



FIFTH ITEM ON THE AGENDA

Examination of standards-related reporting arrangements**I. Introduction**

1. The question of improvements to the ILO's standards-related activities has been discussed for several years, both in the Governing Body and the International Labour Conference. One feature of these activities is the supervisory mechanism of the ILO, generally regarded as the most advanced and effective in the United Nations system. This, however, imposes a considerable reporting and related workload on the ILO's constituents and on those parts of the Office which have had to deal with a steadily increasing flow of reports as the numbers of member States, Conventions and ratifications have grown.
2. The reporting system has been adjusted periodically to accommodate such changes. The purpose of the present paper is, as previously agreed, to evaluate the modifications made to the supervisory system in 1993, which included several adjustments to the reporting system, as well as to the date of the annual session of the Committee of Experts on the Application of Conventions and Recommendations, the date of publication of the Committee's report and the dates on which reports should be submitted. The Office was asked to prepare proposals to the present session of the Governing Body on possible modifications of the reporting methods, in the light of views expressed during the discussion at the 280th Session of the Governing Body (March 2001), and of subsequent consultations with the constituents.¹ There is consensus that the current review of the ILO's supervisory mechanisms is intended explicitly to strengthen the ILO's capacity to supervise the implementation of standards and to provide constituents with the assistance they need to improve their application.
3. Attention in this review is focused on the number, character and frequency of reports due and received, and on how they are dealt with by the supervisory bodies. It should be borne in mind, however, that the objective of the whole system is to ensure that governments have taken measures to give effect to the Conventions to which they are parties. Consequently, the supervisory bodies need to have a sufficient quantity and quality of information to carry out an adequate dialogue both with them and the social partners. It is

¹ GB.280/12/1, para. 87.

important not only to expedite more reports, which are on time and responsive to the requirements of the Conventions, but also to ensure that they serve to improve condition of life and work for all the ILO's constituents. Quality is therefore an essential concern here.

II. Evaluation of the 1993 modifications

4. In 1993, the Governing Body decided to modify the reporting system in order to pursue two principal objectives: "to maintain and improve the quality of the supervisory machinery; and to focus the requests for reports on cases where serious problems of application arise".² The changes made were intended to diminish the workload both on constituents and the Organization, and it was decided to evaluate the experience after five years' operation in order to make any further adjustments necessary before the new arrangements were put definitively into operation. The modifications were fully implemented in 1996 after a transitional period and, in accordance with the decision made when they were adopted, they were due for review this year.
5. The modifications were necessary because of the rising number of reports due from States on ratified (international labour) Conventions, and related reporting obligations. As indicated in the report to the Governing Body in March 2001³ these were not the first modifications in the periodicity of reporting. Until 1959, reports were due on each ratified Convention each year. In that year the system was modified because of the increasing number of reports due so that reports on individual Conventions would be required only every two years. Nevertheless, taking account of the constitutional provision that reports be submitted each year, it also noted that a general report would be due each year covering Conventions on which no report was requested that year. In 1976, the Governing Body decided to reduce the frequency of reports still further and instituted a system whereby detailed reports would be due every four years on most Conventions. They would continue to be requested every two years "for the most important Conventions, in particular those concerning freedom of association, forced labour and discrimination, and Conventions laying down 'modern, up-to-date standards'".⁴
6. In 1993, the Governing Body decided that detailed reports should be made at two-year intervals on a smaller group of ten "priority" Conventions (Nos. 29 and 105, 87 and 98, 100 and 111, 81 and 129, and 122 and 144). It accepted the proposal to extend the four-year reporting cycle to a five-year interval for "simplified" reports (subject to certain safeguards) for all the others. The decision included a notation that the Governing Body could periodically review the list of priority Conventions, which it subsequently did in introducing the two principal child labour Conventions (Nos. 138 and 182) into the two-year cycle.
7. The Governing Body also at that time introduced a number of safeguards to ensure that the supervisory mechanism would remain up to date with important developments in application at the national level. These included the requirement on governments to send

² GB.258/LILS/6/1, para. 2.

³ GB.280/LILS/3, para. 12.

⁴ GB.258/LILS/6/1, para. 6. The 20 Conventions on which reports were due every two years were those on freedom of association (Nos. 11, 84, 87, 98, 135, 141, 151 and 154), forced labour (Nos. 29 and 105), equal treatment (Nos. 100 and 111), employment policy (No. 122), migrant workers (Nos. 97 and 143), labour inspection (Nos. 81, 85 and 129), tripartite consultation (No. 144) and merchant shipping (No. 147).

detailed reports in the event of major changes in the application of Conventions; and the ability of the supervisory bodies to request additional reports when needed.

8. There were several other elements of the 1993 modifications:
 - (a) the number of detailed “first” reports was reduced from three to two;
 - (b) a distinction was made between detailed and simplified reports;
 - (c) requests for annual “general” reports were discontinued; and
 - (d) the date of the meeting of the Committee of Experts was changed from March to November-December, and due dates for reports on ratified Conventions were changed from 15 October to the period between 1 June and 1 September.

III. Statistics: How much the reporting workload has risen and why

9. The reporting workload has continued to grow [since the last time the reporting system was adjusted]. There are a number of reasons for this, the simplest being that the number of ratifications has risen, with 895 new ratifications since 1993. This includes some 600 for the fundamental and priority Conventions which are subject to a two-year reporting obligation.⁵ During the same period, the number of member States has risen from 167 to 175 and the average number of ratifications per country has risen from 36 to 40.
10. Table 1 indicates the overall number of reports requested and received at different points in the cycle for each year since 1977.
11. The reporting workload has fluctuated over the years with the various adjustments. Until 1958, reports were due on all ratified Conventions each year, and after that year a two-year reporting cycle was introduced. In 1958, the number of reports requested was 1,558 and it fell to 995 in 1959. By 1976, the number of reports requested had again grown and reached 2,200. A new revision of the reporting cycle provided for two-year reporting intervals for 17 priority Conventions and four-year intervals for all others. This resulted in the number of reports requested in 1977 falling to 1,526.
12. In 1994, the last full year in which that reporting cycle was in force, the number of reports due had risen to 2,290 and, after the full implementation of the present system, this figure fell to 1,806 in 1996. For the most recent session of the Committee of Experts in November-December 2000, the number of reports requested had again increased to 2,550.

⁵ Over a longer period, the number of ratifications has risen from 1,856 in 1958, when the first modification to the reporting cycles was made, to 6,964 (including 5,841 “active” ratifications on which reports are due) by mid-October 2001.

Table 1

Conference year	Reports requested	Reports received at the date requested	Reports received in time for the session of the Committee of Experts	Reports received in time for the session of the Conference			
As a result of a decision by the Governing Body (November 1976), detailed reports were requested as from 1977 until 1994, according to certain criteria, at yearly, two-yearly or four-yearly intervals.							
	Number	Number	Percentage	Number	Percentage	Number	Percentage
1977	1 529	215	14.0	1 120	73.2	1 328	87.0
1978	1 701	251	14.7	1 289	75.7	1 391	81.7
1979	1 593	234	14.7	1 270	79.8	1 376	86.4
1980	1 581	168	10.6	1 302	82.2	1 437	90.8
1981	1 543	127	8.1	1 210	78.4	1 340	86.7
1982	1 695	332	19.4	1 382	81.4	1 493	88.0
1983	1 737	236	13.5	1 388	79.9	1 558	89.6
1984	1 669	189	11.3	1 286	77.0	1 412	84.6
1985	1 666	189	11.3	1 312	78.7	1 471	88.2
1986	1 752	207	11.8	1 388	79.2	1 529	87.3
1987	1 793	171	9.5	1 408	78.4	1 542	86.0
1988	1 636	149	9.0	1 230	75.9	1 384	84.4
1989	1 719	196	11.4	1 256	73.0	1 409	81.9
1990	1 958	192	9.8	1 409	71.9	1 639	83.7
1991	2 010	271	13.4	1 411	69.9	1 544	76.8
1992	1 824	313	17.1	1 194	65.4	1 384	75.8
1993	1 906	471	24.7	1 233	64.6	1 473	77.2
1994	2 290	370	16.1	1 573	68.7	1 879	82.0
As a result of a decision by the Governing Body (November 1993), detailed reports on only five Conventions were exceptionally requested in 1995.							
1995	1 252	479	38.2	824	65.8	988	78.9
As a result of a decision by the Governing Body (November 1993), reports are henceforth requested, according to certain criteria, at yearly, two-yearly or five-yearly intervals.							
1996	1 806	362	20.5	1 145	63.3	1 413	78.2
1997	1 927	553	28.7	1 211	62.8	1 436	74.6
1998	2 036	463	22.7	1 264	62.1	1 455	71.4
1999	2 288	520	22.7	1 406	61.4	1 641	71.7
2000	2 550	740	29.0	1 798	70.5		

13. The number of reports due each year is based on different factors, starting with the number of reports due automatically under the regular reporting cycle, but modified by various factors including, in particular, additional reports requested by the supervisory bodies; first (and “second first”) reports after ratification which are due one year after entry into force regardless of the regular reporting cycle; and reports requested because of the failure to supply reports when they were due. The following table from the report to the 280th Session of the Governing Body illustrates the importance of these different factors over the period during which the present reporting system has been in force.

Table 2

Year	Total without additional requests ¹	Additional reports requested ²	Reports not received in previous year ³	1st and 2nd reports ⁴	Total reports requested ⁵
1996	1 328	108	376	142	1 812
1997	1 305	86	541	183	1 932
1998	1 379	56	602	162	2 037
1999	1 461	82	746	194	2 289
2000	1 600	92	858	139	2 550

¹ *Total without additional requests* is the figure that would have been due if all governments had reported and if the supervisory bodies had not asked for additional reports. ² *Additional reports requested* refers to the reports requested in “footnotes” by the Committee of Experts and by the Conference Committee. ³ *Reports not received in previous year* indicates the number of additional reports requested because a government failed to send the previous report, or because the previous report contained no or insufficient information (replies to comments of the supervisory bodies, etc.). ⁴ *1st and 2nd reports* means the detailed reports due following ratification and reflects the continuing increases in ratifications received (no breakdown between the 1st and 2nd reports is yet available). ⁵ *Total reports requested* is the total of all the reports due that year.

14. These figures also illustrate that the number of reports which have arrived at various stages of the reporting procedure have varied over the years (noting that the timing of reporting changed following 1993). Generally speaking, there has been a decline in the proportion of reports received, but not in their absolute numbers. This variation has been uneven in reporting at the date requested, representing 24.7 per cent in 1993 (when the due date was 15 October), to 20.5 per cent in 1996 (when the date had changed to between 1 June and 1 September), and climbing to 29 per cent in 2000. ⁶ As table 1 shows, there has been a more uniform decline in the numbers of reports received in time for the session of the Committee of Experts (except for a sudden jump in 2000), and in reports received by the time of the Conference following the Committee of Experts’ session. The absolute numbers of reports received at each stage have nevertheless grown steadily, with a few minor exceptions.
15. On the basis of these numbers, it appears that some further modifications should be envisaged to the reporting procedures to lighten the reporting workload. The statistics provided above indicate that some measures might have a greater effect than others. For example, the high number of additional reports due following failures to report on time should orient the following proposals toward measures to address that problem.

⁶ The corresponding figure for 2001 is 26.1 per cent, still relatively high compared to recent years.

IV. Possible modifications to the reporting system

16. Modifications can be divided into a number of categories, depending on modifications made in 1993 and on other factors. These are:

(a) Periodicity of reporting

17. When the Governing Body discussed this subject in March 2001, there was some discussion as to whether the periodicity should be extended from its present periodicity of requesting reports at two-year and five-year intervals. The majority of speakers indicated that the advantages of extending the periodicity of the five-year cycle would be outweighed by the loss of ability of the supervisory mechanisms to keep track of developments, if the intervals at which reports were due on specific Conventions were extended beyond five years. There would seem to be agreement on maintaining the two-year cycle for the current list of priority Conventions. Consequently, it is *not* proposed to extend the present reporting intervals.

(b) Grouping of reports

18. In the earlier discussions and consultations leading up to this session, the constituents expressed a clear preference for grouping reports so that those on related subjects could be prepared and sent together. Governments have indicated that it would ease their administrative burden if they could report in the same year on all, or at least a significant number of Conventions which cover similar subjects. This would ease information gathering at the national level, allowing ministries of labour to consult other ministries and other national institutions and authorities in a more concentrated way, and to send related information to the Office in a more coordinated way. There might also be advantages for the Office in being able to analyse related Conventions' application in a more cohesive way.

19. The present system attempts to equalize the reporting workload across the period, both for the 12 priority Conventions (one in each pair in alternative years – see paragraph 23 below) and for the others (distribution of reporting obligations across the five-year period). This system does not, however, group the instruments for reporting each year by subject.

20. Rearranging the Conventions for the purpose of reporting into groups by subject, however, implies that the implementation of related Conventions should be considered together whenever possible. This idea was favoured in the earlier discussions, and a grouping by subject matter for reporting purposes would not prejudice any groupings to be made for other reasons. This would have several advantages for governments in the preparation of reports, though it would have implications for the internal organization of the Office which would have to deal with higher concentrations of reports on technical subjects.

21. Almost all **the fundamental and priority Conventions** come in pairs,⁷ and there are clear advantages for member States and constituents to report on them together. For the

⁷ There are two Conventions each on forced labour (Nos. 29 and 105), child labour (Nos. 138 and 182), freedom of association and collective bargaining (Nos. 87 and 98), discrimination (Nos. 100 and 111) and labour inspection (Nos. 81 and 129). The two priority Conventions which stand alone

secretariat, however, it would present a severe problem in organizing the work to have to examine all the reports on the two freedom of association or discrimination Conventions, for example, in the same year, and would inevitably entail a much larger number of deferred reports.⁸ It is therefore suggested that *half the member States should report on each subject each year*, in order to equalize the distribution of work for the Office and the supervisory bodies. The division could be made simply on the basis of alphabetical order.⁹ This would mean, for example, that all States whose names begin with A to K (in the English alphabetical order) would report in even-numbered years on half the fundamental and priority Conventions, and the States in the latter half of the alphabet would report on them in odd-numbered years. The other half of the States report on them in the opposite order, thus maintaining roughly equal numbers of such reports to be dealt with each year.

22. The rotation for the other, **non-priority Conventions** could also be rearranged to group them by subject matter. Some of the resulting groupings would be so large that all reports on related subjects could not be dealt with together, and in such cases, reporting would be divided further into subgroups, taking account, inter alia, of the number of ratifications and the amount of work involved for the supervision of their application. As indicated, the grouping would be purely an administrative one to group Conventions with similar information needs, and would not be determinative of any groupings which may be made in the future for other purposes. If this idea is retained a proposed grouping would be submitted to the next session of the Committee.
23. It should be noted that this arrangement will not alter, on average, the number of reports due in any one year, although it should facilitate the preparation of reports by States and their examination by the supervisory bodies.
24. The suggestion had also been made that the grouping of reports could be *individually adapted to each State*, to allow that State to equalize its reporting over the five-year period. This would, however, be very complicated to arrange for each State, and would necessarily result in different Conventions being reported on by different countries each year, so that the projected advantages for the supervisory bodies of examining reports on the same Conventions together would be lost.

(c) Nature of reports

25. Reports may be either *detailed* or *simplified*. The latter should indicate only changes in the situation since the last report, statistical information where applicable, an indication of the employers' and workers' organizations to which the report has been sent, and comments from these organizations.¹⁰ Since the 1993 change in the system, simplified reports are due

are the Employment Policy Convention, 1964 (No. 122), and the Tripartite Consultation (International Labour Standards) Convention, 1976 (No. 144).

⁸ Each year, the Committee of Experts has to "defer" a number of reports received to its next session. This can occur because the report was received too late to be examined, or because of difficulties in examining a report such as linguistic problems or the absence of information in the report. It also can come about simply because the Office was unable in the time available to deal with the number of reports received before the Committee meets.

⁹ The alphabetical order chosen could be either in English or French.

¹⁰ *Handbook of procedures relating to international labour Conventions and Recommendations*, para. 36.

for all the regular reports due on a five-yearly basis (i.e. non-priority Conventions) except under certain conditions.

26. There seems to be no need to change the distinction between simplified and detailed reports, though many governments do not really apply the difference in practice. The Office receives a number of reports which contain far more detailed information than requested under the reporting system, adding to the amount of work both for governments and for the supervisory bodies. Others, of course, send reports which do not contain the detailed information which is supposed to be sent. Continued information and advice to the constituents will have to be provided in this respect, in particular by the standards specialists in the multidisciplinary teams, to ensure on the one hand that States are not assuming reporting burdens beyond what is actually required, and to ensure that adequate information is provided on the other.
27. Detailed reports are due each time a country reports on the priority and fundamental Conventions. They should contain information on each Article of the Convention, and should follow the reporting forms adopted by the Governing Body.¹¹ Preparing such reports demands considerable work by member States, and examining them for supervision requires more of the Office's time. The workload might be lightened without loss of supervisory capacity if the *requirement for detailed reports for these Conventions were limited to situations where the Committee of Experts or the Conference Committee asked for them*, and subject to the obligation to communicate updated statistics and other information on practical application as outlined in the report forms. Detailed reports would of course continue to be due following ratification, or the adoption of significant new legislation and other major changes in the application of a Convention at national level.
28. One of the conditions under which a detailed report is due is when the government concerned has not sent a report – including a simplified report – when it was due or has not replied to the comments of the Committee of Experts. As indicated in table 2, the number of additional reports – all of which should be detailed ones – which are occasioned by not having reported the previous year, rose steadily from 376 in 1996 to 858 in 2001. This total may be increasing in part because of the additional burden in having to provide detailed reports when a report has been missed, and the consequent inability of governments to prepare more elaborate reports. While this obligation was inserted to help persuade governments to send their reports on time, it may in practice have had the opposite effect by making it more difficult to catch up when governments fall behind. It is therefore proposed to *discontinue the requirement to send a detailed report if the government fails in its obligation to send a simplified report*, though of course the requirement to send a simplified report would be maintained. The obligation to send a detailed report would still exist if the supervisory bodies specifically asked for one; if there was a major change in the application of the Convention concerned; and if the workers' and employers' organizations made comments under article 23 of the Constitution. These would appear to be sufficient safeguards.
29. Another case in which a detailed report is due is for the *second report after ratification*. This applies to all Conventions. A detailed second report is due two years after the first report, whether or not the Convention concerned falls within the two-year reporting cycle. It will be recalled that in 1993, the requirement for the "third first report" was dropped. The number of "second first reports" due has amounted to between 67 (in 1996) and 139 (in 1997) over the five-year trial period. A number of suggestions have been made that this second detailed report should no longer be required, in order to diminish the reporting

¹¹ *ibid.*, para. 35.

workload. In fact, first reports after ratification often occasion a certain number of questions by the Committee of Experts, usually because of incomplete information (lack of legislation or regulations appended, failure to reply to questions in the report form, etc.). It is suggested that *the automatic requirement for detailed second reports be deleted*, in favour of leaving the Committee of Experts to exercise its authority to ask for any additional information it may feel is called for, if necessary, outside the regular reporting cycle.

(d) Additional reports

30. Table 2 shows that the Committee of Experts (on its own initiative or that of the Conference Committee) has used sparingly the authority granted to it in 1976, when reporting cycles were lengthened to up to four years, to ask for more frequent reports. Over the five years of the trial period this has been done between 56 (1998) and 108 (1996) times. The Committee has done so in cases where there was reason to be concerned about lack of development in a situation that appeared to pose serious problems on the application of a Convention, where it felt that governments should be urged to move more quickly to correct a problem. It is not proposed to amend this authority of the Committee of Experts, especially as its impact is small in numbers of reports but large in terms of stimulating governments to supply the information or to make the changes necessary.

(e) Substance and quality of reports

31. Each year the Committee of Experts indicates in its report that, although the majority of governments send the necessary information and reply to its observations and direct requests, a number regularly fail to do so. In its last report, for example, the Committee indicated that there were 389 such cases involving 42 countries,¹² which either failed to send the necessary reports or sent reports that contained no answer or else failed to supply the necessary information. (The Conference Committee on the Application of Standards noted in June 2001 that ten of these countries had subsequently communicated the necessary information, reflecting the situation which generally arises every year.) In regard to this and other failures to observe reporting obligations, the Conference Committee stated in 2001 that “the obligation to transmit reports is the basis of the supervisory system” and requested the Director-General “to adopt all possible measures to improve the situation and solve the problems ... as quickly as possible”.¹³
32. The governments which encounter this problem repeatedly are generally those of developing countries, which have serious structural problems or very small infrastructures in the public services. While concentrated assistance to such countries may reduce the problem, it is unlikely to eliminate it entirely. The Office already carries out a great deal of assistance of this type. Standards specialists’ posts are found in almost all the multidisciplinary teams, and one of their primary duties is to assist governments in meeting their reporting obligations. Training is provided in a variety of forms, and this will alleviate the problem for those countries willing and able to do so. A certain number, however, are likely to remain in this situation until their structural problems decline.

¹² Compared with 411 cases in 46 countries the year before.

¹³ Report of the Committee on the Application of Standards, ILC, 89th Session, 2001, Part One, para. 220.

V. Impact of the Working Party's recommendations

33. The Governing Body has now determined through the LILS Working Party on Policy regarding the Revision of Standards, that only some 71 of the 184 Conventions so far adopted are fully up to date, and that many of the others should be abrogated, withdrawn, revised or denounced in favour of more modern instruments. The situation of a number of instruments is still awaiting final clarification, meaning that the final number of up-to-date Conventions is likely to be somewhat higher. The Working Party's recommendations imply an effort to ratify the up-to-date Conventions, which will of course take some time.
34. The question has been posed whether compliance with the Working Party's recommendations would diminish the number of reports due, but it appears it would not. It would make the reporting system easier to handle for both governments and the Office, as it would concentrate supervisory efforts on a smaller number of more up-to-date instruments, but the net quantitative effect on government reporting obligations would not be significantly changed. The one exception would be instances in which ratification of a revising Convention entails the automatic denunciation of several earlier ones (Convention No. 138 is the best example of this), and if the reflections under the integrated approach result in more consolidated instruments being adopted, there could be more in the future.

VI. Timing

(a) Timing of Committee of Experts' session

35. When the present system was adopted, it also involved changing both the date of the Committee of Experts' session and the due date of reports. This was done at the same time that the schedule of Governing Body meetings was rearranged. The principal reason for the change in the Committee of Experts' meeting date was that many constituents were not receiving its report much before the International Labour Conference, and some were receiving it only when they arrived in Geneva. Before the change of dates, the Committee of Experts met in February-March, and the report could not be dispatched (after verification of translations and printing) before early May. In the present system, the Committee meets immediately after the November Governing Body, and the report is published and dispatched in mid-March. The change in the meeting date also involved changing the due date for examination of governments' reports from 15 October to the period between 1 June and 1 September.
36. While this has allowed the report to be dispatched in time for all constituents to receive it before the Conference, it has resulted in some disadvantages, and the question of whether these are outweighed by the advantages needs to be examined in the context of the review of the 1993 changes.
37. One disadvantage is that the interval between the time the reports are received and the examination of the Committee of Experts' report by the Conference is slightly longer, though the time between the receipt of timely reports and their examination by the Committee of Experts is shorter than before. Another is that staff time for the examination of reports has been somewhat reduced, resulting in a larger number of files being deferred to the following session, especially when governments' reports arrive after the due date, or require translation.

38. The question has been raised of whether the date of the Committee of Experts should be changed back to the first half of the year, in order to allow more time for the consideration of reports before their submission to the Committee of Experts. There are limitations on the possible timing if such a decision were taken. First, a meeting ending in March was already too late to allow the report to arrive with all the constituents before the Conference, and given the Governing Body's present timing the Experts' session could not be later than the last half of February. Examination has shown that it would not be possible to get the report processed and published in less than about eight weeks, even with modern methods. Consequently, if the Experts met in late February the report could not be dispatched before the end of April or the beginning of May. This would however again decrease the time between the receipt of the report and the Conference in the best-equipped States from the present ten or 11 weeks to no more than four. As a legal matter, it would also render impossible the formal transmission of the Experts' report by the Governing Body to the Conference.¹⁴
39. In many cases the report can now be communicated to the constituents more quickly than in 1993, particularly where ministries of labour and the other constituents have access to the Internet. The Office now posts the general report of the Committee of Experts and the observations on the application of Conventions on the ILO Internet site, making them available a few days before the hard copy of the report is published. A significant number of countries, however, do not have assured Internet access and cannot take advantage of this possibility. If communication time for the hard copy of the report were reduced, these countries would not be able to receive the report in time to prepare for the Conference; they also may be among those liable to be asked to appear before the Conference Committee on the Application of Standards.
40. One question that has to be raised in this connection is the impact of a possible late-February Experts' meeting on the document processing services of the ILO, in light of the fact that the Committee of Experts would meet, in this scenario, shortly before the March Governing Body instead of after the November one, and only slightly after the Expert-Advisers for the Declaration on Fundamental Rights and Principles at Work. The document processing services have indicated that it would be very difficult to contemplate such a change for these reasons, and also because the time at which the report would be produced would fall at the peak production time for Conference reports. In addition, the support services of the Standards Department, responsible for the final compiling of the Committee of Experts' report, estimate that such a change would add between \$25,000 and \$35,000 in overtime costs for preparation of the report on time.
41. Holding the Experts' meeting between the beginning of January and the middle of February would be possible theoretically, but many of the same disadvantages cited here would continue to be a problem. In these circumstances, *no change in the date of the Committee of Experts' session is recommended.*

(b) Timing of reporting

42. Another problem linked with the present timing of reporting is that only a small percentage of countries send in their reports by the due date – the figure of 29 per cent which had sent in their reports by 1 September 2000 was in fact the highest in 50 years, which of course includes the years when the Committee met in March and the due date was 15 October.

¹⁴ In the system before 1993, this could be done because there was a Governing Body session in May, which no longer exists.

Because such a large number of countries send in their reports late, this decreases the time during which the Office can examine these reports and prepare them for the Committee of Experts, thus necessarily diminishing the quality of supervision and occasioning a large number of deferred files.

43. Except for the last reporting period, the years between the 1993 modifications and the present have seen a gradual diminution in reports received by the due date, continuing a trend that has been going on for some years, as indicated earlier. The number of reports received before the Committee of Experts' session has also continued to decrease slightly, again as it had before the date was changed. Finally, the number of reports whose examination has had to be deferred until the year after they were initially received has also increased, though this is due in part to some transitional staffing problems that should be resolved in the coming months, in addition to any influence that the timing of receipt of reports may have had.
44. Making the due date for reporting earlier would not be feasible because of conflicts with governments' commitments related to the annual session of the Conference, and making it later would not be likely to affect the number of reports arriving at any particular date. If the timing of the Committee of Experts is not changed, there would appear to be no advantage in modifying the due date for reports.
45. Some countries have expressed concern over the short period of time between the Conference and the due date of reports, especially if the Conference asks them to supply an additional report. For most governments, the problem should not be excessive, as the schedule for regular reporting is well-known several years in advance, and they receive any comments the Committee of Experts may make at least a year before reports are due unless earlier reporting is requested. Changing the reporting date would not appear to affect significantly this situation.

VII. Country-by-country assistance

46. The measures proposed above may be expected to reduce the overall reporting workload, but the effect on reducing the number of reports due each year should not be overestimated. Many of the reports due, however, are based on long-standing problems which could be resolved if a concentrated effort were made to do so, thus eliminating the need for reports or reducing their complexity.
47. The opinion has been advanced in these discussions that the Committee of Experts raises too many questions of detail on the application of Conventions that do not affect the overall level of compliance. While the comments are often quite detailed, it should not be forgotten that many of the questions raised are not unimportant details but go to the essence of whether the Convention is being substantially applied in the country – for instance, coverage of workers in all segments of the economy under national legislation,¹⁵ lack of regulations under legislation of general application, or lack of governmental structures to apply national legislation.
48. In this connection, there is a limited number of countries which have a large number of outstanding comments by the Committee of Experts, which could be resolved if concentrated attention were given to them. These include such questions as lack of

¹⁵ In a number of countries, workers in agriculture, domestic employment or simply in non-industrial sectors, are not covered by legislation on some or all questions.

implementing legislation, relatively minor adjustments needed to bring national legislation into full compliance, problems of submission to the competent authorities, lack of statistical capacity, or merely prolonged failure to report fully. Failure to report in any one year, or to eliminate problems in the application of Conventions, results in larger numbers of reports being requested in future years. Eliminating such problems would reduce substantially the number of reports due from these countries.

49. In addition, some of these countries have not given attention to the ratification of more modern Conventions which would correspond more closely to the recommendations of the Governing Body, or which would bring them into closer conformity with best practice.
50. The Office therefore *proposes that it undertake, with selected countries, a concentrated attempt to resolve as many of the standards-related problems raised by the supervisory bodies as possible*. In doing so, the comments of the Committee of Experts, the Conference Committee and the Committee on Freedom of Association, as well as the results of articles 24 and 26 procedures, would be a guide to the work required. The governments and the social partners concerned would have to commit themselves to working with the Office to analyse and correct all the problems raised. This would often involve other actors in the country beyond ministries of labour, including other ministries and national legislatures to implement the Conventions, and apply the measures needed to eliminate the concerns of the ILO supervisory bodies. The Office for its part would have to devote the resources necessary to doing so, both from the multidisciplinary team (MDT) and the various technical departments concerned, including the Standards Department. It would be expected that this would reduce the reporting burden for these countries over a period of five years by an appreciable amount. The Office considers that it could, in the first instance, envisage the provision of such detailed assistance to four or five member States in a year, and would suggest that countries finding themselves in this situation indicate their willingness to take part.

VIII. Increased tripartite participation at the national level

51. The question was raised in the paper to the previous session of the Governing Body¹⁶ and during the consultations for the preparation of this paper, of whether measures could be taken at the national level that would allow governments to suspend reporting to the ILO on some Conventions, on the basis of a tripartite consensus at the national level that these Conventions were fully applied.
52. During informal consultations, it has become evident that while there is interest in this approach, there is also a great deal of resistance to linking the idea of national tripartite consensus on the application of a given instrument to supervision and, in particular, to reporting. Also, should it be feasible to proceed along these lines, a number of safeguards would have to be in place to ensure that the notion of tripartite consensus is not being evoked to weaken the efficiency of the supervisory system. The precondition of genuine tripartite cooperation in the sense of the Tripartite Consultation (International Labour Standards) Convention, 1976 (No. 144), and the Tripartite Consultation Activities of the International Labour Organization Recommendation, 1976 (No. 152), which supplements it, would have to be ensured. There would also have to be full possibilities for workers' and employers' organizations to make observations on the application of the Conventions concerned, if it should emerge that the national tripartite consensus on full application

¹⁶ GB.280/LILS/3, para. 23(d) and (e).

were only partial, or the workers' and employers' organizations concerned were not independent and representative.

53. Even if a number of safeguards existed through the right of employers' and workers' organizations to make observations in accordance with the usual practice, and the right of the Committee of Experts to request additional information, there remains the fundamental question of the appropriateness of the national tripartite constituents taking action that could amount to withdrawing the application of a given ratified Convention from international supervision for an undetermined period. In practice, differences might appear between countries with strong and unified employers' and workers' organizations and countries where organizations are weaker and more heterogeneous. National circumstances might also have a strong impact on the adequacy of supervisory activities under such a procedure.
54. It might be more appropriate to hold a discussion on encouraging national tripartite cooperation for the application of ratified Conventions separately from a discussion on the reporting arrangements, and instead to look at ways to support such cooperation for the purpose of better application. Where national tripartite cooperation functions well, encouragement could be given to making reports on the application of Conventions more consensual, and thus easier to prepare and analyse. In case of jointly identified problems, reports could be more oriented towards outlining proposed solutions.
55. The real question, in the light of the above, would seem to be whether there is an acceptable way of encouraging genuine national tripartite cooperation which would have a positive effect on the reporting workload. The answer would seem to be that suspending requests for reports is not the most promising way to achieve this. However, if improved national tripartite cooperation – which can be backed up by targeted assistance by the Office, for instance in the country-by-country sense proposed in Section V – can advance the aim of ratification of more up-to-date Conventions and denunciation of obsolete ones, then a good deal of reporting which might seem unnecessary would be done away with. This, together with looking at instruments in groups by subject matter, could significantly facilitate the national process.

Other issues

56. The present paper forms part of an examination of all aspects of the ILO's standards system. It has been recognized that it is not possible to discuss all the different questions in detail at any one time. The Office therefore suggests that at the next session, the Governing Body may wish to examine two questions: the proposed grouping of Conventions for purposes of reporting if the Governing Body decides that it should be pursued; and the procedure for dealing with representations under article 24 of the Constitution.

Points for decision

57. *The Committee may wish to propose to the Governing Body to –*
- (a) maintain the two-year and five-year reporting cycles, with the Conventions presently in each group;*
 - (b) approve the grouping of fundamental and priority Conventions alphabetically by country for reporting purposes (paragraph 23);*

-
- (c) *approve the arrangement of all other Conventions by subject groups for reporting purposes (paragraph 24);*
 - (d) *discontinue detailed reports on fundamental and priority Conventions unless there are changes, or they are requested by supervisory bodies (paragraphs 29-31);*
 - (e) *discontinue the automatic requirement to send a detailed report if the government fails in its obligation to send a simplified report (paragraph 30);*
 - (f) *discontinue the automatic requirement for detailed second reports (paragraph 31);*
 - (g) *maintain the present timing of the session of the Committee of Experts on the application of Conventions and Recommendations, and the due dates for reports (paragraphs 37-43);*
 - (h) *promote country-by-country assistance programmes to resolve problems of application of Conventions and related questions (paragraphs 48-52);*
 - (i) *hold further consultations on strengthening tripartite participation at the national level (paragraphs 53-57); and*
 - (j) *decide to discuss at the 283rd (March 2002) Session:*
 - (i) *a draft grouping of non-fundamental Conventions for purposes of reporting; and*
 - (ii) *arrangements for the consideration of representations under article 24 of the Constitution.*

Geneva, 22 October 2001.

Point for decision: Paragraph 57.