

Report II

**Information  
concerning the Programme  
and Budget for 2008–09  
and other financial  
and administrative questions**

Second item on the agenda: Programme and budget proposals  
and other financial questions

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ISBN 978-92-2-119482-8  
ISSN 0074-6681

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*First edition 2008*

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## Preface

1. This report comprises, in addition to material submitted for information, a number of items requiring action by the Conference. Any other items which may arise after the publication of this report and which also call for action by the Conference will be submitted to the participants through the *Provisional Record*.
2. The items requiring action are:
  - (a) Financial Report and Audited Financial Statements for 2006–07, which is published in a separate document available to Conference participants;
  - (b) Treatment of the net premium earned;
  - (c) Assessment of the contributions of new member States; and
  - (d) Statute of the Administrative Tribunal of the International Labour Organization.
3. Details of these items are set out in the following pages of this report.
4. Information concerning programme implementation in 2006–07 is contained in the Report of the Director-General, under item I(a) of the Conference agenda.



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## **Financial and administrative questions**

### **I. Financial Report and Audited Financial Statements for 2006–07**

1. In accordance with articles 28 and 29 of the Financial Regulations, the International Labour Conference will be called upon to adopt the Financial Report and Audited Financial Statements for 2006–07 after their examination by the Governing Body. The Financial Report and Audited Financial Statements comprise the Director-General's financial report and audited financial statements covering the regular budget, the Working Capital Fund, and the special funds and extra-budgetary accounts administered by the Organization, including the accounts of the International Institute for Labour Studies, the accounts for the United Nations Development Programme and the various other technical cooperation accounts, including trust fund accounts.
2. The report and the statements for 2006–07, together with the Auditor's report, will be communicated to Members as a separate document. The Governing Body's recommendation as to the adoption of the Director-General's Report and the audited statements will be communicated to the Conference in a separate document to the Finance Committee of Government Representatives.

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## II. Treatment of the net premium earned

1. At its 301st Session (March 2008), the Programme, Financial and Administrative Committee of the Governing Body considered a paper <sup>1</sup> on the treatment of the net premium earned during the 2006–07 biennium, amounting to 32,270,415 Swiss francs. The Committee's discussion of the paper was recorded in its first report to the Governing Body, an extract of which is reproduced as Annex 2.
2. The Governing Body, on the recommendation of its Programme, Financial and Administrative Committee, decided to propose to the Conference at its 97th Session, that in derogation of article 11.5 of the Financial Regulations, the 2006–07 net premium earned of 32,270,415 Swiss francs be credited to the Building and Accommodation Fund to finance partially the refurbishment of the headquarters building. It also decided to propose to the Conference that in order to ensure an equitable contribution by all member States to the costs of renovating the headquarters building, the one half of the net premium earned during 2006–07 amounting to 16,135,207 Swiss francs, that would have been distributed to member States through the Incentive Fund, be recognized as a payment made in advance by each member State for their respective share of any future assessments that may be made upon them for the purposes of renovating the headquarters building. The Governing Body proposes to the Conference that it adopt a resolution in the following terms:

The General Conference of the International Labour Organization,

Noting that the operation of the Swiss franc assessment system has resulted in a net premium earned of 32,270,415 Swiss francs in the 2006–07 biennium,

Decides, in derogation of article 11.5 of the Financial Regulations, to transfer the full amount of the net premium earned amounting to 32,270,415 Swiss francs to the Building and Accommodation Fund, and that the one-half share of the net premium earned during 2006–07, amounting to 16,135,207 Swiss francs, that would have been distributed to member States through the Incentive Fund, be recognized as a payment made in advance by each member State for their respective share of any future assessments that may be made upon them for the purposes of renovating the headquarters building.

<sup>1</sup> GB.301/PFA/1/2, reproduced as Annex 1 to this report.



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### **III. Assessment of the contributions of new member States**

1. On 3 July 2007, the Marshall Islands, which had joined the United Nations on 17 September 1991, became a Member of the ILO. At its 301st Session (March 2008), the Governing Body decided, on the recommendation of the Government members of the Programme, Financial and Administrative Committee (see Annex 3 to this report), to propose to the International Labour Conference at its 97th Session (June 2008) that, in accordance with the established practice of harmonizing the rates of assessment of ILO member States with their rates of assessment in the United Nations, the contribution of the Marshall Islands to the ILO budget for the period of its membership in the Organization during 2007 and for 2008–09 be based on an annual assessment rate of 0.001 per cent.
2. It will be for the Finance Committee of Government Representatives to consider this proposal put forward by the Governing Body and to make appropriate proposals to the Conference.

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## IV. Statute of the Administrative Tribunal of the International Labour Organization

1. At its 301st Session (March 2008), the Programme, Financial and Administrative Committee of the Governing Body considered a proposed amendment to the Statute of the Administrative Tribunal of the International Labour Organization (see Annex 4 to this report). The Committee's discussion of the proposal was recorded in its second report to the Governing Body, an extract of which is reproduced as Annex 5 to the present report.
2. The Governing Body, on the recommendation of the Programme, Financial and Administrative Committee, decided to propose to the International Labour Conference at its 97th Session (June 2008) that it approve a modified draft resolution concerning amendment to article V of the Statute of the Administrative Tribunal of the International Labour Organization.
3. The Governing Body proposed that:

The International Labour Conference adopt a resolution in the following terms:

The General Conference of the International Labour Organization,

Aware of the value of clarifying, in article V of the Statute of the Administrative Tribunal of the International Labour Organization ("Statute"), that the Tribunal is competent to decide whether to hold an oral hearing,

*Noting* that the Governing Body of the International Labour Organization has approved the text of a draft amendment to article V of the Statute;

*Adopts* the amendment to article V of the Statute of the Administrative Tribunal of the International Labour Organization, as follows:

Insert the following sentence at the beginning of article V: "The Tribunal, at its discretion, may decide or decline to hold oral proceedings, including upon request of a party."

4. It will be for the Finance Committee of Government Representatives to consider the proposals put forward by the Governing Body and to make appropriate proposals to the Conference.

## Annex 1



INTERNATIONAL LABOUR OFFICE

Governing Body

GB.301/PFA/1/2  
301st Session

Geneva, March 2008

Programme, Financial and Administrative Committee

**PFA**

**FOR DECISION**

FIRST ITEM ON THE AGENDA

### **Programme and Budget for 2006–07**

#### **Treatment of the net premium earned**

1. This paper proposes a derogation from the Financial Regulations to enable an amount of 32,270,415 Swiss francs to be transferred to the Building and Accommodation Fund as an indirect contribution by member States towards the cost of refurbishing the ILO headquarters building.
2. In June 1989, the International Labour Conference decided to introduce a system of Swiss franc assessments combined with the forward purchasing of the biennial dollar requirements to avoid the disruptive effects on the implementation of the Organization's approved programme and budget and unforeseeable and major increases in member States' assessed contributions.<sup>1</sup> The Conference also decided that the "net premium" earned from forward purchasing of the dollar requirements would be distributed in the ratio of one half to member States and one half to the incentive scheme for early payment of member States' contributions.<sup>2</sup> The net premium earned consists of the difference between the spot rate at the date of entering into the forward purchase contracts and the actual exchange rate paid due to the interest rate differentials between the US dollar and Swiss franc after allowing for any gains or losses from the operation of the Swiss franc assessment system.<sup>3</sup>
3. Since its introduction for the 1990–91 biennium, net premiums available for distribution to member States have been as follows:

<sup>1</sup> Resolution concerning the long-term strategy on budget exchange rates, adopted by the 76th Session (June 1989) of the International Labour Conference.

<sup>2</sup> Financial Regulations, article 11.5.

<sup>3</sup> Financial Regulations, article 11.6.

Biennia	Amount (Swiss francs)
1990–91	10 704 334
1992–93	1 858 140
1994–95	5 464 400
1996–97	1 783 818
1998–99	22 823 367
2000–01	12 830 034
2002–03	645 993
2004–05	4 257 665

The amount of the net premium for the current biennium, subject to completion of the biennial audit, is 32,270,415 Swiss francs. Should the amount of the net premium change during the final stages of the biennial close, amendments would be made to any decisions taken by the Governing Body related to the current paper.

4. Given the significant financing required for the refurbishment of the headquarters building, it would be possible for member States to agree to forego their share (50 per cent) of the net premium earned during 2006–07 and agree to its transfer to the Building and Accommodation Fund. Member States could similarly agree to transfer to the Building and Accommodation Fund the 50 per cent of the net premium earned that would otherwise be transferred to the Incentive Fund. These funds would be immediately available for the headquarters refurbishment without any additional assessment on member States. This would be an important part of the total financing plan and represent a contribution, albeit indirect, by member States.
5. Such a decision would require a derogation of article 11.5 of the Financial Regulations by the International Labour Conference and would apply only in respect of the net premium earned in 2006–07.
6. *The Committee may wish to recommend that the Governing Body propose to the 97th Session (June 2008) of the International Labour Conference that, in derogation of article 11.5 of the Financial Regulations, the 2006–07 net premium earned of 32,270,415 Swiss francs be credited to the Building and Accommodation Fund to finance partially the refurbishment of the headquarters building, and that it adopt a resolution in the following terms:*

**The General Conference of the International Labour Organization,**

*Noting* that the operation of the Swiss franc assessment system has resulted in a net premium earned of 32,270,415 Swiss francs in the 2006–07 biennium,

*Decides*, in derogation of article 11.5 of the Financial Regulations, to transfer the full amount of the net premium earned amounting to 32,270,415 Swiss francs to the Building and Accommodation Fund.

Geneva, 21 February 2008.

*Point for decision:* Paragraph 6.

## Annex 2



INTERNATIONAL LABOUR OFFICE

Governing Body

GB.301/10/1(Rev.)  
301st Session

Geneva, March 2008

(Extract)

TENTH ITEM ON THE AGENDA

### **Reports of the Programme, Financial and Administrative Committee**

#### **First report: Financial questions**

...

#### **Programme and Budget for 2006–07** (First item on the agenda)

...

#### **(b) Treatment of the net premium earned**

10. Mr Blondel, speaking on behalf of the Workers' group, welcomed the Office's initiative to propose transferring to the Building and Accommodation Fund the sum of approximately 32 million Swiss francs resulting from the forward purchasing of the dollar requirements for the Organization's budget, in other words the "net premium" for 2006–07. The level of acceptance for that initiative would be a measure of the intentions of the members of the Governing Body with regard to the dual cost entailed by the Organization's next strategic framework and the start of the renovation of headquarters, which was now essential. If funding could not be found for it, a portion of the funds allocated to the strategic framework would have to be sacrificed regularly. He thanked in advance the governments that were prepared to accept the point for decision.
11. Mr Barde, speaking on behalf of the Employers' group, said that the renovation of headquarters was a priority for the Employers, since there was such significant deterioration. Any profit and budget surplus should be reallocated to finance that building work. However, the decision to reallocate the net premium was above all a decision for governments. He said that he would like the entire sum to be transferred to the Building and Accommodation Fund in order to avoid drastic future cuts in the activities budget. He therefore recommended to governments that the point for decision be adopted.

12. The representative of the Government of the Russian Federation pointed out that, as the figures in the paper were preliminary and that official figures would only be received once the accounts had been signed by the External Auditor, it was too early to decide on how to deal with the surplus. He appreciated however that the Office had supplied information and plans for the future. He stressed that his Government did not support changes to the ILO Financial Rules and Regulations. He asked the Office to prepare and distribute a table on the breakdown of how the US\$32 million net premium would be shared among member States and in the same table the US\$18 million from the Special Programme Account. He requested a transparent plan to be submitted for the renovation of the building, prepared by experts and reviewed by an oversight committee.
13. The representative of the Government of South Africa, speaking on behalf of the Africa group, supported the point for decision emphasizing the importance of a conducive working environment.
14. The representative of the Government of Australia, speaking on behalf of Australia, Switzerland, the Czech Republic and Korea, supported the proposal in paragraph 6 of the document. These five countries noted that, as early payers of contributions, they would benefit from the distribution of the net premium earned under the Financial Regulations. However, they deemed it appropriate and financially responsible to derogate from the Financial Regulations and, on an exceptional basis, proposed that the entire net premium earned should be applied to the headquarters building refurbishment.
15. The representative of the Government of Mexico noted the conclusions of the study on the renovation of the headquarters building, to the effect that some of the technical installations, equipment and material had reached the end of their useful life or needed to be replaced for security reasons or to save energy. For the security of the ILO staff and of participants in ILO meetings, his delegation therefore supported the point for decision.
16. The representative of the Government of Canada stated that, according to Canadian government policy and financial regulations, any surplus should be returned to member States as a credit. This was also its position in 2002. The ILO Financial Regulations were amended in 2003 so that these surplus funds could be transferred to a Special Programme Account. While this amendment was not supported by the Canadian Government, it was not disputing that these surplus funds were those of the ILO to be used in accordance with the decision of the Governing Body. He stressed that both the surplus and the net premium should be credited against next year's assessment. He stated that his Government was supportive of the renovation of the headquarters building but it should be addressed through the regular budget process and not depend on a surplus. He emphasized that it would be bad policy and a precedent if this new practice went ahead. He suggested that it was a matter for each member State to which money was owed from the net premium to decide whether to forgo the payment. Should a decision be made in future to have a special levy for the building renovations, then Canada would insist that these resources not refunded now be credited against such an assessment. He stressed that Canada did not support the point for decision.
17. The representative of the Government of Germany did not support the proposal and agreed with the Government of the Russian Federation that the final amount of the surplus was still unknown. He asked whether the funds required for renovation could not be obtained from other sources. He indicated that the entire amount of the net premium should not be used for renovation as the countries that had paid their contributions in advance should not be penalized.
18. The representative of the Government of Japan said that it was necessary that the net premium be transferred to the Building and Accommodation Fund for the renovation of the building. However, the incentive scheme for early payment of contributions should be

respected. Taking into consideration the amount available for the incentive fund from the net premium in the past several biennia, he suggested that 80 per cent of the net premium be transferred to the Building and Accommodation Fund and 20 per cent to the incentive fund.

19. The representative of the Government of Kenya supported the view of the spokesperson for the Africa group, to transfer the net premium to the Building and Accommodation Fund. As a member of the Building Subcommittee and representative of the Africa group in that committee, he stressed the urgent need to begin renovation so as to avoid further escalation of costs.
20. The representative of the Government of the United States stressed that any surpluses and remainders should be returned to member States per the financial regulations and did not support the point for decision.
21. The representative of the Government of India indicated that there was consensus that renovation of the headquarters building was needed so that the Office could function better. The Financial Regulations indicated, however, that the net premium be returned to member States. He emphasized that India was a prompt payer and would benefit. However, there was a need to be flexible on the Financial Regulations and his Government endorsed the proposal contained in the document.
22. The representative of the Government of France agreed that, on an exceptional basis, 50 per cent of the net premium be used for the Building and Accommodation Fund but not 100 per cent as this would penalize those member States who paid on time and would remove the incentive for member States to pay early. He suggested a special fund be set up for refurbishment of the building in order to differentiate from standard maintenance.
23. The representative of the Government of Nigeria supported the views expressed by South Africa. Nigeria commended the Office for its efficient management, which had led to the net premium earned of 32,270,415 Swiss francs. The Nigerian delegation was in favour of the proposal to transfer the full amount of the net premium earned to the Building and Accommodation Fund, in view of the magnitude of the funds needed to refurbish the headquarters building. The action would not result in additional assessments on member States, nor would it in any way hamper the implementation of other priority activities planned for the 2008–09 biennium. This initial funding would allow the work to commence, and should be completed later by other sources of funding.
24. The representative of the Government of the United Kingdom, speaking on behalf of the Netherlands, France, Germany, Hungary, Finland, Italy, and also Austria, Belgium, Denmark, Sweden and Luxembourg, thanked the Office for the prudent financial management which had resulted in the net premium earned of more than 32 million Swiss francs, and supported forgoing the member States' 50 per cent share of the net premium earned and its transfer to the Building and Accommodation Fund. The refurbishment of the headquarters building was the single most important project facing the ILO, and it was reasonable for member States to make a contribution to reduce the financing gap for the renovations. However, the United Kingdom and the associated governments were not in favour of transferring the 50 per cent share to the Building and Accommodation Fund which would normally go to the incentive fund. The representative stated that the incentive fund served an important function in encouraging member States to pay their contributions as early as possible and that timely payments were important to the financial stability and functioning of the Office. Any derogation from this arrangement would set an unfortunate precedent, and could lead member States to pay their contributions later in future years. It would also put a disproportionate burden on countries that had shown their financial commitment to the ILO instead of rewarding them. She proposed an amended point for decision as follows:

The Governing Body proposes to the 97th Session (June 2008) of the International Labour Conference that, in derogation of article 11.5 of the Financial Regulations, the one-half share of the 2006–07 net premium earned of 16,135,207 Swiss francs, that would otherwise be distributed in accordance with the provisions of article 11.7 of the Financial Regulations, be credited to the Building and Accommodation Fund to finance partially the refurbishment of the headquarters building, and that it adopt a resolution in the following terms:

The General Conference of the International Labour Organization,

*Noting* that the operation of the Swiss franc assessment system has resulted in a net premium earned of 32,270,415 Swiss francs in the 2006–07 biennium,

*Decides*, in derogation of article 11.5 of the Financial Regulations, to transfer the one-half share of the net premium earned amounting to 16,135,207 Swiss francs that would otherwise be distributed in accordance with the provisions of article 11.7 of the Financial Regulations, to the Building and Accommodation Fund.

25. The representative of the Government of the Netherlands agreed with the statement made by the representative of the United Kingdom and with the remarks of the representative of Canada to ensure that no disproportionate burden should result from retention of resources in the incentive fund. A master plan for the building renovation must be established before further decisions were made.
26. The representative of the Government of China supported the point for decision. He expressed his concerns about the additional funds that would ultimately be required for the building renovations.
27. The representative of the Government of Brazil agreed with the proposal, and noted that his delegation had supported this matter from the beginning.
28. Mr Blondel, speaking on behalf of the Workers' group, said that he wanted to dispel any confusion that might have resulted from his reference to respect for decent work. The renovation of the building was essential. It was no longer a matter of choice, given that the building no longer conformed to current safety standards in Geneva. The building work was comparable to a new build, in terms of scope and cost, at almost 200 million Swiss francs. He also recalled that the ILO had not yet paid back the debt of 70 million Swiss francs resulting from the initial construction of the building. It was therefore appropriate to take financial measures, even exceptional ones.
29. In that regard, the calculation would not be the same for the net premium earned and the 2001–02 budget surplus, as the net premium provided an opportunity that would not present itself again and which should be seized. He asked governments to resist the temptation to use the occasion for a settling of accounts between those who paid their contribution regularly and those who did not. He insisted that the derogation from the Financial Regulations was exceptional, and thanked in advance all the governments that supported it.
30. The representative of the Government of Chile supported the statement of Brazil, and was in favour of the proposal.
31. The Treasurer and Financial Comptroller reported that the External Auditors had specifically reviewed the figures provided in the papers and considered that they were reasonable and sound. He added that a table showing individual member States' share of the net premium, for both the surplus and incentive fund components, would be made available. He confirmed that the total estimated cost of the building renovations was 181 million Swiss francs, and that a separate sub-account of the Building and Accommodation Fund would be used to account for the renovation resources.



32. The Director-General noted that serious consideration had to be given to all the options. Each funding option outlined in the paper presented to the Building Subcommittee had significant implications. He emphasized the importance of demonstrating strong commitment by the Governing Body to the renovation project. This would strengthen the ILO's position in negotiating other financing options. The Director-General also highlighted that the financial consequences of only receiving 50 per cent of the net premium would be that these funds inevitably would have to be sourced elsewhere. For example, a commercial loan of some 16 million Swiss francs for a term of 30 years at an interest rate of 4 per cent per annum would cost the Organization 26 million Swiss francs.
33. He emphasized the importance of the decisions that were before the Committee and the need to reflect carefully on the future financial implications for the Organization. The Director-General suggested that time was needed to reflect on the implications and given the significance of the matter, it would be important to find a solution that was widely accepted.
34. The Chairperson agreed to suspend discussion of the item until the next sitting of the Committee.
35. Following consultations, an amended point for decision, addressing the concerns raised by certain member States, was discussed by the Committee.
36. The representative of the Government of the United States indicated that her Government did not support the point for decision.
37. The representative of the Government of France put forward an amendment to subparagraph (b) of the amended point for decision proposing the inclusion of the corresponding interest in the respective shares of any future special assessments related to the headquarters renovation project.
38. The representative of the Government of Australia sought clarification from the Office on the administrative and transaction costs associated with implementing such a proposal.
39. The Treasurer replied that less than 200,000 Swiss francs would be earned per annum on these funds. Administering this proposal would require close monitoring of receipts of contributions from member States, expenditure from the BAF and the apportionment of interest earned.
40. Both the Worker and Employer spokespersons as well as the Government representative of the Islamic Republic of Iran expressed concern about the administrative complexity and potential costs associated with the amendment proposed by the Government representative of France.
41. As there was no support for this amendment, the representative of the Government of France agreed to withdraw his proposal.
42. ***The Committee recommends that the Governing Body propose to the 97th Session (June 2008) of the International Labour Conference that, subject to audit:***
  - (a) ***in derogation of article 11.5 of the Financial Regulations, the net premium earned during 2006–07, amounting to 32,270,415 Swiss francs, be credited to the Building and Accommodation Fund to finance partially the refurbishment of the headquarters building; and that***

- (b) *in order to ensure an equitable contribution by all member States to the costs of renovating the headquarters building, the one-half of the net premium earned during 2006–07 amounting to 16,135,207 Swiss francs, that would have been distributed to member States through the Incentive Fund, be recognised as a payment made in advance by each member State for their respective share of any future assessments that may be made upon them for the purposes of renovating the headquarters building; and that*
- (c) *it adopt a resolution in the following terms:*

*The General Conference of the International Labour Organization,*

*Noting that the operation of the Swiss franc assessment system has resulted in a net premium earned of 32,270,415 Swiss francs in the 2006–07 biennium,*

*Decides, in derogation of article 11.5 of the Financial Regulations, to transfer the full amount of the net premium earned amounting to 32,270,415 Swiss francs to the Building and Accommodation Fund, and that the one-half share of the net premium earned during 2006–07, amounting to 16,135,207 Swiss francs, that would have been distributed to member States through the Incentive Fund, be recognised as a payment made in advance by each member State for their respective share of any future assessments that may be made upon them for the purposes of renovating the headquarters building.*

...



TENTH ITEM ON THE AGENDA

**Reports of the Programme, Financial and Administrative Committee**

**Report of the Government members of the Committee on Allocations Matters**

1. The Government members of the Programme, Financial and Administrative Committee of the Governing Body met on 14 March 2008. The meeting was chaired by Ambassador J. Arias Palacio, Vice-Chairperson of the Government group of the Governing Body, who also acted as Reporter.

**Assessment of the contributions of new member States**

(First item on the agenda)

2. The Committee had before it a paper<sup>1</sup> on the assessment of the contribution of the Marshall Islands.
3. The representative of the Government of Mexico sought clarification as to the amount of the contribution for 2007 and 2008.
4. The Treasurer and Financial Comptroller responded that the contribution for 2007 would be 1,852 Swiss francs and for 2008 it would be 3,946 Swiss francs.
5. *The Government members of the Programme, Financial and Administrative Committee recommend to the Governing Body that, in accordance with the established practice of harmonizing the rates of assessment of ILO member States with their rates of assessment in the United Nations, it propose to the Conference that the contribution of the Marshall Islands to the ILO budget for the period of its membership in the Organization during 2007 and for 2008–09 be based on an annual assessment rate of 0.001.*

Geneva, 17 March 2008.

(Signed) J. Arias Palacio  
Reporter

*Point for decision:* Paragraph 5.

<sup>1</sup> GB.301/PFA/GMA/1.



EIGHTEENTH ITEM ON THE AGENDA

**Matters relating to the Administrative  
Tribunal of the ILO**

**Statute of the Tribunal**

1. At previous sessions, the Governing Body considered a number of proposals to amend the Statute of the ILO Administrative Tribunal (the Statute).<sup>1</sup> The last time these were reviewed as a whole, the Governing Body deferred its decision, largely due to the differing views on the question of access to the Tribunal by staff unions and associations.<sup>2</sup> While most of the proposals related to that question, one of the proposals addressed the discrete issue of oral proceedings in article V of the Statute. This document addresses only the article V proposal.<sup>3</sup>
2. Article V currently reads: “The Tribunal shall decide in each case whether the oral proceedings before it or any part of them shall be public or in camera.” As previously reported,<sup>4</sup> the Tribunal has suggested that article V of the Statute be amended in order to clarify that it is within the Tribunal’s competence to decide, within its discretion, whether to hold oral proceedings. Upon examination of the views of the organizations that have accepted the jurisdiction of the Tribunal, it appears that in general the organizations had no objection in principle to such an amendment.<sup>5</sup>

<sup>1</sup> GB.294/PFA/18/1 and GB.294/8/2(Rev.), paras 53–58 (Nov. 2005); GB.292/PFA/20/2 and GB.292/9/2(Rev.), paras 59–63 (Mar. 2005). See also GB.289/PFA/20/2 and GB.289/10/2(& Corr.), paras 92–97 (Mar. 2004).

<sup>2</sup> GB.294/PV, para. 215 (Nov. 2005).

<sup>3</sup> See GB.294/PFA/18/1, Appendices I and II.

<sup>4</sup> GB.292/PFA/20/2, para. 4.

<sup>5</sup> See discussion of consultations with the organizations in Governing Body documents at note 1.

3. Some of the organizations also expressed the view that, as a practical matter, oral proceedings could cause delay and increase costs. In practice, the Tribunal has held only a few oral proceedings since rendering its first judgment in 1947. In most instances, the Tribunal deems that the written submissions and evidence before it are already adequate.<sup>6</sup> In addition, the written record presented to the Tribunal regularly reflects that the staff member concerned has already received an oral hearing in the internal administrative process before the matter is brought to the Tribunal. Clarifying that oral proceedings are in the hands of the Tribunal to decide could better ensure that their use did not result in lengthier time frames or additional costs.
4. To achieve clarity, a sentence could be added before the existing one so that the revised article would read in full: “The Tribunal, at its discretion, may hold oral proceedings. The Tribunal shall decide in each case whether the oral proceedings before it or any part of them shall be public or in camera.”
5. ***Accordingly, the Committee may wish to recommend to the Governing Body that it approve the draft resolution concerning an amendment to article V of the Statute of the Administrative Tribunal of the International Labour Organization, to be duly submitted for decision by the International Labour Conference at its 97th Session (May–June 2008).***

Geneva, 6 February 2008.

*Point for decision:* Paragraph 5.

<sup>6</sup> See, for example, Judgment No. 781, consid. 3.

## Appendix

### **Draft resolution concerning amendment to article V of the Statute of the Administrative Tribunal of the International Labour Organization**

The General Conference of the International Labour Organization,

Aware of the value of clarifying, in article V of the Statute of the Administrative Tribunal of the International Labour Organization (“Statute”), that the Tribunal is competent to decide whether to hold an oral hearing,

Noting that the Governing Body of the International Labour Organization has approved the text of a draft amendment to article V of the Statute;

Adopts the amendment to article V of the Statute of the Administrative Tribunal of the International Labour Organization, as follows:

- Insert the following sentence at the beginning of article V: “The Tribunal, at its discretion, may hold oral proceedings.”



(Extract)

TENTH ITEM ON THE AGENDA

**Reports of the Programme, Financial  
and Administrative Committee**

**Second report: Personnel questions**

...

**VI. Matters relating to the Administrative  
Tribunal of the ILO**  
(Eighteenth item on the agenda)

**(a) Statute of the Tribunal**

21. The Committee had before it a document<sup>5</sup> containing a proposal to amend article V of the Statute of the Administrative Tribunal. The amendment sought to specify that the Tribunal could, at its discretion, hold oral proceedings.
22. Mr. Blondel, speaking on behalf of the Workers' group, said he wished to revert to the issue of the right of international civil service staff unions and associations to submit cases before the Tribunal. He recalled that in 2005 an amendment reflecting that idea had not been accepted by the Committee, and he proposed that the Office prepare for its November 2008 session a document including the text of the amendment to the Statute of the Administrative Tribunal, so that it could resolve the issue.
23. As to the amendment submitted to the present session, he recalled that the matter had already been brought before the Committee<sup>6</sup> and proposed that the text of the amendment be replaced by the following: "The Tribunal may, at its discretion, accept or refuse oral proceedings at the request of one of the parties. It shall provide grounds for refusal."

<sup>5</sup> GB.301/PFA/18/1.

<sup>6</sup> GB.286/PFA/17/2 and GB.292.PFA/20/2.

24. Mr. Barde, speaking on behalf of the Employers' group, asked to have the proposal in writing.
25. The representative of the Government of the United States requested that the Governments be involved in the consultations on the proposed text.
26. Discussion of this item was suspended by the Chairperson so that the amendment proposed by the Workers' group could be circulated in writing.
27. After consultation, the Chairperson read out the following revised text amending article V of the Statute of the Tribunal: "The Tribunal, at its discretion, may decide or decline to hold oral proceedings, including upon request of a party."
28. Mr Barde, speaking on behalf of the Employers' group, supported the new text and the point for decision.
29. Mr Blondel, speaking on behalf of the Workers' group, also supported the point for decision. His group's proposal requiring the Tribunal to justify its refusal of oral proceedings had been withdrawn so as to maintain clearly the Tribunal's authority. On another point, he asked that the Committee's agenda in November 2008 include an item permitting a discussion of the proposal that staff unions and associations be given access to the Tribunal on the basis of document GB.294/PFA/18/1.
30. ***In the light of the foregoing, the Committee recommends to the Governing Body that it approve the draft resolution, contained in Appendix II, concerning amendment to article V of the Statute of the Administrative Tribunal of the International Labour Organization, to be submitted for decision to the International Labour Conference at its 97th Session (May–June 2008).***

...



## Appendix II

### **Draft resolution concerning amendment to article V of the Statute of the Administrative Tribunal of the International Labour Organization**

The General Conference of the International Labour Organization,

Aware of the value of clarifying, in article V of the Statute of the Administrative Tribunal of the International Labour Organization (“Statute”), that the Tribunal is competent to decide whether to hold an oral hearing,

Noting that the Governing Body of the International Labour Organization has approved the text of a draft amendment to article V of the Statute;

Adopts the amendment to article V of the Statute of the Administrative Tribunal of the International Labour Organization, as follows:

Insert the following sentence at the beginning of article V: “The Tribunal, at its discretion, may decide or decline to hold oral proceedings, including upon request of a party.”