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Legal Issues and International Labour Standards Section

LILS

International Labour Standards and Human Rights Segment

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Procedure for the appointment of members of the Committee of Experts on the Application of Conventions and Recommendations

Purpose of the document

The Governing Body is invited to provide guidance on the procedure for the appointment of members of the Committee of Experts on the Application of Conventions and Recommendations (see the draft decision in paragraph 42).

Relevant strategic objective: All four strategic objectives.

Main relevant outcome: Outcome 2: International labour standards and authoritative and effective supervision.

Policy implications: Strengthen authoritative and effective supervision of international labour standards by further enhancing the transparency of the supervisory system.

Legal implications: None.

Financial implications: A decision to expand the membership of the Committee of Experts and to establish an online application system for candidate experts would have financial implications not yet estimated.

Follow-up action required: Implementation of the Governing Body's decision.

Author unit: International Labour Standards Department.

Related documents: ILO Centenary Declaration for the Future of Work; GB.334/INS/5; GB.334/PV; GB.335/INS/5; GB.335/PV; GB.341/LILS/6; GB.341/PV.

► Contents

	Page
Introduction	5
A. Enhanced transparency of a competitive selection process.....	5
Authority to select experts	5
Timely organization, publicity of upcoming vacancies and preliminary outreach of the selection process	6
Criteria for selection of candidates	7
Selection procedure	7
B. Geographical balance, diversity and inclusiveness	7
C. Duration and renewal of expert mandates	8
D. Practices in selecting experts followed by UN human rights mechanisms	9
Selection and appointment process for United Nations experts (special rapporteurs holding thematic or country mandates) of the Human Rights Council	9
Selection and appointment process for human rights treaty body members	10
E. Possible improvements to the selection process for consideration by the Governing Body	11
Draft decision	13

► Introduction

1. At its 341st Session (March 2021), the Governing Body took note of the information provided by the Office in document [GB.341/LILS/6](#) regarding the procedure for the appointment of members of the Committee of Experts on the Application of Conventions and Recommendations (“the Committee of Experts”) and requested the Office to prepare a document for its 343rd Session (November 2021) taking into account the discussion held.¹
2. Overall, the comments made during the discussion may be summarized under the following four headings:
 - Enhanced transparency of the competitive selection process through advertising upcoming vacancies widely and conducting preliminary outreach, timely organization of the selection process and publicizing of selection criteria;
 - Geographical balance, diversity and inclusiveness in the selection process;
 - Review of the duration and renewal of experts’ mandates;
 - Practices followed in other UN human rights bodies.

► A. Enhanced transparency of a competitive selection process

Authority to select experts

3. There was substantial discussion at the 341st Session of the Governing Body of the selection process for the Committee of Experts, which elicited a range of views. The Employers’ group considered it necessary to review the process for appointing members of the Committee of Experts to ensure that it met the needs of tripartite governance in the supervision of international labour standards. The group also noted that the ILO Centenary Declaration on the Future of Work outlined that the Organization gained its strength from involving its tripartite constituents and from them having ownership of the Organization. Moreover, the Employers’ group considered it problematic that the identification of potential new experts was currently left to the Office, which supported the experts in preparing their assessments and therefore had considerable influence over them. From a governance and transparency standpoint, the Employers’ group commented that it did not seem appropriate for those involved in shaping the work of the experts to also be the ones to identify them.²
4. The Workers’ group was of the view that the Governing Body should not have any role in the selection process and should not appoint an ad hoc tripartite committee of Governing Body members. The task of selecting experts needed to remain with the Office to ensure that the selection criteria remained those outlined in the Office document and that experts were selected based on their technical expertise, impartiality and independence.

¹ [GB.341/PV](#), para. 787.

² [GB.341/PV](#), paras 762 and 777.

Politicization of the selection, which would inevitably result from pressure exerted by groups on the members of a tripartite committee, would undermine the independence, impartiality and authority of the experts.

5. The group of Latin American and Caribbean countries (GRULAC) was of the view that the selection process should be modernized to increase transparency, accountability, effectiveness and efficiency with a view to ensuring the timely appointment of experts. The group called for the fulfilment of the commitment in the Centenary Declaration to ensure the full, equal and democratic participation of constituents in the ILO's governance.
6. The Africa group stated that the transparency and inclusivity of the selection process should be increased and that it should take account of the geographical diversity of the subregions of Africa. The group also called for a review of some of the current selection criteria to improve clarity.
7. Other members (from the group of industrialized market economy countries (IMEC) and the European Union (EU)) underscored the importance of experts being recognized as impartial, technically competent and independent in order to ensure that the Committee of Experts continues to enjoy the highest levels of authority and credibility within the ILO's supervisory system. Both groups supported the existing transparent selection process, which ensured that experts were chosen on the basis of their qualifications alone. They were also in favour of a wider and more transparent outreach process when vacancies arose and emphasized the importance of filling vacancies in a timely manner.
8. All Governing Body members acknowledged that independence was the fundamental attribute of the Committee of Experts and that the method for selecting experts should continue to preserve the Committee's independence or even strengthen it.
9. The division of responsibilities between the Governing Body and the Director-General has been consolidated through a constant practice since the first appointments whereby the Governing Body has consistently proceeded with the appointment of experts upon the recommendation of its Officers based on proposals of the Director-General. This procedure has always been considered appropriate to ensure that members are chosen on the grounds of their expert qualifications, their independence and their impartiality. Since the beginning – with a degree of evolution to address improvements such as the Committee of Experts' gender and geographical composition – the Director-General has conducted the process of selecting qualified experts and presented proposals to the Officers of the Governing Body for their recommendation to the Governing Body of a single candidate. The Governing Body retained final authority over appointments. Since 2009, the Governing Body has made appointments on the recommendation of its Officers on the basis of an expanded list of four to five candidates selected and proposed by the Director-General.
10. In this context, the Governing Body could consider the following proposals aimed at further strengthening the good governance and transparency of the current selection process.

Timely organization, publicity of upcoming vacancies and preliminary outreach of the selection process

11. Several Governing Body members referred to the need to widely publicize the call for expressions of interest in order to ensure the broadest possible pool of qualified applicants. The Africa group proposed that to increase transparency and inclusivity,

vacancies should be communicated to the relevant bureaus of the regions as well as ILO regional offices. IMEC and the EU were in favour of a wider and more transparent outreach process that is conducted in a more active and inclusive manner. The Government representative of India suggested that the selection process should involve a public outreach programme with the publication of a call for expression of interest in reputable international magazines and newspapers, and online.

12. Certain members (from GRULAC and IMEC) also referred to the need to make sure that the selection process is carried out in a timely manner. GRULAC proposed that the selection process should begin six months before the end of an outgoing member's mandate. The EU underscored the importance of filling the recent and upcoming vacancies in a timely manner to enable the work of the Committee of Experts to continue unimpeded.
13. Taking this discussion into consideration, the Governing Body could consider requesting the Office to publish vacancies nine months before the end of an expert's term and to widely advertise the call for applications through various means, including on the ILO's global and regional web pages.

Criteria for selection of candidates

14. Taking into consideration the Governing Body's views on clarifying and fine-tuning the criteria for the selection of experts, and in line with the constant practice followed since the establishment of the Committee of Experts, the Office could prepare proposals, in consultation with the Officers of the Governing Body, for the consideration of the Governing Body at its 344th Session (March 2022).
15. In terms of the relevant experience required to serve on the Committee, it would appear appropriate that the selection process should seek to maintain the current balance between judicial and academic experience and practitioner experience of experts who possess intimate knowledge of labour conditions and of the application of labour legislation.

Selection procedure

16. Taking into consideration the Governing Body's discussion at its 341st Session, the Director-General would continue to submit the applications of up to five experts for the consideration of the Officers of the Governing Body.

► B. Geographical balance, diversity and inclusiveness

17. At the 341st Session of the Governing Body, GRULAC made a proposal to take into account, among the selection criteria, the need to ensure proper balance among countries within the geographical region concerned. ³ The Africa group noted that the geographical diversity aspect was problematic for the subregions of Africa in view of the continent's geographical spread. ⁴

³ GB.341/PV, para. 759.

⁴ GB.341/PV, para. 766.

18. While the experts are not representatives of Member States and instead serve in their personal capacity, geographical diversity is important so that the Committee has first-hand experience of different legal, economic and social systems. Although the essential criterion for the selection of experts was originally their expertise alone, the Conference also noted the importance of representing in the Committee's composition various industrial and legal systems and levels of development among Member States.⁵
19. Accordingly, special care has been and will continue to be taken in the selection process to maintain geographical diversity. When a vacancy arises in a particular region, it is filled through the selection of a candidate from the same region. Geographical balance is indeed well maintained in the latest full composition of the Committee of Experts, which in 2020 had five experts from Africa (Cameroon, Madagascar, Morocco, Sierra Leone and South Africa), five from the Americas (Argentina, Brazil, Panama, Trinidad and Tobago, and the United States of America), four from Asia (Australia, India, Japan and Thailand), one from the Arab States (Lebanon) and five from Europe (France, Germany, Greece, the Russian Federation and the United Kingdom of Great Britain and Northern Ireland).
20. Over time, other diversity considerations have also been introduced. For example, gender parity is consistently sought in the selection process, which has led to the Committee's current gender balance.
21. Additional forms of diversity and inclusion could be taken into consideration, such as in relation to the selection of persons with disabilities.

► C. Duration and renewal of expert mandates

22. The Governing Body also discussed the duration of the experts' mandates and the maximum number of renewals. Three proposals were canvassed:
 - appointment for a six-year term, renewable once (12 years maximum),
 - appointment for a three-year term, renewable twice (9 years maximum), or
 - appointment for a three-year term, renewable four times (15 years maximum, which is the current practice).
23. The Governing Body has never discussed limiting the renewal of experts' mandates. In 2002, the Committee of Experts examined the matter and adopted an internal guideline discouraging experts from reapplying after having completed a maximum of 15 years on the Committee (in other words, if their mandate had already been renewed by the Governing Body four times). The Committee of Experts took this decision independently, under its authority to determine its own internal rules and working methods.
24. Longer mandates – such as a five-year mandate that is renewable twice – would have the advantage of enabling the Governing Body to manage renewals at broader intervals, while also allowing newly appointed experts to build more experience and make a greater substantive contribution to the Committee's work before their mandate is up for renewal.

⁵ ILO, *Record of Proceedings*, International Labour Conference, Eighth Session, 1926, p. 401. The Conference confirmed the view of the Office that the members of the Committee of Experts should “possess intimate knowledge of labour conditions and of the application of labour legislation. They should be persons of independent standing, and they should be so chosen as to represent as far as possible the varying degrees of industrial development and the variations of industrial method to be found among the States Members of the Organisation.”

► D. Practices in selecting experts followed by UN human rights mechanisms

25. This section summarizes the current selection and appointment processes followed by UN human rights mechanisms. When examining the practices of the UN human rights mechanisms and considering their suitability for the Committee of Experts, the different nature of the organizations they serve and the different functions they have should be borne in mind.

Selection and appointment process for United Nations experts (special rapporteurs holding thematic or country mandates) of the Human Rights Council

26. The United Nations (UN) Human Rights Council oversees a range of “special procedures”. In essence, members are human rights experts with mandates to report and advise on human rights from a thematic or country-specific perspective. They are unpaid and are elected for a three-year mandate that can be renewed for another three years.
27. Mandate holders are appointed through a competitive and transparent process. Criteria applied in the course of nominating, selecting and appointing mandate holders include transparency in stipulating general criteria considered to be of paramount importance: ⁶
- experience in the field of the mandate;
 - independence;
 - impartiality;
 - personal integrity;
 - objectivity.
28. The selection process is required to give due consideration to gender balance and equitable geographic representation, as well as to an appropriate representation of different legal systems.
29. The selection process clearly stipulates objective requirements for eligible candidates, including with respect to qualifications, relevant expertise, established competence and flexibility/readiness and availability of time to perform effectively the functions of the mandate. ⁷
30. The application procedure includes:
- a call for applications published on the UN Human Rights Council website; ⁸
 - statistics of current special procedure mandate holders (by geographic region and gender) and information on former mandate holders; ⁹

⁶ Human Rights Council resolution 5/1 of 18 June 2007.

⁷ Human Rights Council decision 6/102 of 27 September 2007.

⁸ See, as an example, the [Appointments](#) at the 48th session of the Human Rights Council (13 September to 8 October 2021).

⁹ See the webpage of the relevant [Consultative Group](#) advising the President of the Human Rights Council on the selection of candidates.

- a requirement to submit an application form containing personal data and a motivation letter.¹⁰

Selection and appointment process for human rights treaty body members

31. The human rights treaty bodies are committees of experts that monitor the implementation of the core international human rights treaties.¹¹
32. The treaties set out various criteria to guide States parties in the nomination and election of treaty body members.¹² Further guidance is provided by the UN General Assembly¹³ and the Addis Ababa guidelines on the independence and impartiality of members of the human rights treaty bodies.¹⁴ The Office of the High Commissioner for Human Rights (OHCHR) (which is the secretariat of the UN human rights treaty bodies) provides an information note on the current situation with respect to the composition of the treaty body.¹⁵
33. Although there are differences among the various treaties, criteria in the process of nominating, selecting and appointing mandate holders include:
 - high moral standing;
 - recognized competence in human rights or professional experience in the field covered by the treaty expertise;
 - independence;
 - serving in their personal capacity;
 - acknowledged impartiality.
34. Selection processes generally require that due consideration be given to equitable geographical distribution, the representation of the different cultures and the principal legal systems, balanced gender representation and the participation of experts with disabilities in the membership of the treaty bodies.
35. Selection requirements include avoiding any conflict of interest, including by making the appointment subject to the principle of non-accumulation of concurrent human rights functions.
36. The secretariat (the OHCHR) prepares the template for the curricula vitae of candidate experts. These CVs are posted on the treaty body's website, together with all other relevant documentation, such as the rules of procedure and information on the current and past composition of the treaty-monitoring body.

¹⁰ [Human Rights Council resolution 16/21](#) of 12 April 2011.

¹¹ Currently, [nine human rights treaty bodies](#) have been created under each of the nine core international human rights treaties.

¹² See, for an example, the [29th Meeting of States parties](#) (New York, 24 June 2021): Election of the members of the Committee on the Elimination of Racial Discrimination to replace those whose terms are due to expire on 19 January 2022.

¹³ See UN General Assembly resolution 68/268 on [Strengthening and enhancing the effective functioning of the human rights treaty body system](#).

¹⁴ UN General Assembly, [Report of the Chairs of the human rights treaty bodies on their twenty-fourth meeting](#), Annex I, [A/67/222](#), 2 August 2012.

¹⁵ See the example of the most recent elections of the [Committee on the Elimination of Racial Discrimination](#).

37. In respect of the information provided above, it may be relevant to note that the Human Rights Council is a peer review body composed of government representatives,¹⁶ and in this sense, it exhibits a degree of similarity with the Conference Committee on the Application of Standards. The Human Rights Council has the discretion to appoint independent experts to carry out special mandates. These special procedures are very different in nature to the Committee of Experts because they constitute ad hoc and temporary procedures established at the discretion of the Human Rights Council, which may decide to discontinue them or replace them by other mandates at any time if it so wishes. Moreover, and very importantly, these special mandates are typically focused on fact-finding rather than the supervision of the application of ratified treaties.¹⁷
38. More generally, it may be relevant to note that while the members of the Human Rights Council – along with all other members of UN treaty-monitoring bodies – are always appointed through election procedures,¹⁸ none of the ILO supervisory bodies have their members appointed through elections, including the Conference Committee on the Application of Standards, the Committee of Experts on the Application of Conventions and Recommendations, the Committee on Freedom of Association, ad hoc tripartite committees undertaking the examination of article 24 representations, and Commissions of Inquiry established in accordance with the complaint procedure set out in articles 26–33 of the ILO Constitution.

► E. Possible improvements to the selection process for consideration by the Governing Body

39. Based on the above analysis, the following proposals are submitted for the consideration of the Governing Body:
- (a) When a position on the Committee of Experts becomes vacant, that is, when an expert reaches the end of his or her mandate or resigns, and in principle nine months before the next session of the Committee of Experts, the Director-General issues a public call for expression of interest inviting candidates from the region of the outgoing expert to submit their candidature. The call encourages geographical and gender diversity among candidates from the relevant region of the vacancy as well as inclusion of persons with disabilities. The call for expression of interest is published on the ILO's global and regional public websites and includes information about the selection criteria and procedure.
 - (b) The Director-General sets a three-month deadline for applications to be filed via an online platform. Candidates will be invited to file their applications exclusively in their personal capacity and to refrain from seeking or accepting any form of endorsement by the ILO's tripartite constituents.
 - (c) The Director-General organizes the selection process.

¹⁶ See UNHRC, [Resolution 5/1 on Institution-building of the United Nations Human Rights Council](#).

¹⁷ See UNHRC, [Decision 6/102 on Follow-up to Human Rights Council resolution 5/1](#).

¹⁸ See OHCHR, [Handbook for Human Rights Treaty Body Members](#), December 2015, pp. 11–27.

- (d) The Director-General presents a detailed report to the Officers of the Governing Body, which contains full details of the profiles of the candidates and the selection process and proposes up to five candidates for appointment.
 - (e) The Officers of the Governing Body consider the Director-General's proposals and present a report to the Governing Body with a recommendation for appointment of one expert per vacancy. Experts continue to be appointed in their personal capacity as independent and impartial individuals having the required technical competence, professional standing and moral integrity.
 - (f) Appointments are made by the Governing Body for a five-year term that is renewable twice. Renewals of mandates are proposed to the Governing Body except when a member is failing to deliver on his or her duties in a timely manner or to attend the Committee sessions.
- 40.** With regard to possible transitional measures, as indicated by the Director-General at the Governing Body's 341st Session, while improvements are being established for the future selections and appointments of experts, there is an urgent need to appoint three new experts to replace two experts whose mandate on the Committee of Experts expired at the end of 2020 and one expert who resigned in April 2021 upon his appointment as a UN special mandate holder.¹⁹ Allowing for these three appointments to take place on the basis of the current selection process is essential to ensure continuity in the work of the Committee of Experts. Furthermore, if the Governing Body accepts the proposal to extend the experts' mandates from three to five years so that they are renewable twice instead of four times, transitional measures will be necessary for the current mandates, which should continue to have a duration of three years and be renewable four times.
- 41.** Taking into consideration the workload of the Committee's mandate, the Governing Body may also wish to consider increasing the number of experts and/or extending the duration of their annual session, which could be organized in two parts: a period of two weeks for remote preparatory examination of files and a period of two weeks for collective deliberation in Geneva preceded by a three-day pre-session working group for the examination of the General Survey. Indeed, while the number of ratifications of the ILO Conventions has increased exponentially in recent decades, the membership of the Committee of Experts has remained the same since 1983.²⁰ Looking at the practice of other UN bodies, it is worth noting that the annual session of each one of the eight UN treaty bodies, supervising a single treaty, lasts eight to ten weeks, with additional pre-session working group meetings for an additional two to three weeks per year.²¹ In comparison, the Committee of Experts fulfils its mandate at an annual session which lasts two and a half weeks, plus a three-day pre-session working group for the examination of the General Survey. In the light of the above, the Governing Body may wish to consider improvements in the number of positions on the Committee of Experts and/or the extension of the duration of its annual session as indicated above.

¹⁹ The mandate of Justice Abdul Koroma (Sierra Leone) and Judge Bentes Correa (Brazil) reached its maximum term of 15 years in December 2020 and Professor Vitit Muntarbhorn (Thailand) submitted his resignation in April 2021 upon accepting a UN Special Rapporteur mandate.

²⁰ See GB.222/16/6, paras 4 and 5.

²¹ See *Handbook for Human Rights Treaty Body Members*, p. 42.

► Draft decision

42. The Governing Body requested the Director-General:

- (1) To apply the following modifications to the procedure for appointment of members of the Committee of Experts on the Application of Conventions and Recommendations:**
 - (a) Vacancies in the membership of the Committee of Experts are given wide publicity through a call for expression of interest on the ILO's global and regional public website nine months before the start of the session of the Committee of Experts that will have a known vacancy.**
 - (b) The selection process is carried out by the Director-General.**
 - (c) The selection process does not entertain any endorsement by ILO constituents, interventions or public statements concerning the candidates or the selection process.**
 - (d) The Director-General makes proposals to the Officers of the Governing Body with a view to further clarifying and publicizing existing criteria for the selection of experts, while preserving the essential criteria of independence, impartiality and technical expertise.**
 - (e) The Director-General submits a detailed report on the selection process to the Officers of the Governing Body proposing up to five candidates for consideration for appointment to the Committee of Experts.**
 - (f) The Officers present a report to the Governing Body proposing the appointment of one expert per vacancy.**
 - (g) Experts are appointed for a five-year term, which is renewable twice.**
 - (h) The Director-General proposes the renewal of mandates to the Governing Body, except when a member is failing to deliver on his or her duties in a timely manner or to attend the Committee sessions.**
 - (i) The Governing Body proceeds with the appointment of three experts and the renewal of the mandates of four experts in 2022 on the basis of current procedures to ensure the uninterrupted functioning of the Committee of Experts.**
- (2) To prepare proposals for its 344th Session (March 2022), based on its guidance, for increasing the number of members of the Committee of Experts and for extending the duration of the Committee's annual session to ensure sufficient time is allocated to discharge the workload of the Committee of Experts.**