



Governing Body

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Legal Issues and International Labour Standards Section

LILS

International Labour Standards and Human Rights Segment

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Review of the Standing Orders for technical meetings and Standing Orders for meetings of experts adopted in November 2018

Purpose of the document

This document is submitted further to the Governing Body's decision, at its 334th Session (October–November 2018), to review the Standing Orders for technical meetings and the Standing Orders for meetings of experts in March 2022 (see the draft decision in paragraph 18).

Relevant strategic objective: All.

Main relevant outcome: Enabling outcome B: Effective and efficient governance of the Organization.

Policy implications: None.

Legal implications: None.

Financial implications: None.

Follow-up action required: None.

Author unit: Office of the Legal Adviser (JUR).

Related documents: [GB.326/POL/5](#); [GB.329/INS/10](#); [GB.331/INS/7](#); [GB.332/INS/7](#); [GB.334/INS/7\(Rev.\)](#).

▶ Introduction

1. At its 334th Session (October–November 2018), the Governing Body adopted new Standing Orders for technical meetings and Standing Orders for meetings of experts and also decided that it would review them at its March 2022 session.¹ The introductory note to both sets of Standing Orders was adopted at the 335th Session (March 2019) of the Governing Body.²
2. Although the initial intention was to develop a single set of generic rules of procedure that would apply by default to all tripartite meetings convened by the Governing Body, the Governing Body ultimately adopted two sets of Standing Orders, one for technical meetings in general (including what were previously known as sectoral meetings) and one specifically for meetings of experts.
3. The main difference between the Standing Orders for technical meetings and those for meetings of experts lies in the different composition of the two types of meetings. Whereas technical meetings include representatives of all interested governments and a limited number of employers' and workers' representatives, meetings of experts are composed of a fixed number of independent experts who, although they are nominated by each of the three constituent groups, serve in their personal capacity as experts and not as representatives of a government or group. This difference in composition also reflects the different mandate of each type of meeting. Technical meetings typically adopt conclusions containing guidance on the subjects on their agenda, while meetings of experts usually review and adopt detailed technical documents, such as codes of practice or guidelines.
4. Since the adoption of the new Standing Orders, 12 technical meetings and 5 meetings of experts have been held. The Office has kept an inventory of questions that have arisen from the application or interpretation of the Standing Orders. Based on the experience gathered so far, this document provides a general overview of the practical implementation of the new rules and highlights a limited number of issues.

▶ General overview and specific issues

5. Prior to the adoption of the new Standing Orders, the Standing Orders for Sectoral Meetings in force at the time were no longer aligned with practice, while there were no written rules governing meetings of experts.
6. In general, constituents appear to appreciate the clarity and legal certainty provided by the new Standing Orders, which thus contribute to good governance. There is also a sense that, despite the strenuous negotiations that led to their adoption, the Standing Orders have proven to be balanced texts that afford sufficient flexibility, and that the virtual format of most meetings convened during the COVID-19 pandemic has not given rise to particular difficulties.
7. Moreover, there seems to be general agreement that the number of Officers of technical meetings and meetings of experts under the new Standing Orders facilitates balanced and

¹ GB.334/INS/7(Rev.); GB.334/PV, paras 306–326.

² GB.335/INS/7; GB.335/PV, paras 340–346.

consensus-based discussions. It also seems that constituents value the initiatives undertaken by the Office to improve the practical modalities of these meetings as well as the enhanced communication, which permits participants to prepare better for the meetings.

Participation rights of advisers

8. The participation rights of advisers are governed by article 5(2) and (3) of the Standing Orders for technical meetings and of the Standing Orders for meetings of experts. Two observations may be made on the drafting of this article. The first is that the phrase “but not the right to appoint a substitute” became redundant when it was decided that a representative or expert could be accompanied by only one adviser, because there is no second adviser who could be appointed as a substitute by the adviser. The second observation is that there seems to be no reason for the difference that has remained between the two sets of Standing Orders, as according to article 5(2) of the Standing Orders for technical meetings, an adviser can be authorized to participate in the meeting only “by the representative to whom he or she is attached”, whereas under article 5(2) of the Standing Orders for meetings of experts, the authorization may be given “by [his or her] group or the expert to whom he or she is attached”. A table summarizing the composition of and participation rights in technical meetings and meetings of experts is appended to the present document.

Participation of observer governments

9. The admission of observer governments to meetings permits a greater number of governments to follow the proceedings and, in technical meetings, to contribute to the discussions, without increasing the number of participants exercising full participation rights.
10. At technical meetings, according to article 9(4) of the applicable Standing Orders, only governments that are not represented at the meeting by a representative may be observers. There is no such limitation for meetings of experts, where, according to article 9(4) of the applicable Standing Orders, all interested governments may attend the meeting as observers as long as they notify the Office by the set deadline, even if they have nominated an expert at the meeting. This is consistent with the fact that, according to article 4(5) of the Standing Orders for meetings of experts and point 1 of the introductory note to the Standing Orders, experts act and speak in their expert capacity and do not represent the government or group that nominated them.
11. In practice, the limitation on government delegations fully participating in a technical meeting to one representative and one adviser may represent a significant constraint for some governments, in particular when an item on the agenda falls within the mandate of several ministries that all wish to attend. Since governments cannot be simultaneously represented by a representative and by observers, some choose to participate only as observers, as the observer status allows a greater number of representatives.

Participation in subsidiary bodies

12. Article 13 of the Standing Orders for technical meetings, on subsidiary bodies, has raised some concern as regards the participation rights of representatives of international organizations.
13. Government members of a subsidiary body may be accompanied by advisers, but under article 13(2), those have to be “their advisers” [emphasis added]. This wording makes reference to the adviser that each government may appoint under article 5(1) of the Standing Orders for technical meetings to accompany its representative. Therefore, the adviser to a Government

member of a subsidiary body can be neither the representative of another government nor a representative of an invited international organization.

14. Moreover, it is not possible for representatives of invited international organizations to participate in subsidiary bodies in their own right, since they are observers under article 9(2) of the Standing Orders for technical meetings and, pursuant to article 13(4), sittings of subsidiary bodies are not open to observers.
15. A practical solution has been applied based on the fact that governments are entirely free to appoint as an adviser to their representative or expert a person who is not an official of their government and who does not hold the nationality of the Member State they represent, including an official of the international organization concerned. However, this means, first, that this person becomes the representative of the government concerned and can speak and act only on behalf of that government and, second, that the government concerned is obliged to fill the only adviser position available to it with a person who is not an official of that government.

Submission of resolutions

16. Resolutions may be considered and adopted only by technical meetings, subject to the conditions set out in article 11 of the Standing Orders for technical meetings. Two of those conditions may at times raise difficulties. According to paragraph 1, a technical meeting may consider draft resolutions only if their content does not duplicate the result expected from the meeting – normally conclusions; however, pursuant to paragraph 2, those resolutions must be submitted to the secretariat before the end of the first day of the meeting. At that time, as the drafting of conclusions has normally not even started, it is practically impossible to assess whether a resolution duplicates the conclusions.
17. From a legal point of view, the two conditions are not incompatible, as the non-duplication condition has to be fulfilled only when the resolution is considered, and not already when it is submitted. In practice, the early submission deadline has therefore led to the submission of resolutions that have had to be either extensively amended in order to avoid duplication of the conclusions, or withdrawn.

▶ Draft decision

18. **The Governing Body, having reviewed the application of the Standing Orders for technical meetings and the Standing Orders for meetings of experts in accordance with its decision taken at the time of their adoption in November 2018, decided that no further action was needed at this stage.**

Composition of and participation rights in technical meetings and meetings of experts

Participants	Group *	Technical meetings		Meeting of experts	
		Admission	Participation	Admission	Participation
Representatives (technical meetings)/ experts (meetings of experts)	G	One representative per interested Government (subject to possible overall limitation of number by the Governing Body)	Full rights (speak, move motions, appoint substitute)	Number of experts set by the Governing Body	Full rights (speak, move motions, appoint substitute)
	E/W	Number of representatives set by the Governing Body	Full rights (speak, move motions, appoint substitute)	Number of experts set by the Governing Body	Full rights (speak, move motions, appoint substitute)
Advisers/substitutes	G/E/W	Maximum of one per representative, appointed by same Government or Employers'/Workers' group	Speak and move motions if authorized by representative or appointed as substitute	Maximum of one per expert, appointed by same Government or Employers'/Workers' group	Speak and move motions if authorized by expert <i>or group</i> , or appointed as substitute
Government observers		Any Government not represented by a representative – number of observers not specified	One statement at opening sitting; further statements if authorized by all Officers	Interested Governments, represented by one person each, subject to notification by set deadline	No speaking or other participation rights
Employers'/Workers' observers		Number of observers not specified	Not specified; <i>right to speak implied by observer status</i>	No observers	Not applicable
International organizations (IOs)		IOs with standing arrangements; IOs invited by the Governing Body	Speak	IOs with standing arrangements; IOs invited by the Governing Body	Speak

Participants	Group *	Technical meetings		Meeting of experts	
		Admission	Participation	Admission	Participation
Non-governmental organizations (NGOs)	NGOs with general consultative status; NGOs invited by the Governing Body	Speak if authorized by all Officers of the meeting	Speak if authorized by all Officers of the meeting	NGOs with general consultative status; NGOs invited by the Governing Body	Speak if authorized by all Officers of the meeting
Officers of the Governing Body	Chairperson and Vice-Chairpersons of the Governing Body	Speak	Speak	Chairperson and Vice-Chairpersons of the Governing Body	Speak
Employers' and Workers' secretariats (of the meeting)	Unlimited	Speak	Speak	Unlimited	Speak
External speakers	Persons invited by the meeting	Speak	Speak	Persons invited by the meeting	Speak
Public (not "participants")	Unlimited number of individual visitors	No rights	No rights	Not admitted	Not applicable
* G: Government group, E: Employers' group, W: Workers' group					