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The Standards Initiative: Overall review of its implementation

Purpose of the document

The document captures the concrete outcomes to date of the Standards Initiative, which has aimed to enhance the relevance of international labour standards through a Standards Review Mechanism (SRM) and to consolidate tripartite consensus on an authoritative supervisory system. Review of actions pursued under the latter objective will be done following the workplan approved by the Governing Body in March 2017. The document presents a draft decision reflecting areas where guidance is sought for work that remains to be done after the Centenary (see paragraph 84).

Relevant strategic objective: All four strategic objectives.

Main relevant outcome/cross-cutting policy driver: Outcome 2: Ratification and application of international labour standards and cross-cutting policy driver concerning international labour standards.

Policy implications: Will depend on the outcome of the discussion by the Governing Body.

Legal implications: Will depend on the outcome of the discussion by the Governing Body.

Financial implications: Will depend on the outcome of the discussion by the Governing Body (paragraph 23 of GB.332/INS/5(Rev.) provides estimates on possible budget implications).

Follow-up action required: Will depend on the outcome of the discussion by the Governing Body.

Author unit: International Labour Standards Department (NORMES).

Related documents: GB.332/INS/5(Rev.); GB.332/PV; GB.331/INS/5; GB.331/INS/3; GB.331/POL/2; GB.331/PFA/5; GB.331/PV; GB.329/PV; GB.329/INS/5; GB.329/INS/5(Add.)(Rev.); GB.328/PV; GB.328/LILS/2/2; GB.328/INS/6; GB.326/PV; GB.326/LILS/3/1; GB.323/PV; GB.323/INS/5.

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Introduction

1. At its 334th Session (October–November 2018), the Governing Body requested the Office to present at its 335th Session (March 2019), following consultations with the tripartite constituents, a report on progress towards completing the Standards Initiative workplan as revised by the Governing Body in March 2017, including information on progress made with regard to the review and possible further improvements of their working methods by the supervisory bodies in order to strengthen tripartism, coherence, transparency and effectiveness. The full text of the Governing Body decision of November 2018 is reproduced in Appendix I.
2. The Standards Initiative originates from a decision of the Governing Body taken at its 323rd Session (March 2015) following the Tripartite Meeting on the Freedom of Association and Protection of the Right to Organise Convention, 1948 (No. 87), in relation to the right to strike and the modalities and practices of strike action at national level. In essence, that decision envisaged that the Standards Initiative would encompass: (a) the establishment under the Standards Review Mechanism of a tripartite working group (SRM TWG); and (b) a request to the Chairperson of the Committee of Experts on the Application of Conventions and Recommendations (CEACR) and the Chairperson of the Committee on Freedom of Association (CFA) to jointly prepare a report on the interrelationship, functioning and possible improvement of the various supervisory procedures related to articles 22, 23, 24 and 26 of the ILO Constitution and the complaints mechanism on freedom of association.
3. As proposed by the Director-General in his report to the 102nd Session of the International Labour Conference (ILC) in 2013,¹ the Standards Initiative became one of seven centenary initiatives, strengthening the ILO's normative role for its second century through a clear, robust and up-to-date body of international labour standards and an authoritative system for the supervision of these standards, resting on a consolidated tripartite consensus.
4. The Governing Body discussed the Joint Report of the Chairperson of the CEACR and the Chairperson of the CFA at its 326th Session (March 2016). At its 329th Session (March 2017), the Governing Body approved a revised workplan for the strengthening of the supervisory system, setting out ten proposals centred around four focus areas. The Governing Body considered proposals under this revised workplan at its 331st Session (October–November 2017) and 332nd Session (March 2018). An updated version of the workplan is attached in Appendix II. In parallel, the supervisory bodies engaged in a series of discussions to review their working methods.²
5. At its 331st Session (October–November 2017), the Governing Body approved the measures and costs relating to the setting up of an electronic document and information management system for the supervisory bodies and the preparation of a guide on established practices across the supervisory system. Further deliberations produced further convergence of the views expressed by various groups and culminated in the consolidated tripartite consensus expressed in the decision adopted at the 334th Session (October–November 2018). Meanwhile, the SRM TWG met four times, presenting consensual tripartite recommendations to the Governing Body following each of its four meetings. It will meet

¹ [Report of the Director-General, Report 1\(A\) Towards the ILO centenary: Realities, renewal and tripartite commitment](#), International Labour Conference, 102nd Session, Geneva, 2013.

² [GB.329/PV](#), para. 148.

for a fifth time in September 2019, when the Governing Body has decided it will review eight instruments on employment policy in its initial programme of work, and examine the follow-up taken to an additional employment policy instrument previously determined to be outdated.³

Objective 1 – Enhance the relevance of international labour standards through a Standards Review Mechanism

6. The SRM TWG has met four times since it was established in 2015: in March and October 2016, September 2017 and September 2018. Following its first meeting, the Governing Body approved its adoption of an initial programme of work composed of 235 international labour standards⁴ and referred 68 instruments to the Special Tripartite Committee (STC) established for addressing matters relating to the Maritime Labour Convention, 2006, as amended (MLC, 2006).⁵ A first group of 34 instruments was submitted for review to the third meeting of the STC (April 2018),⁶ and a second group of 34 instruments will be presented at its fourth meeting (April 2021). At its second meeting, the SRM TWG examined the follow-up taken to 63 instruments previously determined to be outdated, involving approximately 21 subtopics.⁷ At its third and fourth meetings, it reviewed 28 instruments in its initial programme of work on occupational safety and health, labour inspection and labour statistics.⁸ One instrument, (the Employment (Transition from War to Peace) Recommendation, 1944 (No. 71), has been replaced by the Employment and Decent Work for Peace and Resilience Recommendation, 2017 (No. 205). As a result, out of the 235 international labour standards included in the SRM TWG’s initial programme of work, 75 instruments remain to be reviewed.
7. At the time of the Governing Body’s overall review of the Standards Initiative in October–November 2016,⁹ the SRM TWG had held its first two meetings. At its following session in March 2017, the Governing Body conducted a first evaluation of the SRM TWG’s functioning.¹⁰ On the basis of a report provided by the SRM TWG’s Chairperson and Vice-

³ [GB.334/LILS/3](#), para. 4.

⁴ Note that the number of instruments included in the SRM TWG’s initial programme of work was amended from 231 to 235 at the second meeting of the SRM TWG.

⁵ [GB.326/LILS/3/2](#).

⁶ Recommendations concerning the classification of the instruments reviewed and possible follow-up action are set out in [GB.334/LILS/2\(Rev.\)](#).

⁷ [GB.328/LILS/2/1\(Rev.\)](#).

⁸ At its third meeting, the SRM TWG reviewed 19 instruments concerning OSH (general provisions and specific risks): [GB.331/LILS/2](#). At its fourth meeting, the SRM TWG reviewed nine instruments concerning OSH (specific branches of activity), labour statistics and labour inspection; and examined the follow-up to be taken to a further two outdated instruments falling within those subject areas that had been examined for the first time by the SRM TWG at its second meeting in October 2016: [GB.334/LILS/3](#).

⁹ [GB.328/INS/6](#) and [GB.328/PV](#), para. 108.

¹⁰ Pursuant to paragraph 26 of the terms of reference of the SRM TWG, the “Governing Body shall evaluate the functioning of the SRM Tripartite Working Group at regular intervals”.

Chairpersons, the Governing Body noted that the SRM TWG had started its work and decided to undertake a further evaluation no later than March 2020.¹¹

8. A review of the implementation of the SRM TWG involves consideration of its achievements in fulfilling its mandate. Pursuant to its terms of reference, the SRM TWG's mandate is to review standards with a view to making recommendations to the Governing Body on:¹²
- (a) the status of the standards examined, including up-to-date standards, standards in need of revision, outdated standards, and possible other classifications;
 - (b) the identification of gaps in coverage, including those requiring new standards;
 - (c) practical and time-bound follow-up action, as appropriate.

Consensual tripartite recommendations to the Governing Body

9. The SRM TWG has made consensual tripartite recommendations to the Governing Body following each of its four meetings. Its discussions have been characterized by the frank, constructive and committed approach of its Members, building on their often contrasting experiences and views in relation to the complex and wide-ranging issues under discussion.¹³ Constructive tripartite dialogue allowing innovative solutions to be developed was particularly necessary given the complexity of the work.¹⁴ The SRM TWG has stressed the crucial institutional role that it plays in ensuring that the ILO has a clear, robust and up-to-date body of international labour standards that respond to the changing patterns of the world of work, for the purpose of the protection of workers and taking into account the needs of sustainable enterprises;¹⁵ and the corresponding need to ensure the effectiveness and impact of its continuing work, also in terms of closing regulatory gaps and encouraging the ratification of up-to-date Conventions and Protocols.¹⁶

Classification of standards

10. The first element of the SRM TWG's mandate is the classification of standards. Significantly, in this regard, the SRM TWG simplified and streamlined the classification of standards through its adoption of a three-classification system of "up to date", "requiring

¹¹ GB.329/LILS/2, para. 3; GB.329/PV, paras 580–589.

¹² Para. 9 of the terms of reference of the SRM TWG. The SRM TWG recalled the achievements of its first meetings in this regard in September 2018: GB.334/LILS/3, Annex to the appendix (SRM TWG recommendations), para. 3.

¹³ GB.326/LILS/3/2, para. 3 ("constructive discussion"); GB.328/LILS/2/1(Rev.), appendix (report of meeting), para. 4 (the discussion was "thorough, wide-ranging and constructive"); GB.331/LILS/2, appendix (report of meeting), para. 3 ("constructive and committed approach"); and GB.334/LILS/3, appendix (report of the meeting), para. 3 ("committed and frank discussions").

¹⁴ GB.334/LILS/3, appendix (report of the meeting), para. 3.

¹⁵ Para. 8 of the terms of reference of the SRM TWG.

¹⁶ GB.328/LILS/2/1(Rev.), appendix (meeting report), paras 7–8; GB.331/LILS/2, appendix (meeting report), para. 7; GB.334/LILS/3, Annex to the appendix (SRM TWG recommendations), paras 3–4.

further action to ensure continued and future relevance” and “outdated” instruments for the purposes of its work in reviewing standards.¹⁷ The SRM TWG stressed that all standards, including those included in its initial programme of work, were active in terms of legal status until any time that the Conference takes the decision to abrogate, withdraw or juridically replace them.¹⁸ Their ratification and/or effective implementation should, therefore, continue to be promoted.

11. The SRM TWG has reviewed 28 international labour standards concerning occupational safety and health, labour inspection and labour statistics, classifying them according to the new classification system. The Governing Body decided that those instruments should be considered to have the classifications recommended by the SRM TWG and requested the Office to take the necessary follow-up action in that regard.¹⁹

Table 1. Outcome of the SRM TWG process: Governing Body decisions concerning classification of standards

Classification	2017	2018	Total
Up-to-date standards	8	6	14
Standards requiring further action to ensure their continued and future relevance	10	0	10
Outdated	1	3	4
Total	19	9	28

12. In relation to the 68 maritime instruments referred to the STC to the MLC, 2006, for review, the STC reviewed the first 34 instruments at its third meeting in April 2018.²⁰ On the basis of the STC’s recommendations, and using the three-classification system adopted by the SRM TWG, the Governing Body decided that all 34 instruments should be classified as outdated. It will review the remaining 34 maritime instruments at its fourth meeting.
13. Accordingly, 75 international labour standards out of the 235 instruments included in the SRM TWG’s initial programme of work remain to be reviewed by the SRM TWG, eight of which will be the subject of its fifth meeting in 2019.

Identification of gaps in coverage requiring standard-setting action

14. In relation to the second element of the SRM TWG’s mandate, it has identified five gaps in coverage or other follow-up requiring standard-setting action, be addressed by the Organization.

¹⁷ GB.331/LILS/2, appendix (meeting report), para. 10.

¹⁸ *ibid.*, Annex to appendix (recommendations), para. 9.

¹⁹ *ibid.*, para. 5(d); GB.334/LILS/3, para. 5(b).

²⁰ GB.334/LILS/2(Rev.).

Table 2. Outcome of the SRM TWG process: Governing Body decisions concerning standard-setting

Standard-setting required	Recommendation approved	Current status
Regulatory gap identified in relation to apprenticeships	October–November 2016 (328th Session of the Governing Body)	Standard-setting item placed on agenda of 110th Session (2021)
Biological hazards: revision of R.3 through a new instrument addressing all biological hazards	October–November 2017 (331st Session of the Governing Body)	Proposals for standard-setting items on occupational safety and health expected to be made to a future session of the Governing Body
Consolidation of six chemicals instruments, in the context of C.170 and R.177		
Revision of C.119 and R.118 on guarding of machinery		
Revision of C.127 and R.128 to regulate ergonomics and update approach to manual handling		

15. At its fourth meeting in September 2018, the SRM TWG started an ongoing discussion about the options for ensuring coherence and consistency in its recommendations on occupational safety and health.²¹ In this regard, the SRM TWG requested the Office to further elaborate mainly an approach involving some degree of “thematic integration”, taking also into account questions and points raised regarding “partial integration” and “consolidation” approaches in preparation for its fifth meeting in September 2019.²² At the same time, the SRM TWG also considered options for addressing the impact of the SRM TWG recommendations on the Conference agenda and the Office, touching on the need to avoid a “traffic jam” of standard-setting items forming.²³

Practical and time-bound follow-up action

16. In relation to the third element of its mandate, the SRM TWG has stressed the need for practical and time-bound follow-up to be prioritized by the Organization as part of comprehensive and interrelated packages.
17. The SRM TWG has examined the follow-up to be given in relation to the 63 instruments previously determined to be outdated – both during its second meeting in October 2016 that was dedicated to these standards, and during subsequent meetings when such standards have been examined together with instruments concerned with the same subtopic – and in relation to the 28 instruments that it classified during its third and fourth meetings in September 2017 and 2018. Such follow-up action has primarily involved promotional campaigns, technical assistance with implementation, other non-normative action, and recommendations that the ILC consider the abrogation or withdrawal of outdated instruments.

²¹ GB.334/LILS/3, appendix (meeting report), paras 30–35.

²² *ibid.*, appendix (meeting report), para. 35.

²³ *ibid.*, appendix (meeting report), paras 36–37.

Table 3. Outcome of the SRM TWG process: Governing Body decisions concerning follow-up action required

Follow-up action recommended by the SRM TWG	Recommendation approved by the Governing Body	Current status
Promotional action		
Campaign to promote the ratification of 17 up-to-date conventions related to 30 Conventions previously identified as outdated	October–November 2016 <i>(328th Session of the Governing Body)</i>	Under way in 136 member States
Campaign to promote ratification of key OSH instruments and specific promotion of a further four up-to-date OSH Conventions	October–November 2017 <i>(331st Session of the Governing Body)</i>	Under way
Campaign to promote ratification of five up-to-date Conventions on OSH, labour inspection and labour statistics	October–November 2018 <i>(334th Session of the Governing Body)</i>	Planning started
Encourage ratification of relevant up-to-date Conventions by member States in which outdated instruments recommended for abrogation are in force, including technical assistance	October–November 2018 <i>(334th Session of the Governing Body)</i>	Started
Call by ICLS to member States to consider ratification of up-to-date Conventions on labour statistics	October–November 2018 <i>(334th Session of the Governing Body)</i>	Completed
Technical assistance with implementation		
Technical assistance on implementation of two OSH Conventions, including research on obstacles to ratification; improve awareness of a code of practice	October–November 2017 <i>(331st Session of the Governing Body)</i>	Under way
Other non-normative action		
Juridical replacement of 14 Recommendations noted	October–November 2016 <i>(328th Session of the Governing Body)</i>	Completed
Publication of technical guidelines on biological and chemical hazards; and regular review of code of practice on safety and health in the use of machinery	October–November 2017 <i>(331st Session of the Governing Body)</i>	Planned for implementation in next biennium
Study on gender equality in mining; review of code of practice on construction; development of guidelines on labour inspection	October–November 2018 <i>(334th Session of the Governing Body)</i>	Planning started

Follow-up action recommended by the SRM TWG	Recommendation approved by the Governing Body	Current status
ILC consideration of abrogation or withdrawal of instruments		
Abrogation or withdrawal of six Conventions and three Recommendations recommended	October–November 2016 (328th Session of the Governing Body)	Instruments abrogated/withdrawn (107th Session, ILC (2018))
Withdrawal of one Recommendation at the earliest date possible	October–November 2017 (331st Session of the Governing Body)	Item on agenda of 109th Session, ILC (2020)
Withdrawal of one Recommendation in 2022 and abrogation of four Conventions in 2024	October–November 2018 (334th Session of the Governing Body)	Items on agendas of 111th (2022) and 113th (2024) Sessions, ILC
Follow-up action recommended by the STC	Recommendation approved by the Governing Body	Current status
Promotional action		
Encourage ratification of MLC, 2006, by member States in which certain outdated maritime instruments are in force; and extension of application of MLC, 2006, to non-metropolitan territories	October–November 2018 (334th Session of the Governing Body)	Under way
Other non-normative action		
Juridical replacement of two Recommendations noted	October–November 2018 (334th Session of the Governing Body)	Under way
ILC consideration of abrogation or withdrawal of instruments		
Withdrawal of ten Recommendations and nine Conventions, and abrogation of eight Conventions, in 2020	October–November 2018 (334th Session of the Governing Body)	Item on agenda of 109th Session (2020), ILC

Ensuring impactful recommendations, lessons learned and future directions

18. With the objective of ensuring that the SRM TWG's work is effective and impactful, the Governing Body has reiterated the SRM TWG's call on the Organization to take appropriate measures to follow up on its recommendations relating to standard-setting as well as to the time-bound element of all recommendations resulting from its review of standards, including follow-up action involving abrogation and withdrawal of outdated standards, giving due consideration to the availability of technical assistance to encourage ratification of up-to-date instruments.²⁴ Effective follow-up of the SRM TWG recommendations requires committed and concrete actions to be taken by governments and social partners, both at national level and within the ILO Governing Body and International Labour Conference; in

²⁴ *ibid.*, para. 5(c). See further, appendix (meeting report), para. 7.

addition, the role of the Office in providing technical support to enable those actions is essential.²⁵

19. This is pertinent to the SRM TWG's ongoing consideration of the institutional implications of its work, acknowledging the significance of its work on broader standards policy.²⁶ The practical and time-bound follow-up undertaken throughout the Organization – by the Conference, the Governing Body and the Office – has given a new impetus to ILO standards policy both at global and national levels, calling for full tripartite support and commitment. With such tripartite support and commitment, the ongoing work of the SRM TWG will continue to contribute to a purposeful and invigorated standards policy that responds to the needs and concerns of constituents. This will involve the adoption of new standards, the promotion of the ratification and implementation of up-to-date standards by member States, the identification of outdated standards requiring revision or which could be considered for abrogation or withdrawal, and the beginning of a far-reaching conversation about the shape of new standards and the processes for their adoption and revision. The SRM TWG has acknowledged the complementarity of the integrated and balanced packages of practical and time-bound follow-up action it developed for the topics under review, each comprising interrelated elements that require active implementation.²⁷
20. As the tables above illustrate, progress has been made in relation to following up on the SRM TWG's recommendations with one standard-setting item²⁸ placed on the agenda of the Conference, and four on the abrogation or withdrawal of 27 outdated instruments,²⁹ while campaigns to promote the ratification and implementation of approximately 30 instruments.³⁰ The impact of the Organization's follow-up of the recommendations concerning ratification campaigns, as well as the follow-up of the SRM TWG's identification of further instruments as requiring revision, should be assessed at a later stage.
21. The SRM TWG has identified a number of lessons learned from past experiences and from its own first meetings. In particular:
 - The SRM TWG has stressed the complexity of the task of reviewing the international labour standards entrusted to it by the Governing Body.³¹ In that context, it has authorized the attendance of eight advisers to assist the Government members at its third, fourth and fifth meetings. It has also stressed the need for coherence with other institutional initiatives.³²

²⁵ *ibid.*, Annex (recommendations), para. 6.

²⁶ See para. 16 above.

²⁷ GB.334/LILS/3., appendix (meeting report), para. 6.

²⁸ See table 2 above: item related to apprenticeships.

²⁹ See table 3 above. Note that it refers to Governing Body decisions in relation to both the recommendations of the SRM TWG and the STC.

³⁰ See table 3 above.

³¹ GB.328/LILS/2/1(Rev.), appendix (report of meeting), paras 16–17.

³² GB.326/LILS/3/2, appendix (report of meeting), para. 4; GB.328/LILS/2/1(Rev.), appendix (report of meeting), para. 8; GB.331/LILS/2, appendix (report of meeting), para. 28; GB.334/LILS/3, appendix (report of meeting), para. 38.

- The SRM TWG has been mindful that its work should not result in gaps in coverage for workers,³³ while ensuring a clear, robust and up-to-date body of international labour standards that responds to the changing patterns of the world of work, for the purpose of the protection of workers and taking into account the needs of sustainable enterprises.³⁴ To this end, the SRM TWG considered recommendations on the abrogation and withdrawal of obsolete instruments to be one means of implementing ILO standards policy, in addition to recommendations concerning concrete and time-bound follow-up action by the Office and member States, including those concerning the ratification and implementation of up-to-date standards.³⁵
- The SRM TWG agreed that there was a need for a new classification system that aimed to simplify and streamline the previous system.³⁶ As a result, at its third meeting the SRM TWG decided to adopt a three-classification system for its work in reviewing standards.³⁷ The new three-classification system was used by the SRM TWG in reviewing standards at its third and fourth meetings, as well as by the STC in its work in reviewing the maritime standards that had been referred to it.
- The SRM TWG has been aware of the institutional importance of its actual and potential role for the Organization as it enters its second century, requiring the follow-up to its work to be effective, sustainable and an institutional priority.³⁸ The SRM TWG has acknowledged that integrated and balanced packages of follow-up action are the optimal way in which to ensure that its recommendations are impactful and fulfil the mandate given to it by the Governing Body.³⁹ Follow-up should be concrete, time-bound and monitored by the SRM TWG at its subsequent meetings.⁴⁰ In this regard, it is clear that there have been considerable successes, while challenges exist. Notably, in order to ensure that its follow-up has substantial and sustainable impact, the Governing Body will be asked to consider the need for additional resources at its October–November 2019 session.

Objective 2 – To consolidate tripartite consensus on an authoritative supervisory system

22. It was foreseen from the outset that the implementation of the workplan was to be monitored by the Governing Body in accordance with its governance role. In particular, the common

³³ GB.328/LILS/2/1(Rev.), Annex I (recommendations), para. 4.

³⁴ GB.325/LILS/3, appendix (terms of reference), para. 8.

³⁵ GB.328/LILS/2/1(Rev.), appendix (report of meeting), para. 6.

³⁶ GB.326/LILS/3/2, appendix (report of meeting), para. 8.

³⁷ GB.331/LILS/2, para. 5(c); appendix (report of meeting), para. 10; Annex (recommendations), para. 9.

³⁸ GB.334/LILS/3, appendix (report of the meeting), paras 3–5; GB.331/LILS/2, appendix (report of meeting), para. 3.

³⁹ GB.334/LILS/3, appendix (report of the meeting), para. 6.

⁴⁰ GB.328/LILS/2/1(Rev.), appendix (report of meeting), para. 7; Annex I (recommendations) para. 6; GB.334/LILS/3, Annex (recommendations), para. 5.

principles guiding the strengthening of the supervisory system submitted to the Governing Body at its 329th Session operate as the benchmark for the review of the implementation of the workplan in the context of the broad review of the Standards Initiative.⁴¹

Common principles guiding the strengthening of the supervisory system⁴²

23. Constituents have expressed diverse views on the functioning of the supervisory system and its specific procedures. At the same time, their views have converged on the expected outcome of measures to ensure a well-functioning and effective supervisory system within the constitutional framework.

The value of the supervisory system is incontrovertible ...

24. The role of the supervisory system is to give practical effect to the ILO founding values and constitutional objectives. The tripartite constituents have highlighted the importance of the system as a whole, as well as of the individual supervisory procedures, for the discharge of the ILO's mandate. Any further evolution of the supervisory system must be based on its well-established strengths. Equally, there is consensus that the system could be strengthened.

... and the responsibility to further strengthen the supervisory system lies with the tripartite constituents

25. Tripartite constituents hold the collective view that it is their joint responsibility to consider further strengthening of the supervisory mechanisms. It is their responsibility to guarantee the functioning and evolution of the system in line with the Constitution, supported and assisted by the Office in the discharge of its constitutional role. Solutions lie with the tripartite constituents and decisions will be taken on a consensual and participatory basis by the ILO governance bodies. The tripartite nature of ILO governance bodies underpins the authority of the supervisory system. In addition to recognizing their role in the functioning of the system, the tripartite constituents have committed to engaging fully in the process of strengthening it.

Improvements must result in a robust, relevant and sustainable system ...

26. The supervisory system must remain relevant to the existing world of work. This will enable it to continue to guide the ILO in achieving progress and social justice in a constantly changing environment, remaining pertinent and retaining global significance. Fundamentally, within the constitutional framework, the system must enjoy committed tripartite support that is manifested in constructive involvement and genuine engagement. A strong supervisory system inspires confidence, while enabling the ILO and its Members to be resilient to change.

⁴¹ [GB.329/INS/5](#), paras 5–11.

⁴² *ibid.*

... and its procedures should be efficient and effective

27. Effectiveness and efficiency are important components of the supervisory system. In supervising the application of international labour standards, it must continue to fulfil its purpose and make the best use of available resources. Its recommendations must be followed up and implemented. An organized and coherent system contributes to the achievement of the ILO's strategic objectives through the ratification and effective application of standards in member States.

The supervisory system must be transparent, fair and rigorous, leading to consistent and impartial outcomes

28. Transparency and integrity in the system are essential. Due process and procedural fairness should be guaranteed, including through necessary procedural safeguards and the supervisory system must operate on the basis of consistent and impartial practices. Comments, decisions and recommendations that are understood to be the outcome of a balanced, objective and rigorous process are essential to the credibility and authority of the system. Progress in implementing the ten proposals aimed at strengthening the supervisory system is reviewed below against the above-mentioned guiding principles.

Focus area 1: Relationships between the procedures

29. This focus area considers the functioning of the system as a whole, highlighting the need to improve understanding of its procedures and the linkages between them, as well as to avoid unnecessary overlap and to strengthen efforts to make it clearer and more user-friendly.

1.1. Guide on established practices across the system

30. The Guide was mandated to be “a user-friendly and clear guide for the supervisory system, bringing together useful information and ensuring a level playing field of knowledge. In practical terms, such a guide would build on existing descriptions of the supervisory system and its procedures. ... it will set out, in a step-by-step format, the practices for each supervisory procedure, including admissibility criteria, timelines and implementation of the recommendations. The guide will be regularly updated to reflect the evolution of working methods or any decisions of the Governing Body.”⁴³
31. Note has been taken of guidance indicating that this tool should highlight both the distinct features of the various supervisory procedures and the coherence of the system as a whole; avoid pre-empting any Governing Body decision on the codification of the article 26 complaint procedure; and include information relating to the selection and appointment of persons serving on the supervisory bodies.
32. The Office, in cooperation with the International Training Centre of the ILO in Turin (ITC-ILO) is developing a Guide in the three official languages, consisting of a web-based tool on the ILO supervisory procedures, presenting the established practices step-by-step and the linkages among procedures. The Guide will be hosted on the ITC-ILO server and will be accessible from both the ILO website and the ITC-ILO eCampus. It is fully integrated with the NORMLEX database; the relevant web pages of the ILO “Labour Standards” website;

⁴³ *ibid.*, para. 15.

as well as the ITC-ILO training offerings for constituents on international labour standards and standards-related procedures, including reporting.

33. The Guide will also be made available as pdf downloadable documents for each procedure; and a fully customized application for tablets and smartphones. Both the web-based tool and the application for handheld devices will be made available to Governing Body members for informal consultation in March. Members will be given a month to provide comments on the online interface as well as on the text made available in downloadable format. The tools are expected to be available on the public ILO website before the Centenary session of the Conference and the Office will report on the delivery of the guide to the Governing Body at its 337th Session (October–November 2019).

1.2. Regular conversation between supervisory bodies

34. In March 2017, the Joint Position of the Workers' and Employers' groups on the ILO Supervisory Mechanism proposed that on the basis of a proper "clarification of the role and mandate of the CFA ... vis-à-vis regular standards supervision" (Joint Statement of 2015), every year the Chairperson of the CFA could present to the Conference Committee on the Application of Standards (CAS) a report of activities, after the report of the Chairperson of the CEACR. That information would be important for the work of the CAS, showing the complementarity of the committees and could limit double procedures for the same cases. Following the appointment of Evance Rabban Kalula as Chairperson of the CFA in June 2018, and the presentation of the CFA's first annual report to the Governing Body at its 333rd Session (June 2018), the Governing Body is now invited to decide that the annual report of the CFA be presented by its Chairperson to the CAS as from 2019.
35. Since its 88th Session (November–December 2017), the CEACR has dedicated a section of its General Report to the follow-up to the conclusions of the CAS. The conclusions of the CAS form an integral part of the Committee's dialogue with the governments concerned. At its most recent session in 2018, for example, the Committee has examined the follow-up to the conclusions adopted by the CAS during the last session of the International Labour Conference (107th Session, June 2018) in all 23 cases discussed by the Committee.
36. It has become the practice for the Chairperson of the CEACR to attend the general discussion of the Conference Committee and the discussion on the General Survey as an observer, with the opportunity to address the Conference Committee at the opening of the general discussion and to make remarks at the end of the discussion on the General Survey. Similarly, the Employer and Worker Vice-Chairpersons of the Conference Committee are invited to meet the Committee of Experts during its sessions and discuss issues of common interest within the framework of a special session held for that purpose.
37. Against that background and based on the guidance of the informal consultations, the proposal that an annual meeting could take place between the CAS, the CEACR, the CFA and representatives of the articles 24 and 26 procedures was not pursued further. At the same time, regular informal exchanges between representatives of the various bodies were encouraged.

Focus area 2: Rules and practices

38. This focus area considers the functioning of the individual supervisory bodies with a view to preserving their distinct roles and features and resolving the question of the interpretation of Conventions in the interest of legal certainty.

2.1. Consider codification of the article 26 procedure

39. The proposal to consider a possible codification of the complaints procedure provided for in articles 26–34 of the Constitution stems from the fact that the procedure governing the period between the submission of a complaint and the decision of the Governing Body to either establish a Commission of Inquiry or close the procedure without establishing a Commission of Inquiry, follows practice rather than codified rules.
40. Some members of the Governing Body have stressed that clear, transparent, and accessible information regarding the article 26 procedure could help members prepare for cases; improve time management in Governing Body discussions; and enhance understanding of the linkages with other procedures. Some members have expressed concern that codification would limit the possibility for the Governing Body to use the different methods to handle cases taking into account the content of the case and country situation, as currently obtains. Other members have been of the view that article 26, regardless of any codification of its procedure, does not warrant a further proliferation of methods and should prompt the Governing Body to establish a Commission of Inquiry unless alternative measures to address the issues underlying the complaint can obtain a swift tripartite consensus.
41. A consensus emerged on a staged approach whereby, as a first stage, the clarification of existing rules and practices, and linkages with other procedures, would be addressed through the Guide on established practices (see section 1.1). Should that not prove sufficient, a tripartite discussion of the possible codification of the article 26 procedure could be continued at a later stage.

2.2. Consider the operation of the article 24 procedure

42. Article 24 grants industrial associations of workers or employers the right to present a representation to the Governing Body about a possible failure to respect obligations derived from ratified Conventions by a member State. The review of the operation of the representation procedure stemmed from a number of recognized weaknesses in its three main phases: (i) the receipt of a representation and its processing until the Governing Body takes a decision on how it will be handled (for example, appointment of a tripartite committee); (ii) consideration of the merits of the representation and its outcome (for example, approval by the Governing Body of the recommendations of the tripartite committee); and (iii) follow-up to the procedure, including the implementation of the recommendations (for example, through technical assistance). Expected improvements relate to transparency in relation to national procedures and in the timeline for examining the receivability of a representation; coherence in examining the merits of the case; and visibility of the follow-up at the national level of the recommendations issued.
43. Following in-depth discussions, the Governing Body introduced several measures to enhance the transparency, visibility and coherence of the procedure, namely it:
- (a) Introduced a [model electronic form](#) for the submission of a representation under article 24 of the ILO Constitution.
 - (b) Created the possibility for the ad hoc tripartite committee to suspend the examination of the merits of the representation in order to address the allegations by seeking conciliation or other measures at the national level for a maximum period of six months, subject to the agreement of the organization making the representation and the agreement of the Government; and with the possibility for the organization making the representation to request the procedure to resume at an earlier moment should the conciliation/other measures fail.

- (c) Established timelines for the Office to provide members of ad hoc tripartite committees and members of the Governing Body with information, documents and reports.
- (d) Established ratification of the Conventions concerned as a condition for membership of governments in ad hoc committees unless no government titular or deputy member of the Governing Body has ratified the Conventions concerned.
- (e) Reinforced integration of follow-up measures in the recommendations of committees and a regularly updated document on the effect given to these recommendations for the information of the Governing Body, as well as continuing to explore modalities for follow-up action on the recommendations adopted by the Governing Body concerning representations.
- (f) Instructed the CFA to examine representations referred to it according to the procedures set out in the Standing Orders for the examination of article 24 representations, to ensure that representations referred to it be examined according to the modalities set out in the Standing Orders.
- (g) Approved maintaining existing measures and exploring other possible measures to be agreed upon by the Governing Body for the integrity of procedure and to protect ad hoc committee members from undue interference.

44. In respect of (b), it was understood that the six-months suspension for the purpose of conciliation at the national level: (1) would leave open the possibility for the tripartite committee to decide on a limited further extension of the suspension should the initial conciliation or other measures need a further period of time to successfully resolve the issues raised in the representation; and (2) would have to be reviewed by the Governing Body after a two-year trial period, that is in November 2020.

45. In respect of (g), it was decided not to pursue at this stage the discussion about further possible measures to protect ad hoc committee members from undue interference.

2.3. Consider further steps to ensure legal certainty

46. In March 2016, the Governing Body considered the Joint Report of the Chairperson of the CEACR and the Chairperson of the CFA on the interrelationship, functioning and possible improvement of the various supervisory procedures related to articles 22, 23, 24 and 26 of the ILO Constitution and the complaints mechanism on freedom of association. The Joint report proposed steps to be taken in relation to the interpretation of Conventions. More specifically, the Joint Report pointed out that the question of uniformity of interpretation was “inextricably tied up with the discussions surrounding the present supervisory mechanism review”, and the establishment of an in-house ILO Tribunal might “be considered when trying to further the debate concerning the roles and mandates of the supervisory bodies”. Legal certainty has been considered important for the continued credibility and effectiveness of the supervisory system, and therefore needed to be considered in the context of a review of the rules and practices of the supervisory system aimed at enhancing its accessibility, transparency, clarity and respect for due process.

47. The revised workplan for the strengthening of the supervisory system, approved by the Governing Body in March 2017, provided for guidance to be sought from the Governing Body on the modality of a possible future tripartite exchange of views on article 37(2) of the Constitution and the elements and conditions necessary for the operation of an independent body to interpret Conventions. This decision built on the March 2017 Joint Position of the Workers’ and Employers’ groups which observed that “divergent views and disputes about the interpretation of Conventions continue to be a reality”.

48. In November 2017 and March 2018, the Governing Body provided further preliminary guidance on the issue of legal certainty. Some Government members underlined the need to pursue measures to enhance legal certainty by activating the option provided in article 37(2), while other Government members preferred to continue exploring avenues for consensus-based interpretation of Conventions. The Worker and Employer members supported a proposal to have informal consultations on this first. In November 2018, the Governing Body decided to request the Office to provide concrete proposals to prepare the discussion on consideration of further steps to ensure legal certainty, “including, but not limited to, organizing a tripartite exchange of views in the second semester of 2019 on article 37(2) of the Constitution” to facilitate a tripartite exchange of views on the elements and conditions necessary for the operation of an independent body under article 37(2).
49. During the informal consultations, the following questions were proposed for a possible exchange of views:
- (1) How many instances of significant disagreement around major issues of interpretation of international labour standards are currently existing within the supervisory system?
 - (2) Does legal certainty around major issues of interpretation of international labour Conventions need to be strengthened?
 - (3) Is the existing ILO internal machinery for handling questions relating to the interpretation of international labour Conventions adequate to respond to current needs?
 - (4) Should the existing ILO internal machinery not be considered adequate, what can be done by the existing supervisory bodies, including the CEACR and the Office (which provides support to avoid diametrically opposed positions on certain instruments)?
 - (5) What are the possible alternatives to establishing a tribunal? Will article 37(1) continue to provide the opportunity for issues of interpretation of Conventions to be referred to the International Court of Justice for decision should a tribunal be established, and under what conditions?
 - (6) What are the pros and cons of establishing a tribunal under article 37(2) of the ILO Constitution?
 - (7) What are the costs associated with the establishment of such tribunal and can we meet that cost?
 - (8) If a tribunal were to be established, what would be the elements and conditions necessary for an independent tribunal to enjoy the support of the tripartite ILO constituency for the expeditious determination of any dispute or question relating to the interpretation of ILO Conventions?
50. The parameters of a possible tripartite exchange of views on legal certainty could include:
- informal consultations followed by tripartite exchange of views after the meeting of SRM TWG in October 2019; and
 - the Office to prepare a paper with background information to facilitate a possible exchange of views on the elements and conditions necessary for the operation of an independent body under article 37(2) as well as of any other consensus-based options.

Focus area 3: Reporting and information

3.1. *The streamlining of reporting*

51. The streamlining of reporting pursues a number of objectives which, if met together, enhance the relevance and efficiency of the supervisory system. First, to guarantee the sustainability of the supervisory system in the light of a rising number of ratifications and near universal membership of the Organization. Secondly, to reduce the reporting burden on member States in the light of this trajectory. Thirdly, the important role of employers' and workers' organizations in raising pressing issues which call for examination by the supervisory bodies without delay. The focus of this streamlining effort is not just to reduce the number of reports requested each year and to alleviate the associated workload, but more broadly to rationalize the reporting (for example, by grouping Conventions by subject for reporting purposes, which also allows for a more comprehensive thematic review). An important consideration is to enhance the role of employers' and workers' organizations, putting in place safeguards to ensure the access of constituents to the CEACR outside the reporting cycle.
52. Based on the guidance received from the Governing Body and a technical and financial feasibility assessment, the following measures are being implemented:
- (i) Following a thorough business process review, the Office is finalizing the technical and budgetary specifications for an electronic document and information management system for the CEACR, the CAS and the CFA to be rolled out in stages, starting in 2019. This should result in significant time and cost savings and permit resources to be directed to strengthening the Office support to the supervisory system, particularly to providing technical assistance at the country level.
 - (ii) Developing a smarter e-reporting system through e-report forms remains a valid objective: a comprehensive online reporting system that meet the needs of the ILO constituents would not only offer simplified reporting obligations, but would also lead to easier management of electronic archiving, both at the national level and for the Office.⁴⁴ However, it should first be piloted at various stages so as take into account the operational constraints raised by some governments, in particular where national processes involve multiple drafters and internal clearance requirements. In a first stage, the idea would be to establish baseline information on the application by member States of ratified Conventions, as proposed under point (viii) below. In a second stage, the baseline information established would allow the option to complete reporting obligations online (while keeping the option to submit completed baseline reports by electronic means but offline). Only then, based on the experience gained, taking into account States' technological capacities as supported by tailored training tools and in full consultation with the tripartite constituents could it be considered to migrate to fully fledged online e-reporting.
 - (iii) A revised reporting cycle ensuring greater thematic coherence in requests for reports on all Conventions within a three-year reporting cycle for fundamental and governance Conventions and a six-year reporting cycle for technical Conventions. The new grouping now ensures that ratified Conventions covering related subjects are requested

⁴⁴ This would be fully in line with the overall IT Strategy that has been approved by the Governing Body. It may be noted that within the framework of the steps taken by the Office to introduce IT improvements, a pilot under the Follow-up to the 1998 ILO Declaration on Fundamental Principles and Rights at Work, the Office has put in place an optional online tool to facilitate reporting under the Annual Review. Further considerations in this respect are set out in [GB.335/INS/4](#). It is hoped that the implementation of this online tool will benefit from the broader e-reporting developments referred to in this section.

in the same year for a specific country, as shown by the table below for different groups of countries. This ensures thematic coherence by country as well as an examination of all subjects each year, thus generating a positive impact on the objective of the CAS to achieve greater balance in the selection of cases between technical, governance and fundamental Conventions. The new reporting arrangements will be in effect as of 2019.

Table 4. Option 2. Simulation of reports requested 2019–25

2019	2020	2021	2022	2023	2024	2025
Fundamental and governance Conventions (three-year reporting cycle)						
C.87, C.98 (countries A–F)	C.87, C.98 (countries G–N)	C.87, C.98 (countries O–Z)	C.87, C.98 (countries A–F)	C.87, C.98 (countries G–N)	C.87, C.98 (countries O–Z)	C.87, C.98 (countries A–F)
C.100, C.111 (countries G–N)	C.100, C.111 (countries O–Z)	C.100, C.111 (countries A–F)	C.100, C.111 (countries G–N)	C.100, C.111 (countries O–Z)	C.100, C.111 (countries A–F)	C.100, C.111 (countries G–N)
C.29, C.105, C.138, C.182 (countries O–Z)	C.29, C.105, C.138, C.182 (countries A–F)	C.29, C.105, C.138, C.182 (countries G–N)	C.29, C.105, C.138, C.182 (countries O–Z)	C.29, C.105, C.138, C.182 (countries A–F)	C.29, C.105, C.138, C.182 (countries G–N)	C.29, C.105, C.138, C.182 (countries O–Z)
C.144 (countries A–F)	C.144 (countries G–N)	C.144 (countries O–Z)	C.144 (countries A–F)	C.144 (countries G–N)	C.144 (countries O–Z)	C.144 (countries A–F)
C.81, C.129 (countries O–Z)	C.81, C.129 (countries G–N)	C.81, C.129 (countries A–F)	C.81, C.129 (countries O–Z)	C.81, C.129 (countries G–N)	C.81, C.129 (countries A–F)	C.81, C.129 (countries O–Z)
C122 (countries G–N)	C.122 (countries A–F)	C.122 (countries O–Z)	C.122 (countries G–N)	C.122 (countries A–F)	C.122 (countries O–Z)	C122 (countries G–N)
Technical Conventions (six-year reporting cycle)						
Freedom of association and collective bargaining (A–B)	Freedom of association and collective bargaining (G–K)	Freedom of association and collective bargaining (O–S)	Freedom of association and collective bargaining (C–F)	Freedom of association and collective bargaining (L–N)	Freedom of association and collective bargaining (T–Z)	Freedom of association and collective bargaining (A–B)
Industrial relations (A–B)	Industrial relations (G–K)	Industrial relations (O–S)	Industrial relations (C–F)	Industrial relations (L–N)	Industrial relations (T–Z)	Industrial relations (A–B)
Protection of children (O–S)	Protection of children (A–B)	Protection of children (G–K)	Protection of children (T–Z)	Protection of children (C–F)	Protection of children (L–N)	Protection of children (O–S)
Workers with family responsibilities (G–K)	Workers with family responsibilities (O–S)	Workers with family responsibilities (A–B)	Workers with family responsibilities (L–N)	Workers with family responsibilities (T–Z)	Workers with family responsibilities (C–F)	Workers with family responsibilities (G–K)
Migrant workers (G–K)	Migrant workers (O–S)	Migrant workers (A–B)	Migrant workers (L–N)	Migrant workers (T–Z)	Migrant workers (C–F)	Migrant workers (G–K)
Indigenous and tribal peoples (G–K)	Indigenous and tribal peoples (O–S)	Indigenous and tribal peoples (A–B)	Indigenous and tribal peoples (L–N)	Indigenous and tribal peoples (T–Z)	Indigenous and tribal peoples (C–F)	Indigenous and tribal peoples (G–K)
Other specific categories of workers (G–K)	Other specific categories of workers (O–S)	Other specific categories of workers (A–B)	Other specific categories of workers (L–N)	Other specific categories of workers (T–Z)	Other specific categories of workers (C–F)	Other specific categories of workers (G–K)
Working time (T–Z)	Working time (L–N)	Working time (C–F)	Working time (O–S)	Working time (G–K)	Working time (A–B)	Working time (T–Z)
Wages (T–Z)	Wages (L–N)	Wages (C–F)	Wages (O–S)	Wages (G–K)	Wages (A–B)	Wages (T–Z)
OSH (T–Z)	OSH (L–N)	OSH (C–F)	OSH (O–S)	OSH (G–K)	OSH (A–B)	OSH (T–Z)
Maternity protection (T–Z)	Maternity protection (L–N)	Maternity protection (C–F)	Maternity protection (O–S)	Maternity protection (G–K)	Maternity protection (A–B)	Maternity protection (T–Z)

2019	2020	2021	2022	2023	2024	2025
Social security (T-Z)	Social security (L-N)	Social security (C-F)	Social security (O-S)	Social security (G-K)	Social security (A-B)	Social security (T-Z)
Labour administration and inspection (T-Z)	Labour administration and inspection (L-N)	Labour administration and inspection (C-F)	Labour administration and inspection (O-S)	Labour administration and inspection (G-K)	Labour administration and inspection (A-B)	Labour administration and inspection (T-Z)
Skills (L-N)	Skills (C-F)	Skills (T-Z)	Skills (G-K)	Skills (A-B)	Skills (O-S)	Skills (L-N)
Employment policy (L-N)	Employment policy (C-F)	Employment policy (T-Z)	Employment policy (G-K)	Employment policy (A-B)	Employment policy (O-S)	Employment policy (L-N)
Employment security (L-N)	Employment security (C-F)	Employment security (T-Z)	Employment security (G-K)	Employment security (A-B)	Employment security (O-S)	Employment security (L-N)
Social policy (L-N)	Social policy (C-F)	Social policy (T-Z)	Social policy (G-K)	Social policy (A-B)	Social policy (O-S)	Social policy (L-N)
Seafarers Fishers Dockworkers (C-F)	Seafarers Fishers Dockworkers (T-Z)	Seafarers Fishers Dockworkers (L-N)	Seafarers Fishers Dockworkers (A-B)	Seafarers Fishers Dockworkers (O-S)	Seafarers Fishers Dockworkers (G-K)	Seafarers Fishers Dockworkers (C-F)
Total number of reports requested						
1 270	1 384	1 434	1 445	1 356	1 368	1 270

- (iv) At its session in November–December 2018, the CEACR considered the extension of the reporting cycle from five to six years and, in the context of the discussion on its own working methods, considered the manner in which it might broaden the very strict criteria for breaking its cycle of review when receiving comments from workers’ or employers’ organizations under article 23(2), of the ILO Constitution. A report on its discussion and decision is contained in the most recent report of the CEACR⁴⁵ and a summary is provided in paragraph 74 below.
- (v) Following the guidance of the Governing Body, the CEACR is continuing its recent practice of adopting a single comment to address in a consolidated manner the issues of application arising under various related Conventions. These types of consolidated comments have been adopted in the fields of social security, maritime issues, wages, working time, occupational safety and health, labour inspection and child labour. This has allowed the CEACR to avoid repetitive comments under thematically related Conventions and has helped to ensure greater coherence in the treatment of the related information by country. For the countries concerned, one advantage is that comments are more easily readable and provide a more coherent and holistic analysis by subject of the issues to be addressed.
- (vi) The Governing Body approved a new integrated report form for simplified reports to be sent under article 22 of the Constitution. Every year, based on this report form, the Office sends electronically to each member State a single request for all the simplified reports which are due that year. Supervisory comments in respect of which replies are invited are consolidated in an annex to the simplified report form.⁴⁶ This should

⁴⁵ Report of the CEACR, [Report III \(Part A\)](#), International Labour Conference, 108th Session, 2019.

⁴⁶ The annex is established on the basis of the regular reporting cycle and any additional requests for reports addressed to your country by the supervisory bodies for the year in question. It also includes cases in which your country has failed to submit the simplified reports requested the previous year. It does not cover any simplified report due under the MLC, 2006, for which a specific form will be sent to your country, as appropriate.

facilitate the submission of information. Readability would be improved, as the CEACR's comments for which reports are due that year could be presented by subject. It may be emphasized that this proposal will not limit the content or level of detail of the information provided by governments, but will facilitate the submission of information and the discharge of reporting obligations. In addition, the Office communicates to each member State the list of detailed reports which may also be due the year in question. Existing report forms under each individual Convention (the content of which corresponds to detailed reports) would continue to be used for first reports following ratification, or when a detailed report is specifically requested by the supervisory bodies.

- (vii) Measures to address the delays in the receipt of reports and the reporting failures. These delays give rise to significant challenges, both for the social partners and for the Office as the secretariat of the CEACR. The social partners have less time to submit article 23 observations, while the late receipt of reports limits the capacity of the Office to prepare files for the CEACR to carry out its work, with the result that the examination of belated reports have to be deferred. Moreover, when the reports requested are not received within the time limits, it is necessary to issue repetitions of outstanding comments and resubmit requests the following year for the reports that have not been received, thus further increasing the number of reports to be treated.

Following up on its annual exchange with the CAS Vice-Chairpersons, the CEACR decided at its 2017 session to take safeguard measures paying closer attention to certain serious cases of failure to report and instituting a practice of launching "urgent appeals". During the review of its working methods at the 2018 session, the Committee decided to reinforce the practice of urgent appeals that it launched in 2017 drawing on experience with the implementation of this decision. Already at the 2018 session, the Committee issued urgent appeals to six countries which failed to send a first report for at least three years. The Committee decided that as of its next session, it will generalize this practice by issuing urgent appeals in all cases where article 22 reports have not been received for three consecutive years. As a result, repetitions of previous comments will be limited to a maximum of three years following which the Convention's application will be examined in substance by the Committee on the basis of publicly available information, where the government has not sent a report, thus ensuring a review of the application of ratified Conventions at least once within the reporting cycle. The repetition language will follow a certain "escalation" in relation to how many times the Government has failed to report:

- first year: simple repetition, the Committee will note that the report has not been received;
- second year: the Committee will note with regret that the report has not been received;
- third year: the Committee will note with deep regret that the report has not been received and issue an urgent appeal, informing the government that if a report is not received in time for examination by the Committee at its next session, the latter will proceed to examine the application of the Convention in the country in question on the basis of information at its disposal;
- fourth year: the Committee will carry out an examination on the basis of publicly available information even if the Government has not replied.

Also, the Committee decided to distinguish more clearly between article 22 reports received after the 1 September deadline the examination of which might be deferred due to their late arrival, and reports received by this deadline, the

examination of which might be deferred for various other reasons (e.g., need for translation into the ILO working languages). The Committee instructed the secretariat to place the late reports in a special category, separate from that of “deferred files”, for transparency purposes. The Committee was pleased to note the information provided by the Office on the potential medium term impact of the Governing Body decisions in the framework of the Standards Initiative, from the point of view of maintaining the sustainability and effectiveness of the supervisory mechanism in the light of the constantly increasing number of ratifications and consequent reporting obligations.

- (viii) Pilot project on the establishment of baselines. The added value of baseline-based reporting consists in easier, incremental and non-repetitive reporting by governments as well as better information-sharing on compliant practices provided in the context of the supervisory system. Currently, the only visible outputs of the article 22 reporting process are the issues and concerns raised in the comments of the CEACR. The broader picture of how a country is implementing a ratified Convention, including the compliant practices adopted, is not publicly available. The idea would be to extract information about compliant implementation of Conventions from article 22 reports and to present that information in compliance summary tables, which would be made available on the ILO website and serve as the baseline for the next round of reporting.

In light of the Governing Body decision to implement a pilot project on the establishment of baselines on Convention No. 187 (see point 7(e) of the decision adopted at its 334th Session (October–November 2018)), the Office has taken the following measures:

- (a) Countries due to report on Convention No. 187 in 2019 have been contacted to confirm their interest in participating in the pilot project.
- (b) A model electronic article 22 baseline report on the application of Convention No. 187 has been developed. The draft article 22 baseline report will be sent to the countries concerned together with the request for reports for 2019. Where the countries concerned have ratified other up-to-date OSH instruments, a consolidated thematic draft baseline report will be prepared to cover the corresponding instruments. It will contain the information available to the Office on the measures taken to apply the Convention(s) concerned, including information provided by the government concerned in previous article 22 reports. Where the CEACR has made comments on the application of the Convention(s) concerned, the draft article 22 baseline report will include a cross-reference to those comments in NORMLEX. The government will be expected to validate the information contained in the draft article 22 baseline report and to reply to the CEACR pending comments. The final article 22 baseline report will have to be sent to the Office by 1 September at the latest, in accordance with the existing procedure (submission offline). It will be examined by the CEACR at its 2019 session and the results of the CEACR examination will be published as per the existing procedure (observation and/or direct request, as the case may be).
- (c) As per the existing practice, observations of the social partners and the government’s responses, could be submitted within the article 22 baseline report or sent directly to the Office.
- (d) The new feature would be that, as of early 2020, information about compliant implementation of Convention No. 187 could be extracted from the article 22 reports and presented in compliance summary tables, which could be made available on the ILO website. The baselines could also include any observations made by the social partners if it is decided that the latter should also be made

public. Where the CEACR has made comments on the application of the Convention concerned, the baseline will include a cross-reference to those comments in NORMLEX.

Following an initial evaluation of the pilot project, extension to other/all subject matters could be envisaged.

This initiative will be linked to the computerization measures taken as set out above. In particular, it would make it easier to update the information submitted (see in particular the link with e-reporting under point (ii) above). The Office will continue to provide regular updates to the Governing Body on the development of this pilot project.

3.2. Information-sharing with organizations

53. The Office will continue the exchanges and collaborations in supervising the implementation of standards with other international organizations (e.g. the Council of Europe). Based on the views expressed during the January and February 2017 consultations, the Office continues its regular exchange of information with other international organizations. For example, the Office participates in the Partnership for Effective International Rule-Making managed by the Organization for Economic Cooperation and Development (OECD). The partnership offers a voluntary platform to foster collective action among international organizations and their constituency to promote greater quality, effectiveness and impact of international rules, regardless of their substantive scope. Ultimately, this work helps to build greater confidence of domestic regulators and legislators in international rules and support greater uptake of good quality international instruments in national legislation.
54. The Governing Body at its 334th Session (October–November 2018) welcomed the United Nations General Assembly (UNGA) Resolution of May 2018 “Repositioning of the United Nations development system in the context of the quadrennial comprehensive policy review of operational activities for development of the United Nations System (A/RES/72/279)”. A separate report before the Governing Body provides an update as well as an action plan addressing the multiple aspects of implementation of the reform of the United Nations Development System (UNDS), including the implications for the ILO’s normative and supervisory work.⁴⁷
55. The repositioning of the UNDS is expected to have a number of implications for both the SRM and the strengthening of the supervisory system:
- (a) There can be no sustainable development without social justice. The ILO is the custodian institution of globally recognized standards that define “full, productive and freely chosen employment” and decent work for all as a means and an end to sustainable development. As such, ILO normative work is central to a UNDS repositioned around a rights-based 2030 Agenda for Sustainable Development. The UN Secretary-General has sought to give assurances that “all entities [of the UNDS] are better positioned to fully deliver on their respective mandates, while also achieving greater impact at a system-wide scale.”⁴⁸
 - (b) International labour standards must add value to defining decent work as a means and end to sustainable development. To add value, the standard-setting process itself should be responsive to the changing patterns of the world of work, the protection of workers

⁴⁷ GB.335/INS/10.

⁴⁸ Letter of the UNSG to the ILO Director-General, dated 7 November 2018.

and the needs of sustainable enterprises. This points to the need for coherence between the recommendations from the SRM and timely agenda-setting of the Conference in relation to closing regulatory gaps with new instruments as well as revising and abrogating obsolete standards.

- (c) With respect to the ILO's mandate and responsibility to promote both the ratification of and compliance with international labour standards, it is to be noted that the UNGA has called on all entities of the UNDS to carry out, among other functions: "assisting countries through normative support, as appropriate, in the context of operational activities for development of the United Nations system."⁴⁹ The repositioning of the UNDS to enhance integrated policy advice⁵⁰ and normative support should be both an incentive to accelerate efforts and an opportunity to improve the impact of the ILO supervisory work. Greater attention will need to be paid to incorporate outputs related to the ratification and supervision of international labour standards in the Decent Work Country Programmes (DWCPs) and the United Nations Development Assistance Framework (UNDAFs), notably technical advice to give effect to recommendations of the SRM TWG in relation to the ratification of up-to-date Conventions and to supervisory comments; assistance with reporting obligations; and assistance to strengthen tripartite consultations on issues under review with the supervisory bodies. Special attention will need to be paid to integrating into UN Common Country Analyses (CCA) the alignment of development efforts with international standards and normative frameworks, including international labour standards. This is particularly important as UN CCAs are set to inform UNDAF priorities. However, even if standards-related aspects are not reflected as priorities in the UNDAF, the ILO will continue to service the supervisory system, including the provision of technical assistance in respect of comments and recommendations of the supervisory bodies.
- (d) As an associated measure the ILO is engaging in designing and delivering a training package developed for the new generation of UN Resident Coordinators in collaboration with the ITC-ILO so as to ensure that they are well informed and aware of the Decent Work Agenda and international labour standards as its foundation.
- (e) The ILO is engaging in a series of consultations with the Office of the United Nations High Commissioner for Human Rights (OHCHR) and other UN bodies with a view to strengthening the labour standards dimension of the integrated policy support a repositioned UNDS will provide at country level.

Focus area 4: Reach and Implementation

4.1. *Clear recommendations of the supervisory bodies*

56. The recommendations made by the supervisory bodies should be clear and provide practical guidance to member States so as to enhance their effectiveness. Clarity requires a reader-friendly and up-to-date presentation of the compliance issues and the formulation of actionable recommendations that leave sufficient space for governments in considering the ways and means for achieving compliance. Other measures that can enhance transparency

⁴⁹ UNGA Resolution on the Quadrennial comprehensive policy review of operational activities for development of the United Nations system [A/RES/71/243](#), para. 21(b). It is worth recalling that the repositioning of the UNDS as outlined in UNGA Resolution [A/RES/72/279](#) takes place in the context of the QCPR review.

⁵⁰ This UNDS function is separately but specifically referred to in para. 21(a) of [A/RES/71/243](#).

and hence clarity of the comments include cross-referencing comments by creating hyperlinks in the electronic version of comments by the CEACR and the CAS. In its secretariat role, the Office is pursuing this objective with the supervisory bodies as they continue to review their working methods.

57. Clarity must not come at the expense of details: a more complete and elaborate report allows for a better discussion of cases by the Conference Committee and better guidance for the constituents on measures conducive to the effective application of ratified Conventions. In that context, measures are pursued to make the report more reader friendly and in particular to achieve clarity in the up-to-date presentation of the issues. Recommendations should be sufficiently specific so as to permit monitoring of any effect given to them.
58. The issue of clarity in the recommendations will continue to be monitored by the subcommittee on working methods of the CEACR and reviewed jointly by the CEACR and the Vice-Chairpersons of the CAS during the annual special session of the Committee of Experts. On the occasion of the most recent joint session of the Committee of Experts and the Vice-Chairpersons, the CEACR recognized the need for constantly introducing gradual improvements to produce more user-friendly, precise and concise comments. This was necessary not only in order to give clear guidance to governments but also to facilitate follow-up action and technical assistance by the Office while remaining consistent in its assessment of compliance.⁵¹ The Committee of Experts also attached great importance to the clarity of the criteria for making a distinction between observations and direct requests, in order to ensure the visibility, transparency and coherence of the Committee's work and legal certainty over time in light of the Committee's evolving membership and practices. The Committee was willing to give due consideration to the suggestions made by the two Vice-Chairpersons in future discussions so as to secure adequate tripartite engagement with supervisory comments.⁵²

4.2. Systematized follow-up at national level

59. In their Joint Declaration of 2015, the Employers' and Workers' groups expressed interest in a consistent and transparent follow-up system not only at national level but also at the level of the ILO as a whole. They felt that the work of the supervisory bodies and other ILO engagements needed better coordination at country level through a variety of interventions such as technical assistance, DWCPs, direct contact missions and tripartite meetings.
60. Effect was given to this proposal in the Programme and Budget proposals for 2018–19 and the most significant output of outcome 2. Hence, the Office has started to promote more structured ILO interventions to increase compliance by developing a strategic approach to standards promotion in a number of pilot countries. The aim is to assist countries that have a significant ILO presence and portfolio of standards-related activities with the development of a strategy that promotes standards over a period until 2030 – spanning several DWCP cycles – and covers the full spectrum of standards-related outputs currently found in the programme and budget: ratification, application (in particular giving effect to supervisory comments), responding to the recommendations of the SRM TWG, discharging reporting obligations and capacity building of the social partners to effectively engage in standards-related activity at the national level. Against that background, the Government of Viet Nam has invited the assistance of the Office to develop a roadmap setting ratification and

⁵¹ Report of the CEACR, Report III (Part A), International Labour Conference, 108th Session, 2019, para. 25.

⁵² *ibid.*, para. 27.

application targets to be achieved by 2030. The first concrete outcomes in both areas are expected in 2019.

4.3. Consideration of the potential of article 19, paragraphs 5(e) and 6(d)

- 61.** Article 19, paragraphs 5(e) and 6(d), are key constitutional provisions that respond to the inherent need for the ILO supervisory system, and the obligation of member States, to give effect to the standard-setting decisions of the Conference. These provisions were introduced to fulfil different purposes, including to: promote the ratification of Conventions; encourage countries to achieve the objectives of both Recommendations and Conventions; recognize the efforts made by countries to give effect to the instruments adopted by the Conference, even in the absence of ratification; inform technical assistance that could be instrumental in removing obstacles to the ratification of relevant Conventions; and evaluate standards to inform future standard-setting activities.
- 62.** The request for concrete action arose from the Conference in its 2016 resolution on Advancing Social Justice through Decent Work. The Conference called on the ILO to “(e)nsure that there are appropriate and effective linkages between the recurrent discussions and the outcomes of the Standards Initiative, including exploring options for making better use of article 19, paragraphs 5(e) and 6(d), of the ILO Constitution, without increasing the reporting obligations of member States”.⁵³ This includes the adoption of appropriate modalities to ensure the contribution of General Surveys and the related discussion by the CAS to recurrent discussions.⁵⁴

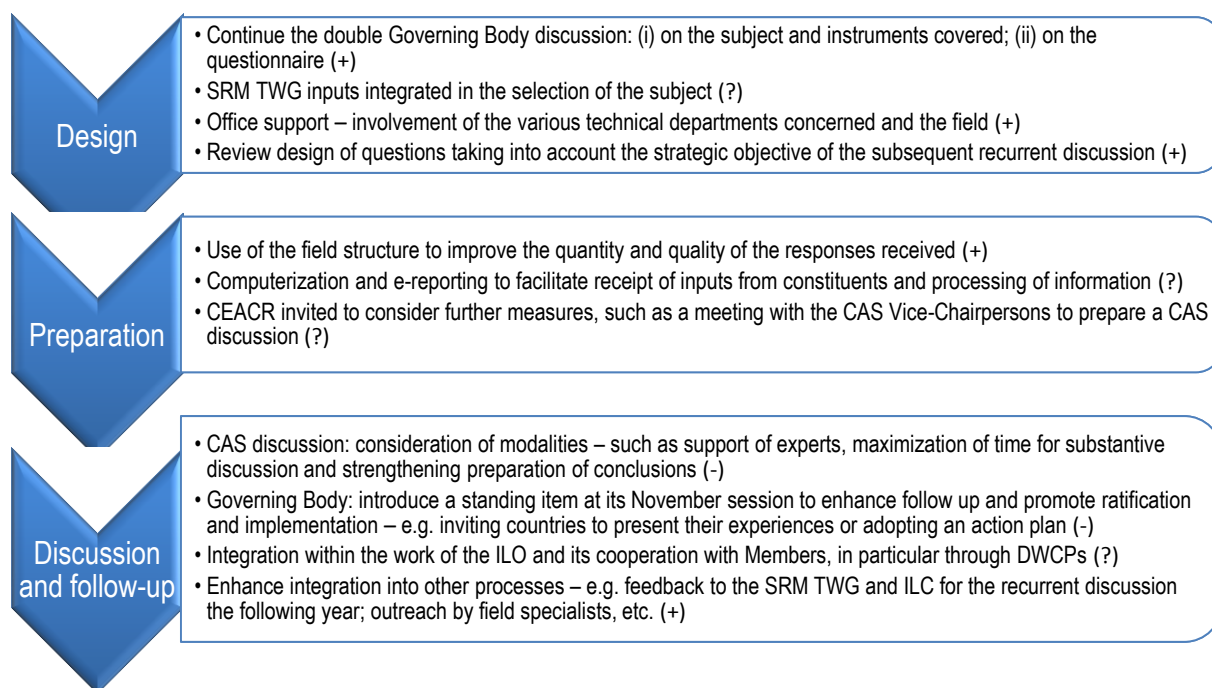
4.3.1. Options for consideration relating to the design, preparation and follow-up of General Surveys

- 63.** Proposals for enhancing the use of article 19 have in the first instance chiefly related to General Surveys, in particular the processes relating to the design, preparation and follow-up of General Surveys. They outline ways of maximizing the value of article 19, paragraphs 5(e) and 6(d), processes and assisting Members to achieve the ILO’s strategic objectives, particularly through the ratification and implementation of standards.
- 64.** Various ideas have been put forward, reflected in the table below. Some are part of the current practice (+), some have not reached a conclusion (-), some have not (yet) been considered or are work in progress (?).

⁵³ Subparagraph 15.1 of the resolution. The follow-up to the Social Justice Declaration emphasizes the need for “the fullest possible use” of all the means of action provided under the Constitution of the ILO to fulfil its mandate. This could include adapting existing modalities of the application of article 19(5)(e) and (6)(d), without increasing the reporting obligations of member States. In practice, the adaptation of these modalities has focused on the arrangements for the General Surveys and their discussion by the CAS to ensure coordination with recurrent discussions.

⁵⁴ Subparagraph 15.2(b) of the resolution.

Proposed options



65. At its November 2018 session, the subcommittee on working methods of the CEACR gave particular consideration to the Governing Body's request for proposals with a view to optimizing the use made of article 19, paragraphs 5(e) and 6(d), of the Constitution, in particular measures to improve the presentation of General Surveys, so as to ensure a user-friendly approach and format that maximizes their value for constituents. Based on the advice of the Committee. The secretariat aims at presenting the General Survey in a revised format by 2020. Already this year, the General Survey is featuring an executive summary highlighting salient points. The Committee also discussed various modalities for the examination of General Surveys taking full advantage of the electronic document management system and other IT enhancements under way. The Committee also had an opportunity to discuss the pilot project for the establishment of electronic baselines which would facilitate reporting by governments and information sharing on compliant practices. The Experts were particularly interested in this project and will continue to follow closely its development.

4.3.2. Other possible uses of article 19

66. In the second instance, the Office could explore other possible uses of article 19. Further guidance is sought on whether the Office should prepare additional proposals to make better use of article 19, paragraphs 5(e) and 6(d), bearing in mind the purposes of these provisions, with a view to their discussion at the October–November 2019 session of the Governing Body.

67. The Office could explore using article 19 to follow up on the action taken on recommendations of the SRM TWG in respect of ratification or denunciation so that a subsequent recurrent discussion might, for example, respond more effectively to member States' needs in respect of the effect to be given to these recommendations through a coordinated ILO action. Taking the example of OSH instruments, this initiative could be scheduled as follows.

Table 5. Example

Year 1	SRM TWG completes review of OSH instruments in initial programme of work
Year 2	Governing Body selects these instruments and SRM recommendations for follow-up under article 19 for all those not having ratified up-to-date OSH instruments
Year 3	Governing Body approves report form, inviting information by February 2019
Year 4	The Office compiles article 19 report with baseline information received with a view to informing the next recurrent discussion on social protection (labour protection)

4.3.3. Annual Review under the Follow-up to the ILO Declaration on Fundamental Principles and Rights at Work

- 68.** The 2017 Conference resolution and conclusions concerning the second recurrent discussion on fundamental principles and rights at work included a call for the annual follow-up to the ILO Declaration on Fundamental Principles and Rights at Work to be more accessible and visible.⁵⁵
- 69.** In 2017, on a pilot basis, member States were given the option of reporting online using an e-questionnaire tool, while the report forms in pdf format were shared at that same time should there be a preference to continue reporting in a hard copy version. The pilot was launched with a view to facilitating reporting for member States, and to enable the compilation of responses received with a view to further analysis.
- 70.** Once again in 2018, the possibility of reporting online was offered to the governments concerned. The online reporting tool also had the necessary features for the circulation of the draft report to the social partners. Fifty-three member States totalling 77 per cent of all responses received have used the online reporting form. This represents a 16 per cent increase from 2017. Further considerations in this regard are set out in document GB.335/INS/4.

Review by the supervisory bodies of their working methods

Conference Committee on the Application of Standards (CAS)

- 71.** Informal tripartite consultations on the working methods of the CAS took place 11 times from June 2006 to 2011. Subsequently, at its 322nd Session (October–November 2014), the Governing Body decided to re-launch informal tripartite consultations to prepare recommendations to the 323rd Session of the Governing Body (March 2015), in the context of decisions taken by the Governing Body concerning the Standards Initiative.⁵⁶ The most recent informal tripartite consultations on the working methods of the CAS were held on 3 November 2018.
- 72.** The informal tripartite consultations continued to prove their usefulness in continuously improving the working methods of the CAS. From 2016 to 2018, informal consultations

⁵⁵ *Provisional Record 11-1, ILC, 106th Session, 2017, para. 4(d).*

⁵⁶ *GB.322/PV, para. 209(3).*

were convened six times. Based on the guidance received from the informal tripartite consultations, the following improvements are being implemented:

- More efficient time management with set time limits for delegates' intervention and list of registered speakers displayed on screens in the room.
 - Document D.1 provides detailed information on the manner in which the final selection of cases is made, although some called for improvements, for example in terms of regional and subregional balance among the cases selected. To increase the visibility of the criteria set out in document D.1, the Office agreed to publish them in a special section on the CAS webpage when the long list of cases is made available.
 - Measures regarding the preparation, adoption and follow-up of conclusions have been in effect since the 107th Session of the Conference (2018): the conclusions should be made visible on a screen while being read by the Chairperson; and a hard copy of the conclusions should also be given to the Government representative concerned. Government representatives concerned have the right to take the floor immediately after the adoption of the conclusions in respect of their individual case, rather than having to wait until the conclusions in respect of all individual cases have been read out and adopted.
 - Time allocated to the general discussions of the CAS is reduced so as to permit additional time for discussion of the General Survey. With regard to the proposal of inviting experts to contribute to the discussion on the ⁵⁷ General Survey, the meeting considered that the necessary expertise to support the General Survey discussion resided with the Office and the Conference, and that recourse to external experts would be appropriate only in exceptional circumstances. The item could, however, be discussed further.
 - Coordinated sustained measures were needed to deal with cases of serious failure by member States to respect their reporting obligations. The introduction of electronic reporting, longer reporting intervals and simplified report forms would be helpful, and it was expected that the work of the SRM TWG would also help ease the reporting burden. The Committee of Experts' decision to institute a procedure for "urgent appeals" in certain cases was important and governments will be informed that the Committee of Experts may proceed to examine the substance of a matter even in the event of continued failure to report. The Office will continue its efforts to support governments, including through provision of technical assistance to the countries concerned.
 - Part II of the CAS report will be produced as a verbatim record. Other parts of the report will also be produced in verbatim format instead of the summary record currently produced, with the outcomes of discussions, conclusions of individual cases and other specific results being placed in Part I of the CAS report and the verbatim discussions in Part II. Internal review has shown that production of a verbatim record would result in significant time and cost savings, which would permit resources to be directed to strengthening aspects of the supervisory system, particularly to providing technical assistance at the country level. Amendments could be made to the verbatim record in the event that there were errors. The issue of the content and structure of Parts I and II remains subject to further consultation and reflection by the same meeting.
73. The next meeting of the informal tripartite consultations on the working methods of the CAS would be held during the 335th Session of the Governing Body (March 2019). It will discuss,

⁵⁷ *Provisional Record 9A(Rev.)*, ILC, 107th Session, para. 31.

among other matters, a proposal to produce all parts of the CAS report as verbatim records; special centenary arrangements to highlight the achievements and impact of the CAS; a proposal to invite governments on the long list of possible individual cases to provide any updated information on application two or three weeks ahead of the Conference; and the issue of participation in informal tripartite consultations on the working methods.

Committee of Experts on the Application of Conventions and Recommendations (CEACR)

74. In order to guide the CEACR in its reflection on continuous improvement of its working methods, a subcommittee on working methods was set up in 2001. In 2018, the subcommittee on working methods met for the 18th time. The subcommittee on working methods focused its discussions on the Governing Body decision on the Standards Initiative adopted in November 2018 and in particular the manner in which it might broaden the very strict criteria for breaking its cycle of review when receiving comments from workers' or employers' organizations under article 23(2), of the ILO Constitution. Further to paragraph 52(iv) above, the Committee of Experts' views are reproduced below for ease of reference:⁵⁸

Observations made by employers' and workers' organizations

94. 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, the record of all observations received from employers' and workers' organizations on the application of ratified Conventions since the last session of the Committee is included as 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.

75. The Committee then distinguished between observations received from employers' and workers' organizations within the year in which the regular government report is due and those received outside a reporting year.

In a reporting year

95. 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, as appropriate, 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

⁵⁸ Report of the CEACR, Report III (Part A), ILC, 108th Session, 2019, paras 94–102.

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.

Outside of a reporting year

98. The Committee recalls that, **in a non-reporting year**, when employers' and workers' organizations send observations which simply repeat comments made in previous years, or refer to matters already raised by the Committee, such comments 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.

99. Where the observations on a **technical Convention** meet the criteria [set out below], the Committee will request the office to issue a notification to Governments that the article 23 observations received will be examined at its subsequent session with or without a response from the government. This would ensure that Governments have sufficient notice while ensuring that the examination of matters of importance are not further delayed.

100. The Committee would thus review the application of a **technical Convention** outside of a reporting year following observations submitted by employers' and workers' organizations having due regard to the following elements:

- the seriousness of the problem and its adverse impact on the application of the Convention;
- the persistence of the problem; and
- the relevance 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.

101. With respect to **any Convention (fundamental, governance or technical)**, recalling its well-established practice, the Committee will examine employers' and workers' observations in a non-reporting year in the year received in the exceptional cases [i.e. 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], even in the absence of a reply from the government concerned.

102. The Committee emphasized that the procedure set out in the paragraphs above aims at giving effect to decisions taken by the Governing Body which have extended the reporting cycle and called 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. The approach above also pays particular attention to the importance of providing due notice to governments, except in exceptional circumstances, and in all cases the Committee will indicate its reasons for breaking the cycle.

Committee on Freedom of Association (CFA)

76. The new members of the Governing Body CFA appointed in June 2017 pursued active and constructive discussions on the Committee's working methods in dedicated sittings in October 2017 and in March and October 2018. The Committee has concluded its reflections on a number of questions it had been examining concerning the effective communication of its procedures and mandate to constituents and the strengthening of its tripartite governance. This can be particularly seen in the continuing work of the CFA subcommittee, which identifies priority cases for examination and proposes the agenda of the next Committee meeting with a view to ensuring relative regional balance and rapid treatment of urgent cases.

77. Besides its work on the annual report and consideration of the progress on the case management system and the completion of the compilation of decisions which is described later in this document, the Committee had further discussions on its working methods, its contribution to the ILO centenary, reflections on trends in the use of its procedure and modalities for the examination of article 24 representations referred to it.
78. *Objective of the annual report.* The annual report is intended to provide useful information on the use of the CFA procedure throughout the year, supported by statistical data and other details with regards to the work undertaken by the CFA, the progress made and the serious and urgent cases examined by the Committee. The first annual report covered the period of 2017 (its March, May–June and October–November 2017 sessions). The statistical information on cases treated in 2017 set the baseline for comparison on the use of this special procedure over future years. The Committee will submit an annual report for 2018 at the Governing Body’s 335th Session (March 2019). The Committee considered that the presentation of this report to the International Labour Conference CAS offered an important opportunity to improve its communication and visibility.
79. *Modernization of case management and internal methods of work of the Office.* The streamlining of procedures and ensuring greater transparency is being pursued within the framework of the Governing Body’s discussion in October–November 2018 on the Standards Initiative (GB.334/INS/5) and the agreement to finance an electronic document and information management system for the supervisory bodies.
80. *Compilation of decisions of the CFA.* Following previous decisions of the Committee and the Governing Body, and recalling the principles of universality, continuity, predictability, fairness and equal treatment, which it must ensure in the area of freedom of association, the Committee completed the compilation in concise form of its decisions in more than 3,200 cases over 65 years. The electronic database of the compilation with simple search features and easy access to the full context of the complaints is now available online and the compilation is also available in hard copy.
81. *Inactive cases.* The Committee has considered the question of cases not resolved for lack of information and the procedures and conditions for considering such cases as closed. The Committee decided that any follow-up cases that have not received information either from the government or from the complainant for the last 18 months (or 18 months from the last examination of the case) will be considered closed. This practice would not be used for serious and urgent cases. Cases concerning countries that have not ratified the freedom of association Conventions will be decided on a case-by-case basis depending upon the nature of the case. Letters will be sent to governments and complainants indicating this decision and the importance of furnishing follow-up information in relation to the Committee’s recommendations.
82. *The ILO Centenary.* The Committee expressed its enthusiasm in contributing to the high-level event on freedom of association and collective bargaining called for in the 2018 ILC resolution concerning the second recurrent discussion on social dialogue and tripartism. The Committee also proposed that the Centenary year be used as an opportunity for conversations at the regional and national levels on the promotion of the principles of freedom of association and collective bargaining as well as on the impact of the special procedure for submitting complaints and its optimum articulation with national mechanisms.
83. *Article 24 representations concerning freedom of association.* Having compared its current practice and procedure with that of ad hoc committees constituted by the Governing Body, the Committee decided that three of its members would be appointed (one from each group) to examine a given representation referred to it. The entire case file will be made available to them and they will be able to meet as many times as considered necessary for the

conclusion of their work. Where other Conventions are also raised in the representation, avenues could be explored for ensuring effective communication between the established ad hoc tripartite Committees where appropriate to ensure coherence in the factual understanding. The report as finalized by the three members would continue to be presented as a separate report to the Governing Body and will be able to be considered along with all other article 24 reports at the end of the Governing Body session.

Draft decision

84. *The Governing Body:*

- (a) *welcomed the progress reported on the implementation of the two components of the Standards Initiative, namely the Standards Review Mechanism (SRM) and the workplan to strengthen the supervisory system, which was the result of consensual tripartite decisions;*
- (b) *with respect to the component concerning the SRM, noted the information provided on the lessons learned and future directions; requested the Standards Review Mechanism of a tripartite working group (SRM TWG) to take its guidance into account in continuing its work and to provide a report for the Governing Body's second review of the functioning of the SRM TWG in March 2020; and, to guarantee the impact of that work, reiterated its call upon the Organization and its tripartite constituents to take appropriate measures to follow up on all its previous recommendations;*
- (c) *having reviewed, against the common principles guiding the strengthening of the supervisory system, the report on progress in implementing the ten proposals of the workplan, welcomed the progress achieved so far and requested the Office to continue the implementation of the workplan which should be updated according to its guidance;*
- (d) *approving the approach taken and the timelines proposed, requested the Office to ensure that action is taken with respect to producing the guide on established practices across the supervisory system, the operation of the article 24 procedure, the streamlining of reporting, information sharing with other organizations, the formulation of clear recommendations of the supervisory bodies, pursuing systematized follow-up at the national level and consideration of the potential of article 19, paragraphs 5(e) and 6(d);*
- (e) *with respect to the proposal for a regular conversation between the supervisory bodies, invited the Chairperson of the Committee on Freedom of Association (CFA) to present its annual report to the Conference Committee on the Application of Standards (CAS) as from 2019;*
- (f) *with respect to the proposal for codification of the article 26 procedure, recalled the decision to consider the steps to be taken after the guide to the supervisory system is available to constituents, and requested the Office to provide it with further information in that regard in March 2020;*

- (g) with respect to the proposal to consider further steps to ensure legal certainty, decided to hold informal consultations in October 2019 and, to facilitate that tripartite exchange of views, requested the Office to prepare a paper on the elements and conditions for the operation of an independent body under article 37(2) and of any other consensus-based options;*
- (h) with respect to the proposal for review by the supervisory procedures of their working methods, invited the CAS, the Committee of Experts on the Application of Conventions and Recommendations (CEACR) and the CFA to continue their regular consideration of their working methods.*

Appendix I

Decision taken by the Governing Body at its 334th Session (October–November 2018) on strengthening the supervisory machinery¹

The Governing Body, based on the proposals set out in documents GB.334/INS/5 and GB.332/INS/5(Rev.) and the further guidance provided during the discussion and the tripartite consultations:

- (1) Approved the following measures concerning the operation of the representations procedure under article 24 of the Constitution:
 - (a) arrangements to allow for optional voluntary conciliation or other measures at the national level, leading to a temporary suspension for a maximum period of six months of the examination of the merits of a representation by the ad hoc committee. The suspension would be subject to the agreement of the complainant as expressed in the complaint form, and the agreement of the government. These arrangements would be reviewed by the Governing Body after a two-year trial period;
 - (b) publication of an information document on the status of pending representations at the March and November sessions of the Governing Body;
 - (c) members of article 24 ad hoc tripartite committees need to receive all information and relevant documents from the Office 15 days in advance of their meetings and members of the Governing Body should receive the final report of article 24 ad hoc tripartite committees three days before they are called to adopt their conclusions;
 - (d) ratification of the Conventions concerned as a condition for membership of Governments in ad hoc committees unless no Government titular or deputy member of the Governing Body has ratified the Conventions concerned;
 - (e) maintaining existing measures and exploring other possible measures to be agreed upon by the Governing Body for the integrity of procedure and to protect ad hoc committee members from undue interference; and
 - (f) reinforced integration of follow-up measures in the recommendations of committees and a regularly updated document on the effect given to these recommendations for the information of the Governing Body, as well as continuing to explore modalities for follow-up action on the recommendations adopted by the Governing Body concerning representations.
- (2) Approved the measures proposed on the streamlining of reporting on ratified Conventions concerning:
 - (a) thematic grouping for reporting purposes under a six-year cycle for the technical Conventions with the understanding that the Committee of Experts further reviews, clarifies and, where appropriate, broadens the criteria for breaking the reporting cycle with respect to technical Conventions; and
 - (b) a new report form for simplified reports (Appendix II of GB.334/INS/5).
- (3) Decided to continue to explore concrete and practical measures to improve the use of article 19, paragraphs 5(e) and 6(d), of the Constitution, including with the purpose of

¹ GB.334/INS/5, para. 21, as amended by the Governing Body.

enhancing the functions of General Surveys and improving the quality of their discussion and follow-up.

- (4) Instructed the CFA to examine representations referred to it according to the procedures set out in the Standing Orders for the examination of article 24 representations, to ensure that representations referred to it be examined according to the modalities set out in the Standing Orders.
- (5) Encouraged the Committee of Experts to pursue the examination of thematically related issues in consolidated comments; and invites it to make proposals on its possible contribution to optimizing the use made of article 19, paragraphs 5(e) and 6(d), of the Constitution, in particular by considering measures to improve the presentation of General Surveys, so as to ensure a user-friendly approach and format that maximizes their value for constituents.
- (6) Invited the CAS to consider, through the informal tripartite consultations on its working methods, measures to enhance its discussion of General Surveys.
- (7) Requested the Office to present at its 335th Session (March 2019) following consultations with the tripartite constituents:
 - (a) concrete proposals to prepare the discussion on actions 1.2 (regular conversation between the supervisory bodies) and 2.3 (consideration of further steps to ensure legal certainty), including, but not limited to, organizing a tripartite exchange of views in the second semester of 2019 on article 37(2) of the Constitution;
 - (b) a report on progress towards the development of a guide on established practices of the supervisory system, bearing in mind the guidance received on action 2.1 (consideration of the codification of the article 26 procedure);
 - (c) further detailed proposals on the use of article 19, paragraphs 5(e) and 6(d), of the Constitution, including in relation to the Annual Review under the Follow-up to the ILO Declaration on Fundamental Principles and Rights at Work;
 - (d) a report on progress towards the development of detailed proposals for electronic accessibility to the supervisory system for constituents (e-reporting, section 2.1 of GB.332/INS/5(Rev.)) bearing in mind the concerns raised by constituents during the discussion;
 - (e) more information on a pilot project for the establishment of baselines for the Promotional Framework for Occupational Safety and Health Convention, 2006 (No. 187) (section 2.2.2.2 of GB.332/INS/5(Rev.)); and
 - (f) a report on progress towards completing the Standards Initiative workplan as revised by the Governing Body in March 2017, including information on progress made with regard to the review and possible further improvements of their working methods by the supervisory bodies in order to strengthen tripartism, coherence, transparency and effectiveness.

Appendix II

Workplan and timetable for Governing Body discussions on the strengthening of the supervisory system

	Governing Body, March 2017	Governing Body, October – November 2017	Governing Body, March 2018	Governing Body, October – November 2018	Governing Body, March 2019
Focus area 1: Relationships between the procedures					
1.1. Guide on established practices across the system	First consideration	Decision that Office develops a guide			Review of implementation of Standards Initiative
1.2. Regular conversation between supervisory bodies	First consideration				Review of implementation of Standards Initiative
Focus area 2: Rules and practices					
2.1. Consider codification of the article 26 procedure		Guidance on possibility of Standing Orders	Guidance on possibility of Standing Orders	Guidance on possibility of Standing Orders	Review of implementation of Standards Initiative
2.2. Consider the operation of the article 24 procedure	Guidance on initial elements	Discussion as per guidance	Discussion as per guidance	Discussion as per guidance	Review of implementation of Standards Initiative
2.3. Consider further steps to ensure legal certainty	Guidance on whether discussion should proceed	Guidance on whether discussion should proceed	Guidance on whether discussion should proceed	Guidance on possible tripartite exchange of views	Review of implementation of Standards Initiative
Focus area 3: Reporting and information					
3.1. Streamline reporting	Examination of different options	Examination of options and decision to computerize case-management	Continuation of examination of options	Continuation of examination of options	Review of implementation of Standards Initiative
3.2. Information-sharing with organizations	Regular action by Office to be continued				Review of implementation of Standards Initiative
Focus area 4: Reach and implementation					
4.1. Clear supervisory body recommendations	Integrated in support provided by Office				Review of implementation of Standards Initiative
4.2. Systematized follow-up at national level	Integrated in support provided by Office				Review of implementation of Standards Initiative
4.3. Consider potential of article 19	Guidance on initial elements	First consideration	Further guidance	Further guidance	Review of implementation of Standards Initiative
Review by the supervisory procedures of their working methods					
Committee of the Application of Standards	Informal tripartite consultation on working methods				
Committee of Experts	Ongoing discussion of working methods				
Committee on Freedom of Association	Ongoing discussion of working methods				