



## TENTH ITEM ON THE AGENDA

**Reports of the Committee on Legal Issues  
and International Labour Standards****First report: Legal issues***Contents*

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1. The Committee on Legal Issues and International Labour Standards met on 13 November 2009. The following members served as Officers:

<i>Chairperson:</i>	Mr G. Corres (Government, Argentina)
<i>Employer Vice-Chairperson:</i>	Mr J. de Regil
<i>Worker Vice-Chairperson:</i>	Ms H. Yacob

**Compendium of rules applicable to the Governing Body: Further proposals for revision, including to introduce inclusive language for the purpose of promoting gender equality**  
(First item on the agenda)

2. The Committee had before it a document <sup>1</sup> containing proposals for revision of the Compendium of rules applicable to the Governing Body. The document was introduced by the Legal Adviser.
3. The Worker members, supporting the point for decision, considered the revisions proposed to the Introductory note and the Standing Orders of the Governing Body to be in line with the ILO's commitment to promote gender equality. Those and other revisions were of a technical nature or reflected decisions already taken by the Governing Body.
4. The Employer members also supported the point for decision, while expressing two reservations. Firstly, in their view, as already expressed in March 2009, a specific decision of the Committee was not necessary to routinely update the Compendium following a revision to its texts by the Governing Body or the International Labour Conference. Secondly, with respect to paragraph 8 of the document, they had no objection to aligning the rules of procedure of the Committee on Freedom of Association (CFA) in Annex II of the Compendium with the adapted version found in the *Digest of decisions and principles of the Freedom of Association Committee* published in 2006. However, should ongoing consultations within the CFA on questions of substance and procedure result in changes to Annex II being required, those changes would have to be reflected in the Compendium, as the CFA procedures constituted a living document.
5. The representative of the Government of the Bolivarian Republic of Venezuela, speaking on behalf of the Group of Latin American and Caribbean States (GRULAC), stressed that the elimination of sexist language was a highly relevant subject for his region. He acknowledged the difficulty of the task, given that his language (Spanish) had traditionally had a masculine bias. Nonetheless, the Spanish version of the Office proposal could have gone further towards the introduction of non-sexist language in some instances, and the GRULAC governments wished the Spanish text to be revised by the Office in a more exhaustive manner in order to further the elimination of sexist language and thus to advance gender equality. He therefore supported the point for decision on the understanding that the Governing Body would adopt the revised Compendium as further revised in the Spanish version. He had specific suggestions for those revisions: most importantly, it had to be clarified that the Office of Chairperson did not need to be filled by a man. To that effect, "del Presidente" could be replaced throughout by "de la

<sup>1</sup> GB.306/LILS/1.

Presidencia”, as had already been done in paragraph 12 of the Introductory note, and “el Presidente” could, where appropriate, be replaced by “quien ejerza la Presidencia”. Another proposal concerning paragraph 12 of the Introductory note was to add the words “del grupo” before “trabajador o empleador”. In addition, the word “persona” could be used in place of terms that excluded women: in both paragraphs 1.8.1 and 1.8.2 of the Standing Orders “un representante para que” could be replaced by “una persona para que en su representación”. Those proposals were also supported by the Worker members.

6. The representative of the Government of Nigeria, speaking on behalf of the Africa group, considered that the work with respect to gender-inclusive language had been overdue, and therefore supported the point for decision.
7. The Committee adopted the point for decision on the understanding, clarified by the Legal Adviser, that the Office would revise the Spanish version of the Introductory note and the Standing Orders, taking into account the proposals made in the course of the discussion.
8. *The Committee recommends that the Governing Body adopt the revised Compendium of rules applicable to the Governing Body contained in Appendix I to this report, as further revised in the Spanish version of the Introductory note and the Standing Orders of the Governing Body, taking into account the proposals made in the course of the discussion of the Committee, and request the Office to publish it without delay.*

## **Standing Orders of the Conference: Further proposals regarding representation of Employers’ and Workers’ delegates at the International Labour Conference**

(Second item on the agenda)

9. The Committee had before it a document for decision<sup>2</sup> containing proposals regarding representation of Employers’ and Workers’ delegates at the International Labour Conference.
10. The Legal Adviser explained that intensive consultations involving employers, workers and many governments had resulted in revisions to the proposals presented to the Committee in March 2009. Those revisions were highlighted in the document. In particular, the proposed “petition” had been replaced with a new type of “complaint”.
11. The Employer members supported the point for decision, noting the well-organized consultations in which the views of all had not only been listened to but also understood. The speaker emphasized that the purpose of the new complaint was clearly set out in paragraph 6 of the document.
12. The Worker members, supporting the point for decision, stated that the document reflected the consultations, during which great efforts had been made to accommodate the interests of all parties. Governments had a responsibility to uphold the tripartite character of the Conference, and any act or omission preventing a delegate or adviser from attending the Conference amounted to a serious breach of the ILO Constitution. That was why the Workers had not supported including a reference to deliberate action, as discussed in paragraph 7 of the document, because the intention of the government was not relevant,

<sup>2</sup> GB.306/LILS/2.

since all States should be represented by four delegates and the governments should take all steps to make that possible.

13. The representative of the Government of Mexico appreciated the consultations held by the Legal Adviser and supported the point for decision, although in his view it would have been preferable to go beyond a simple comparison between facts and allegations and introduce an element of intentional behaviour of the government concerned. He questioned whether the possibility of the complaint being introduced by someone other than the person concerned, as foreseen in paragraph 3(b) of the proposed article 26ter, compromised the tripartite character of the Organization.
14. The representative of the Government of the Bolivarian Republic of Venezuela, speaking on behalf of GRULAC, reaffirmed that employers and workers had to be represented by their respective accredited delegates and advisers in the delegations at the Conference, in accordance with paragraphs 1 and 2 of article 3 of the Constitution. The GRULAC governments appreciated the constructive dialogue of the consultations, which had resulted in many of the group's suggestions being included in the present document. He emphasized that in accordance with the functions given by the Standing Orders of the Conference to the Officers, their action regarding the new type of complaint would not be left "to their discretion and wisdom". As stated in paragraph 4 of document GB.306/LILS/2, "the action the Officers may take is limited by the very nature of their function. In particular, such action cannot have any self-executing effect in a member State and it would be impossible to impose any measures upon the government". GRULAC also emphasized that the expression "take any action" in paragraph 5 of the new article 26ter proposed by the Office, meant that the Officers would use their good offices to find a solution with the government concerned by "suggesting solutions", as explained in the same paragraph 4 of the document submitted by the Office.
15. The representative of the Government of Austria, speaking on behalf of the IMEC group, supported the proposed decision. She noted that the action that could be taken by the Officers of the Conference was limited by the nature of their functions. The group considered that emphasis should be put on trying to find a solution to any problems through collaboration with the government concerned, with the aim of achieving full tripartite representation of all member States at the Conference.
16. The representative of the Government of Nigeria, speaking on behalf of the Africa group, appreciated the extensive consultations that had been held. She supported the point for decision, since its aim was to achieve full tripartite representation of all member States at the Conference, as required by paragraphs 1 and 2 of article 3 of the ILO Constitution.
17. The representative of the Government of Egypt, while supporting the proposed decision, questioned whether the proposed paragraph (c) of article 5 could be deleted, as the same wording was found in paragraph 2 of article 26ter.
18. Responding to the questions raised, the Legal Adviser recalled that the possibility of filing a complaint on behalf of the person concerned was not new; it was already in the current text of article 26ter. As to the formulation found twice in the proposed text, the first one, in article 5, addressed the mandate of the Credentials Committee, while the second one, in article 26ter, dealt with the functioning of the different types of complaints. It would therefore be useful to keep the text in both places.
19. ***The Committee recommends to the Governing Body that it invite the Conference to adopt at its 99th Session (June 2010) the amendments to articles 5 and 26ter of the Standing Orders of the International Labour Conference proposed in Appendix II to this report.***

## Other legal issues (Third item on the agenda)

### **Constitution of the International Labour Organization: Proposal for possible revisions to introduce inclusive language for the purpose of promoting gender equality**

20. The Legal Adviser explained that the lack of a document for the item under review was the result of a concern involving financing. Following decisions on other legal texts of the Organization, the Office had prepared a proposal to commence the consideration of possible amendments to the wording of the Constitution of the International Labour Organization for the purpose of promoting gender equality, in line with the ILO Action Plan for Gender Equality.<sup>3</sup> The proposal involved using external expertise and a tripartite meeting of experts, and thus a separate document had been prepared for the Programme, Financial and Administrative (PFA) Committee for approval of the expenditure. However, it had become clear that the Governing Body was not ready to grant the amount required. The corresponding substantive document for the LILS Committee had therefore not been published. However, the Committee might wish to briefly consider whether the Office should prepare specific proposals to be submitted in November 2010 with a view to possible adoption by the 100th Session (2011) of the International Labour Conference. Any instrument for the amendment of the ILO Constitution to be adopted by the Conference would therefore consist of technical revisions and would be subject to ratification or acceptance by States before entering into force.
21. The Legal Adviser explained that the work would build on the revisions for the same purpose already adopted by the Conference to its Standing Orders at its 97th Session (2008) and those presented to the Committee in the current session, involving the Compendium of rules applicable to the Governing Body.<sup>4</sup> A number of provisions of the Constitution could require revision in order to ensure that the principle of gender equality was fully respected; for example, article 8, which assumed that the Director-General was a man. The preparation of proposals would involve selecting from diverse approaches to promoting gender equality in language, especially in French and Spanish.<sup>5</sup> For that, it might be helpful to follow the model used in preparing the *Manual for drafting ILO instruments*,<sup>6</sup> in which a tripartite meeting of experts had been convened to contribute specialized drafting expertise (in the present case, experts on drafting for gender equality would be convoked). Such a proposal could be presented to the Governing Body in March 2010 and, if sufficient resources were lacking, the Office would finalize the work with its own staff. Depending on the expertise involved, such work could have further applications, as it might be useful for other ILO governance and legislative texts.
22. The Worker members supported the proposed work of the Office to bring the Constitution into line with the ILO Action Plan for Gender Equality, noting that any resulting proposal should be submitted to the LILS Committee and the Governing Body for approval.

<sup>3</sup> GB.300/5 and GB.304/14/2.

<sup>4</sup> GB.306/LILS/1.

<sup>5</sup> The authentic languages of the Constitution are English and French.

<sup>6</sup> GB.286/13/1 (Mar. 2003), para. 43, and GB.288/10/1 (Nov. 2003).

23. The Employer members supported the exercise but expressed their concern as to the costs it might entail. Noting that the economic impact should be minimized, bearing in mind the current budgetary situation, the Employer members endorsed the efforts to be carried out by the Office of the Legal Adviser in the undertaking.
24. The representative of the Government of Brazil fully endorsed the exercise. Referring to similar efforts undertaken in her country, she observed that it was of crucial importance to take prompt action. The LILS Committee should thus authorize the Office to work on an amendment proposal. She also recalled that the revision of all ILO documents from a gender perspective was in line with the ILO Action Plan for Gender Equality.
25. The representative of the Government of Austria was very much in favour of the exercise. Indeed, the lack of gender neutrality in the ILO Constitution had been a long-standing concern. She suggested that the Office might be able to carry out the proposed work and provide sound proposals without needing to engage external advisers. She stressed that her Government did not want to introduce changes to the content of the Constitution, but rather to promote gender-neutral language.
26. The representative of the Government of the Bolivarian Republic of Venezuela, speaking on behalf of GRULAC, inquired whether the preparation of the document to be submitted in 2010 would entail any additional cost for the Office. He recalled that the matter had been debated in the PFA Committee, and that the GRULAC governments had expressed the view that it might not be necessary to incur such additional costs, since the Office of the Legal Adviser had proven that it was able to introduce gender-related amendments without budgetary implications.
27. The Legal Adviser clarified that the Office was requesting authorization to go ahead with the preparatory work, if necessary without financial implications, in order to present proposals to the Committee.
28. The Director of the Bureau for Gender Equality recalled that the language of various ILO governance documents was to be examined from a gender perspective under the ILO Action Plan for Gender Equality. The Office planned to evaluate results of the Action Plan targets at the next session of the Governing Body and had developed a number of tools for gender-inclusive drafting, such as the abovementioned Manual and the Labour Legislation Guidelines, which were used by many ILO member States in revising legislation from a gender perspective.
29. ***The Committee recommends that the Governing Body request the Office to prepare a document on possible amendments to the Constitution of the International Labour Organization for the purpose of introducing gender-inclusive language, with a view to its submission to the 309th Session of the Governing Body (November 2010).***

Geneva, 17 November 2009.

*Points for decision:* Paragraph 8;  
Paragraph 19;  
Paragraph 29.

## **Appendix I**

### **Compendium of rules applicable to the Governing Body of the International Labour Office**

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## Introductory note

1. The functioning of the Governing Body is governed by a set of rules dispersed among different texts and publications, as well as a number of practices and arrangements developed over the years since its First Session on 27 November 1919 in Washington, DC. At its 289th Session (March 2004), the Governing Body agreed on the principle of the consolidation in a single document of the different rules and practices that regulate its composition, structure and procedures.<sup>1</sup> At its 291st Session (November 2004), it opted for the consolidation of these rules in the form of a compendium, which would include the current Standing Orders and the other sets of rules adopted by the Governing Body, subject to amendments as necessary, prefaced by an introductory note reflecting certain practices without fixing them as a legal rule.<sup>2</sup> At its 292nd Session (March 2005), the Governing Body adopted the detailed plan of ~~the present~~ this compendium of rules applicable to the Governing Body,<sup>3</sup> which was first published in 2006. At its 306th Session (November 2009), the Governing Body decided to include further sets of rules and decisions relevant to its functioning and to revise its Standing Orders and the Introductory note in the context of its efforts to promote gender equality.

2. The consolidation of the rules applicable to the Governing Body should provide members with an overview of the rules and practices governing its work. It contains not only texts, but also practical solutions that have either served to deal with situations not covered in specific written provisions and which have not occurred again since, or, through repetition, have become precedents that the Governing Body follows, as in the case of the “rule” of geographical rotation of the office of Chairperson of the Governing Body. A number of these practices, in particular those in regular use, are described in the introductory note. This also applies to points on which the Governing Body has not seen fit to adopt rules so as to maintain the necessary flexibility for it to adjust to new issues the Organization has to address.

## Roles and functions of the Governing Body of the International Labour Office

3. The Governing Body is one of the three organs of the International Labour Organization; ~~the others are together with the General Conference and;~~ the International Labour Office ~~is “controlled” by it.~~ Article 7 of the Constitution of the International Labour Organization contains specific provisions concerning the composition of the Governing Body, its Officers and the procedure for appointing and replacing its members. The same article provides that certain matters (method of filling vacancies and of appointing substitutes “and other similar questions”) may be decided by the Governing Body “subject to the approval of the Conference” and that the Governing Body “shall regulate its own procedure” – which it has done continuously since the adoption of its Standing Orders, as can be seen from the many amendments made to them to keep pace with changes in the Organization.

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<sup>1</sup> GB.289/3/2(Rev.).

<sup>2</sup> GB.291/LILS/3; GB.291/9(Rev.), paras 33–42.

<sup>3</sup> GB.292/LILS/4; GB.292/10(Rev.), paras 40–53.

4. The Constitution contains many provisions referring to the role and functions of the Governing Body. It has two types of functions: on the one hand, those of control over the International Labour Office and, on the other, a number of functions of its own concerning the functioning of the Organization and matters relating to international labour standards. The two types of functions are listed below, referring to the relevant articles of the Constitution.

**Functions of control over the International Labour Office**  
(in the Constitution)

Approval of regulations governing the staff (article 9(1))  
Directions concerning the Office's activities (article 10)  
Control over expenditure of funds (article 13(5))  
Adoption of rules concerning preparation by the Office for the work of the Conference (article 14(2)), including time limits for the despatch of reports for the Conference (article 15(2))

**Functions concerning the functioning of the Organization**  
(in the Constitution)

Election of the Director-General (article 8(1))  
Place of meetings of the Conference (article 5)  
Agenda of the Conference (article 14(1))  
Requesting reports on unratified Conventions and Recommendations under article 19(5)(e), (6)(d) and (7)(b)(iv) and (v) (continued overleaf)  
Form of reports presented under article 22  
Examination of representations (articles 24 and 25)  
Filing of a complaint against a Member (article 26(4))  
Communication of a complaint to the government in question (article 26(2))  
Appointment of a Commission of Inquiry (article 26(3))  
Recommendations to the Conference to secure compliance with the conclusions of a Commission of Inquiry (articles 33 and 34)  
Make and submit to the Conference rules providing for the appointment of a tribunal for the interpretation of a Convention (article 37(2))  
Draw up rules for regional conferences (article 38(2))

5. The Conference has assigned a number of functions to the Governing Body; these are set forth either in the Standing Orders of the Conference (SO) or in the Financial Regulations (FR). They are as follows:

- Decisions concerning representation of non-governmental international organizations at the Conference (SO, article 2(4)).
- Communication of its opinion on proposals involving expenditure submitted to the Conference (SO, article 18).
- Reduction of the interval for the preparation of international labour standards (SO, articles 38(3) and 39(5) and (8)).

- Examination and approval of the budget estimates presented by the Director-General for submission to the Conference (FR, articles 5 and 6).
- Consideration of the contribution rates for each Member of the Organization (FR, article 9).
- Authorization of the use of the Building and Accommodation Fund (FR, article 11(3)) and the Special Programme Account (FR, article 11(9)).
- Approval of expenditure charged against an appropriation without specification of the purpose for which it is to be applied (FR, article 15).
- Authorization of transfers from one item to another in the same part of the budget (FR, article 16).
- Authorization of payment of obligations in respect of a preceding financial period (FR, article 17(2)).
- Authorization of expenditure from the Working Capital Fund to finance contingencies and emergencies (FR, article 21(1)(a)) or to contract loans or advances (FR, article 21(1)(b)).
- Recommendation for an additional assessment on member States for the Working Capital Fund (FR, article 21(3)).
- Appointment of the External Auditor (FR, article 35).
- Approval of the Financial Rules (FR, article 40).
- Approval of temporary provisions where urgently required (FR, article 41).

This list is not limitative and does not include the functions assigned directly to the Officers of the Governing Body by the Standing Orders, e.g. consultation on draft resolutions submitted to the Conference (SO, article 17(1)).

## Composition and membership of the Governing Body

6. The composition of the Governing Body, a decision-making and oversight body, is limited to members appointed in accordance with the provisions of the Constitution and its Standing Orders. It is composed of 56 regular members and 66 deputy members. This composition is the result of an amendment to the Standing Orders of the Conference adopted by the International Labour Conference at its 82nd Session (1995) following the examination of interim proposals concerning the composition of the Governing Body pending the entry into force of the Instrument for the Amendment of the Constitution of the ILO, 1986. The purpose of the amendment was to provide for a more representative Governing Body to reflect the increase in membership of the ILO. It reflects as far as possible the 1986 amendment as regards the composition of the Government group by distributing the 56 Government seats as fairly as possible among the four regions – Asia, Africa, the Americas and Europe. The following table shows the regional distribution of seats.

## Regional distribution of Government seats

Regions	Regular		Deputy	Total
	Non-elective	Elective		
Africa*	0	6	7	13
Americas*	2	5	6	13
Asia	3	4	8	15
Europe	5	3	7	15
Total	10	18	28	56

\* Africa and the Americas share a floating deputy member seat, which alternates between the two groups for each term of office of the Governing Body. This seat was assigned to the ~~Americas-Africa~~ group for the period ~~2005-08~~2008-11 and will be held by the ~~Africa-Americas~~ group for the ~~2008-11~~2011-14 term.

7. The members of the Governing Body are elected for a three-year term. If a member resigns, the resulting vacancy is subject to the provisions of article 1.7 of the Standing Orders of the Governing Body. If a regular member is absent or unable to attend, he or she may be replaced by a substitute, who shall enjoys all the rights of the regular member. The number of persons accompanying regular or deputy Government members, whether as substitutes or advisers, should not exceed 15, except in exceptional circumstances.

8. Except where otherwise provided by the Standing Orders, only regular and deputy members of the Governing Body, as well as a substitute for a regular member who is absent or unable to attend, may take the floor, with the Chairperson's authorization. The exceptions laid down in the Standing Orders concern member States of the Organization that are not members of the Governing Body, on the one hand, and observers of official international organizations and non-governmental international organizations, on the other.

9. The situation of States which are not represented on the Governing Body is governed by the provisions of articles 1.8 and 4.3 of the Standing Orders, which allow representatives of such States to take part, without the right to vote, in proceedings concerning representations under articles 24 and 25 of the Constitution, complaints under article 26 of the Constitution, cases under consideration by the Committee on Freedom of Association or a Fact-Finding and Conciliation Commission on Freedom of Association, or, in a committee of the whole, to express their views with respect to matters concerning their own situation.

10. While representatives of official international organizations (United Nations, World Bank, International Monetary Fund, Food and Agriculture Organization of the United Nations, etc.) can participate without vote in discussions, under the same conditions as members of the Governing Body, representatives of non-governmental international organizations may make or circulate statements, with the agreement of the Officers or the committee in which they wish to express or circulate their opinions (article 1.10.1).

11. While participation in the discussions of the Governing Body is restricted, as pointed out above, its sittings are public, as a general rule. The Governing Body may, however, decide to sit in private; it is required to do so, under article 7.3 of the Standing Orders concerning the procedure for the examination of representations under articles 24 and 25 of the Constitution, when it considers the report of the tripartite committee set up for the examination of the representation.<sup>4</sup> The persons authorized to remain present are

<sup>4</sup> See Standing Orders of the Governing Body, Annex I.

the members of the Governing Body, the representatives of the State concerned and ILO officials necessary for the conduct of the sitting. The increase in the number of members of the Governing Body may have an impact on the time available for speeches both in plenary and in the committees. While it does not seem advisable to introduce a rule setting a time limit on speeches by Governing Body members in plenary, much less in the committees, it should nonetheless be recalled that the Chairperson of the Governing Body or of the committee concerned is responsible for conducting the deliberations, in particular by giving and withdrawing the right to take the floor. It is for the Chairperson to decide, preferably in consultation with the other Officers, to set a time limit on speeches so that all the members can express their views (article 2.2.1).

## Chairpersonship of the Governing Body

12. The principle of fair geographical rotation of the office of Chairperson of the Governing Body was recommended by the Working Party on Structure<sup>5</sup> and implemented as of June 1968 according to the following four-year cycle: Americas, Africa, Asia and Europe. In practice, when a Worker or Employer member is elected as Chairperson of the Governing Body, geographical rotation is suspended for the duration of ~~his or her~~ that member's term of office. Rotation is then resumed, beginning with the region that would have presented a candidate if the Worker or Employer member had not been elected.

In June 2002, the Asian region could have presented a candidate under the geographical rotation rule. As the nomination of the Worker Vice-Chairperson of the Governing Body received the support of the Government group, and Asia agreed to defer its turn to the following year, the candidate was elected Chairperson for the period 2002–03. The following year, the Government group nominated Ambassador Chung (Republic of Korea) as Chairperson of the Governing Body for the period 2003–04.

## Election of the Chairperson of the Governing Body

13. The appointment of the Chairperson of the Governing Body is governed by the provisions of article 2.1.2 of the Standing Orders of the Governing Body. The Chairperson, who must be a regular member of the Governing Body, is elected for a one-year term. In the event of the Chairperson's resignation, the Governing Body should hold another election to fill the vacancy for the unexpired portion of the term of office. For many years now, the Chairperson has been appointed by consensus among the three groups, after in-depth consultations, without holding a ballot vote as provided in the texts.

14. Nonetheless, it is still possible to hold a ballot vote, in particular where a group does not reach agreement on the appointment of a single candidate. The regular members of the Governing Body, representing governments, employers and workers, would then elect the Chairperson in accordance with the Standing Orders by simple majority vote.

In June 1972, the regional Government group that was due to present a candidate under the geographical rotation did not reach agreement and preferred to waive its turn. The question then arose the following year as to which region should present a candidate. Candidates were presented by two regions – the one that had waived its turn the previous year and the one whose turn had come up under the established practice. Without taking a position on the matter, the Governing Body held a ballot vote, which was won by the candidate presented by the region whose turn it was that year.\*

\* GB.190/PV, Minutes of the Governing Body, 190th Session, Twentieth item on the agenda, pp. VI/10–15.

<sup>5</sup> GB.171/7/19, Annex: Fifth report, 21 Feb. 1968, para. 48.

## **Role of the groups**

15. Reflecting the tripartism that is the ~~pillar~~ foundation of the Organization, three groups sit on the Governing Body, ~~each~~ with the necessary facilities for their ~~its~~ participation: ~~an~~ officers, a secretariat and regional coordinators. In line with the principle of autonomy of the groups, there are no provisions referring to their structures in the Standing Orders of the Governing Body. The three groups nevertheless play an important role in the work of the Governing Body, in particular in preparatory work for discussions and decisions.

### **The Government group**

16. The Government group has its own Chairperson and Vice-Chairperson who are, as a rule, elected each year by the group. The traditional role of the Government group consists essentially of appointing the Government members of the different committees and working parties of the Governing Body, nominating the Government candidate for the position of e~~Chairpersonship~~ of the Governing Body, and, on an ad hoc basis, the Government members of tripartite meetings. In addition to this traditional role, the group also serves as a forum for governments to seek convergence on certain issues and arbitrate between the demands and expectations of regional government groups or subgroups, through the regional and subregional coordinators.

### **The Employers' and Workers' groups**

17. The Employer and Worker Vice-Chairpersons of the Governing Body chair their respective groups. The group secretariats are provided by the International Organisation of Employers (IOE) for the Employers and the International Trade Union Confederation of Free Trade Unions (ITUCICTU) for the Workers.

## **Report of the Chairperson of the Governing Body to the Conference**

18. The Chairperson of the Governing Body, after consulting the Vice-Chairpersons, reports directly to the International Labour Conference on the work of the Governing Body over the previous year.

## **Procedure and functioning of Governing Body sessions**

### **Frequency and timing of sessions**

19. Since 1995 the Governing Body's work has been distributed between a full autumn session (November) and another in the spring (March), as well as a one-day session in June immediately after the International Labour Conference.

20. In principle, ~~W~~with the exception of the June session, the plenary sessions of the Governing Body last up to three-and-a-half days, and are preceded by a half-day of group meetings. The committees meet during the previous one-and-a-half weeks at ordinary sessions, and during the previous two-and-a-half weeks at the spring sessions when the programme and budget proposals are examined.

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## Governing Body committees and working parties

21. The Governing Body, having established up to ten committees, now has six:
- The Committee on Freedom of Association (CFA), which meets at every Governing Body session and just before the Conference in June. ~~Its mandate is set forth in paragraph 15 and following of~~ The procedure for the examination of complaints is reproduced in Annex II of the Standing Orders of the Governing Body. ~~It~~ The Committee consists of nine regular members (three representing governments, three for employers and three for workers), nine deputy members and a Chairperson, who is an independent personality appointed by the Governing Body.
  - The Programme, Financial and Administrative Committee (PFA), which meets at the spring and autumn sessions, and as required by the Standing Orders of the Governing Body. It is chaired by the Chairperson of the Governing Body. The PFA Committee is responsible for examining budgetary estimates and Office expenditure, as well as all financial and administrative matters referred to it by the Governing Body or submitted by the Director-General. It includes two Subcommittees with a restricted membership: the Building Subcommittee (PFA/BS), which examines matters concerning the ILO premises, and the Information and Communication Technology Subcommittee (PFA/ICTS), which examines matters relating to information and communication technology that have a direct impact on the budget, in order to submit recommendations to the Committee. In addition, the Government members of the PFA Committee on Allocations Matters (PFA/GMA) is responsible for establishing the scale of assessment of contributions. It meets in private sitting and its recommendations are submitted directly to the Governing Body.
  - The Committee on Legal Issues and International Labour Standards (LILS) normally meets at the spring and autumn sessions. It considers, and advises the Governing Body on, matters relating to the ILO Constitution; the different Standing Orders (Conference, Governing Body, Regional Meetings, sectoral committees); the ILO's standards-related activities, including the approval of report forms for ILO Conventions and Recommendations and the selection of instruments for article 19 reporting; action relating to the protection of human rights, with particular reference to the elimination of discrimination on the basis of race and sex; international legal instruments and judicial decisions affecting the ILO's standards-related work; and legal agreements concluded by the ILO with other international organizations, except in the area of technical cooperation, which fall within the scope of the relevant Committee.
  - The Committee on Employment and Social Policy (ESP) considers, and advises the Governing Body on, ILO policies and activities in the fields of employment, training, enterprise development and cooperatives, industrial relations and labour administration, working conditions and environment, social security and promotion of equality between men and women in employment.
  - The Committee on Technical Cooperation (TC) considers, and advises the Governing Body on, matters relating to ILO technical cooperation programmes under all sources of funding. In particular, it reviews ILO technical cooperation programmes and evaluates selected projects; recommends priorities and provides guidance for the ILO's technical cooperation activities; promotes the active participation of employers' and workers' organizations in the preparation, implementation and evaluation of technical cooperation programmes and projects; examines action to be taken on Conference decisions concerning technical cooperation matters; and monitors ILO technical cooperation activities in the different regions.

- The Committee on Sectoral and Technical Meetings and Related Issues (STM) considers, and advises the Governing Body on, planning, preparation and follow-up concerning the ILO's sectoral committees and meetings; preparation and follow-up concerning ILO technical meetings provided for in the programme and budget; review of the ILO's Sectoral Activities Programme and other policy issues relating to ILO sectoral and technical meetings.

22. In addition, the Governing Body has established a Subcommittee on Multinational Enterprises (MNE) which, while originally part of the LILS Committee, reports directly to the Governing Body. Composed of 24 members (eight Government, eight Employer and eight Worker members), it examines the effect given to the Tripartite Declaration of Principles concerning Multinational Enterprises and Social Policy, considers requests for interpretation of the Declaration, and monitors activities of the ILO and other organizations regarding multinational enterprises, it being understood that other aspects of the activities of multinational enterprises may if necessary be examined by other committees.

23. Lastly, at its 260th Session (June 1994), the Governing Body decided to set up a working party open to all of its members, ~~responsible for examining the social dimension of the liberalization of trade (the Working Party on the Social Dimensions of the Liberalization of International Trade)~~, to follow up on the debate held at the 81st Session of the International Labour Conference on the Director-General's Report, *Defending values, promoting change*, ~~Chapter 3 of which raised the question of the future of international labour standards in the era of globalization~~. At its 277th Session (November 2000), the Governing Body decided to broaden the mandate of the Working Party, ~~which was and consequently~~ renamed it the Working Party on the Social Dimension of Globalization. It meets as a committee of the whole, in accordance with article 4.3 of the Standing Orders of the Governing Body, to provide representatives of Governments that are not represented on the Governing Body with an opportunity to express their views on matters concerning the situation in their own countries.

## **Functioning of the Governing Body**

### Adoption of decisions

24. The Governing Body, whether meeting in plenary or in committees, takes decisions usually by consensus. The term "consensus" refers to an established practice under which every effort is made to reach without vote an agreement that is generally accepted. Those dissenting from the general trend are prepared simply to make their position or reservations known and placed on the record.<sup>6</sup> Consensus is characterized by the absence of any objection presented by a Governing Body member as an impediment to the adoption of the decision in question. It is for the Chairperson, in agreement with the Vice-Chairpersons, to note the existence of a consensus.

25. However, there may be cases in which certain decisions can only be adopted by a vote. In this case, each regular member of the Governing Body or, where the regular member is absent or unable to attend, his or her substitute has one vote. In committees, where a vote is necessary – or unavoidable – the votes available for each registered member need to be weighted to ensure that representatives of governments, employers and workers have an equal number of votes.

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<sup>6</sup> See *United Nations Juridical Yearbook*, 1974, pp. 163–164.

## Adoption of reports of committees

26. Draft reports of committees are prepared by the officials servicing the committee in question, under the responsibility of the reporter or the Chairperson, where there is no reporter. The draft report is communicated to the Chairperson and the Employer and Worker Vice-Chairperson, who must approve it before it is reproduced and submitted to the Governing Body for adoption.

27. With the exception of the reports of the Committee on Freedom of Association, ~~the reports of~~ tripartite committees set up by the Governing Body to examine representations under article 24 of the ILO Constitution and ~~the reports of~~ working parties, the reports of the committees are adopted by the Governing Body without introduction or other discussion. The Chairperson of the Governing Body submits for adoption each point for decision and proposes that the Governing Body take note of the report in its entirety.

28. Nevertheless, members of the Governing Body still have the possibility of making amendments to their own statements as reflected in the report and to submit, in accordance with the Standing Orders of the Governing Body (article 5.6), proposals for amendments to the points for decision.

29. The Chairperson may permit individual interventions and allow a discussion in the following cases:

- (i) where the committee concerned is unable to reach a consensus on a particular point or has to take a decision by a majority vote, in which case the point concerned may need to be further discussed by the Governing Body;
- (ii) where the Officers of the Governing Body unanimously consider that an issue raised in a committee report is sufficiently important to warrant discussion by the Governing Body;
- (iii) if a formal request is made by a group spokesperson or by at least 14 members of the Governing Body for discussion on a particular item in the report.

## Adoption of the reports of Regional Meetings and reports of other ILO meetings

30. The reports of Regional Meetings are submitted directly to the Governing Body. The reports of other meetings, such as meetings of experts, tripartite meetings and sectoral committees, are submitted to the competent Governing Body committee.<sup>7</sup>

## Procedure for determining the agenda of the International Labour Conference

31. The items to be placed on the agenda of the Conference are considered at two successive sessions of the Governing Body, so that the decision is taken two years prior to the opening of the session of the Conference in question.

32. The first stage of the discussion, which takes place at the autumn session, consists in identifying the subjects from which a choice could be made. For this purpose

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<sup>7</sup> Where the meetings are held after the March session of the Governing Body and where the reports are prepared for the June session, the Governing Body can nevertheless examine the reports directly during the June session.

the Governing Body bases its discussion on a paper containing all the information necessary on the items proposed by the Director-General.

33. The second stage, which takes place at the March session, consists in adopting a definitive decision. The paper serving as the basis for this discussion covers any additional items proposed by the Governing Body during the first stage of the discussion. If a decision cannot be taken at the March session, it is still possible to adopt a definitive decision at the following November session. However, to allow for full preparation by the Office, such a third discussion should remain an exceptional practice.

#### Effect to be given to resolutions adopted by the Conference

34. Each resolution adopted by the Conference is submitted to the Governing Body committee competent for its subject matter. Only resolutions not falling within the competence of any committee are submitted directly to the Governing Body.

#### Purely formal matters

35. When the Governing Body has before it a purely formal or ceremonial matter, the Chairperson may decide to speak alone on behalf of the Governing Body or, following appropriate consultations, appoint another regular or deputy member for this purpose (article 2.2.3).

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## **Standing Orders of the Governing Body**

Adopted by the Governing Body on 23 March 1920. Amended by the Governing Body on 12 and 13 October 1922; 2 February, 12 April and 18 October 1923; 13 June 1924; 10 January and 4 April 1925; 27 and 28 April 1928; 5 June 1930; 21 and 22 April and 17 October 1931; 6 April and 26 October 1932; 24 January, 27 April, 1 June and 28 September 1934; 2 February 1935; 2 June 1936; 5 February 1938; 20 June 1947; 19 March, 14 June and 11 December 1948; 4 June 1949; 3 January, 11 March, 16 June and 21 November 1950; 2 June 1951; 12 March 1952; 29 May 1953, 9 March 1954; 2 March 1955; 6 March 1956; 8 March and 14 November 1963; 1 June 1973; 15 November 1974; 5 March and 19 November 1976; 2 March and 27 May 1977; 3 March 1978; 1 June 1979; 18 November 1982; 28 February 1985; 14 November 1989; 3 March and 16 November 1993; 20 November 1997; 27 March 1998; 18 November 1999; ~~and~~ 17 November 2005; 20 March 2008; and November 2009.

### **Section 1 – Composition and participation**

#### **1.1. Composition**

1.1.1. The Governing Body shall consist of fifty-six regular members, twenty-eight representing governments, fourteen representing the employers, and fourteen representing the workers; and sixty-six deputy members, twenty-eight representing governments, nineteen representing employers and nineteen representing workers.

#### **1.2. Members of chief industrial importance**

1.2.1. Of the twenty-eight regular members representing governments, ten shall be appointed by the Members of chief industrial importance.

#### **1.3. Selection of Members of chief industrial importance**

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.

#### **1.4. Period of office of the Governing Body**

1.4.1. The period of office of the Governing Body shall be three years, in accordance with article 7 of the Constitution and the provisions of section G of the Standing Orders of the Conference.

1.4.2. Except for the representatives referred to in article 1.2 above, the members of the Governing Body shall be elected by electoral colleges of their respective groups in accordance with the provisions of section G of the Standing Orders of the Conference.

1.4.3. Each member of the Government group electoral college shall appoint, in a secret ballot, eighteen regular members and twenty-eight deputy members.

1.4.4. Each member of the electoral college of the Employers' group and of the electoral college of the Workers' group shall appoint, in a secret ballot, fourteen regular members and nineteen deputy members representing, respectively, the employers and the workers.

1.4.5. The electoral process shall be governed by the Standing Orders of the Conference.

## 1.5. Deputy members

1.5.1. Deputy members appointed in accordance with paragraph 4 of article 49 and paragraph 2 of article 50 of the Standing Orders of the Conference shall take part in the work of the Governing Body on the conditions laid down in this article.

1.5.2. Deputy members have the right to be present at the sittings of the Governing Body and to speak with the permission of the Chairmanperson.

1.5.3. Deputy members may vote only on the following conditions:

(a) A Government deputy member may vote:

- (i) when ~~he is~~ so authorized by written notification to the Chairmanperson from a Government regular member who is not voting and has not been replaced by a substitute;
- (ii) when ~~he is~~ authorized by the Government group of the Governing Body to vote in the place of a Government regular member who is not voting, who has not been replaced by a substitute and who has not himself appointed another deputy member to ~~vote in his place~~ act in accordance with subsection (i) above;

(b) Employers' and Workers' deputy members may vote in place of a regular Employers' or Workers' member on the conditions defined by their respective groups; the groups shall inform the Chairmanperson of all decisions taken in this connection.

1.5.4. Deputy members may be appointed by the Governing Body as titular members of committees of the Governing Body.

1.5.5. The travelling and subsistence expenses of the Employers' and Workers' deputy members shall be paid out of the funds of the International Labour Organization.

## 1.6. Substitutes

1.6.1. Each government represented on the Governing Body may furthermore appoint for its regular delegate a substitute of the same nationality, who will replace the regular delegate should the latter be absent or unable to attend.

1.6.2. The substitute may accompany the regular delegate during the meetings of the Governing Body, but shall not have the right to speak.

1.6.3. In the absence of the regular delegate the substitute shall enjoy all the rights of the regular delegate.

1.6.4. In the case of the Employers' group and of the Workers' group, full freedom is left to the groups as to the manner of appointing substitutes.

1.6.5. Any substitute is required to ~~furnish~~ submit to the Chairman ~~person with his~~ credentials of appointment in writing.

## **1.7. Filling vacancies**

1.7.1. If a State ceases, at a time when the Conference is meeting in ordinary session, to occupy one of the seats on the Governing Body reserved for the eighteen States selected by the Government electoral college, the Government electoral college shall meet during the course of the session to appoint, in accordance with section G of the Standing Orders of the Conference, another State to take its place.

1.7.2. If a State ceases, during an interval between sessions of the Conference, to occupy one of the seats on the Governing Body reserved for the eighteen States selected by the Government electoral college, the Government group of the Governing Body shall proceed to replace it. The appointment thus made must be confirmed by the Government electoral college at the next session of the Conference and communicated by it to the Conference. If such appointment is not confirmed by the electoral college in question, a new election shall immediately be held in accordance with the relevant provisions of section G of the Standing Orders of the Conference.

1.7.3. If a vacancy occurs, at any time whatsoever, owing to the ~~decease~~ death or resignation of a Government representative, but the State concerned retains its seat on the Governing Body, the seat in question shall be occupied by the person ~~whom~~ appointed by the government ~~appoints~~ to fill the vacancy.

1.7.4. If a vacancy occurs among the Employers' or Workers' members of the Governing Body at a time when the Conference is meeting in ordinary session, the electoral college concerned shall assemble during the course of the session to fill the vacancy, in accordance with the procedure laid down in section G of the Standing Orders of the Conference.

1.7.5. If a vacancy occurs among the Employers' or Workers' members of the Governing Body during an interval between sessions of the Conference, the Governing Body group concerned shall proceed freely to fill the vacancy, without being required to appoint the new member from among the deputy members of the Governing Body. The appointment thus made must be confirmed by the electoral college concerned at the next session of the Conference and communicated by it to the Conference. If such an appointment is not confirmed by the electoral college in question, a new election shall ~~immediately~~ immediately be held in accordance with the provisions of section G of the Standing Orders of the Conference.

## **1.8. Representation of States which are not members of the Governing Body**

1.8.1. When the Governing Body considers any matter arising out of a representation under article 24 or a complaint under article 26 of the Constitution, the government concerned shall, if not already represented on the Governing Body, be entitled to send a representative to take part, without the right to vote, in its proceedings while the

matter is under consideration. Adequate notice of the date on which the matter will be considered shall be given to the government.

1.8.2. When the Governing Body considers a report of the Committee on Freedom of Association or of the Fact-Finding and Conciliation Commission on Freedom of Association containing conclusions on a case relating to a government which is not represented on the Governing Body, that government shall be entitled to send a representative to take part, without the right to vote, in the proceedings of the Governing Body while the conclusions on the case in question are under consideration.

## **1.9. Representation of official international organizations**

1.9.1. Representatives of official international organizations which have been invited by the Governing Body to be represented at its meetings shall be entitled to be present at the meetings and may participate without vote in the discussions.

## **1.10. Representation of non-governmental international organizations**

1.10.1. Non-governmental international organizations may be invited by the Governing Body to be represented at any meeting during the discussion of matters of interest to them. The ~~Chairman~~person may, in agreement with the ~~Vice-Chairmen~~persons, permit such representatives to make or circulate statements for the information of the Governing Body upon matters included in its agenda. If agreement cannot be reached, the matter shall be referred to the meeting for decision without discussion.

1.10.2. This article does not apply to meetings dealing with administrative or financial matters.

## **Section 2 – Officers of the Governing Body**

### **2.1. Officers**

2.1.1. The Officers shall consist of a ~~Chairman~~person and two ~~Vice-Chairmen~~persons chosen one from each of the three groups. Only regular members of the Governing Body may be elected Officers.

2.1.2. The Officers shall be elected at a sitting of the Governing Body held at the close of the annual session of the International Labour Conference and shall hold office from their election until the election of their successors.

2.1.3. The ~~Chairman~~person shall not become re-eligible until three years after ceasing to hold office.

2.1.4. A member elected to fill a vacancy caused by the ~~decease~~death or resignation of an Officer shall sit for the unexpired portion of the term of office of ~~his predecessor~~the previous incumbent.

2.1.5. The Director-General of the International Labour Office shall undertake the formation of a secretariat for the Governing Body.

## **2.2. Duties of the Chairperson**

2.2.1. The Chairperson shall declare the opening and closure of the sitting. Before proceeding with the agenda ~~he~~ the Chairperson shall bring before the Governing Body any communications which may concern it. ~~He~~ The Chairperson shall direct the debates, maintain order, ensure observance of the Standing Orders, accord or withdraw the right to address the Governing Body, put questions to the vote and announce the result of the vote.

2.2.2. The Chairperson shall have the right to take part in the discussions and to vote, but shall not have a casting vote.

2.2.3. When the Governing Body has before it a matter of a purely ceremonial nature, the Chairperson may decide to speak alone on behalf of the Governing Body or to appoint, following appropriate consultations, another member or deputy member for this purpose.

2.2.4. In the absence of the Chairperson, the two Vice-Chairpersons shall preside at alternate sittings.

2.2.5. The functions conferred on the Director-General by the Constitution of the Organization being reserved, the Chairperson shall supervise the observance of the provisions of the Constitution and the execution of the decisions of the Governing Body.

2.2.6. For ~~this~~ the purpose provided in paragraph 2.2.5, the Chairperson, ~~he~~ shall, during the interval between the sessions, be invested with such functions as the Governing Body may deem fit to delegate ~~him~~ for the joint signature or the visa of certain documents, for the preliminary approval of inquiries, or for the despatch of official representatives of the Office to meetings, conferences or congresses.

2.2.7. The Chairperson shall be informed without delay by the Director-General of significant events in the work of the Office and of any events which may require ~~his~~ intervention, ~~so that he may in order to take~~, within the limits of ~~his~~ the power granted to the Chairperson, any steps which may be necessary. ~~He will at his discretion~~ The Chairperson may consult the Vice-Chairpersons upon any matter submitted ~~to him~~ for decision under this paragraph.

2.2.8. The Chairperson shall examine the working of the various services of the Office, and shall convoke the Programme, Financial and Administrative Committee when ~~he considers it~~ necessary.

## **2.3. Delegation of authority to the Officers**

2.3.1. The Governing Body may delegate to its Officers the authority:

- (a) to approve the programme of meetings and the dates of symposia, seminars and similar meetings;
- (b) to invite member States or States which are not Members of the Organization;
- (~~b~~c) to invite official international organizations;
- (~~e~~d) to invite non-governmental international organizations.

2.3.2. The decisions of the Officers of the Governing Body shall be communicated to the Governing Body for information. If there is no agreement among the Officers, the question shall be referred to the Governing Body for decision.

2.3.3. The Governing Body may delegate to its Officers the authority to carry out its responsibilities under article 18 of the Standing Orders of the International Labour Conference. Any such delegation shall be made only for one specific session of the Conference, and relate only to proposals involving expenditure during a financial period for which a budget has already been adopted.

## **Section 3 – Agenda and sessions**

### **3.1. Agenda of the Governing Body**

3.1.1. The agenda for each session shall be drawn up by the Officers of the Governing Body with the assistance of the Director-General.

3.1.2. Any subject which the Governing Body shall have decided at its last session to include in the agenda shall be included in the agenda for the next session.

3.1.3. The agenda shall be circulated to the members so as to reach them not less than 14 days before the date of the meeting. With the consent of the Officers of the Governing Body, matters of urgent importance may be added to the agenda of any session.

### **3.2. Times of meeting**

3.2.1. The Governing Body shall normally hold three ordinary sessions in each year.

3.2.2. Without prejudice to the provisions of article 7 of the Constitution of the Organization, the ~~Chairman~~person may also summon a special meeting should it appear necessary ~~to him~~ to do so, and shall be bound to summon a special meeting on receipt of a written request to that effect signed by sixteen members of the Government group, or twelve members of the Employers' group, or twelve members of the Workers' group.

3.2.3. At each session the Governing Body shall decide on the date of the following session. In the event of it becoming necessary in the interval between two sessions to alter the date decided on, the ~~Chairman~~person may, after consultation with the ~~Vice-Chairmen~~persons, make the necessary alteration.

### **3.3. Place of meeting**

3.3.1. The meetings of the Governing Body shall be held at the International Labour Office, unless the Governing Body shall otherwise expressly determine.

### **3.4. Admission to meetings**

3.4.1. As a general rule the sittings are public. Nevertheless, at the request of one Government delegate or of the majority of the Employers' or the Workers' group, the Governing Body ~~will~~shall sit in private.

3.4.2. The Director-General and the members of the staff of the International Labour Office who form the secretariat of the Governing Body shall be present at the sittings.

3.4.3. Members of the Governing Body who do not speak French, English or Spanish are authorized to bring into the Governing Body room interpreters to assist them, on their own responsibility and at their own expense.

## **Section 4 – Committees and working parties**

### **4.1. Programme, Financial and Administrative Committee**

4.1.1. A Programme, Financial and Administrative Committee shall be appointed consisting of the ~~Chairman~~person of the Governing Body, who shall be ~~Chairman~~person of the Committee, and such other members as the Governing Body shall appoint, with the representatives of the Governments, Employers and Workers having an equal number of votes.

4.1.2. The Programme, Financial and Administrative Committee shall examine the estimates and the expenditure of the International Labour Office, study any financial and administrative questions which may be referred to it by the Governing Body or submitted to it by the Director-General and undertake such duties as may be assigned to it by the Governing Body.

4.1.3. The Governing Body shall take no decision regarding any proposal involving expenditure until that proposal has been referred in the first instance to the Programme, Financial and Administrative Committee. The Programme, Financial and Administrative Committee shall make a report, including an estimate of the cost, and a suggestion as to the manner in which provision should be made for the necessary expenditure.

4.1.4. The Programme, Financial and Administrative Committee may delegate to its Officers the authority to carry out its responsibilities under article 18 of the Standing Orders of the International Labour Conference. Any such delegation shall be made only for one specific session of the Conference, and relate only to proposals involving expenditure during a financial period for which a budget has already been adopted.

### **4.2. Other committees and working parties**

4.2.1. The Governing Body may appoint a committee, subcommittee or working party to consider any matter which in its view requires examination, subject to the provisions of article 4.1.3 above.

4.2.2. Subject to specific provisions, each committee shall elect officers comprising a ~~Chairman~~person, an Employer Vice-~~Chairman~~person and a Worker Vice-~~Chairman~~person.

4.2.3. The representatives of governments, employers and workers in the committees shall have an equal number of votes, unless the Governing Body shall otherwise expressly determine.

### **4.3. Committee of the Whole**

4.3.1. The Governing Body may decide to meet as a Committee of the Whole in order to hold an exchange of views, in which representatives of governments that are not represented on the Governing Body may, in the manner determined by it, be given an opportunity to express their views with respect to matters concerning their own situation. The Committee of the Whole shall report to the Governing Body.

## **Section 5 – Procedures**

### **5.1. Procedure for placing an item on the agenda of the International Labour Conference**

5.1.1. When a proposal to place an item on the agenda of the Conference is discussed for the first time by the Governing Body, the Governing Body cannot, without the unanimous consent of the members present, take a decision until the following session.

5.1.2. When it is proposed to place on the agenda of the International Labour Conference an item which implies a knowledge of the laws in force in the various countries, the Office shall place before the Governing Body a concise statement of the existing laws and practice in the various countries relative to that item. This statement shall be submitted to the Governing Body before it takes its decision.

5.1.3. When considering the desirability of placing a question on the agenda of the International Labour Conference, the Governing Body may, if there are special circumstances which make this desirable, decide to refer the question to a preparatory technical conference with a view to such a conference making a report to the Governing Body before the question is placed on the agenda. The Governing Body may, in similar circumstances, decide to convene a preparatory technical conference when placing a question on the agenda of the Conference.

5.1.4. Unless the Governing Body has otherwise decided, a question placed on the agenda of the Conference shall be regarded as having been referred to the Conference with a view to a double discussion.

5.1.5. In cases of special urgency or where other special circumstances exist, the Governing Body may, by a majority of three-fifths of the votes cast, decide to refer a question to the Conference with a view to a single discussion.

5.1.6. When the Governing Body decides that a question shall be referred to a preparatory technical conference it shall determine the date, composition and terms of reference of the said preparatory conference.

5.1.7. The Governing Body shall be represented at such technical conferences which, as a general rule, shall be of a tripartite character.

5.1.8. Each delegate to such conferences may be accompanied by one or more advisers.

5.1.9. For each preparatory conference convened by the Governing Body, the Office shall prepare a report adequate to facilitate an exchange of views on all the issues referred to the said preparatory conference and, in particular, setting out the law and practice in the different countries.

**5.2. Procedure for placing on the agenda of the Conference the question of revising a Convention in whole or in part**

5.2.1. When the Governing Body, in accordance with the provisions of a Convention, considers it necessary to present to the Conference a report on the working of the ~~said~~ Convention and to examine if it is desirable to place the question of its revision in whole or in part on the agenda of the Conference, the Office shall submit to the Governing Body all the information ~~which it possesses~~ available to it, particularly on the legislation and practice relating to the ~~said~~ Convention in those countries which have ratified it and on the legislation relating to the subject of the Convention and its application in those which have not ratified it. The draft report of the Office shall be communicated to all Members of the Organization for their observations.

5.2.2. After a lapse of six months from the date of circulation to members of the Governing Body and to governments of the draft report of the Office referred to in article 5.2.1, the Governing Body shall fix the terms of the report and shall consider the question of placing the revision, in whole or in part, of the Convention on the agenda of the Conference.

5.2.3. If the Governing Body takes the view that it is not desirable to place the revision in whole or in part of the Convention on the agenda, the Office shall communicate the above-mentioned report to the Conference.

5.2.4. If the Governing Body takes the view that it is desirable that the question of placing the revision in whole or in part of the Convention on the agenda of the Conference should be further pursued, the Office shall send the report to the governments of the Members and shall ask them for their observations, drawing attention to the points which the Governing Body has considered specially worthy of attention.

5.2.5. The Governing Body shall, on the expiry of four months from the date of the despatch of the report to the governments, taking into account the replies of the governments, adopt the final report and define exactly the question or questions which it places on the agenda of the Conference.

5.2.6. If at any time other than a time at which the Governing Body, in accordance with the provisions of a Convention, considers it necessary to present to the Conference a report on the working of the ~~said~~ Convention in question, the Governing Body should decide that it is desirable to consider placing on the agenda of the Conference the revision in whole or in part of any Convention, the Office shall notify this decision to the governments of the Members and shall ask them for their observations, drawing attention to the points which the Governing Body has considered specially worthy of attention.

5.2.7. The Governing Body shall, on the expiry of four months from the date of the despatch of this notification to the governments, taking into account the replies of the governments, define exactly the question or questions which it places on the agenda of the Conference.

**5.3. Procedure for placing on the agenda of the Conference the question of revising a Recommendation in whole or in part**

5.3.1. If the Governing Body ~~should~~ considers it to be desirable to consider placing on the agenda of the Conference the revision in whole or in part of any Recommendation, the Office shall notify this decision to the governments of the Members and shall ask them

for their observations, drawing attention to the points which the Governing Body has considered especially worthy of attention.

5.3.2. The Governing Body shall, on the expiry of four months from the date of the despatch of this notification to the governments, taking into account the replies of the governments, define exactly the question or questions which it places on the agenda of the Conference.

#### **5.4. Procedure concerning the placing on the Conference agenda of the abrogation of a Convention in force, or the withdrawal of a Convention which is not in force or of a Recommendation**

5.4.1. When an item to be placed on the agenda of the Conference concerns the abrogation of a Convention in force or the withdrawal of a Convention that is not in force or of a Recommendation, the Office shall place before the Governing Body a report containing all relevant information which the Office possesses on this subject.

5.4.2. The provisions of article 18 concerning the fixing of the Conference agenda shall not apply to the decision to place on the agenda of a given session of the Conference an item on such an abrogation or withdrawal. Such a decision shall as far as possible be reached by consensus or, if such a consensus cannot be reached in two successive sessions of the Governing Body, by a four-fifths majority of members of the Governing Body with a right to vote during the second of these sessions.

#### **5.5. Reports, records, minutes and communiqués**

5.5.1. The ~~Chairman~~Chairperson shall submit a report to each session of the International Labour Conference on the work of the Governing Body during the preceding year. ~~He~~The Chairperson shall consult the ~~Vice-Chairmen~~Vice-Chairpersons on the matters to be covered in ~~his~~the report.

5.5.2. A stenographic record of the sittings of the Governing Body shall be kept. ~~This~~It shall not be published or distributed.

5.5.3. The ~~Secretariat of the Governing Body~~ shall keep the minutes of the meetings. They shall not be published. At the ~~commencement~~beginning of each session the minutes of the previous session shall be ~~confirmed~~approved.

5.5.4. When the minutes have been approved by the Governing Body, they shall be circulated to the governments of the States Members, and may be made public. The minutes of the private sittings mentioned in article 3.4.1, shall, however, not be made public; they shall be regarded as confidential. There shall be no release of confidential Governing Body minutes for a minimum period of ten years; after the lapse of ten years the Director-General, in consultation with the Officers of the Governing Body or, in cases of doubt, with the Governing Body itself, may make confidential minutes available on request in appropriate cases.

5.5.5. Documents prepared by the International Labour Office and dealing with the items on the agenda of the Governing Body shall be circulated to members of the Governing Body before the opening of each session. They may be made public unless the Director-General decides, after consultation with the Officers of the Governing Body, ~~decides~~ to make them available only after the question with which they deal has been

discussed by the Governing Body, and subject to any relevant directions by the latter. The Director-General shall, however, have authority to circulate to the Press those documents which he had decided not to make available prior to discussion by the Governing Body, subject to an embargo date before which they should not be published or ~~utilized~~ used. In fixing this date the Director-General shall endeavour to ~~secure~~ ensure, as far as may be practicable, that the publication of such documents does not take place before the members of the Governing Body have received them. Documents marked “confidential” by their author ~~in~~ when communicating them to the Office, or by the Office ~~in~~ when communicating them to the members of the Governing Body, shall not be made public or circulated to the Press. ~~The~~ Documents relating to private sittings shall be confidential and shall neither be made public nor circulated to the Press.

5.5.6. The Official Bulletin of the Office will publish an account intended particularly for governments and public administrations and containing at least the full texts of resolutions and clear indications as to the conditions in which these resolutions were adopted.

## **5.6. Resolutions, amendments and motions**

5.6.1. Any regular member of the Governing Body, ~~or~~ and any substitute or deputy member occupying the seat of a regular member, may move resolutions, amendments or motions in accordance with the following rules.

5.6.2. The text of any resolution, amendment or motion shall be submitted in writing and handed to the ~~Chairman~~ person. ~~This text shall, w~~ Whenever possible, this text shall be distributed before being put to the vote. Distribution shall be compulsory if 14 members of the Governing Body so request.

5.6.3. If there are several amendments to a motion or resolution, the ~~Chairman~~ person shall determine the order in which they shall be discussed and put to the vote, subject to the following provisions:

- (a) every motion, resolution and amendment shall be put to the vote;
- (b) amendments may be voted on either individually or against other amendments, ~~according~~ as the ~~Chairman~~ person may decide, but if amendments are voted on against other amendments the motion or resolution shall be deemed to be amended only after the amendment receiving the largest number of affirmative votes has been voted on individually and adopted;
- (c) if a motion or resolution is amended as the result of a vote, that motion or resolution as amended shall be put to the meeting for a final vote.

5.6.4. A member may withdraw an amendment ~~which he has moved~~ after moving it, unless an amendment to it is under discussion or has been adopted.

5.6.5. An amendment withdrawn by its author may be moved again by another member. In that case it shall be discussed and put to the vote.

5.6.6. In the case of motions as to procedure, no notice in writing needs to be handed ~~made available~~ to the ~~Chairman~~ person or ~~be~~ distributed. Motions as to procedure include the following: a motion to refer a matter back, a motion to postpone consideration of a question, a motion to adjourn the sitting, a motion to adjourn a debate on a particular question or incident, a motion that the Governing Body should proceed with another item on the agenda of the sitting.

5.6.7. No resolution, motion or amendment shall be discussed unless ~~and until~~ it has been seconded.

## **5.7. Prior consultation in respect of proposals for new activities relating to matters of direct concern to the United Nations or other specialized agencies**

5.7.1. Where a proposal submitted to the Governing Body involves new activities to be undertaken by the International Labour Organization relating to matters ~~which are~~ of direct concern to the United Nations or one or more specialized agencies other than the International Labour Organization, the Director-General shall enter into consultation with the organizations concerned and report to the Governing Body on the means of achieving coordinated use of the resources of the respective organizations. Where a proposal put forward in the course of a meeting for new activities to be undertaken by the International Labour Organization relates to matters ~~which are~~ of direct concern to the United Nations or one or more specialized agencies other than the International Labour Organization, the Director-General shall, after such consultation as may be possible with the representatives at the meeting of the other organization or organizations concerned attending the meeting, ~~as may be possible~~, draw the attention of the meeting to these implications of the proposal.

5.7.2. Before deciding on proposals referred to in paragraph 5.7.1 of the present article, the Governing Body shall satisfy itself that adequate consultations have taken place with the organizations concerned.

## **Section 6 – Voting and quorum**

### **6.1. Voting**

6.1.1. Voting shall be by show of hands except in cases where a ballot is required by these ~~present~~ Standing Orders.

6.1.2. In case of doubt as to the result of a vote by show of hands, the Chair~~man~~person may retake the vote by calling the roll of members entitled to vote.

6.1.3. A ballot vote is required in the case of the election of the Chair~~man~~person and of the Director-General of the International Labour Office, and in any other case where it may be demanded by twenty-three of the members present.

6.1.4. If the Governing Body has been notified by the Director-General that the amount of the arrears due from a Member of the Organization represented on the Governing Body equals or exceeds the contribution due from that Member for the preceding ~~full~~ two years, the representative of that Member ~~of the Organization~~ and any deputy member of the Governing Body appointed by that Member ~~of the Organization~~ shall, unless the Conference has decided to permit the Member to vote, in accordance with article 13, paragraph 4, of the Constitution ~~to permit the Member to vote~~, be disqualified from voting in the Governing Body and its committees until the Governing Body has been notified by the Director-General that the right to vote of the Member concerned is no longer suspended.

6.1.5. Any decision by the Conference permitting a Member ~~which is~~ in arrears in the payment of its contributions to vote shall be valid for the session of the Conference at which the decision is taken. Any such decision shall be operative in regard to the

Governing Body and committees until the opening of the general session of the Conference immediately following that at which it was taken.

6.1.6. Notwithstanding the provisions of paragraph 6.1.5 of this article, after the Conference has approved an arrangement under which the arrears of a Member are consolidated and are payable in annual instalments over a period of years, the representative of the Member concerned and any deputy member of the Governing Body appointed by that Member shall be permitted to vote provided that, at the time of the vote concerned, the Member has fully paid all instalments due under the arrangement as well as all financial contributions under article 13 of the Constitution that were due before the end of the previous year. For any Member which, at the close of a session of the Conference, has not fully paid all such instalments and contributions due before the end of the previous year, the permission to vote shall lapse.

## **6.2. Method of voting in order to fix the agenda of the Conference**

6.2.1. When agreement on the agenda of the Conference has not been reached without vote, the Governing Body shall decide by a first vote whether it will place all the questions proposed on the agenda. If it decides to ~~insert~~include all the questions proposed, the agenda of the Conference is considered as fixed. If it does not so decide, the procedure shall be as follows:

6.2.2. Each member of the Governing Body entitled to vote shall receive a voting paper ~~on which with~~ a list of all the questions proposed ~~is given~~, and shall indicate ~~the a~~ preferred order in which he wishes them to be considered for inclusion in the agenda by marking ~~his a~~ first preference "1", ~~his a~~ second "2", and so forth; a voting paper which does not indicate the order of preference for all the questions proposed shall be void. ~~Each~~ Members shall place ~~his their~~ voting papers in the ballot box as ~~his their names is are~~ called ~~on the roll~~.

6.2.3. Whenever a question is indicated as a first preference, it shall be allotted one point, whenever it is indicated as a second preference, two points and so forth. The questions shall then be listed on the basis of the total points obtained, the question with the lowest total being regarded as the first in order of preference. If the voting results in an equal number of points for each of two or more questions, a vote by show of hands shall be taken ~~as between them~~. If the voting is still equal, the order of preference shall be decided by lot.

6.2.4. The Governing Body shall then decide the number of questions to be placed on the agenda, in the order of priority established in accordance with paragraphs 6.2.2 and 6.2.3. For that purpose, it shall vote first on the total number of questions proposed minus one, second on the total number of questions proposed minus two, and so forth, until a majority is obtained.

## **6.3. Quorum**

6.3.1. No vote shall be valid unless at least thirty-three members are present at the sitting.

## **Section 7 – General provisions**

### **7.1. *Autonomy of groups***

7.1.1. Subject to the provisions of these Standing Orders, each group shall control its own procedure.

### **7.2. *Suspension of a provision of the Standing Orders***

7.2.1. The Governing Body, on the unanimous recommendation of its Officers, may exceptionally, in the interests of its own orderly and expeditious functioning, decide to suspend any provision of these Standing Orders for the purpose of dealing with a specific non-controversial question before it. A decision may not be taken until the sitting following that at which a proposal to suspend a provision of the Standing Orders has been submitted to the Governing Body.

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## **Annex I**

### **Standing Orders concerning the procedure for the examination of representations under articles 24 and 25 of the Constitution of the International Labour Organisation**

Adopted by the Governing Body at its 57th Session (8 April 1932), modified at its 82nd Session (5 February 1938), 212th Session (7 March 1980), and 291st Session (18 November 2004).

#### ***Introductory note***

1. The Standing Orders concerning the procedure for the examination of representations were adopted by the Governing Body at its 57th Session (1932) and amended on some points of form at its 82nd Session (1938). They were revised by the Governing Body at its 212th Session (February–March 1980).

2. In adopting further amendments at its 291st Session (November 2004), the Governing Body decided to precede the Standing Orders with this introductory note, which summarizes the various stages of the procedure while indicating the options open to the Governing Body at the various stages of the procedure in accordance with the Standing Orders and with the guidance that emerges from the preparatory work of the Standing Orders and the decisions and practice of the Governing Body.

3. The Standing Orders comprise six titles, the first five of which correspond to the main stages of the procedure, namely: (i) receipt by the Director-General; (ii) examination of receivability of the representation; (iii) decision on referral to a committee; (iv) examination of the representation by the committee; and (v) examination by the Governing Body. The sixth title of the Standing Orders concerns the application of the procedure in the specific instance of a representation against a non-member State of the Organization.

#### ***General provision***

4. Article 1 of the Standing Orders concerns the receipt of representations by the Director-General of the ILO, who informs the Government against which the representation is made.

#### ***Receivability of the representation***

5. Examining receivability means determining whether the prior conditions that have to be satisfied before the Governing Body can proceed to examine the merits of the representation and formulate recommendations have been met.

6. The examination of receivability is, in the first instance, entrusted to the Officers of the Governing Body, to whom the Director-General transmits all the representations that are received. The Officers of the Governing Body make a proposal with respect to receivability, which is communicated to the Governing Body; the Governing Body then decides whether it deems the representation receivable. Although the Standing Orders specify that the Governing Body must not, at this stage, enter into a discussion of the merits of the representation, the conclusions of its Officers regarding receivability may be the subject of discussions.

7. Pursuant to article 7, paragraph 1, of the Standing Orders, the Office invites the Government concerned to send a representative to take part in these deliberations if that Government is not a member of the Governing Body.

8. The conditions of receivability for representations are set out in article 2, paragraph 2, of the Standing Orders. Four of the conditions simply relate to the form of submission (paragraph 2(a), (c), (d) and (e)), while the remaining two conditions may require examination of the representation in greater depth: these relate to the industrial character of the association that is making the representation, on the one hand (paragraph 2(b)), and, on the other hand, the indication of in what respect the State concerned is alleged to have failed to secure the effective observance of the Convention to which the representation relates (paragraph 2(f)).

The representation must emanate from an industrial association of employers or workers (article 2, paragraph 2(b), of the Standing Orders)

9. The following principles may guide the Governing Body in its application of this provision:

- The right to make a representation to the International Labour Office is granted without restriction to any industrial association of employers or workers. No conditions are laid down in the Constitution as regards the size or nationality of that association. The representation may be made by any industrial association whatever may be the number of its members or in whatever country it may be established. The industrial association may be an entirely local organization or a national or international organization.<sup>1</sup>
- The widest possible discretion should be left to the Governing Body in determining the actual character of the industrial association of employers or workers which makes the representation. The criteria to be applied in this connection by the Governing Body should be those which have up to the present guided the general policy of the Organization and not those laid down by the national legislation of States.<sup>2</sup>
- The Governing Body has the duty of examining objectively whether, in fact, the association making the representation is “an industrial association of employers or workers”, within the meaning of the Constitution and the Standing Orders. It is the duty of the Governing Body to determine in each case, independently of the terminology employed and of the name that may have been imposed upon the association by circumstances or selected by it, whether the association from which the representation emanates is in fact an “industrial association of employers or workers” in the natural meaning of the words. In particular, when considering whether a body is an industrial association, the Governing Body cannot be bound by any national definition of the term “industrial association”.<sup>3</sup>

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<sup>1</sup> See Proposed Standing Orders concerning the application of articles 409, 410, 411, §§4 and 5, of the Treaty of Peace, explanatory note of the International Labour Office submitted to the Standing Orders Committee of the Governing Body at its 56th Session (1932).

<sup>2</sup> *ibid.*

<sup>3</sup> See representation submitted by Dr. J.M. Curé on behalf of the Labour Party of the Island of Mauritius concerning the application of certain international labour Conventions in the Island,

10. Moreover, the Governing Body might apply *mutatis mutandis* the principles developed by the Committee on Freedom of Association on receivability as regards a complainant organization that is alleging violations of freedom of association. Those principles are formulated as follows:

At its first meeting in January 1952 (First Report, General observations, paragraph 28), the Committee adopted the principle that it has full freedom to decide whether an organization may be deemed to be an employers' or workers' organization within the meaning of the ILO Constitution, and it does not consider itself bound by any national definition of the term.

The Committee has not regarded any complaint as being irreceivable simply because the Government in question had dissolved, or proposed to dissolve the organization on behalf of which the complaint was made, or because the person or persons making the complaint had taken refuge abroad.

The fact that a trade union has not deposited its by-laws, as may be required by national laws, is not sufficient to make its complaint irreceivable since the principles of freedom of association provide precisely that the workers shall be able, without previous authorization, to establish organizations of their own choosing.

The fact that an organization has not been officially recognized does not justify the rejection of allegations when it is clear from the complaints that this organization has at least a *de facto* existence.

In cases in which the Committee is called upon to examine complaints presented by an organization concerning which no precise information is available, the Director General is authorized to request the organization to furnish information on the size of its membership, its statutes, its national or international affiliations and, in general, any other information calculated, in any examination of the receivability of the complaint, to lead to a better appreciation of the precise nature of the complainant organization.

The Committee will only take cognizance of complaints presented by persons who, through fear of reprisals, request that their names or the origin of the complaints should not be disclosed, if the Director-General, after examining the complaint in question, informs the Committee that it contains allegations of some degree of gravity which have not previously been examined by the Committee. The Committee can then decide what action, if any, should be taken with regard to such complaints.<sup>4</sup>

The representation must indicate in what respect it is alleged that the Member against which it is made has failed to secure the effective observance within its jurisdiction of the said Convention (article 2, paragraph 2(f), of the Standing Orders)

11. In examining this condition of receivability, particular importance is attached to article 2, paragraph 4, of the Standing Orders, which provides that in reaching a decision concerning receivability on the basis of the report of its Officers, the Governing Body shall not enter into a discussion of the substance of the representation. It is important, however, that the representation be sufficiently precise for the Officers of the Governing Body to be able to legitimately substantiate their proposal to the Governing Body.

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Report of the Committee of the Governing Body (adopted by the Governing Body at its 79th Session), ILO, Official Bulletin, Vol. XXII (1937), pp. 71–72, paras 6–7.

<sup>4</sup> See paras 35–40 of the Procedures of the Fact-Finding and Conciliation Commission and the Committee on Freedom of Association for the examination of complaints alleging violations of freedom of association (*Digest of decisions and principles of the Freedom of Association Committee*, 4th edition, 1996, Annex I).

## **Reference to a committee**

12. If the Governing Body deems, on the basis of the report of its Officers, that a representation is receivable, it shall usually set up a tripartite committee to examine the representation (article 3, paragraph 1). However, depending on the content of the representation, the Governing Body has, under certain conditions, other options:

- (a) if the representation relates to a Convention dealing with trade union rights, the Governing Body may decide to refer it to the Committee on Freedom of Association for examination in accordance with articles 24 and 25 of the Constitution (article 3, paragraph 2);
- (b) if the representation relates to matters and allegations similar to those which have been the subject of a previous representation, the Governing Body may decide to postpone the appointment of the committee to examine the new representation until the Committee of Experts on the Application of Conventions and Recommendations has been able, at its next session, to examine the follow-up to the recommendations that were adopted by the Governing Body in relation to the previous representation (article 3, paragraph 3).

13. It is the practice for the report of the Officers of the Governing Body concerning the receivability of the representation to also include a recommendation concerning reference to a committee. It is for the Governing Body to appoint the members who make up the tripartite committee, taking into account the conditions established in article 3, paragraph 1.

## **Examination of the representation by the committee**

14. Under article 6, the tripartite committee charged with examining a representation must present its conclusions on the issues raised in the representation and formulate its recommendations as to the decisions to be taken by the Governing Body. The committee examines the merits of the allegation made by the author of the representation, that the Member concerned has failed to secure effective observance of the Convention or Conventions ratified by the Member and indicated in the representation.

15. The powers of the tripartite committee during its examination of the representation are laid down in article 4. Article 5 concerns the rights of the Government concerned if the committee invites it to make a statement on the subject of the representation.

16. Moreover, the committee may apply, *mutatis mutandis*, two principles developed by the Committee on Freedom of Association:

- (a) In establishing the matters on which the representation is based, the committee may consider that, while no formal period of prescription has been fixed for the examination of representations, it may be very difficult – if not impossible – for a Government to reply in detail regarding matters which occurred a long time ago.<sup>5</sup>
- (b) In formulating its recommendations as to the decision to be taken by the Governing Body, the committee may take into account the interest that the association making the representation has in taking action with regard to the situation motivating the representation. Such interest exists if the representation emanates from a national association directly interested in the matter, from international workers' or

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<sup>5</sup> *ibid.*, para. 67.

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employers' associations having consultative status with the ILO, or from other international workers' or employers' associations when the representation concerns matters directly affecting their affiliated organizations.<sup>6</sup>

### ***Consideration of the representation by the Governing Body***

17. On the basis of the report of the tripartite committee, the Governing Body considers the issues of substance raised by the representation and what follow-up to undertake. Article 7 determines the modalities for the participation of the Government concerned in the deliberations.

18. The Standing Orders recall and determine two options provided for in the Constitution that are open to the Governing Body if it decides that a representation is substantiated, it being understood that the Governing Body remains free to take or not to take these measures:

- (a) Under the conditions laid down in article 25 of the Constitution, the Governing Body may publish the representation received and, if applicable, the statement made by the Government concerned; in the event that it so decides, the Governing Body also decides the form and date of publication.
- (b) The Governing Body may, at any time, in accordance with article 26, paragraph 4, of the Constitution, adopt, against the Government concerned and with regard to the Convention the effective observance of which is contested, the procedure of complaint provided for in article 26 and the following articles (article 10 of the Standing Orders).

19. Furthermore, the Governing Body may decide to refer issues concerning any follow-up to the recommendations adopted by the Governing Body to be undertaken by the Government concerned to the Committee of Experts on the Application of Conventions and Recommendations. That Committee shall examine the measures taken by the Government to give effect to the provisions of the Conventions to which it is a party and with respect to which recommendations had been adopted by the Governing Body.

### ***Representations against non-members***

20. Article 11 of the Standing Orders stipulates that a representation against a State which is no longer a Member of the Organization may also be examined in accordance with the Standing Orders, in virtue of article 1, paragraph 5, of the Constitution, which provides that the withdrawal of a Member of the Organization shall not affect the continued validity of obligations arising under or relating to Conventions that it had ratified.

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<sup>6</sup> *ibid.*, para. 34.

## GENERAL PROVISION

*Article 1*

When a representation is made to the International Labour Office under article 24 of the Constitution of the Organization, the Director-General shall acknowledge its receipt and inform the Government against which the representation is made.

## RECEIVABILITY OF THE REPRESENTATION

*Article 2*

1. The Director-General shall immediately bring the representation before the Officers of the Governing Body.

2. The receivability of a representation is subject to the following conditions:

- (a) it must be communicated to the International Labour Office in writing;
- (b) it must emanate from an industrial association of employers or workers;
- (c) it must make specific reference to article 24 of the Constitution of the Organization;
- (d) it must concern a Member of the Organization;
- (e) it must refer to a Convention to which the Member against which it is made is a party; and
- (f) it must indicate in what respect it is alleged that the Member against which it is made has failed to secure the effective observance within its jurisdiction of the said Convention.

3. The Officers shall report to the Governing Body on the receivability of the representation.

4. In reaching a decision concerning receivability on the basis of the report of its Officers, the Governing Body shall not enter into a discussion of the substance of the representation.

## REFERENCE TO A COMMITTEE

*Article 3*

1. If the Governing Body decides, on the basis of the report of its Officers, that a representation is receivable, it shall set up a committee for the examination thereof, composed of members of the Governing Body chosen in equal numbers from the Government, Employers' and Workers' groups. No representative or national of the State against which the representation has been made and no person occupying an official position in the association of employers or workers which has made the representation may be a member of this committee.

2. Notwithstanding the provisions of paragraph 1 of this article, if a representation which the Governing Body decides is receivable relates to a Convention dealing with trade

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union rights, it may be referred to the Committee on Freedom of Association for examination in accordance with articles 24 and 25 of the Constitution.

3. Notwithstanding the provisions of paragraph 1 of this article, if a representation which the Governing Body decides is receivable relates to facts and allegations similar to those which have been the subject of an earlier representation, the appointment of the committee charged with examining the new representation may be postponed pending the examination by the Committee of Experts on the Application of Conventions and Recommendations at its next session of the follow-up given to the recommendations previously adopted by the Governing Body.

4. The meetings of the committee appointed by the Governing Body pursuant to paragraph 1 of this article shall be held in private and all the steps in the procedure before the committee shall be confidential.

#### EXAMINATION OF THE REPRESENTATION BY THE COMMITTEE

##### *Article 4*

1. During its examination of the representation, the committee may:

- (a) request the association which has made the representation to furnish further information within the time fixed by the committee;
- (b) communicate the representation to the Government against which it is made without inviting that Government to make any statement in reply;
- (c) communicate the representation (including all further information furnished by the association which has made the representation) to the Government against which it is made and invite the latter to make a statement on the subject within the time fixed by the committee;
- (d) upon receipt of a statement from the Government concerned, request the latter to furnish further information within the time fixed by the committee;
- (e) invite a representative of the association which has made the representation to appear before the committee to furnish further information orally.

2. The committee may prolong any time limit fixed under the provisions of paragraph 1 of this article, in particular at the request of the association or Government concerned.

##### *Article 5*

1. If the committee invites the Government concerned to make a statement on the subject of the representation or to furnish further information, the Government may:

- (a) communicate such statement or information in writing;
- (b) request the committee to hear a representative of the Government;

- (c) request that a representative of the Director-General visit its country to obtain, through direct contacts with the competent authorities and organizations, information on the subject of the representation, for presentation to the committee.

#### *Article 6*

When the committee has completed its examination of the representation as regards substance, it shall present a report to the Governing Body in which it shall describe the steps taken by it to examine the representation, present its conclusions on the issues raised therein and formulate its recommendations as to the decisions to be taken by the Governing Body.

### CONSIDERATION OF THE REPRESENTATION BY THE GOVERNING BODY

#### *Article 7*

1. When the Governing Body considers the reports of its Officers on the issue of receivability and of the committee on the issues of substance, the Government concerned, if not already represented on the Governing Body, shall be invited to send a representative to take part in its proceedings while the matter is under consideration. Adequate notice of the date on which the matter will be considered shall be given to the Government.

2. Such a representative shall have the right to speak under the same conditions as a member of the Governing Body, but shall not have the right to vote.

3. The meetings of the Governing Body at which questions relating to a representation are considered shall be held in private.

#### *Article 8*

If the Governing Body decides to publish the representation and the statement, if any, made in reply to it, it shall decide the form and date of publication. Such publication shall close the procedure under articles 24 and 25 of the Constitution.

#### *Article 9*

The International Labour Office shall notify the decisions of the Governing Body to the Government concerned and to the association which made the representation.

#### *Article 10*

When a representation within the meaning of article 24 of the Constitution of the Organization is communicated to the Governing Body, the latter may, at any time in accordance with paragraph 4 of article 26 of the Constitution, adopt, against the Government against which the representation is made and concerning the Convention the effective observance of which is contested, the procedure of complaint provided for in article 26 and the following articles.

REPRESENTATIONS AGAINST NON-MEMBERS

*Article 11*

In the case of a representation against a State which is no longer a Member of the Organization, in respect of a Convention to which it remains party, the procedure provided for in these Standing Orders shall apply in virtue of article 1, paragraph 5, of the Constitution.

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[The following annex presents the text of Annex I to the *Digest of decisions and principles of the Freedom of Association Committee of the Governing Body of the ILO*, Fifth (revised) edition, 2006, which includes adaptations to the previous text of Annex II to the *Compendium of Rules applicable to the Governing Body*. See 327th Report of the CFA, GB.283/8 (March 2002), paras. 17–26; GB.283/205, para. 11.]

## **Annex II**

### **Special procedures for the examination in the International Labour Organization of complaints alleging violations of freedom of association**

The outline given below of the current procedure for the examination of complaints alleging infringements of trade union rights is based on the provisions adopted by common consent by the Governing Body of the International Labour Office and the Economic and Social Council of the United Nations in January and February 1950, and also on the decisions taken by the Governing Body at its 117th Session (November 1951), 123rd Session (November 1953), 132nd Session (June 1956), 140th Session (November 1958), 144th Session (March 1960), 175th Session (May 1969), 184th Session (November 1971), 202nd Session (March 1977), 209th Session (May-June 1979) and 283rd Session (March 2002) with respect to the internal procedure for the preliminary examination of complaints, and lastly on certain decisions adopted by the Committee on Freedom of Association itself.<sup>1</sup>

#### **Background**

1. In January 1950 the Governing Body, following negotiations with the Economic and Social Council of the United Nations, set up a Fact-Finding and Conciliation Commission on Freedom of Association, composed of independent persons, and defined the terms of reference of the Commission and the general lines of its procedure. It also decided to communicate to the Economic and Social Council a certain number of suggestions with a view to formulating a procedure for making the services of the Commission available to the United Nations.

2. The Economic and Social Council, at its Tenth Session, on 17 February 1950, noted the decision of the Governing Body and adopted a resolution in which it formally approved this decision, considering that it corresponded to the intent of the Council's resolution of 2 August 1949 and that it was likely to prove a most effective way of safeguarding trade union rights. It decided to accept, on behalf of the United Nations, the services of the ILO and the Fact-Finding and Conciliation Commission and laid down a procedure, which was supplemented in 1953.

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<sup>1</sup> Most of the procedural rules referred to in this Annex are contained under the heading "procedural questions" in the following documents: First Committee Report, paras. 6 to 32, in Sixth Report of the International Labour Organisation to the United Nations (Geneva, ILO, 1952), Appendix V; the 6th Report in Seventh Report of the International Labour Organisation to the United Nations (Geneva, ILO, 1953), Appenix V, paras. 14 to 21; the 9th Report in Eighth Report of the International Labour Organisation to the United Nations (Geneva, ILO, 1954), Appendix II, paras. 2 to 40; the 29th and 43rd Reports in the Official Bulletin, Vol. XLIII, 1960, No. 3; the 111th Report, *ibid.*, Vol. LII, 1969 No. 4, paras. 7 to 20; the 127th Report, *ibid.*, Vol. LV, 1972, Supplement, paras. 9 to 28; the 164th Report, *ibid.*, Vol. LX, 1977, No. 2, paras. 19 to 28; the 193rd Report, *ibid.*, Vol. LXII, 1979, No. 1; and the 327th Report, *ibid.*, Vol. LXXXV, 2002, paras. 17 to 26.

## **Complaints received by the United Nations**

3. All allegations regarding infringements of trade union rights received by the United Nations from governments or trade union or employers' organizations against ILO member States will be forwarded by the Economic and Social Council to the Governing Body of the International Labour Office, which will consider the question of their referral to the Fact-Finding and Conciliation Commission.

4. Similar allegations received by the United Nations regarding any Member of the United Nations which is not a Member of the ILO will be transmitted to the Commission through the Governing Body of the ILO when the Secretary-General of the United Nations, acting on behalf of the Economic and Social Council, has received the consent of the government concerned, and if the Economic and Social Council considers these allegations suitable for transmission. If the government's consent is not forthcoming, the Economic and Social Council will give consideration to the position created by such refusal, with a view to taking any appropriate alternative action calculated to safeguard the rights relating to freedom of association involved in the case. If the Governing Body has before it allegations regarding infringements of trade union rights that are brought against a Member of the United Nations which is not a Member of the ILO, it will refer such allegations in the first instance to the Economic and Social Council.

## **Bodies competent to examine complaints**

5. In accordance with a decision originally taken by the Governing Body, complaints against member States of the ILO were submitted in the first instance to the Officers of the Governing Body for preliminary examination. Following discussions at its 116th and 117th Sessions, the Governing Body decided to set up a Committee on Freedom of Association to carry out this preliminary examination.

6. At the present time, therefore, there are three bodies which are competent to hear complaints alleging infringements of trade union rights that are lodged with the ILO, viz. the Committee on Freedom of Association set up by the Governing Body, the Governing Body itself, and the Fact-Finding and Conciliation Commission on Freedom of Association.

## **Composition and functioning of the Committee on Freedom of Association**

7. This body is a Governing Body organ reflecting the ILO's own tripartite character. Since its creation in 1951, it has been composed of nine regular members representing in equal proportion the Government, Employer and Worker groups of the Governing Body; each member participates in a personal capacity. Nine substitute members, also appointed by the Governing Body, were originally called upon to participate in the meetings only if, for one reason or another, regular members were not present, so as to maintain the initial composition.

8. The present practice adopted by the Committee in February 1958 and specified in March 2002 gives substitute members the right to participate in the work of the Committee, whether or not all the regular members are present. They have therefore acquired the status of deputy members and must respect the same rules as regular members.

9. At its most recent examination of the procedure in March 2002, the Committee expressed the hope that, in view of the rule that all the members are appointed in their individual capacity, the nominations of Government members would be made in a personal capacity so as to ensure a relative permanence of government representation.

10. No representative or national of the State against which a complaint has been made, or person occupying an official position in the national organization of employers or workers which has made the complaint, may participate in the Committee's deliberations or even be present during the hearing of the complaint in question. Similarly, the documents concerning the case are not supplied to them.

11. The Committee always endeavours to reach unanimous decisions.

### **Mandate and responsibility of the Committee**

12. By virtue of its Constitution, the ILO was established in particular to improve working conditions and to promote freedom of association in the various countries. Consequently, the matters dealt with by the Organization in this connection no longer fall within the exclusive sphere of States and the action taken by the Organization for the purpose cannot be considered to be interference in internal affairs, since it falls within the terms of reference that the ILO has received from its Members with a view to attaining the aims assigned to it.<sup>2</sup>

13. The function of the International Labour Organization in regard to freedom of association and the protection of the individual is to contribute to the effectiveness of the general principles of freedom of association, as one of the primary safeguards of peace and social justice.<sup>3</sup> Its function is to secure and promote the right of association of workers and employers. It does not level charges at, or condemn, governments. In fulfilling its task the Committee takes the utmost care, through the procedures it has developed over many years, to avoid dealing with matters which do not fall within its specific competence.

14. The mandate of the Committee consists in determining whether any given legislation or practice complies with the principles of freedom of association and collective bargaining laid down in the relevant Conventions.<sup>4</sup>

15. It is within the mandate of the Committee to examine whether, and to what extent, satisfactory evidence is presented to support allegations; this appreciation goes to the merits of the case and cannot support a finding of irreceivability.<sup>5</sup>

16. With a view to avoiding the possibility of misunderstanding or misinterpretation, the Committee considers it necessary to make it clear that its task is limited to examining the allegations submitted to it. Its function is not to formulate general conclusions concerning the trade union situation in particular countries on the basis of vague general statements, but simply to evaluate specific allegations.

17. The usual practice of the Committee has been not to make any distinction between allegations levelled against governments and those levelled against persons accused of infringing freedom of association, but to consider whether or not, in each particular case, a government has ensured within its territory the free exercise of trade union rights.

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<sup>2</sup> See *Freedom of Association: Digest of decisions and principles of the Freedom of Association Committee* of the Governing Body of the ILO, fifth (revised) edition, 2006, para. 2.

<sup>3</sup> See 2006 *Digest*, para. 1.

<sup>4</sup> See 2006 *Digest*, para. 6.

<sup>5</sup> See 2006 *Digest*, para. 9.

18. The Committee (after a preliminary examination, and taking account of any observations made by the governments concerned, if received within a reasonable period of time) reports to the Governing Body that a case does not call for further examination if it finds, for example, that the alleged facts, if proved, would not constitute an infringement of the exercise of trade union rights, or that the allegations made are so purely political in character that it is undesirable to pursue the matter further, or that the allegations made are too vague to permit a consideration of the case on its merits, or that the complainant has not offered sufficient evidence to justify reference of the matter to the Fact-Finding and Conciliation Commission.

19. The Committee may recommend that the Governing Body draw the attention of the governments concerned to the anomalies which it has observed and invite them to take appropriate measures to remedy the situation.

### ***The Committee's competence to examine complaints***

20. The Committee has considered that it is not within its competence to reach a decision on violations of ILO Conventions on working conditions since such allegations do not concern freedom of association.

21. The Committee has recalled that questions concerning social security legislation fall outside its competence.

22. The questions raised related to landownership and tenure governed by specific national legislation have nothing to do with the problems of the exercise of trade union rights.

23. It is not within the Committee's terms of reference to give an opinion on the type or characteristics – including the degree of legislative regulation – of the industrial relations system in any particular country.<sup>6</sup>

24. The Committee always takes account of national circumstances, such as the history of labour relations and the social and economic context, but the freedom of association principles apply uniformly and consistently among countries.<sup>7</sup>

25. Where the government concerned considers that the questions raised are purely political in character, the Committee has decided that, even though allegations may be political in origin or present certain political aspects, they should be examined in substance if they raise questions directly concerning the exercise of trade union rights.

26. The question of whether issues raised in a complaint concern penal law or the exercise of trade union rights cannot be decided unilaterally by the government against which a complaint is made. It is for the Committee to rule on the matter after examining all the available information.<sup>8</sup>

27. When it has had to deal with precise and detailed allegations regarding draft legislation, the Committee it has taken the view that the fact that such allegations relate to a text that does not have the force of law should not in itself prevent it from expressing its opinion on the merits of the allegations made. It has considered it desirable that, in such

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<sup>6</sup> See 287th Report, Case No. 1627, para. 32.

<sup>7</sup> See 2006 *Digest*, para. 10.

<sup>8</sup> See 268th Report, Case No. 1500, para. 693.

cases, the government and the complainant should be made aware of the Committee's point of view with regard to the proposed bill before it is enacted, since it is open to the government, on whose initiative such a matter depends, to make any amendments thereto.

28 Where national legislation provides for appeal procedures before the courts or independent tribunals, and these procedures have not been used for the matters on which the complaint is based, the Committee takes this into account when examining the complaint.

29. When a case is being examined by an independent national jurisdiction whose procedures offer appropriate guarantees, and the Committee considers that the decision to be taken could provide additional information, it will suspend its examination of the case for a reasonable time to await this decision, provided that the delay thus encountered does not risk prejudicing the party whose rights have allegedly been infringed.

30. Although the use of internal legal procedures, whatever the outcome, is undoubtedly a factor to be taken into consideration, the Committee has always considered that, in view of its responsibilities, its competence to examine allegations is not subject to the exhaustion of national procedures.

### **Receivability of complaints**

31. Complaints lodged with the ILO, either directly or through the United Nations, must come either from organizations of workers or employers or from governments. Allegations are receivable only if they are submitted by a national organization directly interested in the matter, by international organizations of employers or workers having consultative status with the ILO, or other international organizations of employers or workers where the allegations relate to matters directly affecting their affiliated organizations. Such complaints may be presented whether or not the country concerned has ratified the freedom of association Conventions.

32. The Committee has full freedom to decide whether an organization may be deemed to be an employers' or workers' organization within the meaning of the ILO Constitution, and it does not consider itself bound by any national definition of the term.

33. The Committee has not regarded any complaint as being irreceivable simply because the government in question had dissolved, or proposed to dissolve, the organization on behalf of which the complaint was made, or because the person or persons making the complaint had taken refuge abroad.

34. The fact that a trade union has not deposited its by-laws, as may be required by national laws, is not sufficient to make its complaint irreceivable since the principles of freedom of association provide precisely that the workers shall be able, without previous authorization, to establish organizations of their own choosing.

35. The fact that an organization has not been officially recognized does not justify the rejection of allegations when it is clear from the complaints that this organization has at least a *de facto* existence.

36. In cases in which the Committee is called upon to examine complaints presented by an organization concerning which no precise information is available, the Director-General is authorized to request the organization to furnish information on the size of its membership, its statutes, its national or international affiliations and, in general, any other information calculated, in any examination of the receivability of the complaint, to lead to a better appreciation of the precise nature of the complainant organization.

37. The Committee will only take cognizance of complaints presented by persons who, through fear of reprisals, request that their names or the origin of the complaints should not be disclosed, if the Director-General, after examining the complaint in question, informs the Committee that it contains allegations of some degree of gravity which have not previously been examined by the Committee. The Committee can then decide what action, if any, should be taken with regard to such complaints.

### ***Repetitive nature of complaints***

38. In any case in which a complaint concerns exactly the same infringements as those on which the Committee has already given a decision, the Director-General may, in the first instance, refer the complaint to the Committee, which will decide whether it is appropriate to take action on it.

39. The Committee has taken the view that it could only reopen a case which it had already examined in substance and in which it had submitted final recommendations to the Governing Body if new evidence is adduced and brought to its notice. Similarly, the Committee does not re-examine allegations on which it has already given an opinion: for example, when a complaint refers to a law that it has already examined and, as such, does not contain new elements.<sup>9</sup>

### ***Form of the complaint***

40. Complaints must be presented in writing, duly signed by a representative of a body entitled to present them, and they must be as fully supported as possible by evidence of specific infringements of trade union rights.

41. When the Committee receives, either directly or through the United Nations, mere copies of communications sent by organizations to third parties, such communications do not constitute formal complaints and do not call for action on its part.

42. Complaints originating from assemblies or gatherings which are not bodies having a permanent existence or even bodies organized as definite entities and with which it is impossible to correspond, either because they have only a temporary existence or because the complaints do not contain any addresses of the complainants, are not receivable.

### ***Rules concerning relations with complainants***

43. Complaints which do not relate to specific infringements of trade union rights are referred by the Director-General to the Committee on Freedom of Association for opinion, and the Committee decides whether or not any action should be taken on them. In cases of this kind, the Director-General is not bound to wait until the Committee meets, but may contact the complainant organization directly to inform it that the Committee's mandate only permits it to deal with questions concerning freedom of association and to ask it to specify, in this connection, the particular points that it wishes to have examined by the Committee.

44. The Director-General, on receiving a new complaint concerning specific cases of infringement of freedom of association, either directly from the complainant organization or through the United Nations, informs the complainant that any information he may wish to furnish in substantiation of the complaint should be communicated to him within a period of one month. In the event that supporting information is sent to the ILO after the

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<sup>9</sup> See 297th Report, para. 13.

expiry of the one month period provided for in the procedures it will be for the Committee to determine whether this information constitutes new evidence which the complainant would not have been in a position to adduce within the appointed period; in the event that the Committee considers that this is not the case, the information in question is regarded as irreceivable. On the other hand, if the complainant does not furnish the necessary information in substantiation of a complaint (where it does not appear to be sufficiently substantiated) within a period of one month from the date of the Director-General's acknowledgement of receipt of the complaint, it is for the Committee to decide whether any further action in the matter is appropriate.

45. In cases in which a considerable number of copies of an identical complaint are received from separate organizations, the Director-General is not required to request each separate complainant to furnish further information; it is normally sufficient for the Director-General to address the request to the central organization in the country to which the bodies presenting the copies of the identical complaint belong or, where the circumstances make this impracticable, to the authors of the first copy received, it being understood that this does not preclude the Director-General from communicating with more than one of the said bodies if this appears to be warranted by any special circumstances of the particular case. The Director-General will transmit to the government concerned the first copy received, but will also inform the government of the names of the other complainants presenting the copies of the identical complaints.

46. When a complaint has been communicated to the government concerned and the latter has presented its observations thereon, and when the statements contained in the complaint and the government's observations merely cancel one another out but do not contain any valid evidence, thereby making it impossible for the Committee to reach an informed opinion, the Committee is authorized to seek further information in writing from the complainant in regard to questions concerning the terms of the complaint requiring further elucidation. In such cases, it has been understood that, on the one hand, the government concerned, as defendant, would have an opportunity to reply in its turn to any additional comments the complainants may make, and, on the other hand, that this method would not be followed automatically in all cases but only in cases where it appears that such a request to the complainants would be helpful in establishing the facts.

47. Subject to the two conditions mentioned in the preceding paragraph, the Committee may, moreover, inform the complainants, in appropriate cases, of the substance of the government's observations and invite them to submit their comments thereon within a given period of time. In addition, the Director-General may ascertain whether, in the light of the observations sent by the government concerned, further information or comments from the complainants are necessary on matters relating to the complaint and, if so, may write directly to the complainants, in the name of the Committee and without waiting for its next session, requesting the desired information or the comments on the government's observations by a given date, the government's right to reply being respected as is pointed out in the preceding paragraph.

48. In order to keep the complainant regularly informed of the principal stages in the procedure, the complainant is notified, after each session of the Committee, that the complaint has been put before the Committee and, if the Committee has not reached a conclusion appearing in its report, that – as appropriate – examination of the case has been adjourned in the absence of a reply from the government or the Committee has asked the government for certain additional information.

### ***Prescription***

49. While no formal rules fixing any particular period of prescription are embodied in the procedure for the examination of complaints, it may be difficult – if not impossible –

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for a government to reply in detail to allegations regarding matters which occurred a long time ago.

### ***Withdrawal of complaints***

50. When the Committee has been confronted with a request submitted to it for the withdrawal of a complaint, it has always considered that the desire expressed by an organization which has submitted a complaint to withdraw this complaint constitutes an element of which full account should be taken, but it is not sufficient in itself for the Committee to automatically cease to proceed further with the case. In such cases, the Committee has decided that it alone is competent to evaluate in full freedom the reasons put forward to explain the withdrawal of a complaint and to endeavour to establish whether these appear to be sufficiently plausible so that it may be concluded that the withdrawal is being made in full independence. In this connection, the Committee has noted that there might be cases in which the withdrawal of a complaint by the organization presenting it was the result not of the fact that the complaint had become without purpose, but of pressure exercised by the government against the complainants, the latter being threatened with an aggravation of the situation if they did not consent to this withdrawal.

### ***Rules for relations with the governments concerned***

51. By membership of the International Labour Organization, each member State is bound to respect a certain number of principles, including the principles of freedom of association which have become customary rules above the Conventions.<sup>10</sup>

52. If the original complaint or any further information received in response to the acknowledgement of the complaint is sufficiently substantiated, the complaint and any such further information are communicated by the Director-General to the government concerned as quickly as possible; at the same time the government is requested to forward to the Director-General, before a given date, fixed in advance with due regard to the date of the next meeting of the Committee, any observations which it may care to make. When communicating allegations to governments, the Director-General draws their attention to the importance which the Governing Body attaches to receiving the governments' replies within the specified period, in order that the Committee may be in a position to examine cases as soon as possible after the occurrence of the events to which the allegations relate. If the Director-General has any difficulty in deciding whether a particular complaint can be regarded as sufficiently substantiated to justify him in communicating it to the government concerned for its observations, it is open to him to consult the Committee before taking a decision on the matter.

53. In cases in which the allegations concern specific enterprises, or in appropriate cases, the letter by which the allegations are transmitted to the government requests it to obtain the views of all the organizations and institutions concerned so that it can provide a reply to the Committee that is as complete as possible. However, the application of this rule of procedure should not result in practice in delay in having recourse to urgent appeals made to governments, nor in the examination of cases.

54. A distinction is drawn between urgent cases, which are addressed on a priority basis, and less urgent cases. Matters involving human life or personal freedom, or new or changing conditions affecting the freedom of action of a trade union movement as a whole, cases arising out of a continuing state of emergency and cases involving the dissolution of

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<sup>10</sup> Report of the Fact-Finding and Conciliation Commission on Freedom of Association concerning the situation in Chile, 1975, para. 466.

an organization, are treated as cases of urgency. Priority of treatment is also given to cases on which a report has already been submitted to the Governing Body.

55. In all cases, if the first reply from the government in question is of too general a character, the Committee requests the Director-General to obtain all necessary additional information from the government, on as many occasions as it judges appropriate.

56. The Director-General is further empowered to ascertain without, however, making any appreciation of the substance of a case, whether the observations of governments on the subject matter of a complaint or governments' replies to requests for further information are sufficient to permit the Committee to examine the complaint and, if not, to write directly to the government concerned, in the name of the Committee, and without waiting for its next session, to inform it that it would be desirable if it were to furnish more precise information on the points raised by the Committee or the complainant.

57. The purpose of the whole procedure set up in the ILO for the examination of allegations of violations of freedom of association is to promote respect for trade union rights in law and in fact. If the procedure protects governments against unreasonable accusations, governments on their side should recognize the importance for their own reputation of formulating, so as to allow objective examination, detailed replies to the allegations brought against them. The Committee wishes to stress that, in all the cases presented to it since it was first set up, it has always considered that the replies from governments against whom complaints are made should not be limited to general observations.

58. In cases where governments delay in forwarding their observations on the complaints communicated to them, or the further information requested of them, the Committee mentions these governments in a special introductory paragraph to its reports after the lapse of a reasonable time, which varies according to the degree of urgency of the case and of the questions involved. This paragraph contains an urgent appeal to the governments concerned and, as soon as possible afterwards, special communications are sent to these governments by the Director-General on behalf of the Committee.

59. These governments are warned that at its following session the Committee may submit a report on the substance of the matter, even if the information awaited from the governments in question has still not been received.

60. Cases in respect of which governments continue to fail to cooperate with the Committee, or in which certain difficulties persist, are mentioned in a special paragraph of the introduction to the Committee's report. The governments concerned are then immediately informed that the chairman of the Committee will, on behalf of the Committee, make contact with their representatives attending the session of the Governing Body or the International Labour Conference. The chairman will draw their attention to the particular cases involved and, where appropriate, to the gravity of the difficulties in question, discuss with them the reasons for the delay in transmitting the observations requested by the Committee and examine with them various means of remedying the situation. The chairman then reports to the Committee on the results of such contacts.

61. In appropriate cases, where replies are not forthcoming, ILO external offices may approach governments in order to elicit the information requested of them, either during the examination of the case or in connection with the action to be taken on the Committee's recommendations, approved by the Governing Body. With this end in view the ILO external offices are sent detailed information with regard to complaints concerning their particular area and are requested to approach governments which delay in

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transmitting their replies, in order to draw their attention to the importance of supplying the observations or information requested of them.

62. In cases where the governments implicated are obviously unwilling to cooperate, the Committee may recommend, as an exceptional measure, that wider publicity be given to the allegations, to the recommendations of the Governing Body and to the negative attitude of the governments concerned.

63. The procedure for the examination of complaints of alleged infringements of the exercise of trade union rights provides for the examination of complaints presented against member States of the ILO. Evidently, it is possible for the consequences of events which gave rise to the presentation of the initial complaint to continue after the setting up of a new State which has become a Member of the ILO, but if such a case should arise, the complainants would be able to have recourse, in respect of the new State, to the procedure established for the examination of complaints relating to infringements of the exercise of trade union rights.

64. There exists a link of continuity between successive governments of the same State and, while a government cannot be held responsible for events which took place under a former government, it is clearly responsible for any continuing consequences which these events may have had since its accession to power.

65. Where a change of regime has taken place in a country, the new government should take all necessary steps to remedy any continuing effects which the events on which the complaint is based may have had since its accession to power, even though those events took place under its predecessor.

### ***Requests for the postponement of the examination of cases***

66. With regard to requests for the postponement of the examination of cases by the complainant organization or the government concerned, the practice followed by the Committee consists of deciding the question in full freedom when the reasons given for the request have been evaluated and taking into account the circumstances of the case.<sup>11</sup>

### ***On-the-spot missions***

67. At various stages in the procedure, an ILO representative may be sent to the country concerned, for example in the context of direct contacts, with a view to seeking a solution to the difficulties encountered, either during the examination of the case or at the stage of the action to be taken on the recommendations of the Governing Body. Such contacts, however, can only be established at the invitation of the governments concerned or at least with their consent. In addition, upon the receipt of a complaint containing allegations of a particularly serious nature, and after having received the prior approval of the chairman of the Committee, the Director-General may appoint a representative whose mandate would be to carry out preliminary contacts for the following purposes, viz: to transmit to the competent authorities in the country the concern to which the events described in the complaint have given rise; to explain to these authorities the principles of freedom of association involved; to obtain from the authorities their initial reaction, as well as any comments and information with regard to the matters raised in the complaint; to explain to the authorities the special procedure in cases of alleged infringements of trade union rights and, in particular, the direct contact method which may subsequently be requested by the government in order to facilitate a full appraisal of the situation by the

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<sup>11</sup> See 274th Report, Cases Nos. 1455, 1456, 1696 and 1515, para. 10.

Committee and the Governing Body; to request and encourage the authorities to communicate as soon as possible a detailed reply containing the observations of the government on the complaint. The report of the representative of the Director-General is submitted to the Committee at its next meeting for consideration together with all the other information made available. The ILO representative can be an ILO official or an independent person appointed by the Director-General. It goes without saying, however, that the mission of the ILO representative is above all to ascertain the facts and to seek possible solutions on the spot. The Committee and the Governing Body remain fully competent to appraise the situation at the outcome of these direct contacts.

68. The representative of the Director-General charged with an on-the-spot mission will not be able to perform his task properly and therefore be fully and objectively informed on all aspects of the case if he is not able to meet freely with all the parties involved.<sup>12</sup>

### ***Hearing of the parties***

69. The Committee will decide, in the appropriate instances and taking into account all the circumstances of the case, whether it should hear the parties, or one of them, during its sessions so as to obtain more complete information on the matter. It may do this especially: (a) in appropriate cases where the complainants and the governments have submitted contradictory statements on the substance of the matters at issue, and where the Committee might consider it useful for the representatives of the parties to furnish orally more detailed information as requested by the Committee; (b) in cases in which the Committee might consider it useful to have an exchange of views with the governments in question, on the one hand, and with the complainants, on the other, on certain important matters in order to appreciate more fully the factual situation and the eventual developments in the situation which might lead to a solution of the problems involved, and to seek to conciliate on the basis of the principles of freedom of association; (c) in other cases where particular difficulties have arisen in the examination of the questions involved or in the implementation of its recommendations, and where the Committee might consider it appropriate to discuss the matters with the representative of the government concerned.

### ***Effect given to the Committee's recommendations***

70. In all cases where it suggests that the Governing Body should make recommendations to a government, the Committee adds to its conclusions on such cases a paragraph proposing that the government concerned be invited to state, after a reasonable period has elapsed and taking account of the circumstances of the case, what action it has been able to take on the recommendations made to it.

71. A distinction is made between countries which have ratified one or more Conventions on freedom of association and those which have not.

72. In the first case (ratified Conventions) examination of the action taken on the recommendations of the Governing Body is normally entrusted to the Committee of Experts on the Application of Conventions and Recommendations, whose attention is specifically drawn in the concluding paragraph of the Committee's reports to discrepancies between national laws and practice and the terms of the Conventions, or to the incompatibility of a given situation with the provisions of these instruments. Clearly, this possibility is not such as to hinder the Committee from examining, through the procedure outlined below, the effect given to certain recommendations made by it; this can be of use taking into account the nature or urgency of certain questions.

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<sup>12</sup> See 229th Report, Case No. 1097, para. 51.

73. In the second case (non-ratified Conventions), if there is no reply, or if the reply given is partly or entirely unsatisfactory, the matter may be followed up periodically, the Committee instructing the Director-General at suitable intervals, according to the nature of each case, to remind the government concerned of the matter and to request it to supply information as to the action taken on the recommendations approved by the Governing Body. The Committee itself, from time to time, reports on the situation.

74. The Committee may recommend the Governing Body to attempt to secure the consent of the government concerned to the reference of the case to the Fact-Finding and Conciliation Commission. The Committee submits to each session of the Governing Body a progress report on all cases which the Governing Body has determined warrant further examination. In every case in which the government against which the complaint is made has refused to consent to referral to the Fact-Finding and Conciliation Commission or has not within four months replied to a request for such consent, the Committee may include in its report to the Governing Body recommendations as to the “appropriate alternative action” which, in the opinion of the Committee, the Governing Body might take. In certain cases, the Governing Body itself has discussed the measures to be taken where a government has not consented to a referral to the Fact-Finding and Conciliation Commission.

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## **Annex III**

### **Rules governing the election of the Director-General (adopted by the Governing Body on 23 June 1988, at its 240th Session) <sup>1</sup>**

#### ***Candidatures***

1. Candidatures for the post of Director-General shall be sent to the Chairman of the Governing Body of the ILO at the latest one month prior to the date set by the Governing Body for the election.
2. In order to be considered these candidatures must be submitted by a member State of the Organization or by a member of the Governing Body.
3. Candidatures submitted in accordance with the above-mentioned conditions shall be made known to the members of the Governing Body by the Chairman immediately after they have been received.

#### ***Majority***

4. To be elected, a candidate must receive the votes of more than one-half of the members of the Governing Body entitled to vote.

#### ***Election procedure***

5. On the date set for the election, as many ballots shall be held as are necessary to determine which of the candidates has obtained the majority required by Rule (4) above.
6. (i) After each ballot the candidate who has obtained the lowest number of votes shall be eliminated.  
  
(ii) If two or more candidates obtain simultaneously the lowest number of votes, they shall be eliminated together.
7. If in the ballot between the remaining candidates they receive the same number of votes and a further ballot still does not produce a majority for one of them, or if one candidate remains but does not obtain the majority required by Rule (4) above in a further ballot in which his or her name is submitted to the Governing Body for a final vote, the Governing Body may postpone the election and freely set a new deadline for the submission of candidatures.

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<sup>1</sup> Source: GB.240; GB.271.

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## **Annex IV**

### **Rules for the payment of travel expenses of members of the Governing Body and of certain committees and other bodies**

#### ***Authority***

1. These Rules were approved by the Governing Body of the International Labour Office on 5 March 1965, pursuant to article 39<sup>1</sup> of the Financial Regulations, to enter into effect on 1 April 1965. The present edition incorporates amendments approved by the Governing Body up to its 292nd Session (March 2005) inclusive.

#### ***Application and interpretation***

2. The application and interpretation of these Rules shall be the responsibility of the Director-General of the International Labour Office, who may issue such instructions for their implementation as he shall deem necessary.

#### ***Amendments***

3. These Rules may be amended by the Director-General subject to the approval of the Governing Body.

#### ***Definition***

4. For the purpose of these Rules, travel expenses shall be deemed to comprise transport expenses (as specified in paragraphs 7 to 9), miscellaneous expenses (as specified in paragraphs 10 and 11), subsistence allowance (as specified in paragraphs 17 to 22) and sickness and accident coverage (as specified in paragraphs 25 to 29).

#### ***Scope***

5. (a) These Rules shall govern the payment by the International Labour Office of the travel expenses incurred on ILO business by Employer and Worker regular and deputy members of the Governing Body, or their substitutes, and of persons serving in an individual capacity on high-level bodies for which the Officers of the Governing Body have agreed to apply the same travel standards as those applicable to Employer and Worker members of the Governing Body.

(b) Pursuant to the provisions of article 13 of the Constitution of the International Labour Organization, the Office:

- does NOT meet the travel expenses of Government representatives of the Governing Body; and
- meets the travel expenses of Employer and Worker members of the Governing Body ONLY when they are not travelling also as delegates or advisers on national delegations to a session of the International Labour Conference, whether appointed to such a delegation before or after their departure.

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<sup>1</sup> Now article 40.

(c) The payment by the Office of travel expenses of Employer and Worker members of the Governing Body on the occasion of meetings held in conjunction with the International Labour Conference is subject to special limits, as set out in paragraphs 30 and 31.

### **Restriction**

6. No payment or reimbursement shall be made by the Office in respect of any expenses or allowances which are covered from other sources.

### **Transport expenses**

7. The transport expenses paid or reimbursed by the Office shall cover the cost of a round trip by the most direct practicable route by commercial land, sea or air transport, or a combination thereof, between the member's place of residence or departure, whichever is closer to the place of the meeting and the place of the meeting.

8.(a) The normal standard of transport by air is economy class, except for flights where, using the most direct route the scheduled duration from the airport of departure to the airport of arrival at the place of the meeting is five hours or more, in which case the standard shall be business class. In computing this duration, scheduled waiting periods will be included but not stopovers.

(b) By sea, the entitlement shall be for transport which does not exceed the cost of the air transport entitlement, taking into account also the resulting difference in subsistence allowance.

(c) In the case of commercial land transport, the standard shall be first class: where land transport is by night and lasts for more than six hours, the cost of a single sleeping compartment, if available, is included.

(d) In the case of transport by private automobile for personal convenience, reimbursement shall be based on the cost of the equivalent mode of transportation normally authorized, whether, by direct air or commercial land transportation, as set out in subparagraphs 8(a) and (c) above.

9. The cost of the actual transport of a reasonable amount of registered luggage shall normally be covered by the Office, but payment or reimbursement by the Office for luggage transported by air shall not exceed any excess baggage charges required to permit the member to transport up to 35 kilograms of luggage (including the standard baggage entitlement granted by the air carrier) without expense to himself.

### **Miscellaneous expenses**

10. The following miscellaneous expenses are reimbursable by the Office:

- (a) the cost of necessary taxis en route, but not during the stay at the place of the meeting;
- (b) fees for passports, visas and inoculations required for the journey, but not the cost of passport photographs or birth certificates;
- (c) postage and telegraph expenses incurred in connection with official business of the Governing Body or the assimilated high-level body concerned.

11. All other expenses, such as portage, tips, insurance of luggage, hotels and meals, are considered to be covered by the subsistence allowance and are not reimbursable by the Office.

### **Reimbursements to members**

12. If requested, the Office will supply travel tickets. If a member prefers to make his own travel arrangements he shall be reimbursed by the Office ON THE BASIS OF THE MEANS AND CLASS OF TRANSPORT ACTUALLY USED, up to the cost allowable under these Rules, subject in particular to the provisions of paragraph 13. Supporting vouchers are required (see paragraph 16).

13. Reimbursement for air tickets purchased independently shall not normally exceed THE LOWER OF THE FOLLOWING TWO AMOUNTS: THE LOWER OF THE FOLLOWING TWO AMOUNTS:

- (a) the actual cost of the member's travel;
- (b) standard air fare, on the basis of the class of air travel provided for in paragraph 8(a) above, for a round trip by the most direct practicable route between his place of residence or departure, whichever is closer to the place of the meeting, and the place of the meeting.

14. If for compelling reasons a member is obliged to exchange tickets provided or for which reimbursement has been received, he should immediately notify the Office of his new travel arrangements and have any resulting refund paid to the Office.

15. Reimbursement in the case of travel by private automobile shall be as set out in paragraph 8(d).

### **Vouchers**

16. Claims for reimbursement must be supported by vouchers, including whichever of the following are appropriate:

- (a) all rail sleeper, steamship and airline tickets or covers thereof;
- (b) receipts for the cost of transport of registered luggage, whenever possible, including receipts for the cost of transport of excess luggage by air;
- (c) receipts for passport and visa fees and the cost of inoculations;
- (d) receipts for official postage and telegraph expenses, whenever possible.

No vouchers are required for the reimbursement of taxi fares.

### **Subsistence allowance**

17. Subject to the special provisions relating to Governing Body meetings held in conjunction with the Conference set out in paragraphs 30 and 31, the Office will pay subsistence allowance in respect of the following periods of time:

- (a) travel time for a round trip by the most direct practicable route by commercial land, sea or air transport, or a combination thereof, between the member's place of residence or departure, whichever is closer to the place of the meeting, and the place of the meeting. Travel by private automobile shall be considered to require the same

amount of time as the journey between the points concerned by the route and means of transport taken as a basis for the reimbursement of transport expenses in accordance with paragraph 8(d); and

- (b) any scheduled waiting periods at points of connection, and any scheduled overnight stopovers lasting for not more than 24 hours, or until the next possible departure time after that period if an earlier departure cannot reasonably be scheduled. Normally, one overnight stopover may be included in each journey by air, or by a combination of air and surface transport, which would last for more than ten hours if uninterrupted; and
- (c) one day rest period on arrival at the place of the meeting, if the travel time of a journey by air exceeds ten hours and provided that an overnight stopover allowed for in paragraph 17(b) above has not been taken; and
- (d) the actual number of days spent in attendance at the meeting, up to a period extending from the day before the opening date to the day after the closing date inclusive, when the extra days are spent on official business of the Governing Body or the assimilated high-level body concerned; and
- (e) any waiting time immediately before or after the period of attendance (as defined in subparagraph (d)), up to a total of not more than six days, if transport involving no waiting time or less waiting time cannot be obtained.

### **Calculation of subsistence allowance**

18. The standard daily rate for the subsistence allowance payable by the Office under paragraph 17 shall be the equivalent of the standard daily rate applicable at the place of the meeting to staff members of the Office plus 15 per cent, the sum being rounded to the nearest US dollar.

19. The Director-General may establish and apply an ad hoc rate in any case where he considers that a rate determined in accordance with paragraph 18 would not be appropriate.

20. For the purpose of computing the allowance, the day shall be defined as the 24-hour period from midnight to midnight. Subject to the provisions of paragraphs 21 and 22, the full subsistence rate shall be paid for each period of 12 hours or more within a day as so defined, and half rate for each such period of less than 12 hours.

21. The full subsistence rate shall be paid in respect of travel by land or air. Twenty per cent of the full rate shall be paid in respect of travel by sea, but days on which embarkation and disembarkation take place shall be regarded as days of travel on land.

22. The allowance shall be paid to a member at half rate in respect of a meeting held in the city where he normally resides.

### **Advances**

23. Advances against estimated travel expenses may be made by the Office on application.

### **Accommodation**

24. Members are advised to secure hotel accommodation as early as possible through their country's diplomatic or consular representatives.

## **Sickness and accidents**

25. Travel expenses of a member who is prevented by sickness or accident during a journey from reaching the place of the meeting shall be paid or reimbursed by the Office for the round trip between his place of residence or departure, whichever is closer to the place of the meeting, and the place where his journey was interrupted.

26. Benefits in the event of sickness or accident are the subject of collective insurance policies contracted by the Office, and will be paid in accordance with the conditions of those policies. The Office will accept no claims for the payment of premiums for insurance policies contracted independently. In general, members are covered by the collective insurance for sickness or accident arising on days for which subsistence allowance is paid by the Office under paragraph 17.

27. The collective sickness insurance policy provides, inter alia, for the payment of medical expenses within established limits (small claims for medical expenses are not accepted). Certain sicknesses are excluded; these include any sickness or condition from which the member suffered when his coverage under the policy became effective. Sicknesses which manifest themselves outside the period for which subsistence allowance is paid by the Office under paragraph 17 are also normally excluded.

28. The collective accident insurance policy provides, inter alia, for the payment of medical expenses within established limits. In addition, benefits are payable in the event of death or long-term disability.

29. A member who is eligible to receive benefits under the collective insurance shall be paid subsistence allowance until he can return to his residence, up to a maximum period of six months from the date on which the sickness manifested itself or the accident occurred. The allowance shall be paid at one-third of the full rate if the member is hospitalized and at the full rate if he is not hospitalized.

## **Governing Body meetings held in conjunction with the Conference**

### **(i) Members attending the Conference as delegates or advisers on national delegations**

30. The following provisions shall normally apply in the case of Employer and Worker members of the Governing Body who attend the Conference as delegates or advisers on national delegations as well as meetings of the Governing Body held in conjunction with it (including meetings held before and immediately after the Conference):

- (a) under article 13 of the Constitution, the government concerned is required to pay the costs of the journey to and from the place of the Conference;
- (b) accordingly, the government concerned shall reimburse to the Office any amounts in respect of travel expenses which the Office has paid, reimbursed, or advanced in excess of the amounts covered by subparagraph (c) below;
- (c) no travel expenses shall be covered by the Office other than subsistence allowance and the cost of sickness and accident insurance as described in paragraphs 26 to 29 for:
  - days spent in attendance at meetings of the Governing Body, including the day before and the day after pre-Conference and/or post-Conference meetings if these extra days are spent on official business of the Governing Body; and

- intervening days between such periods of attendance and the period of the Conference (for this purpose the Conference period shall be considered as including the day before the opening date, this being the normal day of arrival of delegates).

(ii) **Members not attending the Conference as delegates  
or advisers on national delegations**

31. The following provisions shall normally apply in the case of Employer and Worker members of the Governing Body who are not delegates or advisers on national delegations to the Conference but attend meetings of the Governing Body held in conjunction with it (including meetings held before and immediately after the Conference):

- (a) transport expenses and subsistence allowance paid by the Office under paragraph 17 shall not include the cost of more than one round trip to the place of the meetings for each member;
- (b) when the member attends both pre-Conference and post-Conference meetings of the Governing Body, the maximum total number of days of waiting time for which the Office pays subsistence allowance under paragraph 17(d), including days between the meetings, shall be six.

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## Annex V

### **Representation of non-governmental international organizations at ILO meetings, <sup>1</sup> including international employers' and workers' organizations**

#### ***Introductory note***

The International Labour Organization distinguishes between several different types of non-governmental international organization:

- organizations which enjoy general consultative status under article 12(3) of the Constitution of the ILO;
- organizations which enjoy regional consultative status, established by the Governing Body at its 160th Session (November 1964);
- organizations included in the “Special List” of non-governmental international organizations, established by the Governing Body at its 132nd Session (June 1956);
- non-governmental international organizations, including international employers' or workers' organizations, other than those enjoying general or regional consultative status;
- other organizations.

A number of texts define the relations between the ILO and non-governmental international organizations, as well as the privileges conferred on them by their respective statutes.

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### **Rules applicable to non-governmental international organizations enjoying general consultative status**

#### ***Resolution adopted by the Governing Body at its 105th Session (14 June 1948) <sup>2</sup>***

Whereas paragraph 3 of article 12 of the Constitution of the International Labour Organization provides that:

The International Labour Organization may make suitable arrangements for such consultation as it may think desirable with recognized non-governmental international organizations of employers, workers, agriculturists and cooperators;

And whereas, in order to promote effective coordination of international action in the economic and social field, the Governing Body considers it desirable to make

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<sup>1</sup> Source: GB.245/SC/2/1, paras 3–4.

<sup>2</sup> Source: Minutes of the Governing Body, 105th Session (June 1948), Fourth item on the agenda, pp. 39-42; pp. 92-93 (Appendix IV)GB.105 (June 1948) (fourth item on the agenda) (with editorial changes).

arrangements for such consultation with a view to facilitating the reference to the International Labour Organization by non-governmental organizations of proposals which such organizations may desire to make for official international action upon matters primarily within the competence of the International Labour Organization:

1. The Governing Body decides that representatives of non-governmental international organizations with an important interest in a wide range of ILO activities with which it has decided to establish consultative relationships may attend ILO meetings in accordance with the provisions of the following paragraphs.
2. Such representatives may be invited by the Governing Body to attend a specified meeting of the Governing Body or of one of its committees during the consideration of matters of interest to them. The Chairman may, in agreement with the Vice-Chairmen, permit such representatives to make statements for the information of the meeting upon matters included in its agenda. If such agreement cannot be secured, the question is submitted to the meeting for decision without any discussion. These arrangements do not apply to meetings dealing with administrative or financial matters.
3. Such representatives may attend the meetings of regional conferences, industrial committees and advisory committees appointed by the Governing Body. The Chairman may, in agreement with the Vice-Chairmen, permit such representatives to make statements for the information of the meeting upon matters included in its agenda. If such agreement cannot be secured, the question is submitted to the meeting for decision without any discussion.
4. Any organization applying to the Governing Body for the establishment of consultative relationships shall communicate to the Director-General with its application for the information of the Governing Body the following information: a copy of its constitution; the names and addresses of its officers; particulars of its composition and of the membership of the national organizations affiliated thereto; a copy of its latest annual report.
5. The Governing Body may at any time revoke a decision to establish consultative relationships.
6. The Governing Body recommends the Conference to decide that non-governmental international organizations with which consultative relationships have been established in pursuance of paragraph 1 may be represented at meetings of the Conference and its committees and that the President of the Conference or the Chairman of the committee may, in agreement with the Vice-Presidents or Vice-Chairmen, invite the representatives of such organizations to make statements for the information of the Conference or the committee upon matters under discussion by them. If such agreement cannot be secured, the question is submitted to the meeting for decision without any discussion. These arrangements would not apply to meetings dealing with administrative or financial matters or meetings of the Selection Committee, the Credentials Committee and the Drafting Committee.
7. The Director-General of the International Labour Office will make the necessary arrangements for the regular communication of documents to organizations with which standing arrangements have been made.
8. The Governing Body may, from time to time, invite non-governmental international organizations which have a special interest in some particular sector of the work of the ILO to be represented at specified meetings of the Governing Body, regional conferences, industrial committees or at committees appointed by the Governing

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Body during the consideration of matters of interest to them; the Governing Body draws the attention of the Conference to the possibility of making similar arrangements in appropriate cases; the Director-General will make the necessary arrangements for the communication to such organizations of documents of interest to them.

### **Regional consultative status for non-governmental organizations**<sup>3</sup>

Adopted by the Governing Body at its 160th Session (20 November 1964):

1. The Governing Body, on the recommendation of its Officers, may grant regional consultative status to regional organizations of employers and workers which fulfil the following conditions:
  - (a) the applicant organization must be broadly representative of interests concerned with a wide range of ILO activities in the region concerned and active there;
  - (b) the applicant organization must communicate to the Director-General with its application, for the information of the Governing Body, the following information: a copy of its constitution; the names and addresses of its officers; particulars of its composition and of the membership of the national organizations affiliated to it; and a copy of its latest annual report.
2. Non-governmental organizations granted regional consultative status should be permitted:
  - (a) to attend ILO regional meetings and ILO tripartite meetings of a regional nature in their respective regions;
  - (b) to attend regional advisory committees – e.g. the Asian Advisory Committee, the African Advisory Committee or the Inter-American Advisory Committee – appointed by the Governing Body for the regions for which they had been accorded consultative status;
  - (c) at any of the above meetings, to make or circulate, with the permission of the President or Chairman in agreement with the Vice-Presidents or Vice-Chairmen, statements upon matters (other than administrative or financial matters) included in the agenda;
  - (d) to receive ILO documents regularly.

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<sup>3</sup> Source: *Official Bulletin*, Vol. XLVIII, No. 1, Jan. 1965, p. 29.

## Note concerning arrangements applicable to non-governmental international organizations included in the Special List

~~Note based on the decision of the Governing Body at its 132nd Session (2 June 1956) and the amendments made at its 245th Session (1 March 1990)~~<sup>1</sup>

### *Introductory note*

In June 1956 the Governing Body of the International Labour Office approved the establishment by the Director-General of a Special List of Non-Governmental International Organizations (NGOs).

Apart from the ~~eight~~ non-governmental international organizations which have already been granted full consultative status and those ~~16~~ which have with regional consultative status, and apart from the employers' and workers' international organizations which, although not enjoying consultative status, play, under the Constitution, an essential part in the work of the International Labour Organization, there are non-governmental international organizations whose aims and activities are of interest to the International Labour Organization and which are in a position to afford it valuable cooperation. The purpose of the establishment of the Special List was to place the ILO's relations with these organizations on a systematic footing.

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### **I. Criteria and procedure for admission to the Special List**

1. Only non-governmental international organizations which meet certain conditions are eligible for admission to the Special List.

2. The aims and objectives of organizations requesting admission to the Special List should be in harmony with the spirit, aims and principles of the ILO Constitution and the Declaration of Philadelphia. Length of existence, membership, the geographical coverage of the organization, its practical achievements and the international nature of its activities constitute the main criteria for such admission. A further requirement is that the organization in question should have, by reason of the aims it pursues, an evident interest in at least one of the fields of activity of the ILO. The fact that an organization has already been granted official status with the Economic and Social Council or a specialized agency of the United Nations is relevant, but does not necessarily imply inclusion in the Special List of the ILO.

3. Any non-governmental international organization wishing to be admitted to the Special List is required to forward to the Director-General in one of the working languages of the Organization a copy of its statutes, a list of the names and addresses of its officers, information regarding its composition and the aggregate membership of the national

<sup>1</sup> Source: ~~Governing Body, 132nd Session, sixth item on the agenda, Establishment of a Special List of Non-Governmental International Organizations, modified at its 245th Session (1 March 1990)~~ Minutes of the Governing Body, 132nd Session (2 June 1956), Sixth item on the agenda, p.22; GB.245/PV (1 March 1990), Eighth item on the agenda, p. VII/6; GB.245/8/19, paras 50 and 60; GB.292/PV (March 2005), 17th item on the agenda, para. 256; *Provisional Record* No. 23, International Labour Conference, 95th Session (14 June 2006).

organizations affiliated to it, and a copy of its latest annual report or detailed and verifiable information about its activities.

4. In each case the Director-General decides, on behalf of the Governing Body, whether the organization supplying the information listed above should be admitted to the Special List. The Director-General communicates to the Governing Body at specific intervals the names of the organizations admitted to the Special List. The Director-General reviews the Special List from time to time and makes any necessary recommendations to the Governing Body with a view to the revision of the List.

## **II. Privileges of organizations admitted to the Special List**

### ***Participation in ILO meetings***

5. The mere fact of inclusion in the Special List does not of itself confer on any organization the right to participate in ILO meetings. It does, however, facilitate consideration of the advisability of inviting the organization to a particular meeting, as full information regarding it is deemed to have been made available at the time of its admission to the Special List.

#### **International Labour Conference**

##### ***Criteria***

6. Non-governmental international organizations wishing to be invited to be represented at the International Labour Conference should take careful note of the following revised criteria and procedure, which came into force in June 1990, for the issuance of such invitations by the Governing Body.

7. An organization on the Special List wishing to be invited to be represented at the Conference should satisfy the following criteria. It:

- (a) should have formally expressed an interest – clearly defined and supported by its Statutes and by explicit reference to its own activities – in at least one of the items on the agenda of the Conference session to which it requests to be invited; these details should be supplied with the request for an invitation; and
- (b) should have made its request for an invitation in accordance with the procedure set out in the Standing Orders of the Conference.

##### ***Procedure***

8. The procedure to be followed by NGOs for requesting invitations to the International Labour Conference is contained in article 2(4) of the Standing Orders of the Conference. It reads as follows:

Requests from non-governmental international organizations for an invitation to be represented at the Conference shall be made in writing to the Director-General of the International Labour Office and shall reach him at least one month before the opening of the session of the Governing Body preceding the session of the Conference. Such requests shall be referred to the Governing Body for decision in accordance with criteria established by the Governing Body.

9. The special attention of NGOs is drawn to the fact that, under the new procedure, the Selection Committee of the Conference will no longer deal, as in the past, with requests

for invitations to be represented at the Conference which are submitted late. However, requests to be represented on the committees of the Conference (other than those dealing with the agenda item, “Programme and budget proposals and other financial questions”) which are to consider the agenda items in which such international non-governmental organizations have expressed interest will continue to be examined by the Selection Committee of the Conference, once the invitation to the organizations in question to be represented at the Conference has been duly issued by the Governing Body in conformity with the new procedure.

### Governing Body

10. Admission to the Special List does not change the present situation in respect of meetings of the Governing Body, to which only the non-governmental international organizations with full consultative status are invited.

### Regional Meetings

11. Organizations on the Special List with a special interest in the work of a Regional Meeting may be invited to be represented at the meeting in conformity with article 1, paragraph 7, of the Rules for Regional Meetings. Applications must be received not later than one month before the session of the Governing Body preceding the Regional Meeting in question.

### *Industrial and joint committees and tripartite technical meetings*

12. Upon receipt of duly substantiated requests from organizations on the Special List to participate in meetings of industrial and joint committees and tripartite technical meetings, the Director-General submits to the Governing Body proposals to invite the organizations to be represented by observers at those meetings to which they are in a position to make a significant contribution on account of their special competence. The supporting material accompanying the request from the applicant organization should relate to its interest not only in the subjects to be discussed at the meeting but also in the industry or the branch of economic activity in question. Applications must be received not later than one month before the session of the Governing Body preceding the meeting in respect of which a request is made. The provisions of the Standing Orders for such meetings apply to organizations invited to send observers.

### Committee of experts

13. Organizations on the Special List are not invited to attend meetings of committees of experts (or other meetings that are not tripartite). They may, however, forward to the Director-General documents of a technical nature on agenda items. The Director-General decides whether to place such documents at the experts’ disposal.

### Circulation of statements by international non-governmental organizations

14. Any organization authorized to circulate a statement under the applicable Standing Orders is responsible for the translation and reproduction of the statement.

### Technical information

15. In addition to the above rules concerning participation in ILO meetings by organizations on the Special List, the Office is ready at any time to take into account

information and suggestions of a technical character provided by such an organization if the Director-General considers the information of real value.

#### Documentation for meetings

16. Organizations on the Special List regularly receive a list of ILO meetings giving the date, place and agenda for the meetings. Documents for the meetings at which they are invited to be represented are also forwarded to them.

### **III. Obligations of organizations on the Special List**

17. Organizations on the Special List are expected to cooperate with the International Labour Organization and to further its activities within the nature and scope of their competence.

18. The organizations are requested to transmit to the ILO the agendas of their meetings, congresses, conferences, etc., other than meetings of a purely private or business nature, together with the background reports or documents published for such meetings and the final reports or minutes thereof.

19. Such organizations are also required to send to the ILO either annual reports on their work or documents from which it is possible to obtain detailed information on their activities during each year.

\* \* \*

**Note concerning arrangements applicable to non-governmental international organizations other than those enjoying general or regional consultative status or those included on the Special List<sup>1</sup>**

Adopted by the Governing Body at its 245th Session (1 March 1990):

1. An NGO wishing to be invited to be represented at a session of the International Labour Conference:

- (a) should demonstrate the international nature of its composition and activities; in this connection, it should be represented or have affiliates in a considerable number of countries; and
- (b) should have aims and objectives that are in harmony with the spirit, aims and principles of the Constitution of the ILO and the Declaration of Philadelphia; and
- (c) should have formally expressed an interest – clearly defined and supported by its statutes and by explicit reference to its own activities – in at least one of the items on the agenda of the Conference session to which it requests to be invited; these details should be supplied with the request for an invitation; and
- (d) should have made its request for an invitation in accordance with the procedure set out in the Standing Orders of the Conference.

2. Non-governmental international organizations enjoying general or regional consultative status and non-governmental international organizations on the Special List would already be deemed to have satisfied criteria (a) and (b), which would have been verified when they were admitted to these categories, as would organizations enjoying consultative status with ECOSOC in their categories I and II.

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<sup>1</sup> Source: GB.245/PV, Eighth item on the agenda, p. VII/6, GB.245/8/19, paras 43, 44 and 50. See also paras 8–9 (Procedure) of the preceding Note in this Annex V.

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## Annex VI

### **Procedure for the examination of periodic reports on the absence of tripartite delegations or incomplete tripartite delegations at sessions of the Conference, Regional Meetings or other tripartite meetings<sup>1</sup>**

Decision adopted by the Governing Body at its 183rd Session (24 June 1971), modified by the Governing Body at its 205th Session (3 March 1978).

The Director-General is requested to carry out inquiries concerning the extent of, and the reasons for, failure to send complete tripartite delegations to sessions of the General Conference, Regional Meetings and Industrial Committees, as well as other tripartite meetings of the ILO, and to report to the Governing Body.

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<sup>1</sup> Source: GB.183/PV (June 1971), pp. 64–65 and 194; Minutes of the Governing Body, 183rd Session, pp. 64–65 and 194; GB.205/PV, 21st item on the agenda, p. IX/9 and GB.205/21/10 (Feb.–Mar. 1978) paras. 3–4.

## **Annex VII**

### **Procedures for the selection and appointment of the ILO External Auditor<sup>1</sup>**

Adopted by the Governing Body at its 285th Session (March 2002).

#### **Invitation**

All member States, including the member State of the serving External Auditor, will be invited to submit nominations from Auditors-General (or officers holding the equivalent titles) or other persons of high competence to act as the External Auditor of the ILO for a period of four years. This term of office may be extended for a further period of four years.

The information to be provided by member States when making nominations will include:

- (1) details of the national and international activities of the Auditor, including the range of audit specialities;
- (2) a description of the audit approach, procedures and standards that the Auditor would apply;
- (3) an estimate of the total time and grade-mix of staff that would be required to conduct the audit for a full financial period; and
- (4) the amount of the all-inclusive audit fee.

#### **Receipt and opening of proposals**

The receipt and opening of proposals will be performed in accordance with ILO tender receipt and opening procedures.

Once opened, a summary of all proposals will be prepared by the Office for submission to the Programme, Financial and Administrative Committee for evaluation.

#### **Evaluation of proposals**

The Programme, Financial and Administrative Committee will evaluate the proposals and make its recommendation to the Governing Body.

#### **Appointment**

The Governing Body will decide on the appointment on the basis of the Programme, Financial and Administrative Committee's recommendation.

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<sup>1</sup> Source: GB Doc. 285/205, para. 22; GB. Doc. 285/10/1, para. 44.

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## **Annex VIII**

### **Decision concerning the composition of meetings of experts and advisory panels established by the Governing Body**<sup>1</sup>

Decision adopted by the Governing Body at its 180th Session (May–June 1970).

1. Persons appointed to serve as members of a meeting of experts or advisory panel by the Governing Body serve in their personal capacity as experts and act and speak in their expert capacity, not as representatives of any government, group, or other interest. In informing such persons of their appointment by the Governing Body the Director-General will specifically draw their attention to the expert capacity in which they have been invited to serve.
2. In appointing persons to serve as members of meetings of experts or advisory panels the Governing Body will be guided by the following three criteria which are of the highest importance for ensuring the authoritative character of the conclusions reached by them:
  - (a) securing the highest possible level of qualifications in the meeting or panel as a whole;
  - (b) securing a balanced representation of different parts of the world and different points of view in the composition of the meeting or panel; and
  - (c) securing the fullest and most appropriate use of the expert knowledge and experience available in employers' and workers' circles.
3. (1) Nominations for service as members of meetings of experts or advisory panels will be submitted to the Governing Body by the Director-General.
  - (2) Before seeking proposals or suggestions for such appointments the Director-General will consult the Officers of the Governing Body as to the composition of the meeting of experts or advisory panel.
  - (3) Before submitting such nominations to the Governing Body the Director-General will consult governments and the two non-governmental groups of the Governing Body to obtain their proposals for such appointments; he may also invite other circles having special knowledge or competence of the matters to be considered to make suggestions for such appointments.

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<sup>1</sup> Source: GB.178/4/22 (March 1970), para. 260; GB.180/205, para. 8.

## Appendix II

### Proposed amendments to the Standing Orders of the International Labour Conference

#### ARTICLE 5

##### *Credentials Committee*

1. The Conference shall appoint a Credentials Committee consisting of one Government delegate, one Employers' delegate and one Workers' delegate.

2. The Credentials Committee shall examine, in accordance with the provisions of section B of Part II:

- (a) the credentials as well as any objection relating to the credentials of delegates and their advisers or to the failure to deposit credentials of an Employers' or Workers' delegate;
- (b) any complaint of non-observance of paragraph 2(a) of article 13 of the Constitution;
- (c) any complaint regarding an act or omission of a government by which an accredited delegate or adviser has been prevented from attendance at the Conference in line with article 3, paragraphs 1 and 2, of the Constitution;
- (d) the monitoring of any situation with regard to the observance of the provisions of article 3 or article 13, paragraph 2(a), of the Constitution about which the Conference has requested a report.

#### ARTICLE 26TER

##### *Complaints*

1. The Credentials Committee may consider complaints that a Member has failed to comply with paragraph 2(a) of article 13 of the Constitution where:

- (a) the Member is alleged to have failed to pay the travelling and subsistence expenses of one or more of the delegates that it has nominated in accordance with article 3, paragraph 1, of the Constitution; or
- (b) the complaint alleges a serious and manifest imbalance as between the number of Employer or Worker advisers whose expenses have been covered in the delegation concerned and the number of advisers appointed for the Government delegates.

2. The Credentials Committee may also consider complaints alleging that an accredited delegate or adviser has been prevented from attending the session of the Conference due to an act or omission of a government.

~~23. A complaint referred to in paragraph 1 shall not be receivable if in the following cases:~~

- (a) ~~if the complaint it is not~~ lodged with the Secretary-General of the Conference before 10 a.m. on the seventh day following the opening of the Conference or, thereafter, in the case of a complaint referred to in paragraph 2, it is lodged within 48 hours of the alleged act or omission preventing attendance of the delegate or adviser concerned, and if the Committee considers that there is insufficient time to deal with it properly; and
- (b) ~~if the complaint it is not~~ lodged by an accredited delegate or adviser alleging the non-payment of travel and subsistence expenses in the circumstances set out under (a) or (b) of paragraph 1, or alleging the act or omission of a government as referred to in paragraph 2, or it is lodged by an organization or person acting on ~~his or her~~ behalf of such delegate or adviser.

34. The Credentials Committee shall, in its report, present to the Conference any conclusions that it has unanimously reached on each complaint considered by it.

5. In the case of a complaint referred to in paragraph 2, if the Credentials Committee has been unable to resolve the matter, the Committee may refer the matter to the Officers of the Conference. The Officers of the Conference, soliciting the collaboration of the government concerned, may take any action they deem necessary and appropriate with a view to facilitating the attendance at the Conference of the delegate or adviser concerned. The Officers will inform the Credentials Committee of the outcome of any such action.

46. When, in the light of the examination of a complaint, the Credentials Committee unanimously considers that it is necessary to monitor the situation, it may propose this to the Conference, which shall decide, without discussion, on the proposal. If it is so decided, the Government concerned shall report on such questions that the Credentials Committee judges necessary, to the subsequent session of the Conference when it submits the delegation's credentials.