Chairpersons since 2013. The Experts appreciated that these parties had different views on the issue. At the same time, the two Committees were in agreement on the recurrent themes raised in the Committee's comments in relation to freedom of association. These concerned in the first place the right to be free from violence and threats to civil liberties; second, the exclusion of certain categories of workers from the right to organize under the Convention; and third, the autonomy of workers' and employers' organizations explicitly protected under the Convention in Articles 2, 3, 4, 5 and 6. One aspect of this autonomy, the right of workers' and employers' organizations to organize their activities and formulate their programmes, involved taking industrial action in appropriate circumstances. The right to strike was not the main focus of examination by the Committee though it was an important one. Based on the constitutional obligation to report on the way ratified Conventions were applied in law and practice, the Committee's comments were intended to guide the actions of national authorities with respect to this right. The Committee's guidance also relied on reports from governments and comments from the social partners, reflecting application of the right under varied national circumstances. The effort to understand the diversity and complexity of country settings was made when the Experts examined the application of all Conventions and not just Convention No. 87, and was certainly something the Experts took very seriously when examining issues around the right to strike.

29. Regarding the comments from the Employer Vice-Chairperson on references made to CFA cases, the Committee fully recognized the different mandates and working methods of the two Committees and did not routinely refer to CFA conclusions and recommendations. When the Committee did so, it was basically for two reasons: either because the CFA had referred the legislative aspects of a case to the Committee of Experts, or for other intersectional reasons, for example when the CFA had addressed similar issues in the recent past as was sometimes indicated by the government or the social partners themselves. The CFA's assessment of the practical application of Conventions on freedom of association sometimes informed the Committee of Experts as to how the Convention was applied, especially as the CFA based its examination on complaints. The Committee's approach reinforced the integration of the supervisory mechanisms, while doing so through a suitably tailored set of circumstances as part of the independence and discretion that the Committee was expected to exercise.

30. Concerning considerations of diversity in placing double footnotes, the most important criterion for the Experts was the urgency of the issue but they were conscious of the need to maintain all types of balance. The Experts were aware of the challenges faced by the two Vice-Chairpersons in maintaining a balance among cases discussed at the Conference Committee in particular in relation to regional diversity. The concerns expressed by both Vice-Chairpersons were taken very seriously by the Experts and would be kept in mind moving forward.

31. Information on the follow-up given by the Committee to the conclusions of the Conference Committee at its 107th Session (2018) is provided in paragraph 73 of this General Report. [3]

Mandate

32. The Committee of Experts on the Application of Conventions and Recommendations is an independent body established by the International Labour Conference and its members are appointed by the ILO Governing Body. It is composed of legal experts charged with examining the application of ILO Conventions and Recommendations by ILO member States. The Committee of Experts undertakes an impartial and technical analysis of how the Conventions are applied in law and practice by member States, while cognizant of different national realities and legal systems. In doing so, it must determine the legal scope, content and meaning of the provisions of the Conventions. Its opinions and recommendations are non-binding, being intended to guide the actions of national authorities. They derive their persuasive value from the legitimacy and rationality of the Committee's work based on its impartiality, experience and expertise. The Committee's technical role and moral authority is well recognized, particularly as it has been engaged in its supervisory task for more than 90 years, by virtue of its composition, independence and its working methods built on continuing dialogue with governments taking into account information provided by employers' and workers' organizations. This has been reflected in the incorporation of the Committee's opinions and recommendations in national legislation, international instruments and court decisions.

Looking into the future on the occasion of the ILO's Centenary

33. A century of any institution's existence invites both celebration and reflection. As the ILO embarks on its second century, the Committee of Experts wishes to offer some reflections on its own past and possible future role. The context in 2019 is different from 1919, but no less challenging today: a persistent disjunction between economic and social policies, an erosion of multilateralism, persistence of poverty and growing inequality within and between member States, a mixed picture when it comes to human rights, and the fragility posed by climate change and conflict. Moreover, the speed at which the combined forces of technology, demographic and climate change, globalization and migration are transforming our world of work presents additional challenges to the national and global institutions embodying the social contract of our time and the peace and security supported by the social contract.

34. Prior to any reflection, the Committee has to be mindful of the mandate originally bestowed on it by the International Labour Conference in 1926: to examine the reports of governments required under article 22 of the ILO Constitution and report on its findings to the Conference.

35. In 1926, the Organization operated on a vision of harmonizing national labour legislation among 56 member States at relatively comparable levels of development. Its initial purview was to supervise the application of some 20 Conventions. In 1969, that substantive remit had expanded to 121 Members and over 250 Conventions. Meanwhile, decolonization in particular had not only increased the Organization's membership but had started to alter the couching of international labour standards and their supervision. The introduction of flexibility clauses in Conventions and, more generally, of standards less geared towards predominantly legislative compliance and more towards the sound orientation of policies and institutions needed to realize social justice in newly independent States increasingly inspired the Committee to invite member States to rely on the gradually expanding technical cooperation activities of the Organization.

36. The Committee modified aspects of its role and working methods to adapt to the times. In 1946, the ILO Constitution was amended to include an obligation in member States to supply at the request of the Governing Body reports on Conventions they have not ratified. The General Surveys to which these reports give rise allow the Committee to examine the difficulties reported by governments in applying standards; to clarify the scope of these standards; and occasionally indicate means of overcoming obstacles to their application. Today, the General Surveys, besides providing guidance to national legislation, they play a key role in informing the Conference recurrent discussions which periodically review the effectiveness of the Organization's various means of action, including standards-related action in responding to the diverse realities and needs of member States with respect to each of the strategic objectives of the Decent Work Agenda. Increasingly, they may be expected to inform the work of the Standards Review Mechanism Tripartite Working Group, mandated to ensure that the ILO has a clear, robust and up-to-date body of international labour standards that respond to the changing patterns of the world of work, for the purpose of the protection of workers and taking into account the needs of sustainable enterprises.

[3] Moreover, updated information on the follow-up given by the secretariat to the conclusions of the Conference Committee can be found as of 1 April 2019, on the official website of the Conference Committee.

37. In 1957, the Committee started to address a number of comments directly to governments instead of including them in its report. This distinction between observations and direct requests permitted the Committee to simplify the procedure in case of requests for supplementary information of comments on minor points and reduce the size of its report but in the process enabled the Committee to gradually clarify issues of secondary importance with governments at earlier stages of their institutional development. Again, in 1968, the Committee introduced a measure of quiet diplomacy, i.e. "direct contacts" missions aimed at developing dialogue with governments, workers' and employers' organizations, in order to overcome difficulties encountered in the application of Conventions by developing a full appreciation of the questions raised.

38. In 1926, the International Labour Conference had the foresight of complementing the original method of monitoring mutual compliance with treaty obligations based on dialogue with member States and social partners alike with an independent and objective supervisory element thus providing for coherent supervision and an enhanced rule of law.

39. The interplay between independent and tripartite supervision has not always been entirely free of controversy. Particularly during the first post-war decades, the Committee has had to recall its function as an honest broker in providing a consistent reading of international law shaped by the exigencies of social justice and the fine balancing of perspectives inherent in tripartism. Throughout, the Committee has stressed that its regular supervisory function is to determine whether the requirements of a ratified Convention are being met, whatever the economic and social conditions existing in a country. Subject only to any derogations which are expressly permitted by the Convention itself, these requirements remain constant and uniform for all countries. Based on its wisdom of the widest variety of legal systems by virtue of its universal membership, the Committee has been able to balance its adherence to key principles of objectivity, impartiality, independence and expertise in both international law and labour law with a deep understanding of the time and space needed to meet individual development needs with the broad participation of stakeholders.

40. The Committee considers as essential the Organization's approach to normative or rule-based multilateralism particularly the global coverage offered by its labour-related instruments. The progression of the organization has also witnessed, in addition to the thousands of cases of progress noted by the Committee and the Conference Committee on the Application of Standards over the last 91 years, 13 occasions over the last century where the Governing Body has felt the need to establish a commission of inquiry and a single occasion where it has gone further, initiating the action to secure compliance provided for in article 33 of the Constitution. The Committee is honoured to have contributed, by focusing its work on unveiling non-compliance, to a supervisory system that promotes dialogue and compliance with a sustained need for more effective implementation of labour rights worldwide.

41. The Committee feels that the key features of its independence have served and will continue to serve its role well. That role can only be played in partnership with the supervisory body to which, through the Governing Body, it reports its objective findings, i.e. the Conference Committee on the Application of Standards. Two practices have enhanced the mutual understanding between the independent Committee of Experts on the one hand and the tripartite Conference Committee on the other. The Vice-Chairpersons of the Conference Committee are invited to a special session of the Committee each year, providing them a platform to express their views, proposals and concerns. Conversely, carrying out a Governing Body decision, the Director-General invites the Chairperson of the Committee of Experts to attend sessions of the Conference Committee on the Application of Standards. This provides the Committee with insights into how the tripartite Conference Committee addresses its general report, the cases it has selected for discussion from the Committee of Experts' report and its General Survey. This practice has been useful and has potential to further reinforce the respective roles of both bodies. Even if, on occasion, this has led to a different understanding of the legal instruments examined, it is only because the Committee's work is underpinned by the basic principles of public international law and the unique characteristics of the Organization which creates such law to govern the world of work. Under Articles 31 and 32 of the Vienna Convention on the Law of Treaties, resort to preparatory works of an instrument occurs to confirm a good faith interpretation in accordance with the ordinary meaning to be given to the terms of the treaty in their context and in the light of its object and purpose or to determine the meaning when the interpretation: (a) leaves the meaning ambiguous or obscure; or (b) leads to a result which is manifestly absurd or unreasonable. In the ILO, reference is made simultaneously to the text of the international labour standard and to its preparatory work. This is respectful of the input made by tripartite constituents during the framing of an instrument and of the unique tripartite structure of the ILO that gives an equal voice to workers, employers and governments to ensure that the views of the social partners are closely reflected in labour standards and in shaping policies and programmes.

42. The first decade of the Organization's new century will be marked by a global development agenda with a clear ambition to transform poverty in all its forms into prosperity for all human beings; protect the planet from degradation; and foster peaceful, just and inclusive societies bolstered by a spirit of strengthened global solidarity. The Decent Work Agenda, and the international labour standards benchmarking it, suffuse the 17 Sustainable Development Goals (SDGs) adopted by the UN General Assembly. The Agenda reflects an understanding that "decent work is both a means and an end to sustainable development." [4] The 2030 Agenda for Sustainable Development "commits to fostering a dynamic business sector and protecting labour rights and environmental and health standards in accordance with international instruments, including ILO

[4] Report of the Director-General to the International Labour Conference: *The End to Poverty Initiative: The ILO and the 2030 Agenda*, Report I(B), 105th Session, Geneva, 2016, para. 10.

standards and the UN Guiding Principles on Business and Human Rights". [5] It has "a strong normative character and sets a truly human rights-centred path for sustainable development." [6] The 169 targets and 232 indicators in the 2030 Development Agenda are the signposts along that path.

43. The Organization is the custodian of no fewer than 17 of these statistical indicators charting progress towards 2030. Indicator 8.8.2 will track the protection of labour rights and measure the "level of national compliance of labour rights (freedom of association and collective bargaining) based on International Labour Organization (ILO) textual sources and national legislation, by sex and migrant status". [7] The Committee notes with interest that the methodology recently adopted by the International Conference of Labour Statisticians will rely so prominently on its supervisory work. [8]

44. Other targets in the 2030 Agenda for Sustainable Development also have the potential to simultaneously benefit from and raise the profile of the Committee's supervisory work in the ILO's second century. SDG 8.7 targets the end of forced labour and child labour and so is aligned with some of the most widely – and we may hope soon universally – ratified fundamental Conventions. The same holds true for standards related to the promotion of full and productive employment and decent work for all women and men, including for young people and persons with disabilities, and of equal pay for work of equal value – targeted in SDG 8.5. SDG 10 envisages "an assault on discrimination and implementation of reinforced pro-equality measures, especially fiscal, wage and social protection policies". [9] The relevance of the Committee's comments in relation to the application of standards on equal opportunity and treatment and employment policy is evident. SDG 17 addresses issues which include enhanced global macroeconomic stability and policy coherence, investment promotion and trade. The logic of the 1998 and 2008 Declarations implies that these should not be seen in isolation from fundamental labour standards, and the Committee reports could inform the work of the High-level Political Forum on Sustainable Development annual review.

45. Several SDG indicators refer to legislation and policies that fall within the domain of many ratified ILO Conventions. For example, indicator 5.5.1 under Goal 5 ("Achieve gender equality and empower all women and girls") tests "whether or not legal frameworks are in place to promote, enforce and monitor equality and non-discrimination on the basis of sex". Committee reports form an obvious source for such information. SDG indicator 1.3.1 reflects the proportion of persons effectively covered by a social protection system, including social protection floors, as well as the main components of social protection: child and maternity benefits, support for persons without a job, persons with disabilities, victims of work injuries and older persons. Such measurements of effective social protection coverage are meant to reflect how in reality legal provisions grounded in instruments such as the Social Security (Minimum Standards) Convention, 1952 (No. 102), or the Social Protection Floors Recommendation, 2012 (No. 202), are implemented in line with the comments of the supervisory bodies.

46. The Committee notes with interest the ongoing efforts to reposition the UN system around the SDGs. It welcomes the emphasis laid on enhancing the capacities of the system on integrated policy advice, support to the implementation of norms and standards, data collection and analysis. It fully subscribes to the need for a strong understanding of relevant UN normative frameworks, the ability to translate these norms and standards into system-wide analysis planning and programming towards the SDGs. It feels reassured by the view, echoed in the most recent UN Quadrennial Comprehensive Policy Review that, in line with the pledge of the 2030 Agenda to "leave no one behind", international norms and standards constitute a core foundation of the UN's work at country level and its unique role, commitment and driving force for an integrated, people-centred approach that incorporates human rights and gender equality as critical components. And it would concur with the UN Secretary-General that the United Nations "must be firm in upholding the universal values and norms agreed by our member States, but flexible in adapting its presence, support and skillset to each country". The Committee would trust that in pursuing such adaptation, the pragmatic values of tripartism will retain pride of place. It would hope that Decent Work Country Programmes can continue to be the platform for promoting the Organization's normative work among the panoply of human rights pronouncements, and that a strengthened the United Nations Development Assistance Framework (UNDAF) framework will make the fullest use of social partnership.

47. At the same time, it would appear to the Committee that such reassurances of the contemporary relevance of international labour law and its supervision do not warrant complacency. In this context, the Committee remains vigilant of the challenges to the effective supervision of international labour standards ahead. Some of these relate to the rapid transformations in the world of work itself and the commensurate attention international supervision will have to pay to the timely valuation of delicate problems. Therefore, the Committee looks forward to examining in the coming year, the final report of the Global Commission on the Future of Work as a basis for further reflection of how the Committee will continue to ensure an objective and impartial supervision of ratified international labour standards.

[5] ibid., para. 52.

[6] ibid., para. 26.

[7] ILO: *Decent Work and the Sustainable Development Goals: A Guidebook on SDG Labour Market Indicators*, 2018.

[8] 20th International Conference of Labour Statisticians (ICLS), Geneva, 10–19 October 2018, *Resolution concerning the methodology of the SDG indicator 8.8.2 on labour rights* (ICLS/20/2018/Resolution II).

[9] ibid., ICLS.

48. The Committee takes the opportunity to recall that 2019 also marks the anniversary of various Conventions that have lost none of their relevance for the social justice challenges ahead. The Right to Organise and Collective Bargaining Convention, 1949 (No. 98), gives expression to a fundamental principle and right at work and collective bargaining remains a pillar of social peace and the ability of workers and employers to negotiate decent conditions of work in freedom and dignity. The Protection of Wages Convention, 1949 (No. 95), set standards to ensure that agreed wages are also effectively paid. The Migration for Employment Convention (Revised), 1949 (No. 97), established the principle of equal treatment between nationals and migrant workers which continues to shape sustained and sustainable economic growth trajectories and drive financing for development. The year 2019 will mark the 50th anniversary of the Labour Inspection (Agriculture) Convention, 1969 (No. 129), extending the reach of a key governance instrument for the protection of rural workers. Another key Convention ensuring sustainable, rural livelihoods will reach 30 years of age – the Indigenous and Tribal Peoples Convention, 1989 (No. 169). The Committee hopes that Member states will take the occasion of the Centenary to give fresh consideration to ratification and application of these standards as they prepare or implement their sustainable development plans.

II. Compliance with standards-related obligations

A. Reports on ratified Conventions (articles 22 and 35 of the Constitution)

49. The Committee's principal task consists of the examination of the reports supplied by governments on Conventions that have been ratified by member States (article 22 of the Constitution) and that have been declared applicable to non-metropolitan territories (article 35 of the Constitution).

Reporting arrangements

50. In accordance with the decision taken by the Governing Body at its 258th Session (November 1993), the reports due on ratified Conventions should be sent to the Office **between 1 June and 1 September** of each year.

51. The Committee recalls that detailed reports should be sent in the case of first reports (a first report is due after ratification) or when specifically requested by the Committee of Experts or the Conference Committee. Simplified reports are then requested on a regular basis. [10] The Committee also recalls that, at its 306th Session (November 2009), the Governing Body decided to increase from two to three years the regular reporting cycle for the fundamental and governance Conventions. At its 334th Session (November 2018) the Governing Body decided to increase the reporting cycle at six years for all other Conventions.

52. In addition, reports may be requested by the Committee outside of the regular reporting cycle. [11] Reports may also be expressly requested outside of the regular reporting cycle by the Conference Committee or the Governing Body. At each session, the Committee also has to examine reports requested in cases where a government had failed to send a report due for the previous period or to reply to the Committee's previous comments.

Compliance with reporting obligations

53. This year a total of 1,790 reports (1,683 reports under article 22 of the Constitution and 107 reports under article 35 of the Constitution) were requested from governments on the application of Conventions ratified by member States, compared to 2,242 reports last year.

54. The Committee observes with ***concern*** that, the proportion of reports received by 1 September 2018 remains low (**35.4** per cent, compared with 38.2 per cent at its previous session). It recalls that the fact that a significant number of reports are received after 1 September disturbs the sound operation of the regular supervisory procedure. ***The Committee is therefore bound to reiterate its request that member States make a particular effort to ensure that their reports are submitted in time next year and that they contain all the information requested so as to allow a complete examination by the Committee.***

[10] In 1993, a distinction was made between detailed and simplified reports. As explained in the report forms, in the case of simplified reports, information need normally be given only on the following points: (a) any new legislative or other measures affecting the application of the Convention; (b) replies to the questions in the report form on the practical application of the Convention (for example, statistics, results of inspections, judicial or administrative decisions) and on the communication of copies of the report to the representative organizations of employers and workers and on any observations received from these organizations; and (c) replies to comments by the supervisory bodies. At its 334th Session, the Governing Body adopted a new report form to facilitate reporting by governments when they are expected to provide simplified reports. Document GB.334/INS/5.

[11] See para. 75 et seq. of the General Report.

55. At the end of the present session of the Committee, 1,122 reports had been received by the Office. This figure corresponds to 62.7 per cent of the reports requested [12] and is lower than the percentage of reports received last year, when the Office received a total of 1,519 reports, representing 67.8 per cent. The Committee notes in particular that 52 of the 89 first reports due on the application of ratified Conventions were received by the time the Committee's session ended (last year, 61 of the 95 first reports due had been received).

56. When examining the failure by member States to respect their reporting obligations, the Committee adopts "general" comments (contained at the beginning of Part II (section I) of this report). It makes general observations when none of the reports due have been sent for two or more years; or when a first report has not been sent for two or more years. It makes a general direct request when, in the current year, a country has not sent the reports due, or the majority of reports due; or it has not sent a first report due. This year, following the introduction of a new practice of urgent appeals, the Committee launched such appeals for eight countries which had not sent first reports for at least three years (see paragraph 59 below).

57. None of the reports due have been sent for the past two or more years from the following 14 countries: **Brunei Darussalam, Chad, Dominica, Equatorial Guinea, Gambia, Grenada, Guinea-Bissau, Malaysia – Sabah, Saint Lucia, Sierra Leone, Somalia, South Sudan, Timor-Leste** and **Trinidad and Tobago**.

58. Eleven countries have failed to supply a first report for two or more years:

State	Conventions Nos
Chad	– Since 2017: Convention Nos 102 and 122
Congo	– Since 2015: Convention No. 185 and – Since 2016: MLC, 2006
Equatorial Guinea	– Since 1998: Conventions Nos 68 and 92
Gabon	– Since 2016: MLC, 2006
Kiribati	– Since 2015: Convention No. 185
Republic of Maldives	– Since 2015: Convention No. 100 and – Since 2016: Conventions Nos 185 and MLC, 2006
Netherlands – Curaçao	– Since 2017: MLC, 2006
Nicaragua	– Since 2015: MLC, 2006
Romania	– Since 2017: MLC, 2006
Saint Vincent and the Grenadines	– Since 2014: MLC, 2006
Somalia	– Since 2016: Conventions Nos 87, 98 and 182

59. ***The Committee urges the Governments concerned to make every effort to supply the reports requested on ratified Conventions, and to make a special effort to supply the first reports due. In particular, the Committee draws the attention of the following Governments to the fact that if a report is not received in time for examination by the Committee at its next session, the latter will proceed to examine the application of the Convention in the countries concerned on the basis of public information at its disposal: Congo, Equatorial Guinea, Gabon, Kiribati, Republic of Maldives, Nicaragua, Saint Vincent and the Grenadines, and Somalia.*** The Committee, like the Conference Committee, emphasizes the particular importance of first reports, which provide the basis on which the Committee makes its initial assessment of the application of the specific Conventions concerned. The Committee is aware that, where no reports have been sent for some time, it is likely that administrative or other problems are at the origin of the difficulties encountered by governments in fulfilling their constitutional obligations. ***In such cases, it is important for governments to request assistance from the Office and for such assistance to be provided rapidly.*** [13]

60. The following countries have failed to indicate for the past three years, the representative organizations of employers and workers to which, in accordance with article 23, paragraph 2, of the Constitution, copies of the reports and

[12] Appendix I to this report provides an indication by country of whether the reports requested (under articles 22 and 35 of the Constitution) have been registered or not by the end of the meeting of the Committee. Appendix II shows, for the reports requested under article 22 of the Constitution, for each year since 1932, the number and percentage of reports received by the prescribed date, by the date of the meeting of the Committee of Experts and by the date of the session of the International Labour Conference.

[13] In certain exceptional cases, the absence of reports is a result of more general difficulties related to the national situation, which prevents the provision of any technical assistance by the Office.

information supplied to the Office under articles 19 and 22 of the Constitution have been communicated: **Fiji** and **Rwanda**. [14]

61. The Committee recalls that, in accordance with the tripartite nature of the ILO, compliance with this constitutional obligation is intended to enable representative organizations of employers and workers to participate fully in supervision of the application of international labour standards. [15] If a government fails to comply with this obligation, these organizations are denied their opportunity to comment and an essential element of tripartism is lost. ***The Committee calls on the member States concerned to discharge their obligation under article 23, paragraph 2, of the Constitution.***

Replies to the comments of the Committee

62. Governments are requested to reply in their reports to the observations and direct requests made by the Committee, and the majority of governments have provided the replies requested. In some cases, the reports received did not contain replies to the Committee's requests or were not accompanied by copies of the relevant legislation or other documentation necessary for their full examination. In such cases, the Office, as requested by the Committee, has written to the governments concerned asking them to supply the requested information or material, where this material was not otherwise available.

63. This year, no information has been received as regards all or most of the observations and direct requests of the Committee to which a reply was requested for the following countries: **Afghanistan, Antigua and Barbuda, Barbados, Belize, Brunei Darussalam, Chad, Congo, Djibouti, Dominica, Equatorial Guinea, France (French Polynesia), Gambia, Ghana, Grenada, Guinea-Bissau, Guyana, Haiti, Hungary, Jamaica, Kiribati, Kyrgyzstan, Lao People's Democratic Republic, Lebanon, Lesotho, Malawi, Malaysia-Sabah, Republic of Maldives, Malta, Mauritania, Republic of Moldova, Netherlands (Aruba), Papua New Guinea, Romania, Saint Lucia, Saint Vincent and the Grenadines, San Marino, Sao Tome and Principe, Sierra Leone, Singapore, Somalia, South Africa, South Sudan, Tajikistan, Timor-Leste, Trinidad and Tobago** and **Uganda**.

64. The Committee notes with ***concern*** that the number of comments to which replies have not been received remains significantly high. The Committee underlines that the value attached by ILO constituents to the dialogue with the supervisory bodies on the application of ratified Conventions is considerably diminished by the failure of governments to fulfil their obligations in this respect. The Committee also draws the attention of governments to the revised criteria for the examination of repetitions where governments have failed to reply to the Committee's comments for three or more years. ***The Committee urges the countries concerned to provide all the information requested and recalls that they may avail themselves of the technical assistance of the Office, where necessary***.

Follow-up to cases of serious failure by member States to fulfil reporting obligations mentioned in the report of the Committee on the Application of Standards

65. As the functioning of the supervisory system is based primarily on the information provided by governments in their reports, both the Committee and the Conference Committee considered that failure by member States to fulfil their obligations in this respect has to be given the same level of attention as non-compliance relating to the application of ratified Conventions. The two Committees have therefore decided to strengthen, with the assistance of the Office, the follow-up given to these cases of failure.

66. The Committee was informed that, pursuant to the discussions of the Conference Committee in May–June 2018, the Office had sent specific letters to the member States mentioned in the relevant paragraphs of the report of the Conference Committee concerning these cases of failure. [16] The Committee welcomes the fact that, since the end of the session of the Conference, 13 of the member States concerned have fulfilled at least part of their reporting obligations. [17]

67. The Committee hopes that the Office will maintain the sustained technical assistance that it has been providing to member States in this respect. Finally, the Committee welcomes the fruitful collaboration that it maintains with the Conference Committee on this matter of mutual interest, which is essential to the proper discharge of their respective tasks. The Committee draws attention to its decision to draw certain cases of serious reporting failure to the attention of the Conference Committee so that an urgent appeal can be launched to the governments concerned and they may be advised that, in the absence of a report, the Committee would examine the substance of the matter on the basis of information at its disposal.

[14] See the general observation contained in Part II.I of this year's report.

[15] See para. 94 of the General Report.

[16] See report of the Committee on the Application of Standards, International Labour Conference, 107th Session, Geneva, 2018, paras 157–164.

[17] **Belize, Plurinational State of Bolivia, Botswana, Comoros, Cook Islands, Guyana, Haiti, Malaysia, Malaysia (Malaysia Peninsular** and **Sarawak), Mozambique, Serbia, Solomon Islands, Vanuatu** and **Yemen.**

B. Examination by the Committee of Experts of reports on ratified Conventions

68. In examining the reports received on ratified Conventions and Conventions declared applicable to non-metropolitan territories, in accordance with its practice, the Committee assigned to each of its members the initial responsibility for a group of Conventions. The members submit their preliminary conclusions on the instruments for which they are responsible to the Committee in plenary sitting for discussion and approval. Decisions on comments are adopted by consensus.

69. The Committee wishes to inform member States that it examined all reports that were brought to its attention. In view of the secretariat's heavy workload, which is largely due to the high number of reports submitted after the due date of 1 September, a number of reports could not be brought to the Committee's attention and will be examined at its next session.

Observations and direct requests

70. First of all, the Committee considers that it is worthy of note that in 122 cases it has found, following examination of the corresponding reports, that no further comment was called for regarding the manner in which a ratified Convention had been implemented. In other cases, however, the Committee has found it necessary to draw the attention of the governments concerned to the need to take further action to give effect to certain provisions of Conventions or to supply additional information on given points. As in previous years, its comments have been drawn up in the form of either "observations", which are reproduced in the report of the Committee, or "direct requests", which are not published in the Committee's report, but are communicated directly to the governments concerned and are available online. [18] Observations are generally used in more serious or long standing cases of failure to fulfil obligations. They point to important discrepancies between the obligations under a Convention and the related law and/or practice of member States. They may address the absence of measures to give effect to a Convention or to take appropriate action following the Committee's requests. They may also highlight progress, as appropriate. Direct requests allow the Committee to be engaged in a continuing dialogue with governments often when the questions raised are primarily of a technical nature. They can also be used for the clarification of certain points when the information available does not enable a full appreciation of the extent to which the obligations are fulfilled. Direct requests are also used to examine the first reports supplied by governments on the application of Conventions.

71. The Committee's observations appear in Part II of this report, together with, for each subject, a list of direct requests. An index of all observations and direct requests, classified by country, is provided in Appendix VII to the report.

72. In addition, the Committee made two general observations on the occasion of the anniversaries of the Discrimination (Employment and Occupation) Convention, 1958 (No. 111), and the Indigenous and Tribal Peoples Convention, 1989 (No. 169).

Follow-up to the conclusions of the Committee on the Application of Standards

73. The Committee examines the follow-up to the conclusions of the Committee on the Application of Standards. The corresponding information forms an integral part of the Committee's dialogue with the governments concerned. This year, the Committee has examined the follow-up to the conclusions adopted by the Committee on the Application of Standards during the last session of the International Labour Conference (107th Session, May–June 2018) in the following cases.

[18] Observations and direct requests are accessible through the NORMLEX database, on the ILO website (www.ilo.org/normes).

List of cases in which the Committee has examined the follow-up to the conclusions of the Committee on the Application of Standards (International Labour Conference, 107th Session, May–June 2018)		
State	Conventions Nos	Page Nos
Algeria	87	49
Bahrain	111	368
Belarus	29	194
Plurinational State of Bolivia	131 and 138	549 and 251
Botswana	87	55
Brazil	98	58
Cambodia	105	199
El Salvador	144	461
Eritrea	29	207
Georgia	100	393
Greece	98	80
Haiti	1/14/30/106	559
Honduras	87	88
Japan	87	93
Libya	122	523
Malaysia-Peninsular/Sarawak	19	578
Mexico	87	103
Republic of Moldova	81/129	483
Myanmar	87	107
Nigeria	98	110
Samoa	182	347
Serbia	144	467
Ukraine	81/129	503

Follow-up of representations under article 24 of the Constitution and complaints under article 26 of the Constitution

74. In accordance with the established practice, the Committee also examines the measures taken by governments pursuant to the recommendations of tripartite committees (set up to examine representations under article 24 of the Constitution) and commissions of inquiry (set up to examine complaints under article 26 of the Constitution). The corresponding information forms an integral part of the Committee's dialogue with the governments concerned. The Committee considers it useful to indicate more clearly the cases in which it follows up on the effect given to the recommendations made under these constitutional supervisory procedures, as indicated in the following tables.

List of cases in which the Committee has examined the measures taken by governments to give effect to the recommendations of commissions of inquiry (complaints under article 26)	
State	Conventions Nos
Zimbabwe	87 and 98

List of cases in which the Committee has examined the measures taken by governments to give effect to the recommendations of tripartite committees (representations under article 24)	
State	Conventions Nos
Portugal	137
Qatar	111
Ukraine	95

Special notes

75. As in the past, the Committee has indicated by special notes (traditionally known as "footnotes") at the end of its comments the cases in which, because of the nature of the problems encountered in the application of the Conventions concerned, it has deemed appropriate to ask the government to supply a report earlier than would otherwise have been the case and, in some instances, to supply full particulars to the Conference at its next session in June 2019.

76. In order to identify cases for which it inserts special notes, the Committee uses the basic criteria described below, while taking into account the following general considerations. First, the criteria are indicative. In exercising its discretion in the application of the criteria, the Committee may also have regard to the specific circumstances of the country and the length of the reporting cycle. Second, the criteria are applicable to cases in which an earlier report is requested, often referred to as a "single footnote", as well as to cases in which the government is requested to provide detailed information to the Conference, often referred to as a "double footnote". The difference between these two categories is one of degree. Third, a serious case otherwise justifying a special note to provide full particulars to the Conference (double footnote) might only be given a special note to provide an early report (single footnote) when there has been a recent discussion of the case in the Conference Committee. Finally, the Committee wishes to point out that it exercises restraint in its recourse to "double footnotes" in deference to the Conference Committee's decisions as to the cases it wishes to discuss.

77. The criteria to which the Committee has regard are the following:

– the seriousness of the problem; in this respect, the Committee emphasizes that an important consideration is the necessity to view the problem in the context of a particular Convention and to take into account matters involving fundamental rights, workers' health, safety and well-being, as well as any adverse impact, including at the international level, on workers and other categories of protected persons;

– the persistence of the problem;

– the urgency of the situation; the evaluation of such urgency is necessarily case specific, according to standard human rights criteria, such as life threatening situations or problems where irreversible harm is foreseeable; and

– the quality and scope of the government's response in its reports or the absence of response to the issues raised by the Committee, including cases of clear and repeated refusal on the part of a State to comply with its obligations.

78. In addition, the Committee wishes to emphasize that its decision not to double footnote a case which it has previously drawn to the attention of the Conference Committee in no way implies that it has considered progress to have been made therein.

79. At its 76th Session (November–December 2005), the Committee decided that the identification of cases in respect of which a government is requested to provide detailed information to the Conference would be a two-stage process: first, the expert initially responsible for a particular group of Conventions recommends to the Committee the insertion of special notes; second, in light of all the recommendations made, the Committee will, after discussion, take a final, collegial decision once it has reviewed the application of all the Conventions.

80. This year, the Committee has requested governments to supply full particulars to the Conference at its next session in 2019 in the following cases:

List of the cases in which the Committee has requested governments to supply full particulars to the Conference at its next session in June 2019	
State	Conventions Nos
Ethiopia	138
Iraq	182
Libya	111

List of the cases in which the Committee has requested governments to **supply full particulars to the Conference** at its next session in June 2019	
State	Conventions Nos
Myanmar	29
Nicaragua	117
Turkey	87

81. The Committee has requested governments to furnish detailed reports outside of the reporting cycle in the following cases:

List of the cases in which the Committee has requested **detailed reports outside of the reporting cycle**	
State	Conventions No
Cuba	110

82. In addition, the Committee has requested a full reply to its comments outside of the reporting cycle in the following cases:

List of the cases in which the Committee has requested **full reply to its comments outside of the reporting cycle**	
State	Conventions Nos
Argentina	MLC, 2006
Armenia	17/18
Bangladesh	81 and MLC, 2006
Plurinational State of Bolivia	131, 136/162 and 167
Burundi	26
Cabo Verde	MLC, 2006
China	155/167, 170 and MLC, 2006
Ghana	MLC, 2006
Guatemala	87
Haiti	1/14/30/106
Honduras	87 and MLC, 2006
India	81 and MLC, 2006
Islamic Republic of Iran	MLC, 2006
Ireland	MLC, 2006
Japan	87
Kazakhstan	87
Kenya	17 and MLC, 2006
Madagascar	159
Malaysia-Peninsular Malaysia/Sarawak	19
Republic of Moldova	81/129
Mongolia	MLC, 2006
Montenegro	MLC, 2006

List of the cases in which the Committee has requested full reply to its comments outside of the reporting cycle	
State	Conventions Nos
New Zealand	MLC, 2006
Nigeria	MLC, 2006
Philippines	87
Senegal	87
Sri Lanka	98
Turkey	98
United Kingdom-Bermuda	MLC, 2006
Zimbabwe	87 and 98

Cases of progress

83. Following its examination of the reports supplied by governments, and in accordance with its standard practice, the Committee refers in its comments to cases in which it expresses its ***satisfaction*** or ***interest*** at the progress achieved in the application of the respective Conventions.

84. At its 80th and 82nd Sessions (2009 and 2011), the Committee made the following clarifications on the general approach developed over the years for the identification of cases of progress:

(1) The expression by the Committee of interest or satisfaction does not mean that it considers that the country in question is in general conformity with the Convention, and in the same comment **the Committee may express its satisfaction or interest at a specific issue while also expressing regret concerning other important matters** which, in its view, have not been addressed in a satisfactory manner.

(2) The Committee wishes to emphasize that **an indication of progress is limited to a specific issue related to the application of the Convention and the nature of the measures adopted by the government concerned**.

(3) The Committee exercises its discretion in noting progress, taking into account the particular nature of the Convention and the specific circumstances of the country.

(4) The expression of progress can refer to different kinds of measures relating to national legislation, policy or practice.

(5) If the satisfaction relates to the adoption of legislation, the Committee may also consider appropriate follow-up measures for its practical application.

(6) In identifying cases of progress, the Committee takes into account both the information provided by governments in their reports and the comments of employers' and workers' organizations.

85. Since first identifying cases of satisfaction in its report in 1964, [19] the Committee has continued to follow the same general criteria. The Committee expresses ***satisfaction*** in cases in which, **following comments it has made on a specific issue, governments have taken measures through either the adoption of new legislation, an amendment to the existing legislation or a significant change in the national policy or practice, thus achieving fuller compliance with their obligations under the respective Conventions**. In expressing its satisfaction, the Committee indicates to governments and the social partners that it considers the specific matter resolved. The reason for identifying cases of satisfaction is twofold:

– to place on record the Committee's appreciation of the positive action taken by governments in response to its comments; and

– to provide an example to other governments and social partners which have to address similar issues.

86. Details concerning these cases of progress are found in Part II of this report and cover **18** instances in which measures of this kind have been taken in **15** countries. The full list is as follows:

[19] See para. 16 of the report of the Committee of Experts submitted to the 48th Session (1964) of the International Labour Conference.

List of the cases in which the Committee has been able to express its satisfaction at certain measures taken by the governments of the following countries	
State	Conventions Nos
Albania	138
Cabo Verde	182
Côte d'Ivoire	138
Democratic Republic of the Congo	111
Ecuador	138
El Salvador	182
Eswatini	87
Guinea	29
Iraq	100
Malaysia	182
Morocco	105 and 182
Mozambique	138 and 182
Niger	182
Poland	87 and 98
Viet Nam	29

87. Thus the total number of cases in which the Committee has been led to **express its satisfaction** at the progress achieved following its comments has risen to **3,077** since the Committee began listing them in its report.

88. Within cases of progress, the distinction between cases of satisfaction and cases of interest was formalized in 1979. [20] In general, cases of ***interest*** cover **measures that are sufficiently advanced to justify the expectation that further progress would be achieved in the future and regarding which the Committee would want to continue its dialogue with the government and the social partners**. The Committee's practice has developed to such an extent that cases in which it expresses interest may encompass a variety of measures. The paramount consideration is that the measures contribute to the overall achievement of the objectives of a particular Convention. This may include:

– draft legislation that is before parliament, or other proposed legislative changes forwarded or available to the Committee;

– consultations within the government and with the social partners;

– new policies;

– the development and implementation of activities within the framework of a technical cooperation project or following technical assistance or advice from the Office;

– judicial decisions, according to the level of the court, the subject matter and the force of such decisions in a particular legal system, would normally be considered as cases of interest unless there is a compelling reason to note a particular judicial decision as a case of satisfaction; or

– the Committee may also note as cases of interest the progress made by a state, province or territory in the framework of a federal system.

89. Details concerning the cases in question are found either in Part II of this report or in the requests addressed directly to the governments concerned, and include **170** instances in which measures of this kind have been adopted in **80** countries. The full list is as follows:

[20] See para. 122 of the report of the Committee of Experts submitted to the 65th Session (1979) of the International Labour Conference.

List of the cases in which the Committee has been able to note with interest certain measures taken by the governments of the following countries	
State	Conventions Nos
Albania	95/173, 122 and 181
Angola	81
Argentina	29 and 156
Armenia	182
Australia	MLC, 2006
Bahamas	182
Bangladesh	81
Plurinational State of Bolivia	81/129 and 138
Botswana	182
Bulgaria	122
Cabo Verde	29
Canada	26
Chile	111, 122, 140 and 169
China	122 and 148/155/167
Côte d'Ivoire	29
Croatia	45/139/148/155/161/162 and 98
Democratic Republic of the Congo	87 and 111
Denmark	142
Ecuador	29, 122 and 182
Egypt	87
El Salvador	29 and 107
Estonia	122
Eswatini	87
Ethiopia	29 and 182
Fiji	87
Finland	156
France	156
France-New Caledonia	111 and 181
Georgia	142
Germany	111
Greece	87 and 122
Guatemala	87, 144, 169 and 182
Guinea	29, 105 and 182
Honduras	144
Iceland	144
India	29

List of the cases in which the Committee has been able to note with interest certain measures taken by the governments of the following countries	
State	Conventions Nos
Indonesia	19
Iraq	111
Ireland	98 and 111
Jamaica	87
Jordan	182
Republic of Korea	156
Kuwait	111
Lao People's Democratic Republic	182
Latvia	142
Lebanon	122
Liberia	182
Libya	100
Lithuania	29, 144 and 156
Madagascar	144
Malaysia	138
Mali	138, 144 and 182
Mauritius	144
Mexico	87
Republic of Moldova	81/129
Morocco	29, 138 and 182
Mozambique	111, 138 and 182
Myanmar	87 and 182
Namibia	111
Nepal	182
New Zealand	144 and 182
Nicaragua	189
Nigeria	81 and 88
Pakistan	87 and 98
Panama	87, 98 and 122
Paraguay	111
Peru	98
Philippines	87 and 98
Poland	81/129, 122 and 142
Portugal	98
Qatar	81 and 111
Romania	81/129

List of the cases in which the Committee has been able to note with interest certain measures taken by the governments of the following countries	
State	Conventions Nos
Russian Federation	95, 98 and 156
Samoa	182
Saudi Arabia	81
Serbia	162
Seychelles	81 and 87
Slovenia	81/129 and 187
Spain	181
Suriname	81/150
Sweden	87 and 98
Switzerland	142
United Republic of Tanzania	17/19 and 81
The former Yugoslav Republic of Macedonia	81/129/150 and 162
Togo	87 and MLC, 2006
Ukraine	117, 156 and 176
United Kingdom	98
United Kingdom – Anguilla	82 and 87
United Kingdom – Falkland Islands (Malvinas)	82
United Kingdom – Jersey	97 and 140
United Kingdom – Montserrat	82
Uruguay	81/129, 100, 111 and 189
Vanuatu	87
Zambia	100 and 111
Zimbabwe	87 and 111

Practical application

90. As part of its assessment of the application of Conventions in practice, the Committee notes the information contained in governments' reports, such as information relating to judicial decisions, statistics and labour inspection. The supply of this information is requested in almost all report forms, as well as under the specific terms of some Conventions.

91. The Committee notes that approximately a quarter of the reports received this year contain information on the practical application of Conventions including information on national jurisprudence, statistics and labour inspection.

92. The Committee wishes to emphasize to governments the importance of submitting such information which is indispensable to complete the examination of national legislation and to help the Committee to identify the issues arising from real problems of application in practice. The Committee also wishes to encourage employers' and workers' organizations to submit clear and up-to-date information on the application of Conventions in practice.

93. Furthermore, based on research undertaken by the Office at the request of the Experts, the Committee initiated a discussion on protection against discrimination based on sexual orientation, gender identity and expression and sexual characteristics in the world of work, in the context of the Discrimination (Employment and Occupation) Convention, 1958 (No. 111). The Committee requested that the comparative information compiled by the Office be made publicly available.

Observations made by employers' and workers' organizations

94. At each session, the Committee recalls that the contribution by employers' and workers' organizations is essential for the Committee's evaluation of the application of Conventions in national law and in practice. Member States have an obligation under article 23, paragraph 2, of the Constitution to communicate to the representative employers' and workers' organizations copies of the reports supplied under articles 19 and 22 of the Constitution. Compliance with this constitutional obligation is intended to enable organizations of employers and workers to participate fully in the supervision of the application of international labour standards. In some cases, governments transmit the observations made by employers' and workers' organizations with their reports, sometimes adding their own comments. However, in the majority of cases, observations from employers' and workers' organizations are sent directly to the Office which, in accordance with the established practice, transmits them to the governments concerned for comment, so as to ensure respect for due process. For reasons of transparency, the record of all observations received from employers' and workers' organizations on the application of ratified Conventions since the last session of the Committee is included as Appendix III to its report. Where the Committee finds that the observations are not within the scope of the Convention or do not contain information that would add value to its examination of the application of the Convention, it will not refer to them in its comments. Otherwise, the observations received from employers' and workers' organizations may be considered in an observation or in a direct request, as appropriate.

In a reporting year

95. At its 86th Session (2015), the Committee made the following clarifications on the general approach developed over the years for the treatment of observations from employers' and workers' organizations. The Committee recalled that, **in a reporting year**, when observations from employers' and workers' organizations are not provided with the government's report, they should be received by the Office by 1 September at the latest, so as to allow the government concerned to have a reasonable time to respond, thereby enabling the Committee to examine, as appropriate, the issues raised at its session the same year. When observations are received after 1 September, they would not be examined in substance in the absence of a reply from the government, except in exceptional cases. Over the years, the Committee has identified exceptional cases as those where the allegations are sufficiently substantiated and there is an urgent need to address the situation, whether because they refer to matters of life and death or to fundamental human rights or because any delay may cause irreparable harm. In addition, observations referring to legislative proposals or draft laws may also be examined by the Committee in the absence of a reply from the government, where this may be of assistance for the country at the drafting stage.

Outside of a reporting year

96. At its 88th Session, following its consideration of the Governing Body's review of the reporting cycle for technical Conventions from five to six years, the Committee indicated its willingness to consider the manner in which it might broaden the very strict criteria for breaking its cycle of review when receiving comments from workers' or employers' organizations on a specific country under article 23, paragraph 2, of the ILO Constitution and decided that inspiration in this regard could be drawn from those criteria used for "footnoting" cases and set out in paragraph 47 of that year's General Report.

97. In light of the November 2018 Governing Body decision (GB/334/INS/5) expanding the reporting cycle for technical Conventions from five to six years and expressing its understanding that the Committee would further review, clarify and, where appropriate, broaden the criteria for breaking the reporting cycle with respect to technical Conventions, the Committee proceeded with the review of the criteria mentioned above.

98. The Committee recalls that, **in a non-reporting year**, when employers' and workers' organizations send observations which simply repeat comments made in previous years, or refer to matters already raised by the Committee, such comments will be examined in the year when the government's report is due, in accordance with the regular reporting cycle. In this case, a report will not be requested from the government outside of that cycle.

99. Where the observations on a technical Convention meet the criteria set out in paragraph 100 below, the Committee will request the office to issue a notification to Governments that the article 23 observations received will be examined at its subsequent session with or without a response from the government. This would ensure that Governments have sufficient notice while ensuring that the examination of matters of importance are not further delayed.

100. The Committee would thus review the application of a **technical Convention** outside of a reporting year following observations submitted by employers' and workers' organizations having due regard to the following elements:

– the seriousness of the problem and its adverse impact on the application of the Convention;

– the persistence of the problem; and

– the relevance and scope of the government's response in its reports or the absence of response to the issues raised by the Committee, including cases of clear and repeated refusal on the part of a State to comply with its obligations.

101. With respect to **any Convention (fundamental, governance or technical)**, recalling its well-established practice, the Committee will examine employers' and workers' observations in a non-reporting year in the year received in the exceptional cases set out in paragraph 95 above, even in the absence of a reply from the government concerned.

102. The Committee emphasized that the procedure set out in the paragraphs above aims at giving effect to decisions taken by the Governing Body which have extended the reporting cycle and called for safeguards in that context, to ensure that effective supervision of the application of ratified Conventions is maintained. One of these safeguards consists in giving due recognition to the possibility afforded to employers' and workers' organizations to draw the attention of the Committee to matters of particular concern arising from the application of ratified Conventions, even in a year when no report is due. The approach above also pays particular attention to the importance of providing due notice to governments, except in exceptional circumstances, and in all cases the Committee will indicate its reasons for breaking the cycle.

103. The Committee notes that this year, the number of observations received from employers' and workers' organizations is lower than in previous years when it had reached unprecedented levels. Since its last session, the Committee has received **745** observations (compared to 1,325 last year), **173** of which (compared to 330 last year) were communicated by employers' organizations and **572** (compared to 995 last year) by workers' organizations. The great majority of the observations received (**699** compared to 836 last year) related to the application of ratified Conventions; [21] **367** of these observations (compared to 334 last year) concerned the application of fundamental Conventions, **84** (compared to 97 last year) related to governance Conventions and **248** (compared to 405 last year) concerned the application of other Conventions. Moreover, **46** observations (compared to 489 last year) related to the General Survey on the Social Protection Floors Recommendation, 2012 (No. 202).

104. The Committee notes that, **521** of the observations received this year on the application of ratified Conventions were transmitted directly to the Office. In **178** cases, the governments transmitted the observations made by employers' and workers' organizations with their reports. The Committee notes that in general the employers' and workers' organizations concerned endeavoured to gather and present information on the application of ratified Conventions in specific countries, both in law and in practice. The Committee recalls that observations of a general nature relating to certain Conventions are more appropriately addressed within the framework of the Committee's consideration of General Surveys or within other forums of the ILO.

Observations of the International Chamber of Shipping (ICS) on the Maritime Labour Convention, 2006, as amended (MLC, 2006)

105. The Committee notes the observations of the International Chamber of Shipping (ICS) based on article 23 of the ILO Constitution with respect to the Maritime Labour Convention, 2006, as amended (MLC, 2006). The ICS indicates that, in its opinion, no maximum period of service on board is stipulated in the Convention. While the ICS understands that *Regulation 2.5* clearly outlines the maximum period of service on board following which a seafarer is entitled to repatriation, it considers that the seafarer can decide not to exercise this right. The ICS maintains that seafarers should be able to work beyond the 11-month period "if they wish", provided they are compensated appropriately for various reasons: (i) training of cadets; (ii) seafarers' need to complete sea time under the International Convention on Standards of Training, Certification and Watchkeeping for Seafarers, 1978, as amended (STCW); (iii) ensuring that seafarers get sea time to obtain promotions, and (iv) seafarers' preference, in some instances, for longer periods on board. The ICS refers in particular to comments made by the Committee in the cases of the Republic of Marshall Islands and Bahamas.

106. The Committee recalls that under *Regulation 2.4*, each Member shall require that seafarers employed on ships that fly its flag are given paid annual leave under appropriate conditions, in accordance with the provisions in the Code (on the basis of a minimum of 2.5 calendar days of leave per month of employment). Pursuant to *Standard A2.4, paragraph 3*, any agreement to forgo the minimum annual leave with pay prescribed in this Standard shall be prohibited, except in cases provided for by the competent authority. Furthermore, according to *Standard A2.5.1, paragraph 2(b)*, each Member shall ensure that there are appropriate provisions in its laws and regulations or other measures or in collective bargaining agreements, prescribing, among others, the maximum duration of service periods on board following which a seafarer is entitled to repatriation – such periods to be less than 12 months.

107. The Convention lays down the following two separate yet interrelated normative principles: (i) seafarers are entitled to be sent home at no cost to themselves at regular intervals of less than 12 months of continuous service, and (ii) seafarers must be given at least 30 days of paid leave for one year of service.

108. Concerning annual leave, *Standard 2.4* explicitly states that any agreement to forgo the minimum annual leave with pay, except in cases provided for by the competent authority, *shall be prohibited*. As a general rule, therefore, any agreement by which seafarers would be paid an amount of money in lieu of annual leave would not be in conformity with the Convention. This prohibition is aimed at guaranteeing the effective realization of the purpose of *Regulation 2.4* which is to ensure that seafarers enjoy a period of annual leave for the benefit of their health and well-being and also intrinsically linked with ship safety and security. The objective is not only to encourage seafarers to take annual leave but also to prevent fatigue, vessel unseaworthiness and all risks related thereto.

[21] See Appendix III to this report.

109. With respect to repatriation, the situation is slightly different. In accordance with *Regulation 2.5, paragraph 1*, seafarers have a right to repatriation. However, they may decide for various reasons not to exercise this entitlement when it arises.

110. The Committee has consistently considered that, from the combined reading of *Standard A2.4, paragraphs 2 and 3*, on annual leave and *Standard A2.5.1, paragraph 2(b)*, on repatriation, that the maximum continuous period of shipboard service without leave is in principle 11 months. Indeed, as it has clearly been indicated by the Committee, *Standard A2.4, paragraph 3*, of the MLC, 2006, does not lay down an absolute prohibition as exceptions may be authorized by the competent authority. While the Convention is silent about the nature and scope of permissible exceptions, the Committee considers that this provision needs to be read restrictively in order not to defeat the purpose of *Regulation 2.4*.

111. However, exceptions are indeed permitted on the basis of specific cases provided for by the competent authority taking into account the needs of seafarers and the particularities of sea voyage itself. In this regard, the Committee recalls that it has considered in various instances that the possibility for cadets to forgo the minimum annual leave in order to complete their sea time or on-board training in accordance with training agreements is fully in conformity with the Convention. Another exception could relate more generally to the need of officers to complete service on board to obtain certificates under the STCW. The Convention itself further provides a possible exception in *Guideline B2.4.3* in relation with the possibility to divide annual leave with pay into parts, or accumulate such annual leave with a subsequent period of leave, on the condition that this has been authorized by the competent authority or through the appropriate machinery in each country.

112. Finally, the Committee notes that an important number of countries having ratified the Convention have not encountered difficulties in relation to the prohibition to forgo annual leave and the maximum period of service on board.

113. Therefore the Committee considers that the Convention provides adequate flexibility to address the concerns expressed by the ICS.

Cases in which the need for technical assistance has been highlighted

114. The combination of the work of the supervisory bodies and the practical guidance given to member States through development cooperation and technical assistance has always been one of the key dimensions of the ILO supervisory system. In this regard, the Committee welcomed the fact that the ILO Programme Implementation Report 2016–17, placed particular emphasis on the results of targeted action by the Office to improve the application of international labour standards in particular in response to issues raised by the supervisory bodies, and on ILO assistance for reinforcing the capacity of constituents to address serious reporting failures as well as on creating a virtuous cycle between the work of the supervisory bodies and the ILO's action at country level. [22] The Committee also welcomed the information provided by the Office that in 2018, targeted technical assistance continued and was further reinforced in order to support countries with the ratification and implementation of international labour standards and to strengthen the capacity of ministries of labour to fulfil their constitutional obligations (including the preparation of reports on the application of Conventions). The Committee is appreciative of the Office's efforts to better link its technical assistance programme with the work of the supervisory bodies as a means to improve the application of international labour standards in law and practice, including by allocating specific resources for this purpose. In the context of the 2030 Agenda and ongoing UN reform, the Committee underlines the importance of fully integrating international labour standards in the ILO Decent Work Country Programmes and in all United Nations' cooperation frameworks at the country and global levels. In this regard, the Committee takes note of the Resolution concerning effective ILO development cooperation in support of the Sustainable Development Goals adopted by the International Labour Conference at its 107th session (2018) and is particularly encouraged by the call made in the Resolution for the ILO to "assist countries in addressing recommendations from the ILO supervisory bodies regarding the implementation of international labour standards, upon request". **The Committee reiterates its hope that a comprehensive technical assistance programme will be developed in the near future, and that it will be adequately resourced to help all constituents improve the application of international labour standards in both law and practice.**

115. In addition to cases of serious failure by member States to fulfil certain specific obligations related to reporting, the cases for which, in the Committee's view, technical assistance from the Office would be particularly useful in helping member States to address gaps in law and in practice in the implementation of ratified Conventions are highlighted in the following table and details can be found in Part II of this report.

List of the cases in which technical assistance would be particularly useful in helping member States	
State	Conventions Nos
Bahrain	111
Belize	98

[22] See GB.332/PFA/1, paras 79 and 126–129.

List of the cases in which technical assistance would be particularly useful in helping member States	
State	Conventions Nos
Plurinational State of Bolivia	131 and 138
Botswana	87 and 138
Brazil	98
Cabo Verde	MLC, 2006
Cambodia	105
Central African Republic	62 and 142
Côte d'Ivoire	144
Croatia	98
Dominican Republic	187
Ecuador	98
El Salvador	87, 107 and 144
Eritrea	87 and 98
Fiji	87
Guatemala	87 and 182
Guinea	45
Haiti	1/14/30/106
Honduras	87 and 144
Jamaica	98
Lebanon	98
Libya	29, 105 and 182
Lithuania	144
Malaysia	98
Mexico	87
Mongolia	MLC, 2006
Mozambique	87 and 98
Myanmar	63 and 87
Nigeria	45 and 98
Pakistan	98
Panama	98 and 189
Papua New Guinea	98
Paraguay	87
Russian Federation	98 and 150
Saint Kitts and Nevis	138
Saint Vincent and the Grenadines	98
Sao Tome and Principe	98
Serbia	144
Seychelles	87 and 98

List of the cases in which technical assistance would be particularly useful in helping member States	
State	Conventions Nos
Sri Lanka	87 and 98
United Republic of Tanzania	87 and 98
Ukraine	95
United Kingdom	98
United Kingdom – Anguilla	82
Uruguay	87 and 98
Yemen	94, 122 and 144
Zambia	98

C. Reports under article 19 of the Constitution

116. The Committee recalls that the Governing Body decided that the subjects of General Surveys should be aligned with those of the annual recurrent discussions in the Conference under the follow-up to the ILO Declaration on Social Justice for a Fair Globalization, 2008. This year, governments were requested to supply reports under article 19 of the Constitution as a basis for the General Survey on the Social Protection Floors Recommendation, 2012 (No. 202). [23] In accordance with the practice followed in previous years, the survey has been prepared on the basis of a preliminary examination by a working party comprising seven members of the Committee.

117. The Committee notes with ***regret*** that, for the past five years, none of the reports on unratified Conventions and Recommendations requested under article 19 of the Constitution have been received from the following **32** countries:. **Afghanistan, Angola, Armenia, Belize, Botswana, Chad, Congo, Cook Islands, Dominica, Eswatini, Grenada, Guinea-Bissau, Guyana, Haiti, Kiribati, Liberia, Libya, Republic of Maldives, Marshall Islands, Papua New Guinea, Saint Lucia, Sao Tome and Principe, Sierra Leone, Solomon Islands, Somalia, South Sudan, Timor-Leste, Tonga, Tuvalu, United Arab Emirates, Vanuatu** and **Yemen.**

118. ***The Committee once again urges governments to provide the reports requested so that its General Surveys can be as comprehensive as possible.***

D. Submission of instruments adopted by the Conference to the competent authorities (article 19, paragraphs 5, 6 and 7, of the Constitution)

119. In accordance with its terms of reference, the Committee this year examined the following information supplied by governments of member States pursuant to article 19 of the Constitution of the Organisation:

(a) information on measures taken to submit to the competent authorities the instruments adopted by the Conference from June 1970 (54th Session) to June 2017 (106th Session) (Conventions Nos 131–189, Recommendations Nos 135–205 and Protocols); and

(b) replies to the observations and direct requests made by the Committee at its 88th Session (November–December 2017).

120. Appendix IV of Part II of the report contains a summary of the most recent information received indicating the competent national authorities to which the Protocol of 2014 to the Forced Labour Convention, 1930, and the Forced Labour (Supplementary Measures) Recommendation, 2014 (No. 203), adopted by the Conference at its 103rd Session, the Transition from the Informal to the Formal Economy Recommendation, 2015 (No. 204), adopted by the Conference at its 104th Session, as well as the Employment and Decent Work for Peace and Resilience Recommendation, 2017 (No. 205), adopted by the Conference at its 106th Session, were submitted and the date of submission. In addition, Appendix IV summarizes the information supplied by governments with respect to the instruments adopted earlier and submitted to the competent authorities in 2018.

121. Additional statistical information is found in Appendices V and VI of Part II of the report. Appendix V, compiled based on information provided by governments, shows where each member State stands in terms of its constitutional obligation of submission. Appendix VI shows the overall submission status of each instrument adopted since the 54th

[23] See Report III (Part B), International Labour Conference, 108th Session, Geneva, 2019.

Session (June 1970) of the Conference. All instruments adopted prior to the 54th Session of the Conference have been submitted. The statistical data in Appendices V and VI are regularly updated by the competent units of the Office and can be accessed in NORMLEX.

103rd Session

122. At its 103rd Session in June 2014, the Conference adopted the Protocol of 2014 to the Forced Labour Convention, 1930, and the Forced Labour (Supplementary Measures) Recommendation, 2014 (No. 203). The Committee notes with ***interest*** that the Protocol of 2014 to the Forced Labour Convention, 1930, which entered into force on 9 November 2016, has been ratified by 27 member States: **Argentina, Bosnia and Herzegovina, Cyprus, Czech Republic, Denmark, Djibouti, Estonia, Finland, France, Iceland, Israel, Jamaica, Latvia, Mali, Mauritania, Mozambique, Namibia, Netherlands, Niger, Norway, Panama, Poland, Spain, Sweden, Switzerland, Thailand** and **United Kingdom**. ***The Committee encourages all governments to continue their efforts to submit the instruments adopted by the Conference at its 103rd Session to their legislatures and to report on any action taken with regard to these instruments.***

104th Session

123. At its 104th Session in June 2015, the Conference adopted the Transition from the Informal to the Formal Economy Recommendation, 2015 (No. 204). The 12-month period for submission of Recommendation No. 204 to the competent authorities ended on 12 June 2016, and the 18-month period (in exceptional circumstances) on 12 December 2016. The Committee notes that 83 governments have provided information on the submission to the competent authorities of Recommendation No. 204. It refers in this regard to Appendix IV of Part II of the report which contains a summary of information supplied by governments on submission, including with respect to Recommendation No. 204. ***The Committee encourages all governments to continue their efforts to submit Recommendation No. 204 to their legislatures and to report on any action taken with regard to this instrument.***

105th and 106th Sessions

124. The Committee recalls that no instrument was adopted at the 105th Session of the Conference (May–June 2016). At its 106th Session in June 2017, the Conference adopted the Employment and Decent Work for Peace and Resilience Recommendation, 2017 (No. 205). The 12-month period for submission of Recommendation No. 205 to the competent authorities ended on 16 June 2018, and the 18-month period (in exceptional circumstances) will end on 16 December 2018. The Committee notes that 41 governments have to date provided information on the submission of Recommendation No. 205 to the competent national authorities. ***The Committee welcomes the information provided to date and encourages all governments to continue their efforts to submit Recommendation No. 205 to their legislatures and to report on any action taken with regard to this instrument.***

Cases of progress

125. The Committee notes with ***interest*** the information provided by the governments of the following countries: **Bangladesh, Burundi** and **Mali**. It welcomes the efforts made by these Governments in overcoming the significant delays in submission and taking important steps toward fulfilling their constitutional obligation to submit to their legislatures the instruments adopted by the Conference over a number of years.

Special problems

126. To facilitate the work of the Conference Committee on the Application of Standards, this report only mentions those governments that have not submitted the instruments adopted by the Conference to their competent authorities for at least seven consecutive sessions. These special problems are referred to as cases of "serious failure to submit". **This time frame begins at the 96th Session (2007) and concludes at the 106th Session (2017), bearing in mind that the Conference did not adopt any Conventions or Recommendations during its 97th (2008), 98th (2009), 102nd (2013), and 105th (2016) Sessions.** This time frame was deemed long enough to warrant inviting the governments concerned to a special sitting of the Conference Committee so that they could account for delays in submission. In addition, the Committee is also providing information in its observations concerning cases of "failure to submit", in relation to governments that have not submitted to the competent authorities the instruments adopted at the last six sessions of the Conference.

127. The Committee notes that, at the closure of its 89th Session on 8 December 2018, the following **39** (32 in 2015, 38 in 2016 and 31 in 2017) member States were in the category of "serious failure to submit": **Afghanistan, Albania, Azerbaijan, Bahamas, Bahrain, Belize, Brunei Darussalam, Chile, Comoros, Congo, Croatia, Dominica, El Salvador, Equatorial Guinea, Fiji, Gabon, Grenada, Guinea-Bissau, Haiti, Kazakhstan, Kiribati, Kuwait, Kyrgyzstan, Liberia, Libya, Malaysia, Malta, Pakistan, Papua New Guinea, Saint Kitts and Nevis, Saint Lucia, Saint Vincent and the Grenadines, Samoa, Seychelles, Sierra Leone, Solomon Islands, Somalia, Syrian Arab Republic** and **Vanuatu**.

128. The Committee is aware of the exceptional circumstances that have affected some of these countries for years, as a result of which some of them have been deprived of the institutions needed to fulfil their obligation to submit instruments. At the 107th Session of the Conference (May–June 2018), some Government delegations supplied information explaining why their countries had been unable to meet the constitutional obligation to submit Conventions, Recommendations and Protocols to their national legislatures. Following the concerns raised by the Committee of Experts, the Conference Committee also expressed great concern at the failure to respect this obligation. It pointed out that

compliance with this constitutional obligation, which means submitting the instruments adopted by the Conference to national legislatures, is of the utmost importance in ensuring the effectiveness of the Organization's standards-related activities.

129. The abovementioned countries have been identified in observations published in this report, and the Conventions, Recommendations and Protocols that have not been submitted are indicated in the statistical appendices. The Committee considers it worthwhile to alert the governments concerned so as to enable them immediately, and as a matter of urgency, to take appropriate steps to bring themselves up to date and into compliance with this constitutional obligation. This notice also allows the governments to benefit from the measures the Office is prepared to take, upon their request, to assist them in taking the steps required for the rapid submission to their legislature of the pending instruments.

Comments of the Committee and replies from governments

130. As in its previous reports, the Committee makes individual observations in section II of Part II of this report on the points that should be brought to the special attention of governments. In general, observations are made in cases where there has been no information for five or more sessions of the Conference. Furthermore, requests for additional information on other points have been addressed directly to a number of countries (see the list of direct requests at the end of section II).

131. As the Committee has already pointed out, it is important that governments send the information and documents required by the questionnaire appended to the Memorandum adopted by the Governing Body in March 2005. The Committee must receive for examination a summary or a copy of the documents submitting the instruments to the legislative bodies, an indication of the date of submission, and be informed of the proposals made as to the action to be taken on the instruments submitted. The obligation of submission is discharged only once the instruments adopted by the Conference have been submitted to the legislature and a decision has been taken on them. The Office must be informed of this decision, as well as of the submission of instruments to the legislature. The Committee hopes to continue to note cases of progress in this matter in its next report. It again reminds governments that they may seek technical assistance from the ILO, particularly through the standards specialists in the field.

* * *

132. Lastly, the Committee would like to express its appreciation for the invaluable assistance again rendered to it by the officials of the Office, whose competence and devotion to duty make it possible for the Committee to accomplish its complex task in a limited period of time.

Geneva, 8 December 2018 *(Signed)* Abdul G. Koroma

Chairperson

Shinichi Ago

Reporter

Appendix to the General Report

Composition of the Committee of Experts on the Application of Conventions and Recommendations

Mr Shinichi AGO (Japan)

Professor of Law, Ritsumeikan University, Kyoto; former Professor of International Economic Laws and Dean of the Faculty of Law at Kyushu University; member of the Asian Society of International Law, the International Law Association and the International Society for Labour and Social Security Law; Judge, Asian Development Bank Administrative Tribunal.

Ms Lia ATHANASSIOU (Greece)

Full Professor of Maritime and Commercial Law at the National and Kapodistrian University of Athens (Faculty of Law); Elected Member of the Deanship Council of the Faculty of Law and Director of the Postgraduate Programme on Business and Maritime Law; President of the Organizing Committee of the International Conference on Maritime Law held in Piraeus (Greece) every three years; Ph.D. from the University of Paris I-Sorbonne; authorization by the same university to supervise academic research; LL.M. Aix-Marseille III; LL.M. Paris II Assas; visiting scholar at Harvard Law School and Fulbright Scholar (2007–08); member of Legislative Committees on various commercial law issues. She has lectured and effectuated academic research in several foreign institutions in France, the United Kingdom, Italy, Malta, the United States, etc. She has published extensively on maritime, competition, industrial property, company, European and transport law (eight books and more than 60 papers and contributions in collective works in Greek, English and French); practising lawyer and arbitrator specializing in European, commercial and maritime law.

Ms Leila AZOURI (Lebanon)

Doctor of Law; Professor of Labour Law at the Faculty of Law at Sagesse University, Beirut; Director of Research at the Doctoral School of Law of the Lebanese University; former Director of the Faculty of Law of the Lebanese University until 2016; member of the Executive Bureau of the National Commission for Lebanese Women; Chairperson of the national commission responsible for the preparation of the reports submitted by the Government of Lebanon to the UN Committee on the Elimination of Discrimination against Women (CEDAW) until 2017; legal expert for the Arab Women Organization; member of the "ILO Policy Advisory Committee on Fair Migration" in the Middle East.

Mr Lelio BENTES CORRÊA (Brazil)

Judge at the Labour Superior Court (Tribunal Superior do Trabalho) of Brazil, former Labour Public Prosecutor of Brazil, LL.M of the University of Essex, United Kingdom; former member of the National Council of Justice of Brazil; Professor at the Instituto de Ensino Superior de Brasilia; Professor at the National School for Labour Judges.

Mr James J. BRUDNEY (United States)

Professor of Law, Fordham University School of Law, New York, NY; Co-Chair of the Public Review Board of the United Automobile Workers Union of America (UAW); former Visiting Fellow, Oxford University, United Kingdom; former Visiting Faculty, Harvard Law School; former Professor of Law, The Ohio State University Moritz College of Law; former Chief Counsel and Staff Director of the United States Senate Subcommittee on Labour; former attorney in private practice; and former law clerk to the United States Supreme Court.

Mr Halton CHEADLE (South Africa)

Professor Emeritus at the University of Cape Town; former Special Adviser to Minister of Justice; former Chief Legal Counsel of the Congress of South African Trade Unions; former Special Adviser to the Labour Minister; former Convener of the Task Team to draft the South African Labour Relations Act.

Ms Graciela DIXON CATON (Panama)

Former President of the Supreme Court of Justice of Panama; former President of the Penal Court of Cassation and of the Chamber of General Business Matters of the Supreme Court of Panama; former President of the International Association of Women Judges; former President of the Latin American Federation of Judges; former National Consultant for the United Nations Children's Fund (UNICEF); currently Judge of the Inter-American Development Bank Administrative Tribunal; Arbitrator at the Court of Arbitration of the Official Chamber of Commerce of Madrid; Arbitrator at the Center for Dispute Resolution (CESCON) of the Panamanian Chamber of Construction, as well as for the Conciliation and Arbitration Center of the Panamanian Chamber of Commerce; and legal adviser and international consultant.

Mr Rachid FILALI MEKNASSI (Morocco)

Doctor of Law; former Professor at the University Mohammed V of Rabat; member of the Higher Council of Education, Training and Scientific Research; consultant with national and international public bodies, including the World Bank, the United Nations Development Programme (UNDP), the Food and Agriculture Organization of the United Nations (FAO), and UNICEF; National Coordinator of the ILO project "Sustainable Development through the Global Compact" (2005–08).

Mr Abdul G. KOROMA (Sierra Leone)

Judge at the International Court of Justice (1994–2012); former President of the Henry Dunant Centre for Humanitarian Dialogue in Geneva; former member and Chairman of the International Law Commission; former Ambassador and Permanent Representative of Sierra Leone to the United Nations (New York) and former Ambassador Plenipotentiary to the European Union, Organisation of African Unity (OAU) and many countries.

Mr Alain LACABARATS (France)

Judge at the Court of Cassation; former President of the Civil Chamber of the Court of Cassation; former President of the Social Chamber of the Court of Cassation; member of the Higher Council of the Judiciary; member of the European Network of Councils for the Judiciary and the Consultative Council of European Judges (Council of Europe); former Vice-President of the Paris Regional Court; former President of the Paris Appellate Court Chamber; former lecturer at several French universities and author of many publications.

Ms Elena E. MACHULSKAYA (Russian Federation)

Professor of Law, Department of Labour Law, Faculty of Law, Moscow State Lomonosov University; Professor of Law, Department of Civil Proceedings and Social Law, Russian State University of Oil and Gas; Secretary, Russian Association for Labour and Social Security Law, 2011–16; member of the European Committee of Social Rights; member of the President's Committee of the Russian Federation on the Rights of Persons with Disabilities (non-paid basis).

Ms Karon MONAGHAN (United Kingdom)

Queen's Counsel; Deputy High Court Judge; former Judge of the Employment Tribunal (2000–08); practising lawyer with Matrix Chambers, specializing in discrimination and equality law, human rights law, European Union law, public law and employment law; advisory positions include Special Adviser to the House of Commons Business, Innovation and Skills Committee for

the inquiry on women in the workplace (2013–14); Honorary Visiting Professor, Faculties of Laws, University College London.

Mr Vitit MUNTARBHORN (Thailand)

Professor Emeritus of Law, Chulalongkorn University, Thailand; former United Nations University Fellow at the Refugee Studies Programme, Oxford University; former United Nations Special Rapporteur on the Sale of Children, Child Prostitution and Child Pornography; former United Nations Special Rapporteur on the Situation of Human Rights in the Democratic People's Republic of Korea; former Chairperson of the United Nations Coordination Committee of Special Procedures; Chairperson of the United Nations Commission of Inquiry on the Ivory Coast (2011); former member, Advisory Board, United Nations Human Security Fund; a Commissioner of the United Nations Commission of Inquiry on the Syrian Arab Republic (2012–16); recipient of the 2004 UNESCO Prize for Human Rights Education; former United Nations Independent Expert on Protection against Violence and Discrimination Based on Sexual Orientation and Gender Identity; member of UNESCO Board on Global Education Monitoring Report.

Ms Rosemary OWENS (Australia)

Professor Emerita of Law, Adelaide Law School, University of Adelaide; former Dame Roma Mitchell Professor of Law (2008–15); former Dean of Law (2007–11); Officer of the Order of Australia; Fellow of the Australian Academy of Law (and Director (2014–16)); former editor and currently member of the editorial board of the *Australian Journal of Labour Law*; member of the scientific and editorial board of the *Révue de droit comparé du travail et de la sécurité sociale*; member of the Australian Labour Law Association (and former member of its National Executive); International Reader for the Australian Research Council; Chairperson of the South Australian Government's Ministerial Advisory Committee on Work–Life Balance (2010–13); Chairperson and member of the Board of Management of the Working Women's Centre (SA) (1990–2014).

Ms Mónica PINTO (Argentina)

Professor of International Law and Human Rights Law and former Dean at the University of Buenos Aires Law School. Associate member of the *Institut de droit international.* President of the World Bank Administrative Tribunal and Judge at the Inter-American Development Bank Administrative Tribunal; member of the ICSID Panel of Conciliators and Arbitrators; Vice-President of the Advisory Committee on Nominations for the International Criminal Court; member of the International Advisory Board of the American Law Institute for the Fourth Restatement on Foreign Relations. She has appeared before different human rights bodies, arbitral tribunals and the International Court of Justice as a counsel, as an expert. She currently serves as an arbitrator. She has served in different capacities as human rights expert for the UN. She has been visiting professor of law at Columbia Law School, University of Paris I and II, University of Rouen. She has taught at The Hague Academy of International Law. She is the author of some books and many articles.

Mr Paul-Gérard POUGOUÉ (Cameroon)

Professor of Law *(agrégé)*, Professor Emeritus, Yaoundé University; guest or associate professor at several universities and at the Hague Academy of International Law; on several occasions, President of the jury for the *agrégation* competition (private law and criminal sciences section) of the African and Malagasy Council for Higher Education (CAMES); former member (1993–2001) of the Scientific Council of the *Agence universitaire de la Francophonie* (AUF); former member (2002–12) of the Council of the International Order of Academic Palms of CAMES; member of the International Society for Labour and Social Security Law, the International Foundation for the Teaching of Business Law, the Association Henri Capitant and the Society of Comparative Law; founder and Director of the review *Juridis périodique*; President of the Association for the Promotion of Human Rights in Central Africa (APDHAC); Chairperson of the Scientific Board of the Labour Administration Regional African Centre (CRADAT); Chairperson of the Scientific Board of the Catholic University of Central Africa (UCAC).

Mr Raymond RANJEVA (Madagascar)

President of the Madagascar National Academy of Arts, Letters and Sciences; former member (1991–2009), Vice-President (2003–06) and senior judge (2006–09) of the International Court of Justice (ICJ), and President (2005) of the Chamber formed by the ICJ to deal with the Benin/Niger frontier dispute; Bachelor's degree in Law (1965), University of Madagascar, Antananarivo; Doctorate of Law, University of Paris II; *Agrégé* of the Faculties of Law and Economics, Public

Law and Political Science section, Paris (1972); Doctor honoris causa of the Universities of Limoges, Strasbourg and Bordeaux-Montesquieu; former Professor at the University of Madagascar (1981–91) and other institutions; former First Rector of the University of Antananarivo (1988–90); member of the Malagasy delegation to several international conferences; Head of the Malagasy delegation to the United Nations Conference on Succession of States in respect of Treaties (1976–77); former first Vice-President for Africa of the International Conference of French-speaking Faculties of Law and Political Science (1987–91); member of the Court of Arbitration of the International Chamber of Commerce; member of the Court of Arbitration for Sport; member of the Institute of International Law; member of numerous national and international professional and academic societies; Curatorium of the Hague Academy of International Law; member of the Pontifical Council for Justice and Peace; President of the African Society of International Law since 2012; former Vice-Chairman of the International Law Institute (2015–17); Chairperson of the ILO Commission of Inquiry on Zimbabwe.

Ms Kamala SANKARAN (India)

Professor, Faculty of Law, University of Delhi and currently Vice Chancellor, Tamil Nadu National Law University, Tiruchirappalli; Former Dean, Legal Affairs, University of Delhi; member, Working Group on Migration, Ministry of Housing and Urban Poverty Alleviation; member, Task Force to Review Labour Laws, National Commission for Enterprises in the Unorganised and Informal Sector, Government of India; member, International Advisory Board, International Journal of Comparative Labour Law and Industrial Relations; Fellow, Stellenbosch Institute of Advanced Study, South Africa (2011, 2009); Visiting South Asian Research Fellow, School of Interdisciplinary Area Studies, Oxford University (2010); Fulbright Post-Doctoral Research Scholar, Georgetown University Law Center, Washington, DC (2001).

Ms Deborah THOMAS-FELIX (Trinidad and Tobago)

President of the Industrial Court of Trinidad and Tobago since 2011; Judge of the United Nations Appeals Tribunal since 2014; former President and Second Vice-President of the United Nations Appeals Tribunal; former Chair of the Trinidad and Tobago Securities and Exchange Commission; former Chair of the Caribbean Group of Securities Regulators; former Deputy Chief Magistrate of the Judiciary of Trinidad and Tobago; former President of the Family Court of Saint Vincent and the Grenadines; Hubert Humphrey Fulbright Fellow; Georgetown University Leadership Seminar Fellow; and Commonwealth Institute of Judicial Education Fellow.

Mr Bernd WAAS (Germany)

Professor of Labour Law and Civil Law at the University of Frankfurt; Coordinator and member of the European Labour Law Network; Coordinator of the European Centre of Expertise in the field of labour law, employment and labour market policies (ECE); President of the German Society for Labour and Social Security Law and member of the Executive Committee of the International Society for Labour and Social Security Law (ISLSSL); member of the Advisory Committee of the Labour Law Research Network (LLRN).