

**FOR DECISION**

FIFTH ITEM ON THE AGENDA

Composition of the Governing Body

1. The resolution adopted at the 11th African Regional Meeting of the International Labour Organization (Addis Ababa, 24–27 April 2007), on Africa’s representation on the Governing Body of the International Labour Office,¹ was considered first during the 299th Session (June 2007) of the Governing Body and subsequently during the 300th Session (November 2007) of the Governing Body, both in the Committee on Legal Issues and International Labour Standards (LILS) and in the plenary.²
2. The document presented by the Office to the LILS Committee (to which the matter was referred in accordance with a decision taken by the Officers of the Governing Body) aimed to facilitate the discussion by illustrating the criteria used over time for geographical and country representation within the Governing Body. It noted that according to article 7, paragraph 2, of the Constitution of the International Labour Organization, there are both elective and non-elective seats on the Governing Body. In this regard, the document mentioned in particular the change from eight to ten, in 1954, of the number of seats reserved to the Members of chief industrial importance, the adoption of the 1986 Instrument of Amendment to the ILO Constitution, which inter alia aimed to double the number of seats in the Governing Body and to abolish the concept of non-elective seats, and the adoption in 1995 of an amendment to the Standing Orders of the Conference – reflecting the current composition of the Governing Body – to permit election of deputy members and a regional distribution of regular and deputy seats that reflected as far as possible the 1986 Instrument of Amendment to the ILO Constitution.
3. The resolution and the discussion, both in the LILS Committee and in the Governing Body, indicated the dissatisfaction of the African Members with regard to the current structure of the Government seats on the Governing Body of the International Labour Office. In particular the discussion made it clear that the African Members represented at the Governing Body considered discriminatory the fact that no African Member is among the current ten Members of chief industrial importance.
4. Under the resolution, “urgent action” was requested by the Governing Body and, where appropriate, by the International Labour Conference. Following the discussions mentioned above, and in accordance with the Governing Body’s decision, the Office prepared this new document, which aims to propose possible options.

¹ GB.300/6.

² GB.300/LILS/4 and GB. 300/13.

5. Three options can be envisaged in order to change the current situation. A further possibility could be a new campaign for the ratification of the 1986 Instrument of Amendment to the ILO Constitution, which was specifically addressed during the 300th Session of the Governing Body. The options are as follows:
- **Option 1 – a decision of the Governing Body to review the composition of the ten “Members of chief industrial importance”**, in accordance with article 7, paragraph 3, of the ILO Constitution, which would not change the existing legal framework, but might – depending on the criteria used – produce a different composition among the Government members of the Governing Body;³
 - **Option 2 – propose a new amendment** of the ILO Constitution concerning the said article 7, for the Governing Body and then the Conference to consider, under article 36 of the ILO Constitution.⁴ Such an amendment could address either the number of non-elective seats or their geographical distribution, or both. The new amendment would need to specify its effects on the 1986 Instrument of Amendment;
 - **Option 3 – draw the Governments’ attention to the possibilities they have to distribute seats within their regions** to reflect contemporary priorities and needs and to ensure, if appropriate, continuing representation of certain Governments or of

³ Article 7, paragraph 3, of the ILO Constitution stipulates:

“The Governing Body shall as occasion requires determine which are the Members of the Organization of chief industrial importance and shall make rules to ensure that all questions relating to the selection of the Members of chief industrial importance are considered by an impartial committee before being decided by the Governing Body. Any appeal made by a Member from the declaration of the Governing Body as to which are the Members of chief industrial importance shall be decided by the Conference, but an appeal to the Conference shall not suspend the application of the declaration until such time as the Conference decides the appeal.”

The Standing Orders of the Governing Body on the selection of Members of chief industrial importance are as follows:

“1.3.1. The Governing Body shall not decide any question relating to the selection of the Members of chief industrial importance unless the question of modification of the list of such Members has been included in the agenda of the session as a specific item and the Governing Body has before it a report by its Officers on the question to be decided.

1.3.2. The Officers of the Governing Body shall, before recommending to the Governing Body any modification of the list of Members of chief industrial importance, take the advice of a committee appointed by the Governing Body and including experts qualified to advise on the most appropriate criteria of industrial importance and on the relative industrial importance of States assessed on the basis of such criteria.”

The consideration concerning the composition of such committees of experts “has always been to secure the highest level of statistical authority while not including in the Committee anyone from a State which may prove to be either just above or just below the line of demarcation between a State of chief industrial importance and other countries”. See Minutes of the 172nd Session of the Governing Body (May–June 1968), p. 37 and GB.300/LILS/4, paras 12–23.

⁴ Article 36 of the ILO Constitution states:

“Amendments to this Constitution which are adopted by the Conference by a majority of two-thirds of the votes cast by the delegates present shall take effect when ratified or accepted by two-thirds of the Members of the Organization including five of the ten Members which are represented on the Governing Body as Members of chief industrial importance in accordance with the provisions of paragraph 3 of article 7 of this Constitution.”

certain subregions in the Governing Body. Regions may use regional protocols in order to regulate their respective representation at the Governing Body. The conclusion and possible amendment of these regional protocols are a matter for regional groups and do not require a decision of the Governing Body as such.⁵ This option reflects the principle of the autonomy of the groups. Concerns of a particular region can be addressed by the relevant regional Government group.

6. Apart from the three options above, the Governing Body could decide to **launch a new campaign for the 1986 Instrument of Amendment** to enter into force. This Instrument of Amendment has been ratified by 89 Members so far (with the most recent ratification dating from 12 November 1997), including two of the ten Members of “chief industrial importance”, India and Italy. The list of ratifications is annexed to this document. The Amendment will enter into force if it obtains:

- three more ratifications/acceptances out of eight other Members of chief industrial importance (Brazil, China, France, Germany, Japan, Russia, United Kingdom, United States); and
- a total of 32 additional ratifications (assuming 181 member States); the Members of chief industrial importance count towards this total.

7. The 1986 Instrument of Amendment addresses the issue of the composition of the Governing Body, and other issues as well.⁶ Under this Amendment, the concept of non-elective seats reserved to a number of Members of “chief industrial importance” would be abolished. Furthermore, the Amendment would affect both the number of seats allocated under the Constitution and the manner of their allocation. Some of the changes would be similar to the effect of the modifications to the Standing Orders of the Conference introduced in 1995 by amendments adopted by the 82nd Session of the International Labour Conference.⁷ If the 1986 Amendment entered into force, the arrangements

⁵ During the long process leading to the adoption of the 1986 Instrument of Amendment, regional and, as far as Europe was concerned, subregional protocols were considered, like all the other elements of the Amendment, a part of the “package deal” conditioning its adoption. See International Labour Conference, 69th Session (1983), *Provisional Record No. 2, Report of the 21st Meeting of the Working Party on Structure*, p. 13, paras 5, 6 and 7, and *Summary and Final Conclusions of the Reports of the Working Party on Structure*, p. 14, para. 8. The latter mentions the conclusion of a protocol among the States of Western Europe on 11 February 1983 (subject to the ratification of the three-quarters of the relevant member States; Appendix III to the Report of the Working Party on its 20th Meeting, *Provisional Record No. 2*, p. 11), in the context of the previously concluded intra-regional agreement “between the States of Western Europe and the socialist States of Eastern Europe,” as well as the finalization of texts by the States of Eastern Europe and Africa, to be submitted to the respective Ministers of Labour for approval. See also International Labour Conference, 69th Session (1983), *Provisional Record No. 38, Report of the Working Party on Structure*, and *Conclusions of the Committee on Structure*, p. 1–19, in particular paragraphs 4 and 5 of the conclusions and Appendices III (Protocol of the Asia and Pacific Region on the Government Slate for the Restructured Governing Body of the ILO), IV (Arrangement on the Distribution of Seats Allocated to the Socialist States of Eastern Europe in the Governing Body) and V (Basis for the Drafting of a draft Protocol for the American Region for the Distribution of Seats Allocated to them in the Governing Body). The conclusion of protocols is mandatory under the 1986 Instrument of Amendment, but they could not be concluded before its adoption. See International Labour Conference, 72nd Session (1986), *Provisional Record No. 3*.

⁶ More details on this Instrument of Amendment can be found on the web site of the Office of the Legal Adviser: <http://www.ilo.org/public/english/bureau/leg/amend/faq1986.htm>.

⁷ Amendment to the Standing Orders of the Conference adopted by the International Labour Conference at its 82nd Session (1995). See GB.300/LILS/4, para. 6.

concluded in 1995 would no longer be valid, unless steps were taken to preserve them in a manner compatible with that Amendment. Under it, the Governing Body would thus be comprised of 112 seats. Of these, 56 seats would be for persons representing governments and 28 each for persons representing employers and workers, respectively.

8. *The Governing Body may wish to decide, in light of the discussion, on the way forward on this issue.*

Geneva, 4 March 2008.

Point for decision: Paragraph 8.

Appendix

Instrument for the amendment of the Constitution of the International Labour Organisation, 1986 (not in force)¹

Ratification/acceptance as at 15 January 2008 (by alphabetical order)

Member State	Measure	Date received
1. Algeria	Ratification	24 October 1988
2. Angola	Acceptance	7 June 1988
3. Argentina	Ratification	14 October 1991
4. Austria	Ratification	13 June 1989
5. Bahrain	Ratification	29 April 1987
6. Bangladesh	Ratification	26 May 1987
7. Barbados	Ratification	8 May 1987
8. Belarus	Acceptance	1 June 1989
9. Belgium	Acceptance	16 March 1988
10. Benin	Acceptance	16 December 1986
11. Botswana	Ratification	7 July 1987
12. Burkina Faso	Ratification	30 November 1992
13. Burundi	Ratification	9 October 1987
14. Cameroon	Ratification	12 February 1988
15. Chad	Ratification	4 October 1990
16. Chile	Ratification	28 September 1993
17. Colombia	Ratification	20 December 1993
18. Comoros	Ratification	13 June 1990
19. Congo	Ratification	8 March 1989
20. Costa Rica	Ratification	19 December 1986
21. Côte d'Ivoire	Ratification	14 August 1989
22. Cuba	Ratification	31 August 1992
23. Cyprus	Ratification	10 August 1989
24. Denmark	Ratification	19 May 1987
25. Dem. Rep. of the Congo	Ratification	14 June 1989
26. Ecuador	Ratification	13 October 1995
27. Egypt	Ratification	27 June 1988
28. Equatorial Guinea	Ratification	14 May 1987
29. Ethiopia	Ratification	29 January 1991
30. Finland	Acceptance	2 June 1987
31. Gabon	Acceptance	23 January 1989
32. Ghana	Ratification	17 June 1988
33. Grenada	Ratification	6 January 1987
34. Guatemala	Ratification	20 May 1994
35. Guinea	Ratification	4 May 1988

¹ Requires ratification or acceptance by two-thirds of ILO member States (121 of 181 as of 15 January 2008), including five of the ten States of chief industrial importance (noted by “***”).

Member State	Measure	Date received
36. Guinea-Bissau	Ratification	18 April 1989
37. Hungary	Ratification	13 October 1988
38. Iceland	Ratification	28 July 1987
39. India*	Ratification	22 September 1988
40. Indonesia	Ratification	26 September 1989
41. Iraq	Ratification	24 September 1987
42. Italy*	Ratification	10 April 1989
43. Jordan	Ratification	21 January 1987
44. Kenya	Ratification	29 May 1987
45. Kuwait	Ratification	8 May 1987
46. Lesotho	Ratification	9 June 1988
47. Libyan Arab Jamahiriya	Acceptance	22 November 1995
48. Luxembourg	Ratification	3 May 1991
49. Madagascar	Ratification	15 March 1989
50. Malawi	Acceptance	16 February 1987
51. Malaysia	Acceptance	3 February 1988
52. Mali	Ratification	19 April 1988
53. Malta	Acceptance	9 February 1988
54. Mauritius	Ratification	18 June 1991
55. Mexico	Acceptance	2 February 1988
56. Mongolia	Acceptance	12 March 1991
57. Mozambique	Ratification	31 May 1988
58. Namibia	Ratification	12 November 1997
59. Netherlands	Acceptance	12 October 1989
60. New Zealand	Ratification	16 March 1988
61. Niger	Ratification	13 July 1988
62. Nigeria	Acceptance	10 April 1987
63. Norway	Ratification	12 August 1987
64. Pakistan	Ratification	10 July 1987
65. Poland	Ratification	11 March 1992
66. Romania	Ratification	14 May 1990
67. Rwanda	Ratification	3 June 1988
68. San Marino	Ratification	16 March 1988
69. Saudi Arabia	Ratification	16 June 1988
70. Senegal	Ratification	8 March 1988
71. Sierra Leone	Ratification	9 June 1989
72. Sri Lanka	Acceptance	8 April 1987
73. Sudan	Ratification	6 June 1990
74. Suriname	Ratification	9 June 1992
75. Swaziland	Ratification	9 December 1988
76. Sweden	Ratification	2 September 1987
77. Switzerland	Ratification	8 September 1987
78. Tanzania, United Republic of	Ratification	26 November 1990
79. Thailand	Ratification	31 May 1991
80. Togo	Ratification	8 June 1988
81. Trinidad and Tobago	Ratification	30 April 1987
82. Tunisia	Ratification	23 February 1989
83. Turkey	Ratification	26 September 1989
84. Uganda	Ratification	13 December 1990
85. Ukraine	Acceptance	12 June 1989

Member State	Measure	Date received
86. United Arab Emirates	Ratification	3 June 1988
87. Yugoslavia**	Ratification	9 January 1990
88. Zambia	Ratification	25 April 1988
89. Zimbabwe	Ratification	28 March 1989

* States of chief industrial importance.

** The Office has requested all States which were formerly part of the Socialist Federative Republic of Yugoslavia (SFRY) to clarify their position in relation to the ratification of the Instrument of Amendment by the SFRY. Serbia and Croatia recently announced their intention to confirm this ratification.
