

The International Labour Organisation and Employment Rights

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Dublin, 21 November 2009

Outline of presentation

- Part 1: Overview of ILO standard setting activities
 - ◆ ILS & Human Rights
 - ◆ Supervisory mechanisms
- Part 2: Impact of ILS on State accountability

Part 1: International labour standards (ILS)

CONVENTIONS

- International treaties
- When ratified are legally binding
- If not ratified, are sources of inspiration for domestic law
- 188 Conventions (as of June 2009)
- Ireland has ratified **71 Conventions** (58 in force)

RECOMMENDATIONS

- Not open to ratification
- Not legally binding
- Provide general or technical guidelines for national action
- 199 Recommendations (as of June 2009)

Subjects covered by ILS

- Freedom of association, collective bargaining and industrial relations
- Forced labour
- Elimination of child labour and protection of children and young persons
- Equality of opportunity and treatment
- Tripartite consultation
- Labour administration and inspection
- Employment policy and promotion
- Vocational guidance and training
- Employment security
- Social policy
- Wages
- Working time
- Occupational safety and health
- Social security
- Maternity protection
- Migrant workers
- Seafarers
- Fishers
- Dockworkers
- Indigenous and tribal peoples
- Specific categories of workers

ILS and Human rights: ILO fundamental principles

- Labour is not a commodity
- Freedom of expression and of association are essential to sustained progress
- Poverty anywhere constitutes a danger to prosperity everywhere
- All human beings, irrespective of race, creed or sex, have the right to pursue both their material well being and their spiritual development in conditions of freedom and dignity, of economic security and equal opportunity

Declaration of Philadelphia, 1944

ILO fundamental Conventions

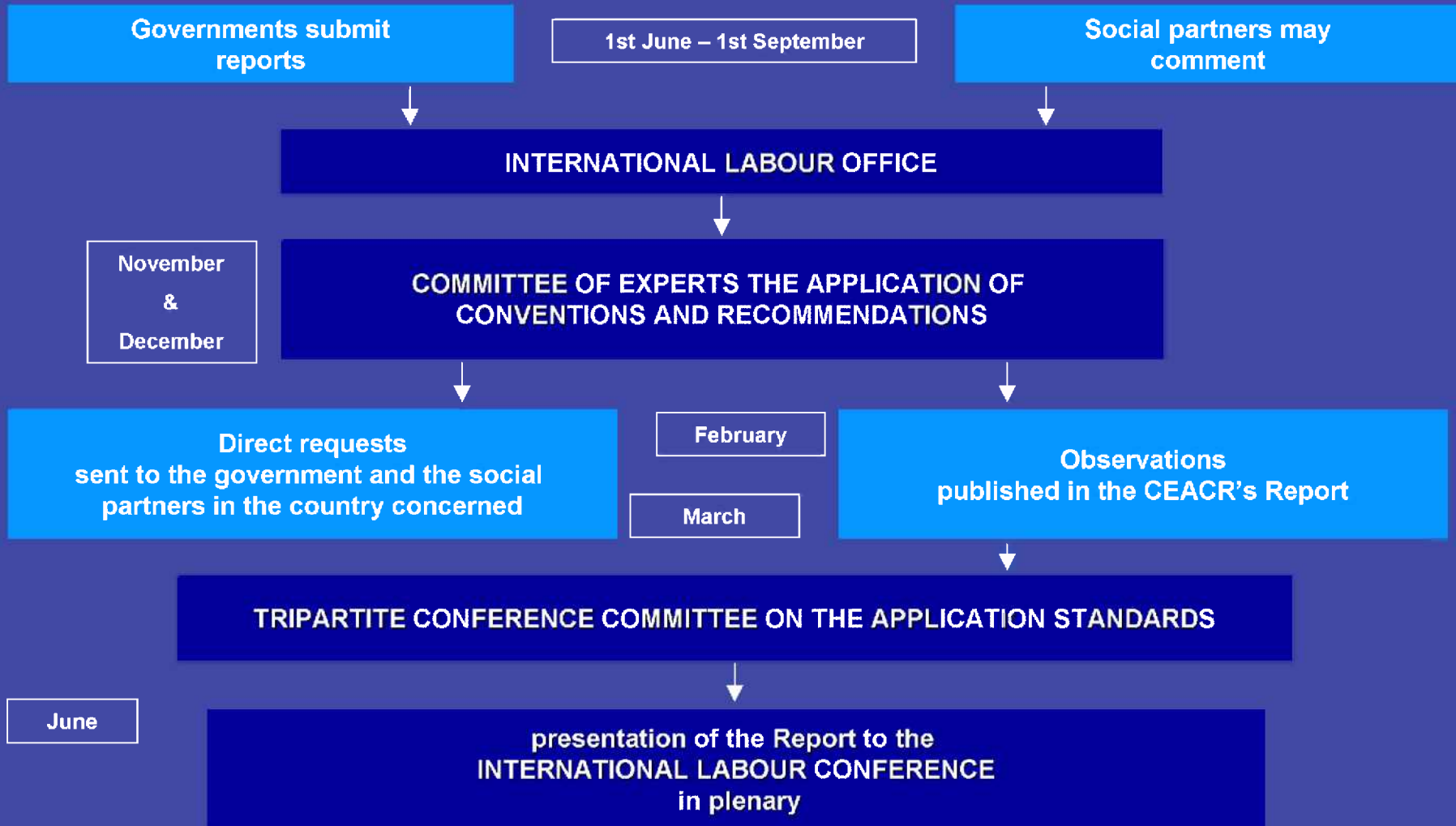
- C87 Freedom of Association and Protection of the Right to Organise Convention, 1948
- C98 Right to Organise and Collective Bargaining Convention, 1949
- C29 Forced Labour Convention, 1930
- C105 Abolition of Forced Labour Convention, 1957
- C138 Minimum Age Convention, 1973
- C182 Worst Forms of Child Labour Convention, 1999
- C100 Equal Remuneration Convention, 1951
- C111 Discrimination (Employment and Occupation) Convention, 1958

GOAL: UNIVERSAL RATIFICATION BY 2015

➤ **1998 Declaration on fundamental principles and rights at work:**

Even if they have not ratified the fundamental Conventions, all ILO member States have an **obligation to respect, promote and realize fundamental rights and principles at work**

ILS regular supervisory process



Comments by the CEACR

OBSERVATIONS

- Serious and long-standing cases of failure to comply with ratified Conventions
- Cases of progress
- Published in the CEACR's Report – accessible on-line to all public

DIRECT REQUESTS

- Directly sent to governments (not published in the annual Report of the CEACR)
- Can also highlight failure to comply with ratified Conventions that do not justify an observation yet

Special systems of supervision

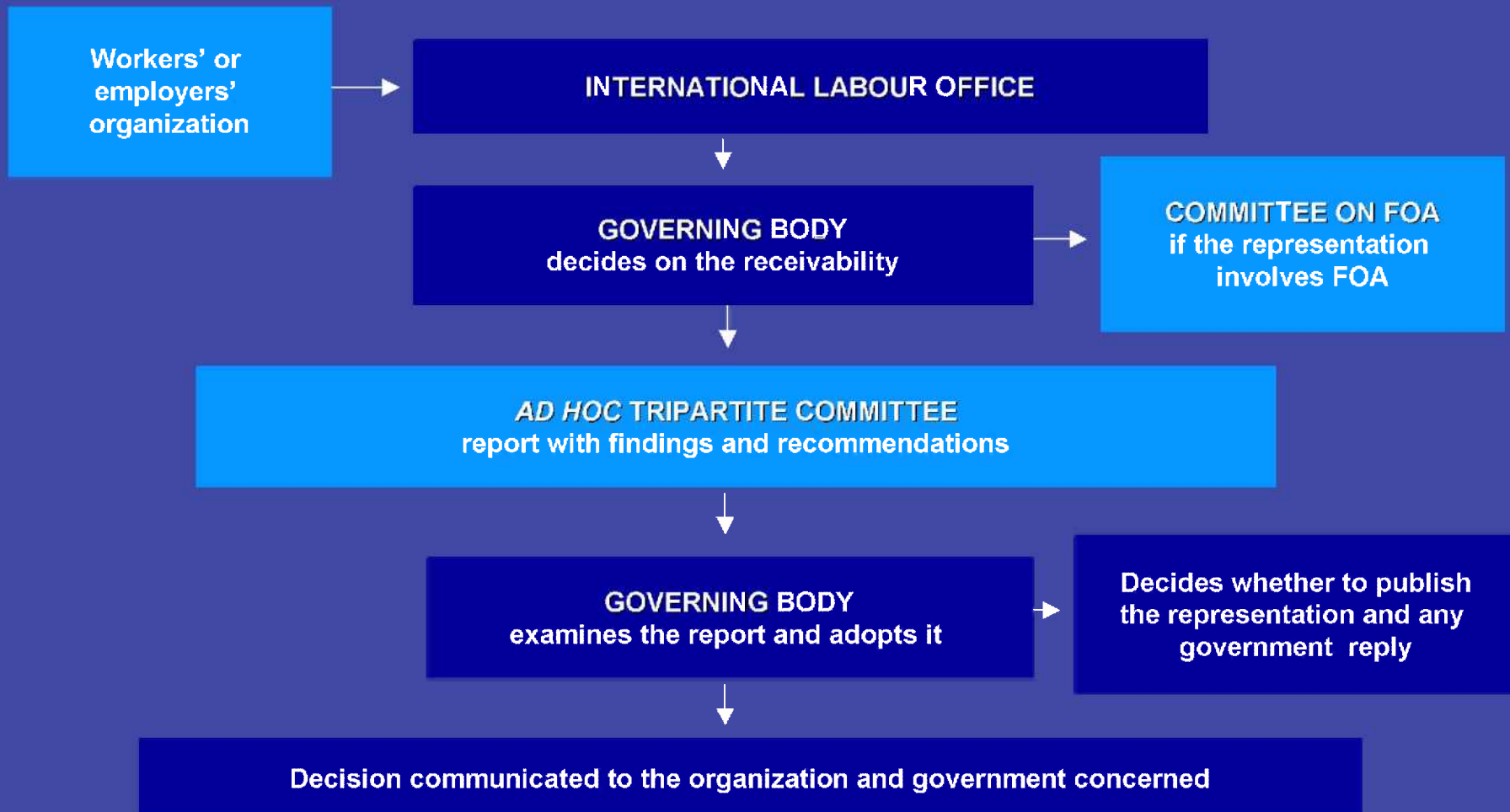
REPRESENTATIONS (ART. 24) & COMPLAINTS (ART. 26)

 Require that the Convention concerned is ratified

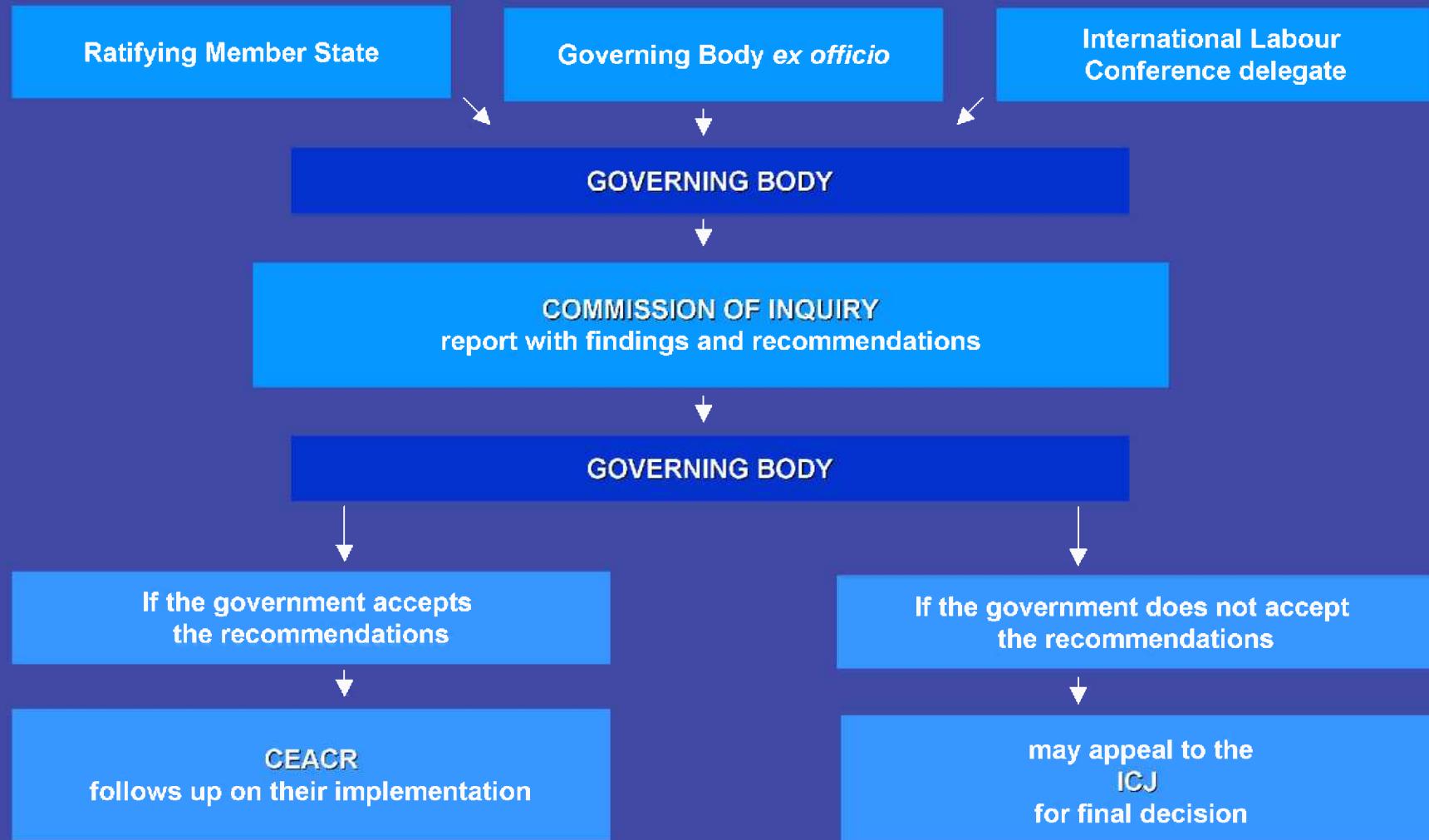
FREEDOM OF ASSOCIATION PROCEDURES

 Even if the Convention concerned has not been ratified

The representation procedure (Art. 24)



The complaint procedure (Art. 26)



Committee on Freedom of Association CFA

FUNCTIONS

- Ensures and promotes freedom of association among workers and employers
- Examines complaints against governments for violations of freedom of association Conventions and principles

CHARACTERISTICS

- Decisions taken unanimously
- Legislative and factual examination even without ratification or consent of the government concerned
- Not subject to the prior exhaustion of national remedies (dialogue with the national judge)
- Not bound by national judicial decisions

Complaints before the CFA

- May emanate from governments, workers' or employers' organizations:
 - national, having direct interest in the matter
 - international, having consultative status with the ILO
 - international, where allegations relate to matters directly affecting affiliated organizations
- May emanate from exiled or dissolved organizations

The FOA procedure



Part 2: Impact on State accountability

- Legal value of ILO supervisory work
- No enforcement mechanisms
- ILO Technical assistance portfolio

Legal value of the ILO supervisory bodies work and findings

- Are not a definitive interpretation of ILO Conventions
(Art. 37.1 of the ILO Constitution)
- However, are more than moral recommendations or doctrinal points of view
 - Until the International Court of Justice has not pronounced itself, the views of the ILO supervisory bodies on ILO Conventions shall be considered as valid
 - The principle of good faith in applying ratified treaties (Art. 26 of the Vienna Convention) requires to take the comments of the supervisory bodies into consideration

No Enforcement Mechanisms

- A machinery with no teeth but with cases of progress
- Discrete preventive action
- A growing portfolio of technical assistance activities to promote compliance with International Labour Standards

For more information

- Visit ILO website: www.ilo.org
- ILO databases:
 - ILOLEX @ <http://www.ilo.org/ilolex/english/index.htm>
 - EPLex @ <http://www.ilo.org/dyn/terminate/termmain.home>