As you may be aware, informal consultations on the working methods of the Committee on the Application of Standards of the Conference have been taking place. The first issue discussed during the ILO Governing Body was the possibility of a publication of a preliminary list of individual cases on which there has been a consensus.

Concerning the other issues raised on the functioning of the Conference Committee, delegates were informed during that Committee that the opportunity is being taken of the International Labour Conference to pursue these discussions.

Following your nomination by the Government Group, you are cordially invited to attend the tripartite informal meeting on Wednesday 14 June, in Room VII, at the ILO building. A list of possible issues to discuss based on suggestions made during the discussions is annexed.

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Informal Consultations on Working Methods of the Conference Committee on Application of Standards
14 June 2006
Briefing Note

I. Improving the functioning of the Conference Committee

1. Footnotes

It will be recalled that one of the criteria agreed upon that could be taken into account for the selection is the nature of the comments of the Committee of Experts, in particular the existence of a footnote¹. This year, the Committee of Experts provided clarification of the criteria it used in inserting footnotes (paragraphs 36 and 37 of its report). During the discussion in the Conference Committee, the Employers considered that the high number of double footnotes by the Experts had the potential consequence of supplanting the role of the Conference Committee. The Worker members felt that they should have greater freedom in establishing the list of individual cases. The Governments, in general, welcomed this as a positive development as they were of the view that it introduced a greater degree of objectivity in the selection of cases.

2. Preliminary List of Cases

A long list of 41 cases was sent to all member States on 22 May. This was in response to concerns expressed by Governments regarding the late publication of the list. The ten countries that were the subject of footnotes were included in the list of 41 cases. For the adoption of the final list, 24 cases were selected from this long list and one country was added to make up the 25 cases.

For many countries, this long list was a step in the right direction as it enabled them to be better prepared and include the relevant expertise in their delegations. What the Office noted was that delegations were able to register very early for the discussion and this permitted a better organization of the discussions. In addition, all countries included in the final list appeared before the Committee unlike in previous years.

However, a number of improvements are still being requested concerning, inter alia, geographic balance, balance between the fundamental and technical Conventions², the repeated inclusion of the same countries and the apparent lack of transparency in the selection of the final list.

¹ See, C.App./D1, Work of the Committee, which contains the list of criteria to be applied.
² This year, the regional balance was as follows: Africa (5), Arab States (1), Asia (6), Central and Eastern Europe (4), Western Europe (3), Latin America (5), North America (1). This list included five industrialized countries. Concerning the balance between fundamental and technical Conventions, the subjects covered were: freedom of association and collective bargaining (10), forced labour (1), discrimination (4), child labour (3), indigenous people (1), employment policy and promotion (2), occupational safety and health (1) and wages (3).
II. IMPROVING THE REGULAR SUPERVISORY MECHANISM:
Envisaging a global approach by country

Background
The Committee of Experts on the Application of Conventions and Recommendations (CEACR) decided some years ago, to initiate discussions about modifications to its methods of work. A subcommittee was created to this effect. This subcommittee made some recommendations concerning changes to be made to its Report and its working methods. Many of these recommendations had only a piece-meal impact on the current challenges facing the CEACR and the Office, particularly as regards the difficulties created in the current context for the functioning of the supervisory machinery due to the significant increase in the workload with the continuous ratifications of ILO Conventions. It was further acknowledged that the current reporting cycle aimed at reducing the burden on member States, nevertheless placed significant demands on many countries, with which they were often unable to cope. This was evident by, among other things, the number of countries that were noted in the CEACR report for failure to comply with their reporting and other constitutional obligations. The overloading of the supervisory system could thus be felt from many different angles. For this reason, the CEACR, at its last Session, reflected on possible means to optimize the effectiveness and functioning of the supervisory mechanism in response to these new challenges.

This reflection also took place taking into account the recently launched ILO Decent Work Country Programs, which rely on a country-based approach as well as the need to combine more optimally standards-related activities with technical cooperation activities. In this light, the CEACR considered how an examination, not only Convention-by-Convention or subject-by-subject, but also country-by-country (bringing together all relevant aspects of a country’s situation in respect of ratified Conventions), could enhance the functioning of the supervisory machinery.

3 Indeed, as of 12 May 2006, 7,375 ratifications of International Labour Conventions have been registered. 3,066 reports were requested from member States for the November-December 2005 Session of the Committee of Experts on the Application of Conventions and Recommendations.
Aims of the proposed approach

The new approach considered is intended to maintain the essential aspects of the supervisory mechanism, which have made the ILO renowned in the area of supervision, while improving the efficiency of the system. The advantages that this new approach would involve include:

1. An integrated analysis of the application of all the Conventions ratified by a single country.
2. Enabling the Committee of Experts to undertake a comprehensive assessment and appreciation (satisfaction, interest, concern, etc.) of the situation in a member State.
3. A more in-depth examination of reports due to a decrease of the workload per year. In particular, 2638 article 22 reports were due last year for examination by the CEACR, whereas, under the new approach, the workload would range between 1100 and 1450 reports per year.
4. A further advantage of this approach would be the opportunity to address the concerns raised with regard to the method for the selection of the list of individual cases to be discussed at the Conference Committee on the Application of Standards (CCAS). The idea would be that all the countries examined by the CEACR would also come before the CCAS.

Essential elements

1. The CEACR would hold its Session, as currently, in December each year.
2. The CEACR would examine 35 cases per year (in alphabetical order or according to any other impartial means of determination).
3. The 35 countries selected per year would report to the CEACR on all ratified Conventions in accordance with existing Constitutional obligations. Certain adjustments may be necessary for countries that have ratified a very high number of Conventions.
4. Full consideration would be given to ensuring that all experts are fully used in accordance with their expertise and steps would be taken to ensure a balanced distribution of the work.

5. Following its examination, the CEACR would formulate, where appropriate, an observation concerning the application of each ratified convention in a given country. The comment would combine all the observations by convention and subject matter compiled in a coherent whole for a given country. Questions raised frequently in direct requests could be included in a second part of the observation, to be entitled “other questions” (also divided by convention). Thus, the experts would maintain their review of files within their given expertise and in accordance with current working methods.

6. A CEACR Report would be adopted after each session.

7. During the 5-year period, follow-up missions should take place as the necessary counterpart to the extension of the review cycle. These missions would aim at enhancing the impact of the CEACR comments. This procedure would allow: i) governments to prepare modifications for the next reporting cycle, while benefiting from ILO technical assistance; ii) employers’ and workers’ organizations would have a possibility for rapid response and intervention in cases of serious violations of the ratified conventions.

8. Article 23 comments would be maintained as present in respect of the reporting cycle. The manner of dealing with comments received outside the cycle would have to be reviewed so as to ensure that the CEACR and the CCAS are able to respond appropriately to situations of serious ongoing non-compliance and to ensure that they are addressing current concerns. Specific mechanisms should be envisaged to enable the Committee to take these elements into account, particularly as regards the fundamental Conventions.


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4 An example of a consolidated observation is attached. The example does not include the addition of direct requests as the drafting in this respect might significantly change if they are to be published in the CEACR report.
Discussion of the CEACR report in the Conference Committee on the Application of Standards (CCAS)

1. The CCAS would continue to base its discussions on the CEACR report.
2. The CCAS general discussion would be maintained.
3. The CCAS would examine the situation in the 35 countries mentioned in the CEACR report.
4. The CCAS could communicate more specifically to member States the Convention (or part of the observation) regarding which the government would be called to participate in a discussion.
5. The CCAS could decide to receive information on the follow up missions undertaken by the Office.