
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 86th Session in Geneva from 18 November to 5 December 2015. 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 Mario ACKERMAN (Argentina), 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 Pierre LYON-CAEN (France), Ms Elena E. MACHULSKAYA (Russian Federation), Ms Karon MONAGHAN (United Kingdom), Mr Vitit MUNTARBHORN (Thailand), Ms Rosemary OWENS (Australia), Mr Paul-Gérard POUGOUÉ (Cameroon), Mr Raymond RANJEVA (Madagascar), Mr Ajit Prakash SHAH (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 Lyon-Caen, who had been a member of the Committee since 2001, would be completing his 15-year mandate at the end of its session. The Committee expressed its deep appreciation for the outstanding manner in which Mr Lyon-Caen had carried out his duties during his service on the Committee.

4. During its session, the Committee welcomed Mr Ago, Ms Athanassiou and Mr Waas, nominated by the Governing Body at its 323rd Session (March 2015), as well as Ms Thomas-Felix, nominated by the Governing Body at its 325th Session (November 2015). **The Committee noted with appreciation that it had been able to function with its full membership at this session for the first time since 2001.**

5. Mr Koroma continued his mandate as Chairperson of the Committee and the Committee elected Ms Owens as Reporter. The Committee also decided that Mr Koroma would continue to serve as Chairperson of the Committee for a second mandate as of its next session.

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 in order to undertake its work more efficiently and effectively, and in particular to address the challenges of its workload and its role in better assisting the tripartite constituents in meeting their obligations in relation to international labour standards.

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. The mandate of the subcommittee includes examining the working methods of the Committee and any related subjects, in order to make appropriate recommendations to the Committee. This year, the subcommittee on working methods met under the guidance of Mr Bentes Corrêa, who was elected as its chairperson. In pursuance of the objective of ensuring a better understanding and an enhanced quality and visibility of the Committee's work, and in view of the comments made during the general discussion of the Committee on the Application of Standards at the 104th Session of the International Labour Conference (June 2015), the subcommittee examined the issue of the application of the criteria of distinction between observations and direct requests, and the procedure for the treatment of observations received from workers' and employers' organizations. The subcommittee also discussed issues

related to the Committee's workload and the time constraints in which the Committee is called upon to perform its work. Finally, the subcommittee pursued the reflection related to the dual need to ensure consistency in the supervision of the application of ratified Conventions and to enhance coherence by subject matter and strengthen a holistic approach by country, in light in particular of the adoption by the international community of the 2030 Agenda for Sustainable Development and member States' commitment towards its 17 goals.

8. Following consideration of the report and recommendations of the subcommittee, the Committee wished to indicate that it had paid particular attention this year in the exercise of its judgment when adopting its comments, to applying in a consistent manner its criteria for distinction between observations and direct requests, as contained in paragraph 36 of its General Report, and that it would continue to do so in the future. The Committee also decided to provide an explanation of its practice when treating observations received from workers' and employers' organizations.¹ In relation to the issue of workload and time constraints, the Committee wished to reiterate its longstanding concern at the low proportion of reports received by 1 September and to highlight once again the fact that this situation disturbed the sound operation of the regular supervisory procedure.² As regards possible ways of giving more visibility to the Committee's findings by country, the Committee invited the Office to use the electronic means available, in particular through the NORMLEX database, to facilitate access to all the comments made on the application of ratified Conventions for each country.

9. The subcommittee on the streamlining of treatment of certain information (which was established by the Committee of Experts in 2012 with a particular focus on information related to reporting obligations) also met this year, before the beginning of the work of the Committee. The subcommittee prepared draft "general" observations and direct requests addressing the failure to comply with the obligation to submit reports on the application of ratified Conventions (articles 22 and 35 of the Constitution)³ and the obligation to communicate copies of the reports on ratified Conventions to the representative organizations of employers and workers (article 23, paragraph 2, of the Constitution).⁴ It also prepared the Committee's "repetitions" (an individual observation or direct request may be repeated when a report was due on the application of a ratified Convention, but no report has been received or the report received contained no reply to the Committee's previous comments). The subcommittee presented, for adoption in the plenary, its report to the Committee of Experts and drew attention to the most important issues which had been raised during its examination.

Relations with the Conference Committee on the Application of Standards

10. A spirit of mutual respect, cooperation and responsibility has consistently prevailed over the years in the Committee's relations with the International Labour Conference and its Committee on the Application of Standards. 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 104th Session of the International Labour Conference (June 2015). 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 105th Session (June 2016) of the Conference. The Committee of Experts accepted this invitation.

11. 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.

12. An interactive and thorough exchange of views took place on matters of common interest. The Vice-Chairpersons took the opportunity of this discussion to highlight the important developments that had taken place in the framework of the Standards Initiative since the last meeting of the Committee of Experts, most notably in relation to the issue of the right to strike and the Freedom of Association and Protection of the Right to Organise Convention, 1948 (No. 87). In this regard, they referred in particular to the outcome of the Tripartite Meeting of February 2015, including the Joint Statement of the Workers' and the Employers' groups and the two statements from the Government group. The Committee of Experts indicated that it had taken due note of all these relevant developments, with particular attention given to the statements made in February.

13. The Vice-Chairpersons also underlined the constructive atmosphere in which the Conference Committee had been able to undertake its work in 2015 and to adopt conclusions, based on real tripartite participation and ownership. The special sitting offered an opportunity to discuss certain matters related to the working methods of both Committees, in particular in so much as they have implications on their respective work. The discussion centred on the manner in which the report of the Committee of Experts can provide the best possible basis for the work of the Conference Committee, with particular reference to the distinction between observations and direct requests, the treatment of observations received

¹ See paras 58–61 of the General Report.

² See para. 21 of the General Report.

³ See para. 23 of the General Report.

⁴ See para. 27 of the General Report.

from workers' and employers' organizations and the identification by the Committee of Experts of cases of progress and those in which governments are required to provide full particulars to the Conference (so-called "double footnotes").

14. In addition, an exchange of views took place on the opportunities that the recent developments in the multilateral context offered, in particular with the adoption by the United Nations of the Sustainable Development Goals. This would require the ILO to be forward looking and to make the fullest use of the unique advantage of its tripartite structure and standards system. In this context, and noting that 2016 would mark the 90th anniversary of both Committees, the importance of continued direct and transparent dialogue between the Conference Committee and the Committee of Experts was particularly emphasized.

Mandate

15. 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 over 85 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.

II. Compliance with standards-related obligations

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

16. 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

17. 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.

18. 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.⁵ 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 and to maintain the cycle at five years for the other Conventions.

19. In addition, reports may be requested by the Committee outside of the regular reporting cycle.⁶ 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

20. This year a total of 2,336 reports (2,139 reports under article 22 of the Constitution and 197 reports under article 35 of the Constitution) were requested from governments on the application of Conventions ratified by member States, compared to 2,383 reports last year.

21. The Committee observes with *concern* that the proportion of reports received by 1 September 2015 remains low (38.7 per cent, compared with 38.9 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.*

⁵ 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.

⁶ See para. 40 of the General Report.

22. At the end of the present session of the Committee, 1,628 reports had been received by the Office. This figure corresponds to 69.7 per cent of the reports requested⁷ (last year, the Office received a total of 1,709 reports, representing 71.7 per cent). The Committee notes in particular that 69 of the 108 first reports due on the application of ratified Conventions were received by the time the Committee's session ended (last year, 75 of the 107 first reports due had been received).

23. 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.

24. None of the reports due have been sent for the past two or more years from the following **14** countries: **Afghanistan, Belize, Burundi, Democratic Republic of the Congo, Dominica, Equatorial Guinea, Gambia, Guinea-Bissau, Haiti, Ireland, Saint Lucia, Sierra Leone, Somalia and Tuvalu.**

25. **Seven** countries have failed to supply a first report for two or more years:

Failure to submit first reports on the application of ratified Conventions for two or more years	
State	Conventions Nos
Afghanistan	– Since 2012: Conventions Nos 138, 144, 159 and 182
Canada	– Since 2014: MLC, 2006
Croatia	– Since 2014: MLC, 2006
Equatorial Guinea	– Since 1998: Conventions Nos 68 and 92
Kiribati	– Since 2014: MLC, 2006
Luxembourg	– Since 2014: MLC, 2006
Tuvalu	– Since 2014: MLC, 2006

26. *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.* 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.**⁸

27. In a general observation, which is also contained at the beginning of Part II (section I) of this report, the Committee examines the compliance by member States with their obligation under article 23(2) of the Constitution to communicate to the representative employers' and workers' organizations copies of the reports on ratified Conventions. The Committee notes that almost all governments have fulfilled their obligation in this respect. In its general observation, it addresses cases where none of the reports supplied by a country indicate the employers' and workers' organizations to which copies of the reports were communicated, as well as cases where a majority of the reports received do not provide such information. 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.⁹ 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 all member States to discharge their obligation under article 23(2) of the Constitution. The Committee also requests governments to provide copies of reports to representative employers' and workers' organizations so that they have enough time to send any comments that they may wish to make.*

⁷ 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.

⁸ 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.

⁹ See para. 58 of the General Report.

Replies to the comments of the Committee

28. 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.

29. 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, Angola, Bahamas, Belize, Burundi, Central African Republic, Comoros, Congo, Croatia, Democratic Republic of the Congo, Djibouti, Dominica, Equatorial Guinea, Eritrea, Gambia, Guinea-Bissau, Guyana, Haiti, Ireland, Kazakhstan, Kiribati, Kyrgyzstan, Lao People's Democratic Republic, Lebanon, Malta, Montenegro, Nepal, Papua New Guinea, Saint Lucia, San Marino, Sierra Leone, Solomon Islands, Suriname, Timor-Leste, Trinidad and Tobago, United Kingdom (Anguilla, Guernsey, Jersey and Montserrat) and Yemen.**

30. 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 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

31. 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.

32. The Committee was informed that, pursuant to the discussions of the Conference Committee in June 2015, 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.¹⁰ 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.¹¹

33. 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.

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

34. 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.

35. The Committee wishes to inform member States that, in view of its heavy workload, there are a number of reports that it was unable to examine at its current session. It will be examining these reports at its next session.

Observations and direct requests

36. First of all, the Committee considers that it is worthy of note that in 337 cases it has found, following examination of the corresponding reports that no 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

¹⁰ See report of the Conference Committee, 2015, paras 124, 125 and 127.

¹¹ **Barbados, France (French Southern and Antarctic Territories), Ghana, Grenada, Guinea, Liberia, Mauritania, Nigeria, Saint Kitts and Nevis, Samoa, San Marino, Saint Vincent and the Grenadines and Tajikistan.**

in the Committee's report, but are communicated directly to the governments concerned and are available online.¹² 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.

37. 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.

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

38. 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 (104th Session, June 2015) in the following cases.

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, 104th Session, June 2015)	
State	Conventions Nos
Algeria	87
Bangladesh	87
Belarus	87
Plurinational State of Bolivia	138
Cambodia	182
Cameroon	182
El Salvador	87
Eritrea	29
Guatemala	87
Honduras	81
India	81
Italy	122
Kazakhstan	87
Republic of Korea	111
Mauritania	29
Mauritius	98
Mexico	87
Qatar	29
Spain	122
Swaziland	87
Turkey	155
Bolivarian Republic of Venezuela	87

¹² Observations and direct requests are accessible through the NORMLEX database, on the ILO website (www.ilo.org/normes).

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

39. 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
Belarus	87
Myanmar	29
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
Chile	35 and 37
Dominican Republic	19
Japan	159 and 181
Mexico	155
Republic of Moldova	81
Netherlands	81, 129 and 155
Portugal	137
Qatar	29 and 111
Spain	158

Special notes

40. 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 seemed 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 2016.

41. 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.

42. 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.

43. 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.

44. 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.

45. This year, the Committee has requested governments to supply full particulars to the Conference at its next session in 2016 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 May–June 2016	
State	Conventions Nos
Belarus	29
Madagascar	182
Nigeria	138
Philippines	87
Turkmenistan	105

46. 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 Nos
Dominican Republic	111
Mauritania	3 and 81
San Marino	87, 98 and 154

47. In addition, the Committee has requested simplified reports outside of the reporting cycle in the following cases:

List of the cases in which the Committee has requested simplified reports outside of the reporting cycle	
State	Conventions Nos
Albania	176 and 181
Antigua and Barbuda	144

List of the cases in which the Committee has requested simplified reports outside of the reporting cycle	
State	Conventions Nos
Argentina	96 and 154
Australia	88
Azerbaijan	23, 92, 133, 134 and 147
Bahamas	MLC, 2006
Bangladesh	81
Belarus	105
Belgium	MLC, 2006
Plurinational State of Bolivia	136 and 162
Brazil	22, 133, 146, 163, 164, 166 and 178
Bulgaria	MLC, 2006
Canada	160
Chile	35 and 37
Colombia	12, 17, 18, 136 and 162
Cyprus	160 and MLC, 2006
Dominican Republic	19
Egypt	159
El Salvador	81 and 144
France	MLC, 2006
Germany	88, 159 and MLC, 2006
Ghana	119 and 182
Greece	160
Guatemala	87, 159 and 169
Haiti	12, 17, 24, 25 and 42
India	81
Indonesia	87 and 98
Iraq	8, 22, 23, 92, 146 and 147
Japan	115, 159 and 181
Jordan	119
Kazakhstan	87
Lebanon	142
Madagascar	88 and 159
Mauritius	98
Mexico	22, 55, 87, 134, 155, 159, 163, 164 and 166
Montenegro	140
Morocco	MLC, 2006
Netherlands	159 and MLC, 2006
Nigeria	87

List of the cases in which the Committee has requested simplified reports outside of the reporting cycle	
State	Conventions Nos
Peru	159
Portugal	137 and 162
Russian Federation	MLC, 2006
Sao Tome and Principe	144 and 159
Slovakia	140
Spain	88, 122, 159, 181 and MLC, 2006
Sri Lanka	98
Sweden	MLC, 2006
Turkey	98, 155 and 159
Uganda	162
Ukraine	176
United Kingdom	87 and MLC, 2006
United Kingdom – Isle of Man	MLC, 2006
Uzbekistan	98
Bolivarian Republic of Venezuela	87 and 88
Zambia	98, 136 and 176
Zimbabwe	87 and 98

Cases of progress

48. 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.

49. 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.

50. Since first identifying cases of satisfaction in its report in 1964,¹³ 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**

¹³ See para. 16 of the report of the Committee of Experts submitted to the 48th Session (1964) of the International Labour Conference.

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.

51. Details concerning these cases of progress are found in Part II of this report and cover **19** instances in which measures of this kind have been taken in **18** countries. The full list is as follows:

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
Barbados	135
Brazil	155
Cuba	81
Ecuador	87
Fiji	87
Kenya	138
Kuwait	138
Madagascar	127
Mexico	182
Mozambique	87 and 98
Namibia	182
Netherlands – Aruba	138
Panama	107
Peru	87
Philippines	111
Samoa	98
Serbia	98
Swaziland	87

52. 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 **2,999** since the Committee began listing them in its report.

53. Within cases of progress, the distinction between cases of satisfaction and cases of interest was formalized in 1979.¹⁴ 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;

¹⁴ See para. 122 of the report of the Committee of Experts submitted to the 65th Session (1979) of the International Labour Conference.

- 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.

54. 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 **158** instances in which measures of this kind have been adopted in **85** countries. The full list is as follows:

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
Argentina	88 and 169
Armenia	29, 105, 138 and 150
Azerbaijan	29
Bangladesh	81 and 87
Belarus	29 and 87
Belgium	62 and 155
Bosnia and Herzegovina	29 and 159
Brazil	29, 117, 155, 159, 160 and 169
Brunei-Darussalam	182
Burkina Faso	144
Cabo Verde	138 and 182
Chile	122
Colombia	2, 81, 88, 159, 160, 161, 162 and 169
Costa Rica	159, 160 and 169
Cuba	81
Cyprus	155
Denmark	100 and 122
Dominican Republic	19
Ecuador	81 and 98
Egypt	150
El Salvador	159
Fiji	87 and 100
France	MLC, 2006
Gabon	29
Georgia	138
Germany	88 and 98
Ghana	105 and 182
Greece	81

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
Grenada	87 and 182
Guatemala	127
Guinea	118, 121, 132, 144 and 149
Haiti	29 and 182
Honduras	138 and 169
Iceland	108 and 144
India	29, 107, 136 and 144
Iraq	29, 81, 138 and 182
Ireland	98
Jordan	144 and 159
Kenya	138
Kuwait	29 and 182
Lao People's Democratic Republic	138
Lesotho	138 and 182
Lithuania	29 and 159
Madagascar	81, 144 and 182
Malawi	105
Malaysia	19
Mali	150
Mauritania	23
Mauritius	19
Mexico	87, 150, 159 and 182
Mongolia	98
Montenegro	182
Morocco	138
Mozambique	81
Namibia	182
Nepal	169
Netherlands	159
Netherlands – Aruba	138
Nicaragua	144
Niger	81
Nigeria	111
Pakistan	144
Panama	87, 98 and 107
Paraguay	159

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
Peru	87 and 98
Philippines	122, 159 and 189
Poland	87 and 98
Rwanda	29
Saint Kitts and Nevis	87 and 98
Samoa	87 and 111
Singapore	187
South Africa	87, 100 and 111
Sri Lanka	87 and 98
Sudan	98
Sweden	87 and 98
The former Yugoslav Republic of Macedonia	88, 100, 158 and 159
Timor-Leste	87
Trinidad and Tobago	144
Turkey	87, 98 and 151
Turkmenistan	100
Uganda	87
Ukraine	159
Uruguay	87, 98 and 135
Uzbekistan	182
Viet Nam	100, 111 and 155
Zimbabwe	98

Practical application

55. 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.

56. The Committee notes that 532 reports received this year contain information on the practical application of Conventions. Of these, 58 reports contain information on national jurisprudence. The Committee also notes that 474 of the reports contain information on statistics and labour inspection.

57. 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.

Observations made by employers' and workers' organizations

58. 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(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, all the observations received from employers' and workers' organizations on the application of ratified Conventions since the last session of the Committee are listed in 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.

59. The Committee recalls 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 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.

60. Furthermore, 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, they 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. However, where the observations meet the criteria of exceptional cases, as defined in the previous paragraph, the Committee will examine them in the year in which they are received, even in the absence of a reply from the government concerned. The government will then be requested to send a report the next year, which may be outside of the regular reporting cycle.

61. The Committee emphasizes that the procedure set out above aims at giving effect to decisions taken by the Governing Body which have both extended the reporting cycle and provided 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.

62. Since its last session, the Committee has received **1019** observations (compared to 1,143 last year), **305** of which (compared to 309 last year) were communicated by employers' organizations and **714** (compared to 834 last year) by workers' organizations. The great majority of the observations received (**818**) related to the application of ratified Conventions;¹⁵ **433** of these observations concerned the application of fundamental Conventions, **97** related to governance Conventions and **288** concerned the application of other Conventions. Moreover, **201** observations related to the General Survey on the instruments concerning migrant workers.¹⁶

63. The Committee notes that, of the observations received this year on the application of ratified Conventions, **626** were transmitted directly to the Office. In **192** cases, the governments transmitted the comments 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.

Cases in which the need for technical assistance has been highlighted

64. The combination of the work of the supervisory bodies and the practical guidance given to member States through technical cooperation and assistance has always been one of the key dimensions of the ILO supervisory system. In this regard, the Committee welcomed the information received from the Office that, in 2015, targeted technical assistance continued in order to support countries with the ratification and implementation of international labour standards and to reinforce the capacity of ministries of labour to fulfil their constitutional obligations (including the preparation of reports on the application of Conventions). Detailed information on technical assistance is contained in Report III (Part 2).¹⁷

¹⁵ See Appendix III to this report.

¹⁶ An indication of the observations made by employers' and workers' organizations on the application of Conventions received during the current year is available through the NORMLEX database, on the ILO website (www.ilo.org/normes).

¹⁷ See Report III (Part 2), International Labour Conference, 105th Session, Geneva, 2016.

65. 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.

66. 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 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
Armenia	150
Bahamas	100
Bangladesh	81, 100 and 111
Belarus	87
Benin	13 and 160
Plurinational State of Bolivia	138
Burkina Faso	161
Cambodia	13, 100 and 182
Cameroon	162 and 182
Chad	81
Colombia	162
Djibouti	94
Dominican Republic	111
Ecuador	81, 98, 100, 115, 119, 139, 148, 152 and 162
Egypt	63
El Salvador	87
Eritrea	29
Fiji	108
Ghana	81, 87 and 94
Guatemala	87, 138, 161 and 182
Guinea	81, 133 and 134
Honduras	81, 127 and 144
India	81
Indonesia	87 and 98
Jamaica	138
Kazakhstan	81 and 87
Kenya	138
Lesotho	81
Libya	87
Madagascar	81
Malawi	81

List of the cases in which technical assistance would be particularly useful in helping member States	
State	Conventions Nos
Malaysia	98
Mauritania	29 and 87
Mauritius	98
Mexico	87
Mongolia	138 and 182
Montenegro	98
Mozambique	87, 98, 138 and 182
Niger	81
Nigeria	87 and 138
Panama	100
Paraguay	87, 98 and 100
Romania	98
Saint Vincent and the Grenadines	100
San Marino	87, 98 and 154
Sao Tome and Principe	87, 98 and 154
Serbia	87
Seychelles	87 and 98
Sierra Leone	17
Slovenia	98
Sudan	98
Swaziland	98
United Republic of Tanzania	87 and 98
Tunisia	87
Turkey	98
Uganda	162
Ukraine	155
Uruguay	98
Uzbekistan	98 and 105
Bolivarian Republic of Venezuela	87
Yemen	94
Zimbabwe	98

C. Reports under article 19 of the Constitution

67. The Committee recalls that the Governing Body decided that, in principle, 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 following instruments: the Migration for Employment Convention (Revised), 1949 (No. 97), the Migration for Employment Recommendation (Revised), 1949

(No. 86), the Migrant Workers (Supplementary Provisions) Convention, 1975 (No. 143), and the Migrant Workers Recommendation, 1975 (No. 151).¹⁸ 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 six members of the Committee.

68. 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 30 countries: Armenia, Burundi, Comoros, Congo, Democratic Republic of the Congo, Equatorial Guinea, Ghana, Grenada, Guinea, Guinea-Bissau, Guyana, Haiti, Kiribati, Liberia, Libya, Malawi, Marshall Islands, Nigeria, Rwanda, Saint Kitts and Nevis, Saint Lucia, San Marino, Sao Tome and Principe, Sierra Leone, Solomon Islands, Somalia, Tuvalu, Vanuatu, Yemen and Zambia.

69. *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)

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

- (a) additional information on measures taken to submit to the competent authorities the instruments adopted by the Conference from 1967 (51st Session) to June 2014 (103rd Session) (Conventions Nos 128–189, Recommendations Nos 132–203 and Protocols);
- (b) replies to the observations and direct requests made by the Committee at its 85th Session (November–December 2014).

71. Appendix IV of the report contains a summary of the last information received indicating the competent 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 were submitted and the date of submission. In addition, Appendix IV summarizes the information supplied by governments with respect to earlier adopted instruments submitted to the competent authority in 2015.

72. Additional statistical information is found in Appendices V and VI of the report. Appendix V, compiled from information sent by governments, shows where each member State stands in terms of its constitutional obligation of submission. Appendix VI shows the overall submission status of instruments adopted since the 51st Session (June 1967) of the Conference.

103rd Session

73. At its 103rd Session in June 2014, the Conference adopted the Protocol of 2014 to the Forced Labour Convention, 1930, and Recommendation No. 203. The 12-month period for submission to the competent authorities of these instruments ended on 11 June 2015, and the 18-month period on 11 December 2015. In all, 45 governments have submitted the Protocol of 2014 to the Forced Labour Convention, 1930, and 43 have submitted Recommendation No. 203. At this session, the Committee examined information on the steps taken regarding the Protocol of 2014 to the Forced Labour Convention, 1930, and Recommendation No. 203 by the following 61 Governments: Albania, Algeria, Australia, Austria, Belgium, Benin, Brazil, Bulgaria, Cameroon, Colombia, Costa Rica, Cuba, Czech Republic, Ecuador, Estonia, Finland, France, Greece, Guatemala, Honduras, Iceland, Indonesia, Iraq, Israel, Italy, Jamaica, Japan, Kazakhstan, Republic of Korea, Lao People's Democratic Republic, Latvia, Lebanon, Lithuania, Luxembourg, Mauritania, Montenegro, Morocco, Myanmar, Nicaragua, Niger, Norway, Panama, Papua New Guinea, Philippines, Poland, Portugal, Romania, Serbia, Slovakia, Slovenia, South Africa, Sri Lanka, Sweden, Switzerland, Turkey, Ukraine, United States, Uzbekistan, Bolivarian Republic of Venezuela, Viet Nam and Zimbabwe. The Committee notes with *interest* that, following the ratifications of Niger and Norway, the Protocol of 2014 to the Forced Labour Convention, 1930, will enter into force on 9 November 2016.

104th Session

74. The Committee notes that the following 12 Governments have already provided information on the submission to the competent authorities of the Transition from the Informal to the Formal Economy Recommendation, 2015 (No. 204), adopted by the Conference on 12 June 2015: Benin, Guatemala, Israel, Latvia, Luxembourg, Republic of Moldova, Morocco, Nigeria, Panama, Philippines, Ukraine and Viet Nam. *The Committee encourages all other governments to continue their efforts to submit Recommendation No. 204 to parliaments and to report on the action taken with regard to this instrument.*

¹⁸ See Report III (Part 1B), International Labour Conference, 105th Session, Geneva, 2016.

Cases of progress

75. The Committee notes with *interest* the information sent by the governments of the following countries: **Brazil, Nepal, Sao Tome and Principe** and **Tajikistan**. It welcomes the efforts made by these Governments to recognize the significant delay in submission and to take important steps toward fulfilling their obligation to submit to their parliaments the instruments adopted by the Conference over a number of years.

Special problems

76. To facilitate the work of the Committee on the Application of Standards, this report only mentions those governments that have not submitted to the competent authorities the instruments adopted by the Conference for at least seven sessions. **This time frame begins on the 94th (February 2006, Maritime) Session and concludes on the 103rd Session (2014) because the Conference did not adopt any Conventions or Recommendations during the 97th (2008), 98th (2009) or 102nd (2013) Sessions.** Thus, 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 the delays in submission.

77. The Committee notes that at the closure of its 86th Session, on 5 December 2015, the following 32 countries were in this situation: **Angola, Azerbaijan, Bahrain, Comoros, Côte d'Ivoire, Democratic Republic of the Congo, Djibouti, Dominica, El Salvador, Equatorial Guinea, Guinea, Haiti, Iraq, Jamaica, Kazakhstan, Kuwait, Kyrgyzstan, Libya, Mali, Mauritania, Mozambique, Pakistan, Papua New Guinea, Rwanda, Saint Lucia, Sierra Leone, Solomon Islands, Somalia, Sudan, Suriname, Uganda and Vanuatu.**

78. 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 the obligation to submit instruments. At the 104th Session of the Conference (June 2015), some Government delegations supplied information explaining why their countries had been unable to meet the constitutional obligation to submit Conventions, Recommendations and Protocols to national parliaments. As the Committee of Experts had done previously, the Conference Committee 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 parliaments, is of the utmost importance in ensuring the effectiveness of the Organization's standards-related activities.

79. 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 relevant 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. This notice also allows the governments to benefit from the measures the Office is prepared to take, upon their request, to assist them in the steps required for the rapid submission to parliament of the pending instruments.

Comments of the Committee and replies from governments

80. As in its previous reports, the Committee makes individual observations in section III 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 III).

81. As the Committee has already pointed out, it is important that governments send the information and documents required by the questionnaire set forth at the end of 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 parliamentary bodies and be informed of the proposals made as to the action to be taken on them. The obligation of submission is discharged only once the instruments adopted by the Conference have been submitted to parliament and the Government has provided information as to the action taken on them. The Office has to be informed of this action, as well as of the submission of instruments to parliament. The Committee hopes to be able to note progress in this matter in its next report. It again reminds governments that they may seek technical assistance from the ILO.

Transition from the Informal to the Formal Economy Recommendation, 2015 (No. 204), adopted by the Conference at its 104th Session (June 2015)

82. The Committee notes that the adoption of the Transition from the Informal to the Formal Economy Recommendation, 2015 (No. 204), results from a strong tripartite consensus in the International Labour Conference at its 104th Session (June 2015). At the same session, the Conference also adopted the resolution concerning efforts to facilitate the transition from the informal to the formal economy, which invites governments, employers and workers jointly to give full effect to Recommendation No. 204.

83. This new Recommendation is the first international labour standard to focus on the informal economy in its entirety and to point clearly to transition to the formal economy as essential for realizing decent work for all and achieving inclusive development. The Recommendation, of universal relevance, acknowledges the broad diversity of situations of

informality, including specific national contexts and priorities for the transition to the formal economy, and provides practical guidance to address these priorities.

84. The new instrument also recognizes the key role of tripartism and effective coordination across government bodies and other stakeholders to give effect to its provisions; and the key role of employers' and workers' organizations to extend membership and services to workers and economic units in the informal economy.

85. Recommendation No. 204 reaffirms the relevance of the eight ILO fundamental Conventions and other relevant international labour standards and United Nations instruments as listed in its Annex. It also recognizes the importance for those in the informal economy to enjoy freedom of association and the right to collective bargaining; the elimination of all forms of forced or compulsory labour; the effective abolition of child labour; and the elimination of discrimination in respect of employment and occupation.

86. Moreover, this new Recommendation recognizes that workers in the informal economy have resources and strategies for emerging from poverty. They are recognized as active agents for change. The new instrument provides guidance to Members to pursue a threefold objective, namely to: (a) facilitate the transition of workers and economic units from the informal to the formal economy, while respecting workers' fundamental rights and ensuring opportunities for income security, livelihoods and entrepreneurship; (b) promote the creation, preservation and sustainability of enterprises and decent jobs in the formal economy and the coherence of macroeconomic, employment, social protection and other social policies; and (c) prevent the informalization of formal economy jobs.

87. Additionally, the Recommendation invites Members to design coherent and integrated strategies to facilitate the transition from the informal to the formal economy and sets out 12 guiding principles to frame such strategies. These principles include the effective promotion and protection of the human rights of all those operating in the informal economy, the fulfilment of decent work for all through respect for the fundamental principles and rights at work, in law and practice, as well as the promotion of gender equality and non-discrimination and the need to pay special attention to those who are the most vulnerable in the informal economy.

88. In designing coherent and integrated strategies, member States should also take into account among others the preservation and expansion, during the transition to the formal economy, of the entrepreneurial potential, creativity, dynamism, skills and innovative capacities of workers and economic units in the informal economy; the need for a balanced approach combining incentives with compliance measures; and the need to prevent and sanction deliberate avoidance of, or exit from, the formal economy for the purpose of evading taxation and the application of social and labour laws and regulations.

89. The new instrument also identifies a range of policy areas that need to be addressed according to national circumstances. In this regard, Recommendation No. 204 indicates that an integrated policy framework should address areas which include, among others, the establishment of an appropriate legislative and regulatory framework; the promotion of a conducive business and investment environment; the promotion of entrepreneurship, micro, small and medium-sized enterprises, and other forms of business models and economic units, such as cooperatives and other social and solidarity economy units; access to education, lifelong learning and skills development; access to markets; the establishment of social protection floors, where they do not exist, and the extension of social security coverage; efficient and effective labour inspections; and income security, including appropriately designed minimum wage policies.

90. The Committee wishes to underline the importance of monitoring and evaluating the progress towards formalization, in consultation with employers' and workers' organizations, as well as the collection, analysis, and dissemination of relevant data on the informal economy.

91. The Committee also wishes to recall that, in pursuing the objective of quality job creation in the formal economy, Members should formulate and implement a national employment policy in line with the Employment Policy Convention, 1964 (No. 122), and make full, decent, productive and freely chosen employment a central goal in their national development and growth strategy or plan.

92. It should be noted that the Committee has regularly invited member States to provide information on their efforts to ensure the application of the relevant international labour standards for workers in the informal economy. For example, member States that have ratified the Employment Policy Convention, 1964 (No. 122), have referred to the informal economy in their employment plans or policies and adopted specific measures directed at raising productivity and incomes in the informal economy. In its 2010 General Survey concerning employment instruments, the Committee recalled that since the early 1970s the ILO has been advocating for the promotion of a better understanding and devotion of special attention to the informal economy.

93. The Committee notes that, at its 325th Session, the Governing Body adopted a plan of action for the implementation of Recommendation No. 204. The strategy for Office follow-up to Recommendation No. 204 aims, first and foremost, to support constituents' action in the development and implementation of integrated and coherent national strategies, according to national circumstances and priorities, in facilitating the transition to the formal economy. The strategy is articulated around four interrelated components, namely: (1) a promotional awareness-raising and advocacy campaign; (2) capacity building of tripartite constituents; (3) knowledge development and dissemination; and (4) international cooperation and partnerships.

94. The Committee encourages governments and social partners to supplement their reports and observations on the application of relevant international labour standards, especially those included in the Annex to the Recommendation which include the fundamental and governance Conventions and other relevant instruments, with information related to the measures taken to ensure a successful transition from the informal to the formal economy, in line with Recommendation No. 204.

III. Collaboration with international organizations and functions relating to other international instruments

Cooperation with international organizations in the field of standards

95. In the context of collaboration with other international organizations on questions concerning the application of international instruments relating to subjects of common interest, the ILO has entered into special arrangements with the United Nations, certain specialized agencies and other intergovernmental organizations.¹⁹ In particular, these organizations may send information on the application of certain Conventions that would assist the Committee of Experts in examining the application of these Conventions.

United Nations treaties concerning human rights

96. The Committee recalls that international labour standards and the provisions of related United Nations human rights treaties are complementary and mutually reinforcing. It emphasizes that continuing cooperation between the ILO and the United Nations with regard to the application and supervision of relevant instruments is necessary, particularly in the context of United Nations reforms aimed at greater coherence and cooperation within the United Nations system and the human rights-based approach to development.

97. The Committee welcomes the fact that the Office has continued to provide information on the application of international labour standards to the United Nations treaty and charter-based bodies on a regular basis, in accordance with the existing arrangements between the ILO and the United Nations. It also continued to follow the work of these bodies and to take their comments into consideration where appropriate. The Committee considers that coherent international monitoring is an important basis for action to enhance the enjoyment of, and compliance with civil, political, economic, social and cultural rights at the national level.

European Code of Social Security and its Protocol

98. In accordance with the supervisory procedure established under Article 74(4) of the European Code of Social Security, and the arrangements made between the ILO and the Council of Europe, the Committee of Experts examined 21 reports on the application of the Code and, as appropriate, its Protocol. The Committee's conclusions on these reports will be sent to the Council of Europe for examination by its Committee of Experts on Social Security. Once approved, the Committee's comments should lead to the adoption of resolutions by the Committee of Ministers of the Council of Europe on the application of the Code and the Protocol by the countries concerned.

99. With its dual responsibility for the application of the Code and for international labour Conventions relating to social security, the Committee is seeking to develop a coherent analysis of the application of European and international

¹⁹ The following organizations are concerned: the United Nations, the Office of the High Commissioner for Human Rights (OHCHR), the Food and Agriculture Organization of the United Nations (FAO), the United Nations Educational, Scientific and Cultural Organization (UNESCO), the World Health Organization (WHO), the International Atomic Energy Agency (IAEA) (concerning the Radiation Protection Convention, 1960 (No. 115)), and the International Maritime Organization (IMO).

instruments and to coordinate the obligations of the States parties to these instruments. The Committee also draws attention to the national situations in which recourse to technical assistance from the secretariat of the Council of Europe and the Office may prove to be an effective means of improving the application of the Code.

* * *

100. 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, 5 December 2015

(Signed) Abdul G. Koroma
Chairperson

Rosemary Owens
Reporter

Appendix to the General Report

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

Mr Mario ACKERMAN (Argentina)

Doctor of Law; Professor of Labour Law and Director of Masters and Specialist Postgraduate Labour Law Studies at the Faculty of Law of the University of Buenos Aires; Director of the *Revista de Derecho Laboral*; former Adviser to the Parliament of the Republic of Argentina; former National Director of the Labour Inspectorate of the Ministry of Labour and Social Security of the Republic of Argentina.

Mr Shinichi AGO (Japan)

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

Ms Lia ATHANASSIOU (Greece)

Professor of Maritime and Commercial Law at the National and Kapodistrian University of Athens (Faculty of Law); Ph.D. from the University of Paris I – Sorbonne; practising lawyer and arbitrator specializing in European and commercial 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; 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); legal expert for the Arab Women Organization.

Mr Lelio BENTES CORRÊA (Brazil)

Judge at the Labour Superior Court (*Tribunal Superior do Trabalho*) of Brazil, former Labour Public Prosecutor of Brazil, LLM of the University of Essex, United Kingdom; Member of the National Council of Justice of Brazil; Professor (Labour Team and Human Rights Centre) 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 of Public Law 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); presently 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; 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); former Research Project Manager at the Foreign Department of the Central Bank (1975–78).

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 of the International Law Commission; former Ambassador and Ambassador Plenipotentiary to many countries as well as to the United Nations.

Mr Pierre LYON-CAEN (France)

Honorary Advocate-General, Court of Cassation (Social Division); former member of the Advisory Council of the Biomedical Agency; National Advisory Committee on Human Rights; President, Journalists Arbitration Commission; former Deputy Director, Office of the Minister of Justice; former Public Prosecutor at the *Nanterre Tribunal de Grande Instance (Hauts de Seine)*; former President of the *Pontoise Tribunal de Grande Instance (Val d'Oise)*; graduate of the *Ecole Nationale de la Magistrature*.

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; member of the European Committee of Social Rights; member of the President's Committee on the Rights of Invalids (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).

Mr Vitit MUNTARBHORN (Thailand)

Professor Emeritus of Law in Thailand; former United Nations Special Rapporteur on the Situation of Human Rights in the Democratic People's Republic of Korea; former United Nations Special Rapporteur on the Sale of Children, Child Prostitution and Child Pornography; Commissioner of the International Commission of Jurists; former Chairperson of the United Nations Coordination Committee of Special Procedures; Chairperson of the United Nations Commission of Inquiry on the Ivory Coast (2011); member, Advisory Board, United Nations Human Security Fund; Commissioner, United Nations Commission of Inquiry on Syria (2012–present); recipient of the 2004 UNESCO Prize for Human Rights Education.

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 and Director (2014–15) of the Australian Academy of Law; former Editor and currently member of the editorial board of the Australian Journal of Labour Law; 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).

Mr Paul-Gérard POUGOUÉ (Cameroon)

Professor of Law (*agrégé*); guest or associate professor at several universities and at the Hague Academy of International Law; Head of the Department of Legal Theory, Legal Epistemology and Comparative Law and Director of the Master's Programme of Legal Theories and Pluralism of the Faculty of Law and Political Sciences of the University of Yaoundé II; 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).

Mr Raymond RANJEVA (Madagascar)

Member of the International Court of Justice (1991–2009); Vice-President (2003–06), President (2005) of the Chamber formed by the International Court of Justice to deal with the case concerning the Frontier Dispute Benin/Niger; senior judge of the Court (2006); 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. Professor at the University of Madagascar (1981–91)

and other institutions; a number of administrative posts held, including First Rector of the University of Antananarivo (1988–90); member of the Malagasy delegations to several international conferences; Head of the Malagasy delegation to the United Nations Conference on Succession of States in respect of Treaties, Vienna (1976–77); 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 Pontifical Council for Justice and Peace; President of the African Society of International Law since 2012; Vice-Chairman of the International Law Institute (2015–17); Chairperson of the ILO Commission of Inquiry on Zimbabwe.

Mr Ajit Prakash SHAH (India)

Former Chief Justice of the High Court of Madras (Chennai) and of the High Court of New Delhi; former judge of the High Court of Bombay (Mumbai); specialist in labour and equality issues; landmark rulings include those on contract and child labour (Delhi Action Plan against child labour), maritime matters and the employment rights of persons living with HIV and AIDS.

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 Chair of the Trinidad and Tobago Securities and Exchange Commission; former Deputy Chief Magistrate of the Judiciary of Trinidad and Tobago; former President of the Family Court of Saint Vincent and the Grenadines.

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; lawyer who has provided legal advice to institutions including the German Parliament and Government, the National People's Congress of the People's Republic of China, Ministries of Labour in various countries and the International Society for Labour Law and Social Security.