



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 87th Session in Geneva from 23 November to 10 December 2016. 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), 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. During its session, the Committee welcomed the renewal of the mandates of Mr Ackerman, Ms Azouri, Ms Dixon Caton and Mr Ranjeva for another term. It also noted that Justice Shah was unable to attend this session. The Committee therefore functioned with a somewhat limited composition of 18 members.

4. Mr Koroma continued his mandate as Chairperson of the Committee and Ms Owens was elected as Reporter.

90th anniversary of the Committee

5. The year 2016 marked the 90th anniversary since the creation in 1926 of the Committee of Experts. It was also the anniversary of the Committee on the Application of Standards of the International Labour Conference, the two Committees having been established to exercise their distinctive functions which are mutually reinforcing. A brief historical overview highlights the way in which, over the years, the mandate and the scope of the work of the Committee of Experts and its intersections with the Conference Committee have evolved in response to changes in the ILO Constitution, ILO membership, socio-economic context, and the consequent needs of the constituents. The relationship between the two pillars of the regular supervisory system has developed over the years into a symbiotic and mutually dependent one. Many important elements of the supervisory system as it is today were not present at the outset and emerged over the years. In 1932, the Conference Committee indicated for the first time that the report of the Committee of Experts was the basis of its deliberations and that it was this “double examination” of reports by the two bodies that placed “States Members of the Organisation on a footing of equality in respect of the supervision of the application of the ratified Conventions”. In the period after the Second World War, there were further changes in the scope of the work of the Committee of Experts. Constitutional amendments eventually adopted in 1946 led to the strengthening of the ILO’s supervisory machinery, notably by introducing the obligation of member States to report on the submission of Conventions and Recommendations to the competent authorities, and on the effect given to unratified Conventions and the Recommendations (leading, in 1956, to the first “General Survey”), as well as the communication of reports to the most representative national organizations of employers and workers. In addition, later, as a result of ILO collaboration with other international bodies in supervising the application of instruments relating to matters of common interest, the Committee of Experts began examining reports on the European Code of Social Security and its Protocol from 1968. For a time, the Committee of Experts also examined the application of the UN Covenant on Economic, Social and Cultural Rights. In 1955, the Conference Committee introduced, for the first time, a principle of selectivity among the observations

made by the Committee of Experts and the first list of cases was presented and discussed by the Conference Committee in 1959. In the 1950s, the dialogue between the two supervisory bodies and member States was amplified by the first references to technical assistance to overcome difficulties in the application of Conventions. With the exception of 2012, when it was unable for the first time to adopt a list of individual cases for discussion, the Conference Committee has continued to adopt by consensus this list. In recent years, there has been a heightened level of interaction between the Committee of Experts and the Conference Committee, one of the results of which has been that a useful dialogue was initiated within the ILO on its standards system. This dialogue is still ongoing in the framework of the Standards Initiative.

6. During this recent period, the Committee of Experts has taken the opportunity to clarify the scope of its mandate. It has also continued to emphasize that while the functions of the Committee of Experts and the Conference Committee differ in several ways, both Committees play an important and complementary role in the regular supervisory system. The relationship between the Committees is thus one of mutual respect, cooperation and responsibility. This relationship is strengthened by a recognition of the importance of continued, direct and transparent dialogue between the two Committees as a means of enhancing the overall effectiveness of the regular supervisory system.

Working methods

7. 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.

8. 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.

9. In pursuit of the objective of increasing the persuasive value of the Committee's observations and direct requests in securing compliance with the obligations in law and practice undertaken by member States under ratified Conventions, and recognizing the mutually reinforcing role of the various elements of the supervisory system, the subcommittee considered whether any additional benefits could be derived from applying a transversal examination, in addition to its consideration of individual Conventions. As well as reviewing the rationale of such an approach, the subcommittee considered the practical impacts on the Committee's workload, the relationship to the fulfilment of its mandate, and the realistic limits faced by the Office in providing support for such an approach. The important role of the subcommittee in determining the Committee's processes and methods of work and thereby underpinning the independence of the Committee was reaffirmed. In addition, the subcommittee considered a range of other issues including the need to give more visibility to the cases in which a government has replied fully to all the points raised in a direct request, the organization and distribution of work among members of the Committee, and the issue of workload and its impact on the Office. Several matters raised during the meeting of the Conference Committee on the Application of Standards in June 2016, including the naming of corporations in the Committee's reports and the brevity of the comments of the Committee especially with regard to technical Conventions, were placed on the agenda of the subcommittee for consideration in 2017.

10. 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)¹ 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).² 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

11. A spirit of mutual respect, cooperation and responsibility has consistently prevailed over the years in the Committee's relations with the Committee on the Application of Standards of the International Labour Conference. In this context, the Committee once again welcomed the participation of its Chairperson in the general discussion of the

¹ See para. 25 of the General Report.

² See para. 29 of the General Report.

Committee on the Application of Standards at the 105th Session of the International Labour Conference (May–June 2016). 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 106th Session (June 2017) of the Conference. The Committee of Experts accepted this invitation.

12. 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.

13. In welcoming the two Vice Chairs, the Chairperson noted that 2016 marked the 90th anniversary of both Committees and the spirit of constructive engagement between them. An interactive and thorough exchange of views took place on matters of common interest.

14. The Employer Vice-Chairperson underlined that the consistent and direct dialogue between the two Committees was key in ensuring that ILO constituents would better understand their standards-related obligations and in facilitating mutual understanding between the two Committees. Possibilities for additional dialogue should therefore continue to be explored. With reference to the positive results of the last meeting of the Conference Committee, she emphasized that this pillar of the supervisory system had reaffirmed its role as a forum for results-oriented tripartite dialogue on the application of international labour standards, based on mutual understanding and constructive debate. She expressed her group's regret that the Conference Committee had not discussed any cases of progress, which could showcase good practices. She stressed the active role of the Employer and Worker Vice-Chairpersons in the elaboration of conclusions, which demonstrated real ownership of the outcome of the Conference Committee discussions. The conclusions were short, clear and straightforward, requesting Governments to take concrete measures to address compliance issues. Where divergent views remained, they were reflected in the *Records of Proceedings*. She noted that the Committee of Experts continued to focus on the right to strike when examining the Freedom of Association and Protection of the Right to Organise Convention, 1948 (No. 87), despite the clear divergence of views in the Conference Committee on this issue. She called on the Committee of Experts to take into account 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. She also reiterated her group's concern over the naming of specific companies in the report. Concerning the structure of the report, she considered that a presentation by country would be more user-friendly. Finally, she requested that the report reflect information on the number of reports examined by the Committee of Experts and steps taken to improve the reporting rate.

15. The Worker Vice-Chairperson expressed his appreciation for the technical quality of the report of the Committee of Experts which provided a solid basis for the functioning of the Conference Committee and acknowledged the expertise and independence of the Committee of Experts. He expressed a number of suggestions for further improvement in a constructive spirit. With respect to the significant reduction in the length of the report since 2012, he noted that in certain cases, the information sent by workers' organizations was not reflected at all in the comments, or reference was made to it without substantive analysis. In other cases, the examination of certain issues which had been raised by the Committee would not be pursued, despite the issue not having been resolved at the national level. There were also cases where the tone of the comments was mild despite the seriousness of the violations concerned, or recourse was made to a direct request instead of an observation. He also noted that comments on technical Conventions were often not detailed enough to allow the Conference Committee to have a discussion on them. Concerning the format of the report of the Committee of Experts, his group did not support a presentation by country which might make it more difficult to identify the most serious violations of Conventions. His group had made a number of proposals in the framework of the Standards Initiative, such as the possibility of including in the report a specific section on the follow-up of cases discussed by the Conference Committee. He called the experts' attention to the impact of their decision in terms of geographical representation and subject matter diversity when identifying double footnoted cases, since they had to be included in the list of cases to be discussed by the Conference Committee. This June, many of the cases discussed concerned the freedom of association Conventions, due to the increased incidence of attacks against trade union rights and recent labour legislation reform. The relative weakness of the comments made under technical Conventions also made it more difficult to select these cases for a discussion by the Conference Committee. He also considered that lack of freedom of association and social dialogue was often the root cause of gaps in the application of other ratified Conventions. In relation to the right to strike, he recalled the 2015 joint statement which had been supported by the Governments. He also recalled that recourse could be made to article 37 of the ILO Constitution.

16. In relation to some of the matters raised previously and in the present discussion, the experts recalled that they had adopted clear criteria for the identification of cases of progress and for the determination of double-footnoted cases and that these criteria were contained in their General Report. With reference to the content of their report, they noted that their comments were essentially based on the information provided by the Governments in their reports and on the observations received from employers' and workers' organizations. The way in which the Committee of Experts was monitoring the follow-up to the conclusions of the Conference Committee illustrated the importance given to the work of that body and contributed to ensuring that the two regular supervisory bodies reinforced and complemented each other. In relation to the right to strike, reports from governments provided information on the relevant regulation at the national level which allowed an examination of this question both in law and in practice. In the context of the examination of its

working methods, the Committee of Experts had taken a number of important decisions in pursuance of its objective of ensuring a better understanding and an enhanced quality and visibility of its work; in particular, it had clarified the criteria for making a distinction between direct requests and observations as well as the method followed for the treatment of observations from employers' and workers' organizations. The Committee was planning to discuss its working methods in relation to the naming of corporations and the brevity of comments, especially with regard to technical Conventions, at its next meeting. Finally, in relation to the current workload of the Committee of Experts, the Committee indicated that while it had introduced some significant changes to ensure great efficiency in the way it worked, its workload remained a major area of concern. The Committee of Experts expressed the hope that measures would be taken to remedy this situation and called for the support of the Employer and Worker Vice-Chairpersons in the framework of the Standards Initiative where this question was being discussed.

Mandate

17. 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 90 years, by virtue of its composition, independence and its working methods built on continuing dialogue with governments taking into account information provided by employers' and workers' organizations. This has been reflected in the incorporation of the Committee's opinions and recommendations in national legislation, international instruments and court decisions.

II. Compliance with standards-related obligations

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

18. 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

19. 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.

20. 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.³ 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.

21. In addition, reports may be requested by the Committee outside of the regular reporting cycle.⁴ 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

22. This year a total of 2,539 reports (2,303 reports under article 22 of the Constitution and 236 reports under article 35 of the Constitution) were requested from governments on the application of Conventions ratified by member States, compared to 2,336 reports last year.

23. The Committee observes with *concern* that the proportion of reports received by 1 September 2016 remains low (39.9 per cent, compared with 38.7 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.*

³ 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.

⁴ See para. 43 of the General Report.

24. At the end of the present session of the Committee, 1,805 reports had been received by the Office. This figure corresponds to 71.1 per cent of the reports requested ⁵ (last year, the Office received a total of 1,628 reports, representing 69.7 per cent). The Committee notes in particular that 42 of the 89 first reports due on the application of ratified Conventions were received by the time the Committee's session ended (last year, 69 of the 108 first reports due had been received).

25. 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.

26. None of the reports due have been sent for the past two or more years from the following 17 countries: **Belize, Comoros, Congo, Democratic Republic of the Congo, Dominica, Equatorial Guinea, Gambia, Guinea-Bissau, Guyana, Haiti, Lao People's Democratic Republic, Republic of Maldives, Saint Lucia, Somalia, Timor-Leste, Tuvalu and Yemen.**

27. **Twelve** 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
Barbados	– Since 2015: MLC, 2006
Equatorial Guinea	– Since 1998: Conventions Nos 68 and 92
Ghana	– Since 2015: MLC, 2006
Guyana	– Since 2015: Convention No. 189
Kiribati	– Since 2014: MLC, 2006
Republic of Maldives	– Since 2015: Conventions Nos 29, 87, 98, 100, 105, 111, 138 and 182
Nicaragua	– Since 2015: MLC, 2006
Nigeria	– Since 2015: MLC, 2006
Saint Vincent and the Grenadines	– Since 2014: MLC, 2006
Samoa	– Since 2015: MLC, 2006
Tuvalu	– Since 2014: MLC, 2006
United Kingdom – Bermuda	– Since 2015: MLC, 2006

28. *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.** ⁶

29. The following two countries have failed to indicate, during the past three years, the representative organizations of employers and workers to which, in accordance with article 23, paragraph 2, of the Constitution, copies of the reports and information supplied to the Office under articles 19 and 22 of the Constitution have been communicated: Islamic Republic of Iran and Rwanda. ⁷

⁵ 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.

⁶ 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.

⁷ In a general observation, which is contained at the beginning of Part II (section I) of this report, the Committee examines the compliance by member States with this obligation including cases where none of the reports supplied by a country indicate the

30. 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.⁸ If a government fails to comply with this obligation, these organizations are denied their opportunity to comment and an essential element of tripartism is lost. *The Committee calls on the member States concerned to discharge their obligation under article 23, paragraph 2, of the Constitution.*

Replies to the comments of the Committee

31. 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.

32. 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: **Belize, Cabo Verde, China – Macau Special Administrative Region, Comoros, Congo, Croatia, Democratic Republic of the Congo, Dominica, Equatorial Guinea, Eritrea, Gambia, Greece, Guinea, Guinea-Bissau, Guyana, Haiti, Lao People's Democratic Republic, Libya, Malta, Netherlands – Aruba, Nicaragua, Papua New Guinea, Rwanda, Saint Kitts and Nevis, Saint Lucia, Saint Vincent and the Grenadines, Samoa, San Marino, Sao Tome and Principe, Sierra Leone, Singapore, Solomon Islands, Sri Lanka, Swaziland, Syrian Arab Republic, Thailand, Timor-Leste, Tunisia, Uganda, United Kingdom – Bermuda, Vanuatu, Viet Nam and Yemen.**

33. 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

34. 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.

35. The Committee was informed that, pursuant to the discussions of the Conference Committee in May–June 2016, 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.⁹ The Committee welcomes the fact that, since the end of the session of the Conference, 11 of the member States concerned have fulfilled at least part of their reporting obligations.¹⁰

36. 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

37. 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.

employers' and workers' organizations to which copies of the reports were communicated, as well as cases where a majority of the reports of a member State received do not provide such information.

⁸ See para. 61 of the General Report.

⁹ See report of the Committee on the Application of Standards, International Labour Conference, 105th Session, Geneva, 2016, paras 132, 133 and 134.

¹⁰ **Afghanistan, Burundi, Central African Republic, Sierra Leone, Kyrgyzstan, Lebanon, Luxembourg, Montenegro, Nepal, Trinidad and Tobago and United Kingdom – Anguilla.**

38. The Committee wishes to inform member States that it examined all reports that were brought to its attention. In view of the secretariat's heavy workload, a number of reports could not be brought to the Committee's attention and will be examined at its next session.

Observations and direct requests

39. First of all, the Committee considers that it is worthy of note that in 484 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 in the Committee's report, but are communicated directly to the governments concerned and are available online.¹¹ 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.

40. 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

41. 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 (105th Session, May–June 2016) 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, 105th Session, May–June 2016)	
State	Conventions Nos
Bangladesh	87
Cambodia	87
Czech Republic	111
Ecuador	98
El Salvador	87
Guatemala	87
Honduras	169
Indonesia	87
Ireland	98
Kazakhstan	87
Madagascar	182
Malaysia	98
Mauritania	29
Mauritius	98
Mexico	87

¹¹ Observations and direct requests are accessible through the NORMLEX database, on the ILO website (www.ilo.org/normes).

Nigeria	138
Philippines	87
Turkmenistan	105
United Kingdom	87
Bolivarian Republic of Venezuela	122
Zimbabwe	98

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

42. 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, 98
Fiji	87
Guatemala	87
Qatar	29, 81
Zimbabwe	87, 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, 169, 187
Dominican Republic	19
Qatar	29
Spain	81, 129, 158
United Arab Emirates	29
United Kingdom	29

Special notes

43. 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 2017.

44. 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.

45. 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.

46. 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.

47. 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.

48. This year, the Committee has requested governments to supply full particulars to the Conference at its next session in 2017 in the following cases:

List of the cases in which the Committee has requested governments to supply full particulars to the Conference at its next session in June 2017	
State	Conventions Nos
Ecuador	87
El Salvador	144
Malaysia – Peninsular Malaysia/Sarawak	19
Poland	29
Ukraine	81/129

49. 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
Plurinational State of Bolivia	131
China – Hong Kong Special Administrative Region	144
Croatia	13,119,148,155,161

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

List of the cases in which the Committee has requested a full reply to its comments outside of the reporting cycle	
State	Conventions Nos
Algeria	6, 181
Argentina	87
Bangladesh	81, 87, 98
Botswana	100
Cameroon	87
Chad	151
Djibouti	144
Ecuador	98
Egypt	87
El Salvador	87
Ethiopia	181
Finland	MLC, 2006
France - New Caledonia	100, MLC, 2006
Ghana	108
Greece	MLC, 2006
Hungary	MLC, 2006
India	141
Italy	MLC, 2006
Japan	MLC, 2006
Republic of Korea	19
Kyrgyzstan	160
Liberia	MLC, 2006
Lithuania	MLC, 2006
Malta	MLC, 2006
Mauritania	100
Myanmar	63
Nigeria	138
Norway	12, 19, 118
Pakistan	98
Palau	MLC, 2006
Qatar	81
Russian Federation	98
Saint Kitts and Nevis	MLC, 2006
Serbia	181, MLC, 2006
South Africa	MLC, 2006
Turkey	55, 68, 69, 73, 92, 108, 133, 134, 146, 164, 166
United Kingdom – Cayman Islands	MLC, 2006

List of the cases in which the Committee has requested a full reply to its comments outside of the reporting cycle	
State	Conventions Nos
Bolivarian Republic of Venezuela	158

Cases of progress

51. 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.

52. 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.

53. Since first identifying cases of satisfaction in its report in 1964,¹² the Committee has continued to follow the same general criteria. The Committee expresses *satisfaction* in cases in which, **following comments it has made on a specific issue, governments have taken measures through either the adoption of new legislation, an amendment to the existing legislation or a significant change in the national policy or practice, thus achieving fuller compliance with their obligations under the respective Conventions.** In expressing its satisfaction, the Committee indicates to governments and the social partners that it considers the specific matter resolved. The reason for identifying cases of satisfaction is twofold:

- to place on record the Committee's appreciation of the positive action taken by governments in response to its comments; and
- to provide an example to other governments and social partners which have to address similar issues.

54. Details concerning these cases of progress are found in Part II of this report and cover **34** instances in which measures of this kind have been taken in **25** 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
Albania	87
Angola	138, 182
Australia	87
Bahamas	182
Belarus	111
Belgium	155
Bosnia and Herzegovina	87

¹² See para. 16 of the report of the Committee of Experts submitted to the 48th Session (1964) of the International Labour Conference.

List of the cases in which the Committee has been able to express its satisfaction at certain measures taken by the governments of the following countries	
State	Conventions Nos
Canada	87, 160
Chile	87, 98
Costa Rica	87, 98
Cuba	87, 98
France – French Polynesia	111
France – New Caledonia	111
Ireland	182
Kiribati	87, 98
Liberia	111
Republic of Moldova	111
Niger	98, 154
Paraguay	138
Philippines	17
Seychelles	182
Spain	81
Switzerland	102, 182
United States	147
Uruguay	73
Zambia	138

55. Thus the total number of cases in which the Committee has been led to **express its satisfaction** at the progress achieved following its comments has risen to **3,033** since the Committee began listing them in its report.

56. Within cases of progress, the distinction between cases of satisfaction and cases of interest was formalized in 1979.¹³ In general, cases of *interest* cover **measures that are sufficiently advanced to justify the expectation that further progress would be achieved in the future and regarding which the Committee would want to continue its dialogue with the government and the social partners.** The Committee's practice has developed to such an extent that cases in which it expresses interest may encompass a variety of measures. The paramount consideration is that the measures contribute to the overall achievement of the objectives of a particular Convention. This may include:

- draft legislation that is before parliament, or other proposed legislative changes forwarded or available to the Committee;
- consultations within the government and with the social partners;
- new policies;
- the development and implementation of activities within the framework of a technical cooperation project or following technical assistance or advice from the Office;
- judicial decisions, according to the level of the court, the subject matter and the force of such decisions in a particular legal system, would normally be considered as cases of interest unless there is a compelling reason to note a particular judicial decision as a case of satisfaction; or
- the Committee may also note as cases of interest the progress made by a state, province or territory in the framework of a federal system.

¹³ See para. 122 of the report of the Committee of Experts submitted to the 65th Session (1979) of the International Labour Conference.

57. 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 **145** instances in which measures of this kind have been adopted in **81** 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
Albania	111
Angola	138, 182
Argentina	111, 184
Armenia	111
Austria	94, 111
Azerbaijan	88, 159
Bahamas	88, 144, 182
Bangladesh	81, 129
Barbados	81, 122, 129, 144
Belarus	87, 98
Belgium	181
Benin	111
Plurinational State of Bolivia	88, 111, 159
Bosnia and Herzegovina	98, 111, 154
Brazil	119
Bulgaria	87, 111, 144
Cabo Verde	81, 87, 111, 129
Canada	87
Chile	87, 98, 144, 162, 187
China – Hong Kong Special Administrative Region	141
China – Macau Special Administrative Region	81, 129
Colombia	98
Costa Rica	120
Côte d'Ivoire	111
Cyprus	144
Czech Republic	81, 111, 115, 129, 144
Denmark	94
Djibouti	182
Dominican Republic	144, 159, 170
Egypt	81, 129
Estonia	144
Ethiopia	155
Fiji	81, 129

List of the cases in which the Committee has been able to note with interest certain measures taken by the governments of the following countries	
State	Conventions Nos
Finland	111, 144, 162
France – New Caledonia	111
Ghana	88, 150
Grenada	81, 129
Guatemala	159
Guinea	111
Hungary	159
Indonesia	87
Ireland	98, 144, 155, 159
Italy	105
Kiribati	138, 182
Latvia	105
Liberia	111
Madagascar	87, 98
Malawi	29
Malaysia	182
Mexico	87
Republic of Moldova	111
Morocco	42
Mozambique	17, 18
Nigeria	29
Pakistan	11, 87
Peru	23, 73, 182
Philippines	138, 141, 176
Poland	29
Portugal	111
Russian Federation	160
Rwanda	111
Saint Kitts and Nevis	111
San Marino	98
Sao Tome Principe	18
Saudi Arabia	111, 182
Serbia	111, 158
Spain	81, 102, 129
Sri Lanka	160
Sweden	182

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
Switzerland	29
Tajikistan	138, 159
Thailand	182
Tunisia	111
Turkmenistan	87
Ukraine	81, 108, 122, 129, 150, 160
United Arab Emirates	81, 129
United Kingdom	29
United States	182
Uruguay	133
Uzbekistan	182
Zambia	138, 158
Zimbabwe	29, 138, 176, 182

Practical application

58. 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.

59. The Committee notes that 424 reports received this year contain information on the practical application of Conventions. Of these, 70 reports contain information on national jurisprudence. The Committee also notes that 354 of the reports contain information on statistics and labour inspection.

60. 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

61. At each session, the Committee recalls that the contribution by employers' and workers' organizations is essential for the Committee's evaluation of the application of Conventions in national law and in practice. Member States have an obligation under article 23, paragraph 2, of the Constitution to communicate to the representative employers' and workers' organizations copies of the reports supplied under articles 19 and 22 of the Constitution. Compliance with this constitutional obligation is intended to enable organizations of employers and workers to participate fully in the supervision of the application of international labour standards. In some cases, governments transmit the observations made by employers' and workers' organizations with their reports, sometimes adding their own comments. However, in the majority of cases, observations from employers' and workers' organizations are sent directly to the Office which, in accordance with the established practice, transmits them to the governments concerned for comment, so as to ensure respect for due process. For reasons of transparency, 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.

62. At its 86th Session (2015), the Committee made the following clarifications on the general approach developed over the years for the treatment of observations from employers' and workers' organizations. The Committee recalled that, **in a reporting year**, when observations from employers' and workers' organizations are not provided with the government's report, they should be received by the Office by 1 September at the latest, so as to allow the government

concerned to have a reasonable time to respond, thereby enabling the Committee to examine 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.

63. Furthermore, the Committee recalled 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.

64. The Committee emphasized 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.

65. Since its last session, the Committee has received **1,160** observations (compared to 1,019 last year), **314** of which (compared to 305 last year) were communicated by employers' organizations and **846** (compared to 714 last year) by workers' organizations. The great majority of the observations received (**820**) related to the application of ratified Conventions;¹⁴ **402** of these observations concerned the application of fundamental Conventions, **84** related to governance Conventions and **334** concerned the application of other Conventions. Moreover, **340** observations related to the General Survey on the instruments concerning occupational safety and health.¹⁵

66. The Committee notes that, of the observations received this year on the application of ratified Conventions, **663** were transmitted directly to the Office. In **136** cases, the governments transmitted the observations made by employers' and workers' organizations with their reports. The Committee notes that in general the employers' and workers' organizations concerned endeavoured to gather and present information on the application of ratified Conventions in specific countries, both in law and in practice. The Committee recalls that observations of a general nature relating to certain Conventions are more appropriately addressed within the framework of the Committee's consideration of General Surveys or within other forums of the ILO.

Cases in which the need for technical assistance has been highlighted

67. 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 2016, 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).¹⁶

68. 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.

69. 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.

¹⁴ See Appendix III to this report.

¹⁵ 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).

¹⁶ See Report III (Part 2), International Labour Conference, 106th Session, Geneva, 2017.

List of the cases in which technical assistance would be particularly useful in helping member States	
State	Conventions Nos
Albania	98
Algeria	24, 63
Antigua and Barbuda	87, 94
Argentina	87
Armenia	87
Azerbaijan	98
Bahamas	87
Bahrain	111
Barbados	63, 87, 108
Belarus	87, 98
Benin	111
Botswana	98
Brazil	98
Burkina Faso	98, 144
Burundi	87
Cabo Verde	81, 111, 129
Cambodia	87
Chile	35, 37
Colombia	13, 98
Costa Rica	120
Côte d'Ivoire	13, 136
Djibouti	63, 138, 182
Dominican Republic	81, 129
Ecuador	87, 98
El Salvador	81, 87, 129
Ethiopia	87, 98
Fiji	87
Indonesia	87
Islamic Republic of Iran	95
Kazakhstan	87
Kenya	63
Latvia	12, 17, 18
Madagascar	98
Malaysia	29, 98
Mauritius	12, 17, 98
Mexico	87
Morocco	12, 17, 42

List of the cases in which technical assistance would be particularly useful in helping member States	
State	Conventions Nos
Mozambique	17, 18
Myanmar	63
Niger	29
Nigeria	138
Papua New Guinea	87, 98
Philippines	17, 87, 176
Russian Federation	98
Sao Tome and Principe	17, 18, 151
Saudi Arabia	111
Seychelles	108
Slovakia	18, 42
Suriname	87, 98
Swaziland	12, 182
Syrian Arab Republic	63
Tajikistan	81, 129, 138
United Republic of Tanzania	63
Trinidad and Tobago	87, 98
Tunisia	111
Turkmenistan	138
Uganda	12, 17
United Kingdom – Gibraltar, Guernsey, Isle of Man, Jersey and St Helena	12, 17, 24, 25, 42, 63
Ukraine	87, 98, 108
Uruguay	63
Uzbekistan	98
Bolivarian Republic of Venezuela	87
Zambia	81, 129
Zimbabwe	81, 87, 98, 129

C. Reports under article 19 of the Constitution

70. The Committee recalls that the Governing Body decided that the subjects of General Surveys should be aligned with those of the annual recurrent discussions in the Conference under the follow-up to the ILO Declaration on Social Justice for a Fair Globalization, 2008. This year, governments were requested to supply reports under article 19 of the Constitution as a basis for the General Survey on the following instruments: the Promotional Framework for Occupational Safety and Health Convention, 2006 (No. 187), the Promotional Framework for Occupational Safety and Health Recommendation, 2006 (No. 197), the Safety and Health in Construction Convention, 1988 (No. 167), the Safety and Health in Construction Recommendation, 1988 (No. 175), the Safety and Health in Mines Convention, 1995 (No. 176), the Safety and Health in Mines Recommendation, 1995 (No. 183), the Safety and Health in Agriculture Convention, 2001

(No. 184) and the Safety and Health in Agriculture Recommendation, 2001 (No. 192).¹⁷ 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.

71. 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 34 countries: **Armenia, Belize, Burundi, Comoros, Congo, Democratic Republic of the Congo, Dominica, Equatorial Guinea, Fiji, 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, United Arab Emirates, Vanuatu, Yemen and Zambia.**

72. *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)

73. 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 of the Organization:

- (a) additional information on measures taken to submit to the competent authorities the instruments adopted by the Conference from 1970 (54th Session) to June 2015 (104th Session) (Conventions Nos 131–189, Recommendations Nos 135–204 and Protocols);
- (b) replies to the observations and direct requests made by the Committee at its 86th Session (November–December 2015).

74. Appendix IV of Part II of the report contains a summary of the most recent 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, as well as the Transition from the Informal to the Formal Economy Recommendation, 2015 (No. 204), adopted by the Conference at its 104th 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 2016.

75. Additional statistical information is found in Appendices V and VI of Part II of the report. Appendix V, compiled based on information provided by governments, shows where each member State stands in terms of its constitutional obligation of submission. Appendix VI shows the overall submission status of each instrument adopted since the 54th Session (June 1970) of the Conference. All instruments adopted prior to the 54th Session of the Conference have been submitted. The statistical data in Appendices V and VI are regularly updated by the competent units of the Office and can be accessed via the Internet.

103rd Session

76. At its 103rd Session in June 2014, the Conference adopted the Protocol of 2014 to the Forced Labour Convention, 1930, and the Forced Labour (Supplementary Measures) Recommendation, 2014 (No. 203). The 12-month period for submission to the competent authorities of the Protocol of 2014 to the Forced Labour Convention, 1930, and Recommendation No. 203 ended on 11 June 2015, and the 18-month period on 11 December 2015. In all, 67 member States have submitted both the Protocol of 2014 to the Forced Labour Convention, 1930, and Recommendation No. 203. The Committee notes with *interest* that the Protocol of 2014 to the Forced Labour Convention, 1930, entered into force on 9 November 2016 and was ratified by ten member States: **Argentina, Czech Republic, Estonia, France, Mali, Mauritania, Niger, Norway, Panama and United Kingdom.** *The Committee encourages all governments to continue their efforts to submit the instruments adopted by the 103rd Session of the Conference to their legislature and to report on the action taken with regard to these instruments.*

104th Session

77. At its 104th Session in June 2015, the Conference adopted the Transition from the Informal to the Formal Economy Recommendation, 2015 (No. 204). The 12-month period for submission to the competent authorities of Recommendation No. 204 ended on 12 June 2016, and the 18-month period on 12 December 2016. The Committee notes that 50 governments have provided information on the submission to the competent authorities of Recommendation No. 204, out of which the following 38 have provided information since the Committee's last session: **Australia, Belgium, Bosnia and Herzegovina, Cambodia, Costa Rica, Côte d'Ivoire, Cuba, Cyprus, Djibouti, Ecuador, Estonia, Finland, France, Ghana, Honduras, Iceland, India, Indonesia, Ireland, Japan, Republic of Korea, Lithuania, Mauritania, Montenegro, Netherlands, New Zealand, Poland, Qatar, Romania, Russian Federation, Slovakia,**

¹⁷ See Report III (Part 1B), International Labour Conference, 106th Session, Geneva, 2017.

Slovenia, Sudan, Switzerland, Turkey, Uganda, United States and Zimbabwe. *The Committee encourages all governments to continue their efforts to submit Recommendation No. 204 to their legislature and to report on the action taken with regard to this instrument.*

Cases of progress

78. The Committee notes with *interest* the information provided by the governments of the following countries: **Cambodia, Côte d'Ivoire, Djibouti, Ireland, Madagascar, Mali, Mauritania, Sudan, Suriname and Uganda.** It welcomes the efforts made by these Governments in recognizing the significant delay in submission and to take important steps toward fulfilling their obligation to submit to their legislatures the instruments adopted by the Conference over a number of years.

Special problems

79. 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. These special problems are referred to as “serious failure to submit”. **This time frame begins at the 95th Session (2006) and concludes at the 104th Session (2015) bearing in mind that the Conference did not adopt any Conventions or Recommendations during the 97th (2008), 98th (2009) and 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. In addition, the Committee is also providing information in its observations concerning problems of “failure to submit”, which refers to governments that have not submitted to the competent authorities the instruments adopted at the last six sessions of the Conference.

80. The Committee notes that at the closure of its 87th Session, on 10 December 2016, the following **38** (42 in 2013, 37 in 2014 and 32 in 2015) countries were in this situation of “serious failure to submit”: **Angola, Azerbaijan, Bahamas, Bahrain, Belize, Burundi, Comoros, Croatia, Democratic Republic of the Congo, Dominica, El Salvador, Equatorial Guinea, Fiji, Gabon, Guinea, Guinea-Bissau, Haiti, Jamaica, Kazakhstan, Kiribati, Kuwait, Kyrgyzstan, Liberia, Libya, Mozambique, Pakistan, Papua New Guinea, Rwanda, Saint Kitts and Nevis, Saint Lucia, Saint Vincent and the Grenadines, Samoa, Seychelles, Sierra Leone, Solomon Islands, Somalia, Syrian Arab Republic and Vanuatu.**

81. 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 105th Session of the Conference (May–June 2016), some Government delegations supplied information explaining why their countries had been unable to meet the constitutional obligation to submit Conventions, Recommendations and Protocols to their national legislature. Following the concerns raised by the Committee of Experts, the Conference Committee also expressed great concern at the failure to respect this obligation. It pointed out that compliance with this constitutional obligation, which means submitting the instruments adopted by the Conference to national legislatures, is of the utmost importance in ensuring the effectiveness of the Organization’s standards-related activities.

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

Comments of the Committee and replies from governments

83. 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).

84. 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 legislative 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 the legislature and a decision has been taken on them. The Office has to be informed of this decision, as well as of the submission of instruments to the legislature. The Committee hopes to continue to note cases of progress in this matter in its next report. It again reminds governments that they may seek technical assistance from the ILO, particularly through the standards specialists in the field.

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

Cooperation with international organizations in the field of standards

85. 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.¹⁸ 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

86. 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 the United Nations programming framework aimed at greater coherence and cooperation within the framework of the United Nations system and the 2030 Agenda for Sustainable Development.

87. 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

88. In accordance with the supervisory procedure established under Article 74, paragraph 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.

89. 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

¹⁸ 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.

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90. 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, 10 December 2016

(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 Emeritus at the University of Buenos Aires; former Professor of Labour and Social Security Law at the Faculty of Law of the University of Buenos Aires (1997–2016); Doctor honoris causa of the University of Champagnat; 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; member of the Asian Society of International Law, the International Law Association and the International Society for Labour and Social Security Law; Judge, Asian Development Bank Administrative Tribunal.

Ms Lia ATHANASSIOU (Greece)

Full Professor of Maritime and Commercial Law at the National and Kapodistrian University of Athens (Faculty of Law); Ph.D. from the University of Paris I-Sorbonne; LL.M. Aix-Marseille III; LL.M. Paris II-Assas; practising lawyer and arbitrator specializing in European, commercial and maritime law.

Ms Leila AZOURI (Lebanon)

Doctor of Law; Professor of Labour Law at the Faculty of Law at Sagesse University, Beirut; Director of Research at the Doctoral School of Law of the Lebanese University; former Director of the Faculty of Law of the Lebanese University; 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; member of the “ILO Policy Advisory Committee on Fair Migration” in the Middle East.

Mr Lelio BENTES CORRÊA (Brazil)

Judge at the Labour Superior Court (Tribunal Superior do Trabalho) of Brazil, former Labour Public Prosecutor of Brazil, 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 Brasília; Professor at the National School for Labour Judges.

Mr James J. BRUDNEY (United States)

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

Mr Halton CHEADLE (South Africa)

Professor Emeritus, University of Cape Town; former Special Adviser to Minister of Justice; former Chief Legal Counsel of the Congress of South African Trade Unions (COSATU); 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 and Chairman of the International Law Commission; former Ambassador and Permanent Representative of Sierra Leone to the United Nations (New York) and former Ambassador Plenipotentiary to the European Union, Organisation of African Unity (OAU) and many countries.

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 Persons with Disabilities (non-paid basis).

Ms Karon MONAGHAN (United Kingdom)

Queen's Counsel; Deputy High Court Judge; former Judge of the Employment Tribunal (2000–08); practising lawyer with Matrix Chambers, specializing in discrimination and equality law, human rights law, European Union law, public law and employment law; advisory positions include Special Adviser to the House of Commons Business, Innovation and Skills Committee for the inquiry on women in the workplace (2013–14).

Mr Vitit MUNTARBHORN (Thailand)

Professor Emeritus of Law in Thailand; former United Nations University Fellow at the Refugee Studies Programme, Oxford University; 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; 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 (2011–16); a Commissioner of the United Nations Commission of Inquiry on the Syrian Arab Republic (2012–16); recipient of the 2004 UNESCO Prize for Human Rights Education; United Nations Independent Expert on Protection against Violence and Discrimination Based on Sexual Orientation and Gender Identity (2016–present).

Ms Rosemary OWENS (Australia)

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

Mr Paul-Gérard POUGOUÉ (Cameroon)

Professor of Law (*agrégé*), Professor Emeritus, Yaoundé University; guest or associate professor at several universities and at the Hague Academy of International Law; 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); Chairperson of the Scientific Board of the Labour Administration Regional African Centre (CRADAT); Chairperson of the Scientific Board of the Catholic University of Central Africa (UCAC).

Mr Raymond RANJEVA (Madagascar)

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 (February 2006–09); 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; Vice-Chairperson of the Madagascar Academy (1974–90); 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; current President of the United Nations Appeals Tribunal; 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; A. Hubert Humphrey Fulbright Fellow; Georgetown University Leadership Seminar fellow; and Commonwealth Institute of Judicial Education fellow.

Mr Bernd WAAS (Germany)

Professor of Labour Law and Civil Law at the University of Frankfurt; coordinator and member of the European Labour Law Network; 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.