
Committee on the Application of Standards

Work of the Committee

I. Introduction

This document (D.1) sets out the manner in which the work of the Committee on the Application of Standards (CAS) is carried out. It is submitted to the Committee for adoption when it begins its work at each session of the Conference.¹ The document reflects the results of the discussions and informal tripartite consultations that have taken place, since 2002, on the working methods of the Committee, including on the following issues: the elaboration of the list of individual cases to be discussed by the Committee, the preparation and adoption of the conclusions relating to these individual cases, time management and respect for parliamentary rules of decorum.

This document takes into account the results of the last informal tripartite consultations on the working methods of the CAS held in March 2016.

II. Terms of reference and composition of the Committee, voting procedure and report to the Conference

Under its terms of reference as defined in article 7, paragraph 1, of the Standing Orders of the Conference, the Committee is called upon to consider:

- (a) the measures taken by Members to give effect to the provisions of Conventions to which they are parties and the information furnished by Members concerning the results of inspections;
- (b) the information and reports concerning Conventions and Recommendations communicated by Members in accordance with article 19 of the Constitution;
- (c) the measures taken by Members in accordance with article 35 of the Constitution.

In accordance with article 7, paragraph 2, of the Standing Orders of the Conference, the Committee submits a report to the Conference. Since 2007, in response to the wishes expressed by ILO constituents, the report of the Committee has been published both in the *Record of Proceedings* of the Conference and as a separate publication, to improve the visibility of the Committee's work.

¹ Since 2010, it is appended to the General Report of the Committee.

Questions related to the composition of the Committee, the right to participate in its work and the voting procedure are regulated by section H of Part II of the Standing Orders of the Conference.

Each year, the Committee elects its Officers: its Chairperson and Vice-Chairpersons as well as its Reporter.

III. Working documents

A. Report of the Committee of Experts

The basic working document of the Committee is the report of the Committee of Experts on the Application of Conventions and Recommendations (Report III (Parts 1A and B)), printed in two volumes.

Report III (Part 1A) contains, in Part One, the General Report of the Committee of Experts, and in Part Two, the observations of the Committee of Experts concerning the sending of reports, the application of ratified Conventions and the obligation to submit the Conventions and Recommendations to the competent authorities in member States. At the beginning of the report there is an index of comments by Convention and by country. In addition to the observations contained in its report, the Committee of Experts has, as in previous years, made direct requests which are communicated to governments by the Office on the Committee's behalf.²

Report III (Part 1B) contains the General Survey prepared by the Committee of Experts on a group of Conventions and Recommendations decided upon by the Governing Body.

B. Summaries of reports

At its 267th Session (November 1996), the Governing Body approved new measures for rationalization and simplification of the arrangements for the presentation by the Director-General to the Conference of summaries of reports submitted by governments under articles 19, 22 and 35 of the Constitution.³ Requests for consultation or copies of reports may be addressed to the secretariat of the CAS.

C. Other information

The secretariat prepares documents (which are referred to, and referenced, as "D documents") which are made available⁴ during the course of the work of the Committee to provide the following information:

² See para. 36 of the General Report of the Committee of Experts. A list of direct requests can be found in Appendix VII of Report III (Part 1A).

³ See report of the Committee of Experts, Report III (Part 1A), Appendices I, II, IV, V and VI; and Report III (Part 1B), Appendix III.

⁴ D documents will be made available online on the Committee's dedicated web page (hard copies will be made available to delegates upon request).

-
- (i) reports and information which have reached the International Labour Office since the last meeting of the Committee of Experts; based on this information, the list of governments which are invited to supply information to the Conference Committee due to serious failure to respect their reporting and other standards-related obligations is updated;⁵
 - (ii) written information supplied by governments to the Conference Committee in reply to the observations made by the Committee of Experts, when these governments are on the list of individual cases adopted by the Conference Committee.⁶

The Information document on ratifications and standards-related activities (Report III (Part 2)), prepared by the Office to accompany the report of the Committee of Experts, provides an overview of recent developments relating to international labour standards, the implementation of special procedures and technical cooperation in relation to international labour standards. It also contains, in the form of tables, information on the ratification of Conventions, together with “country profiles” containing key information on standards for each country.

IV. General discussion

In accordance with its usual practice, the Committee begins its work with the consideration of its working methods on the basis of this document. The Committee then holds a discussion on general aspects of the application of Conventions and Recommendations and the discharge by member States of standards-related obligations under the ILO Constitution, which is primarily based on the General Report of the Committee of Experts.

It also holds a discussion on the General Survey, which this year concerns the Migration for Employment Convention (Revised), 1949 (No. 97), the Migration for Employment Recommendation (Revised), 1949 (No. 86), the Migrant Workers (Supplementary Provisions) Convention, 1975 (No. 143), and the Migrant Workers Recommendation, 1975 (No. 151).⁷

⁵ See below Part V.

⁶ See below Part VI (supply of information).

⁷ It should be recalled that the subjects of General Surveys have been aligned with the strategic objectives that are examined in the context of the recurrent discussions under the follow-up to the ILO Declaration on Social Justice for a Fair Globalization (2008). For the current cycle of recurrent discussions, the corresponding General Surveys have already been examined by the CAS. At the time of the Governing Body’s decision on the choice of instruments for the 2016 General Survey, the modalities for recurrent discussions, including the next cycle, were yet to be determined. It was therefore decided that the instruments to be selected needed not necessarily be linked to a specific strategic objective. However, the Committee’s discussion of this year’s General Survey, together with the outcome of this discussion and the General Survey itself, will feed into the general discussion on labour migration which will take place during the 106th Session (June 2017) of the Conference.

V. Cases of serious failure by member States to respect their reporting and other standards-related obligations ⁸

Governments are invited to supply information on cases of serious failure to respect reporting or other standards-related obligations for stated periods. These cases are considered in a dedicated sitting of the Committee. Governments that submit the required information before the sitting will not be called before the Committee. The discussion of the Committee, including any explanations of difficulties that may have been provided by the governments concerned, and the conclusions adopted by the Committee under each criterion are reflected in its report.

The Committee identifies the cases on the basis of criteria which are as follows: ⁹

- None of the reports on ratified Conventions has been supplied during the past two years or more.
- First reports on ratified Conventions have not been supplied for at least two years.
- None of the reports on unratified Conventions and Recommendations requested under article 19, paragraphs 5, 6 and 7, of the Constitution has been supplied during the past five years.
- No indication is available on whether steps have been taken to submit the Conventions and Recommendations adopted during the last seven sessions of the Conference to the competent authorities, in accordance with article 19 of the Constitution.
- No information has been received as regards all or most of the observations and direct requests of the Committee of Experts to which a reply was requested for the period under consideration.
- The government has failed during the past three years to indicate the representative organizations of employers and workers to which, in accordance with article 23, paragraph 2, of the Constitution, copies of reports and information supplied to the Office under articles 19 and 22 have been communicated.

VI. Individual cases

The Committee considers cases relating to the application of ratified Conventions. These cases are selected on the basis of the observations published in the report of the Committee of Experts.

Preliminary list. Since 2006, an early communication to governments of a preliminary list of individual cases for possible discussion by the Committee concerning the application of ratified Conventions has been instituted. In 2015 and 2016, the

⁸ Formerly known as “automatic” cases (see *Provisional Record* No. 22, International Labour Conference, 93rd Session, June 2005, para. 69).

⁹ These criteria were last examined by the Committee in 1980 (see *Provisional Record* No. 37, International Labour Conference, 66th Session, 1980, para. 30).

preliminary list of cases has been made available 30 days before the opening of the International Labour Conference. The preliminary list is a response to the requests from governments for early notification, so that they may better prepare themselves for a possible intervention before the Committee. It may not in any way be considered definitive, as the adoption of a final list is a function that only the Committee itself can assume.

Establishment of the list of cases. The list of individual cases is submitted to the Committee for adoption, after the Employers' and Workers' groups have met to discuss and adopt it. The final list should be adopted at the beginning of the Committee's work, ideally no later than its second sitting. The criteria for the selection of cases, as revised in 2015, should reflect the following elements:

- the nature of the comments of the Committee of Experts, in particular the existence of a footnote;¹⁰
- the quality and scope of responses provided by the government or the absence of a response on its part;
- the seriousness and persistence of shortcomings in the application of the Convention;
- the urgency of a specific situation;
- comments received by employers' and workers' organizations;
- the nature of a specific situation (if it raises a hitherto undiscussed question, or if the case presents an interesting approach to solving questions of application);
- the discussions and conclusions of the Conference Committee of previous sessions and, in particular, the existence of a special paragraph;
- the likelihood that discussing the case would have a tangible impact;
- balance between fundamental, governance and technical Conventions;
- geographical balance; and
- balance between developed and developing countries.

There is also the possibility of examining one case of progress as was done in 2006, 2007, 2008 and 2013.¹¹

Since 2007, it has been the practice to follow the adoption of the list of individual cases with an informal information session for governments, hosted by the Employer and Worker Vice-Chairpersons, to explain the criteria used for the selection of individual cases.

Automatic registration. Since 2010, cases included in the final list have been automatically registered and scheduled by the Office, on the basis of a rotating alphabetical system, following the French alphabetical order; the "A+5" model has been chosen to ensure a genuine rotation of countries on the list. This year, the registration will begin with countries with the letter "E". Cases will be divided into two groups: the first group of countries to be registered following the above alphabetical order will consist of those cases

¹⁰ See paras 40–47 of the General Report of the Committee of Experts. The criteria developed by the Committee of Experts for footnotes are also reproduced in Appendix I.

¹¹ See paras 48–54 of the General Report of the Committee of Experts. The criteria developed by the Committee of Experts for identifying cases of progress are also reproduced in Appendix II.

in which the Committee of Experts requested governments to submit full particulars to the Conference (“double-footnoted cases”).¹² Since 2012, the Committee begins its discussion of individual cases with these cases. The other cases on the final list are then registered by the Office also following the abovementioned alphabetical order.

Information on the agenda of the Committee and the date on which cases may be heard is available:

- (a) through the *Daily Bulletin*;
- (b) by means of letters sent to the representatives of the countries concerned by the Chairperson of the Committee;
- (c) by means of a D document containing the list of individual cases and the working schedule for the examination of these cases, which is made available to the Committee as soon as possible after the adoption of the list of cases.¹³

Supply of information. Prior to their oral intervention before the Conference Committee, governments may submit written information that will be summarized by the Office and made available to the Committee.¹⁴ These written replies are to be provided to the Office at least **two days** before the discussion of the case. They serve to complement the oral reply that will be provided by the government. They may not duplicate the oral reply nor any other information already provided by the government. The total number of pages is not to exceed **five pages**.

Adoption of conclusions. The conclusions regarding individual cases are proposed by the Chairperson of the Committee, who should have sufficient time to hold consultations with the Reporter and the Vice-Chairpersons. The conclusions should take due account of the elements raised in the discussion and information provided by the government in writing. The conclusions should be short, clear and specify the action expected of governments. They may also include reference to the technical assistance to be provided by the Office. The conclusions should reflect consensus recommendations. Divergent views can be reflected in the CAS record of proceedings. Conclusions on the cases discussed will be adopted at dedicated sittings. The governments concerned will be informed of the adoption of conclusions by the secretariat including through the *Daily Bulletin*.

As per the Committee’s decision in 1980,¹⁵ Part One of its report will contain a section entitled “Application of ratified Conventions”, in which the Committee draws the attention of the Conference to: (i) cases of progress, where governments have introduced changes in their law and practice in order to eliminate divergences previously discussed by the Committee; (ii) certain special cases, which are mentioned in special paragraphs of the report; and (iii) cases of continued failure over several years to eliminate serious deficiencies in the application of ratified Conventions which it had previously discussed.

¹² See para. 45 of the General Report of the Committee of Experts.

¹³ Since 2010, this document is appended to the General Report of the Committee.

¹⁴ See above Part III(C)(ii).

¹⁵ See footnote 9 above.

VII. Participation in the work of the Committee

As regards failure by a government to take part in the discussion concerning its country, despite repeated invitations by the Committee, the following measures will be applied, in conformity with the decision taken by the Committee at the 73rd Session of the Conference (1987), as amended at the 97th Session of the Conference (2008),¹⁶ and mention will be made in the relevant part of the Committee's report:

- In accordance with the usual practice, after having established the list of cases regarding which Government delegates might be invited to supply information to the Committee, the Committee shall invite the governments of the countries concerned in writing, and the *Daily Bulletin* shall regularly mention these countries.
- Three days before the end of the discussion of individual cases, the Chairperson of the Committee shall request the Clerk of the Conference to announce every day the names of the countries whose representatives have not yet responded to the Committee's invitation, urging them to do so as soon as possible.
- On the last day of the discussion of individual cases, the Committee shall deal with the cases in which governments have not responded to the invitation. Given the importance of the Committee's mandate, assigned to it in 1926, to provide a tripartite forum for dialogue on outstanding issues relating to the application of ratified international labour Conventions, a refusal by a government to participate in the work of the Committee is a significant obstacle to the attainment of the core objectives of the International Labour Organization. For this reason, the Committee may discuss the substance of the cases concerning governments which are registered and present at the Conference, but which have chosen not to be present before the Committee. The debate which ensues in such cases will be reflected in the appropriate part of the report, concerning both individual cases and participation in the work of the Committee. In the case of governments that are not present at the Conference, the Committee will not discuss the substance of the case, but will draw attention in its report to the importance of the questions raised.¹⁷ In both situations, a particular emphasis will be put on steps to be taken to resume the dialogue.

VIII. Minutes of the sittings

No minutes are published for the general discussion and the discussion of the General Survey. Minutes of sittings at which governments are invited to respond to the comments of the Committee of Experts will be produced by the secretariat. Each intervention will be reflected only in the corresponding working language – English, French or Spanish – and the draft minutes will be made available online on the Committee's dedicated web page

¹⁶ See *Provisional Record* No. 24, International Labour Conference, 73rd Session, 1987, para. 33; and *Provisional Record* No. 19, International Labour Conference, 97th Session, 2008, para. 174.

¹⁷ In the case of a government which is not accredited or registered to the Conference, the Committee will not discuss the substance of the case, but will draw attention in its report to the importance of the questions raised. It was considered that no country should use inclusion on the preliminary list of individual cases as a reason for failing to ensure that it was accredited to the Conference. If a country on the preliminary list registered after the final list was approved, it should be asked to provide explanations (see *Provisional Record* No. 18, International Labour Conference, 100th Session, 2011, Part I/54).

(hard copies will be made available to delegates upon request).¹⁸ It is the Committee's practice to accept amendments to the draft minutes of previous sittings prior to their approval by the Committee. The time available to delegates to submit amendments to the draft minutes will be clearly indicated by the Chairperson when the draft minutes are made available to the Committee.¹⁹ In order to avoid delays in the preparation of the report of the Committee (which will be submitted for adoption to the Conference in three languages), no amendments may be accepted once the draft minutes have been approved.

The minutes are a summary of the discussions and are not intended to be a verbatim record. Speakers are therefore requested to restrict amendments to the elimination of errors in the report of their own statements, and not to ask to insert long additional passages. It would be helpful to the secretariat in ensuring the accuracy of the minutes if, wherever possible, delegates would hand in a written copy of their statements to the secretariat.

IX. Time management

- Every effort will be made so that sessions start on time and the schedule is respected.
- Maximum speaking time during the examination of individual cases will be as follows:
 - fifteen minutes for the government whose case is being discussed, as well as the spokespersons of the Workers' and the Employers' groups;
 - ten minutes for the Employer and Worker members, respectively, from the country concerned to be divided between the different speakers of each group;
 - ten minutes for Government groups;
 - five minutes for the other members;
 - concluding remarks are limited to ten minutes for the government whose case is being discussed, as well as spokespersons of the Workers' and the Employers' groups.
- Maximum speaking time will also apply to the discussion of the General Survey, as follows:²⁰
 - fifteen minutes for the spokespersons of the Workers' and the Employers' groups;
 - ten minutes for Government groups;

¹⁸ These new modalities result from the informal tripartite consultations of March 2016. Delegates who will be intervening in a language other than English, French or Spanish will be able to indicate to the Secretariat in which of these three working languages their intervention should be reflected in the draft minutes.

¹⁹ Further information on the procedure for the submission of amendments will be communicated to delegates at the beginning of the session of the Committee.

²⁰ These new modalities result from the informal tripartite consultations of March 2016.

-
- five minutes for the other members;
 - concluding remarks are limited to ten minutes for spokespersons of the Workers' and the Employers' groups.
- However, the Chairperson, in consultation with the other Officers of the Committee, could decide on reduced time limits where the situation of a case would warrant it, for instance, where there was a very long list of speakers.
 - These time limits will be announced by the Chairperson at the beginning of each sitting and will be strictly enforced.
 - During interventions, a screen located behind the Chairperson and visible by all speakers will indicate the remaining time available to speakers. Once the maximum speaking time has been reached, the speaker will be interrupted.
 - The list of speakers will be visible on screens in the room. Early registration on that list of delegates intending to take the floor is encouraged.²¹
 - In view of the above limits on speaking time, governments whose case is to be discussed are invited to complete the information provided, where appropriate, by a written document, not longer than five pages, to be submitted to the Office at least two days before the discussion of the case.²²

X. Respect of rules of decorum and role of the Chairperson

All delegates have an obligation to the Conference to abide by parliamentary language and by the generally accepted procedure. Interventions should be relevant to the subject under discussion and should avoid references to extraneous matters.

It is the role and task of the Chairperson to maintain order and to ensure that the Committee does not deviate from its fundamental purpose to provide an international tripartite forum for full and frank debate within the boundaries of respect and decorum essential to making effective progress towards the aims and objectives of the International Labour Organization.

²¹ These new arrangements result from the informal tripartite consultations of March 2016.

²² See Part VI above.

Appendix I

Criteria developed by the Committee of Experts for footnotes

Excerpts of the General Report of the Committee of Experts (105 III(1A))

40. As in the past, the Committee has indicated by special notes (traditionally known as “footnotes”) at the end of its comments the cases in which, because of the nature of the problems encountered in the application of the Conventions concerned, it has seemed appropriate to ask the government to supply a report earlier than would otherwise have been the case and, in some instances, to supply full particulars to the Conference at its next session in June 2016.

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

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

- the seriousness of the problem; in this respect, the Committee emphasizes that an important consideration is the necessity to view the problem in the context of a particular Convention and to take into account matters involving fundamental rights, workers’ health, safety and well-being, as well as any adverse impact, including at the international level, on workers and other categories of protected persons;
- the persistence of the problem;
- the urgency of the situation; the evaluation of such urgency is necessarily case-specific, according to standard human rights criteria, such as life-threatening situations or problems where irreversible harm is foreseeable; and
- the quality and scope of the government’s response in its reports or the absence of response to the issues raised by the Committee, including cases of clear and repeated refusal on the part of a State to comply with its obligations.

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

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

Appendix II

Criteria developed by the Committee of Experts for identifying cases of progress

Excerpts of the General Report of the Committee of Experts (105 III(1A))

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

- (1) The expression by the Committee of interest or satisfaction does not mean that it considers that the country in question is in general conformity with the Convention, and in the same comment **the Committee may express its satisfaction or interest at a specific issue while also expressing regret concerning other important matters** which, in its view, have not been addressed in a satisfactory manner.
- (2) The Committee wishes to emphasize that **an indication of progress is limited to a specific issue related to the application of the Convention and the nature of the measures adopted by the government concerned.**
- (3) The Committee exercises its discretion in noting progress, taking into account the particular nature of the Convention and the specific circumstances of the country.
- (4) The expression of progress can refer to different kinds of measures relating to national legislation, policy or practice.
- (5) If the satisfaction relates to the adoption of legislation, the Committee may also consider appropriate follow-up measures for its practical application.
- (6) In identifying cases of progress, the Committee takes into account both the information provided by governments in their reports and the comments of employers' and workers' organizations.

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

...

53. Within cases of progress, the distinction between cases of satisfaction and cases of interest was formalized in 1979. 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.