

# Summary record of proceedings of the first meeting of the tripartite working group on the full, equal and democratic participation in the ILO's tripartite governance

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## Introduction

1. The tripartite working group on the full, equal and democratic participation in the ILO's tripartite governance (TWGD), established by the Governing Body at its 337<sup>th</sup> Session (October-November 2019), held its first meeting on Friday, 11 December 2020. The meeting was virtual due to the ongoing COVID-19 pandemic. The list of members and other participants is in Appendix I.
2. The TWGD had before it a background note, a draft agenda and draft terms of reference and working methods, prepared by the Office.
3. **The representative of the Director-General** (Deputy Director-General for Management and Reform) opened the meeting and recalled that the TWGD had been given the responsibility for identifying issues and presenting proposals to the Governing Body on the full, equal and democratic participation of the ILO's constituents in the Organization's tripartite governance. The issue of democratization of the ILO governance was very much anchored in the 1986 Instrument for the Amendment of the Constitution of the ILO (the 1986 Amendment). However, it was not limited to this instrument as it had clearly emerged from the discussions at the Centenary Session of the International Labour Conference and the subsequent decisions taken by the Governing Body.

## Appointment of Co-Chairpersons

4. **The Government member of Panama**, speaking on behalf of the Gouvernement group, informed the TWGD that the group had reached consensus on the nomination of the Government member of Nigeria and the Government member of Switzerland as co-chairpersons of the TWGD and paid tribute to the efforts made by the members of his group in reaching this consensual outcome.
5. The Government member of Nigeria and the Government member of Switzerland were appointed to co-chair the work of the TWGD. Both Co-Chairpersons pledged to work closely together, direct the discussions of the TWGD in a spirit of consensus and collaborate with all the members and other participants so that the TWGD could fulfil its mandate.
6. The Co-Chairpersons agreed to share the chairing responsibilities during the first meeting.

## Adoption of agenda

7. **The Government member of France** considered that the original wording of the third item of the draft agenda prepared by the Office might give rise to confusion as the mandate of the TWGD should not include any discussions around the ratification of the 1986 Amendment for which a separate process had been set up by the Governing Body.
8. **One of the Co-Chairpersons, Switzerland**, proposed that rather than referring to "guidance for future action", the third item could be reworded to read "1986 constitutional amendment – Current state of affairs".
9. The TWGD adopted the following agenda:
  - Opening remarks of groups and participants;
  - Discussion and adoption of the working methods and rules of procedure of the Working Group;
  - 1986 constitutional amendment: current state of affairs;

- Democratization of ILO governance: scope and limits;
- Date and agenda of the second meeting of the Working Group.

## Opening remarks of groups and participants

- 10. The representative of the secretariat of the Workers' group** recalled the constant support of the group to the ratification of the 1986 Amendment. Its entry into force would be in line with the commitment undertaken through the adoption of the Centenary Declaration.
- 11. The representative of the secretariat of the Employers' group** stated that diversity and representativeness of all regions in the tripartite governance of the ILO was an important topic. The Centenary Declaration and its accompanying Resolution constituted the framework in which the TWGD should work.
- 12. The Government member of Ethiopia**, speaking on behalf of the Africa group, stated that this meeting was a testament to an age-old legacy which was not only counter to well established principles of international law but also a stumbling bloc against the fundamental tenets advocated by the 2030 Agenda for Sustainable Development. In this perspective, the revitalization of the structure of the Governing Body should remain a priority. To live up to the expectation arising from the ILO's mandate, the democratization of the Organization had to be achieved since no other options would uphold the principle of sovereign equality. The Africa group reiterated its call to fast track the ratification of the 1986 Amendment to replace the archaic system with a structure that embodied basic principles of multilateralism.
- 13. The Government member of Barbados**, speaking on behalf of the group of Latin American and Caribbean States (GRULAC), stated that the group was committed in supporting the work of the TWGD.
- 14. The Government member of Belgium** stated that after 100 years it was high time for the ILO to figure out how to organize its work and decision-making in a more democratic and inclusive way.
- 15. The Government member of Germany** expressed strong support to the endeavor of democratizing the Governing Body. There was a need for reform to adequately represent all regions in the Governing Body, especially Africa. Since the 1986 Amendment had not come into force more than 30 years after its adoption, the TWGD should focus on other solutions. The proposal made at the 303<sup>rd</sup> Session (November 2008) of the Governing Body to extend the number of non-elective members of the Governing Body from 10 to 12 and allocate these additional seats to the Africa group was one of these solutions and should be included in the discussion. There were good reasons to retain the Members of chief industrial importance to ensure continuity in the work of the Governing Body.
- 16. The Government member of the United Kingdom of Great Britain and Northern Ireland** reiterated the commitment expressed by the government during the negotiations concerning the Centenary Declaration to finding a solution to the issue of equal representation that is acceptable to all. The fact that the 1986 Amendment had not come into force after more than 30 years since its adoption showed that there were clearly outstanding issues with the instrument. Alternatives should be considered, such as extending the number of non-elective members of the Governing Body.
- 17. The Government member of Zimbabwe** stated that anything short of the 1986 Amendment would be far from democratization. The proposal made in 2008 to transform two elective seats into permanent seats for the Africa group did not follow the spirit of the

1986 Amendment. Members of the TWGD should clarify what they understood by democratization if it was not the ratification of the 1986 Amendment.

- 18. The Government member of France** considered that the 1986 Amendment contained a number of useful elements to help democratize the Organization and should be examined. Yet, the means and ways to promote the ratification of the 1986 Amendment were not part of the mandate of the TWGD.
- 19. The Government member of Algeria** stated that the meeting of the TWGD in the context of COVID-19 showed the common will to finalize the full and complete democratization of the ILO's governing bodies in line with the Centenary Declaration and its accompanying Resolution. Their composition on an equitable and non-discriminatory basis was essential for the governing bodies to be effective and democratic. It was essential to resolve the unaddressed issue of the first century of the ILO's existence, namely the democratization of the ILO organs. All regions should be represented in line with their numerical and strategic importance, in accordance with the Centenary Declaration and its accompanying Resolution which called for the completion of the process of ratification of the 1986 Amendment.
- 20. The Government member of Philippines** noted that her Government was a member of the TWGD, despite not being a member of the Governing Body, and could take part in its decision-making process. This was an unequivocal statement towards the democratization of the ILO.
- 21. The Government member of Lebanon** commended the ILO for remaining faithful to the commitment made through the adoption of the Centenary Declaration by establishing the TWGD despite the ongoing COVID-19 crisis. The TWGD should focus on implementing fully the Centenary Declaration.
- 22. The Co-Chairperson** concluded the discussion on this item by acknowledging the achievements of the Government member of Lebanon in the process of adoption of the Centenary Declaration that stood as an example for the TWGD.

## Discussion and adoption of working methods and rules of procedure

- 23.** In introducing the draft terms of reference and working methods, **the representative of the Director-General** indicated that they drew heavily upon the terms of reference of the Standards Review Mechanism Tripartite Working Group and that they included provisions to reflect the elements set forth in the decision taken by the Governing Body at its 340th Session (October–November 2020) as well as standard provisions commonly found in other similar rules.
- 24. The Government member of the Philippines** stated that the current wording of paragraph 9, which allowed the chairperson to take part in the discussion, was problematic and proposed that prior to participating a co-chairperson should yield the chair to the other co-chairperson.
- 25.** In response, **the representative of the Director-General** recalled that this was a provision commonly found in the rules governing ILO meetings, and in particular the Standing Orders of the Governing Body. A government member participated in the TWGD in its national capacity and should retain the right to take part in the discussions, while chairing the meetings.
- 26. The Government member of the United Kingdom** expressed concerns regarding paragraph 11 of the draft terms of reference and working methods since only the Governing Body, not the TWGD, could take decisions.

- 27. The Government member of France** noted that the goal of the TWGD was to reach consensus but questioned what consensus meant in light of paragraph 11 of the draft terms of reference and working methods. This paragraph appeared to allow for a consensus to be reached even when a number of members of the TWGD disagreed. The TWGD should only transmit recommendations to the Governing Body for which a real consensus had been reached.
- 28.** In response, **the representative of the Director-General** noted that paragraph 11 reflected the general approach to consensus. It described the manner in which decisions would be taken within the TWGD and, if adopted without formal objection, submitted as consensual recommendations to the Governing Body for decision. The Co-Chairpersons would presumably devote all the necessary time to enable the TWGD to reach consensus. Should there be an impediment to consensus, paragraph 12 would apply and the divergent views would be set out in the report of the TWGD to the Governing Body. This would also enable the TWGD to progress in its work at a reasonable pace.
- 29. The representatives of the secretariats of the Workers' and Employers' groups** supported the adoption of the draft terms of reference and working methods.
- 30.** With respect to the correction suggested by the Africa group, to replace the plural "these" by the singular "this" in paragraph 3, **the representative of the Director-General** indicated that the Office would check the ILO house style manual to determine whether the singular or the plural form should be used.
- 31. One of the Co-Chairpersons, Nigeria,** noted that there was agreement in the TWGD to adopt its terms of reference and working methods, on the understanding that the Office would make the necessary edits to paragraph 3 if need be.

## 1986 constitutional amendment: current state of affairs

- 32. The representative of the Director-General** indicated that in proposing this item for discussion, the Office intended to seek guidance from the TWGD as to the measures to be taken both by the Office and governments to secure further ratifications of the 1986 Amendment, having notably regard to the persisting reluctance of certain countries to ratify the 1986 Amendment despite the promotional efforts undertaken by the Director-General. As regards the concerns of some Member States related to the obsolete terminology of "socialist States of Eastern Europe" in the 1986 Amendment, the Office was of the view that the issue could be overcome, for example through a resolution adopted by the Conference.
- 33. The Government member of France** stated that the mandate of the TWGD was not to look into the promotion of the ratification of the 1986 Amendment, which was appropriately covered by regular reports of the Director-General to the Governing Body. The TWGD should rather focus on the different provisions in the 1986 Amendment on the basis of which concrete proposals could be made to the Governing Body, such as the doubling of the number of members of the Governing Body. As regards the issue of interpretation of obsolete terminology in the 1986 Amendment, the proposal of the Office was understandable but caution was needed as this might lead to further requests for review of outdated provisions.
- 34. The Government member of Zimbabwe** recalled the Africa group's actions to promote the ratification of the 1986 Amendment and encouraged other groups to follow this example. The doubling of the Governing Body members was only an administrative solution, and the 1995 amendment to the Standing Orders of the Conference, which increased the number of deputy members in the Governing Body, did not change the

undemocratic structure of the Governing Body and did not level the playing field. There could be no democratization at the ILO without the removal of the permanent seats in the Governing Body. The proposal made in November 2008 to grant Africa two permanent seats had been rejected by the Africa group, as it did not democratize ILO's governance. The TWGD should discuss the democratization of the ILO in a broader context than the 1986 Amendment.

- 35. The Government member of Belgium** stated that the 1986 Amendment should be at the heart of the discussion in the TWGD, as it had been adopted by the ILO's supreme organ, the Conference. An evolutive approach and an inclusive method should be adopted to pursue the democratization of the ILO, taking into account all the previous decisions and initiatives on this matter.
- 36. The representative of the secretariat of the Workers' group** noted that progress had been made in the ratification of the 1986 Amendment and acknowledged the recent ratification by Spain and the fact that Lebanon, Peru and Yemen had initiated ratification procedures. The group wished to call upon at least three Members of chief industrial importance to ratify the 1986 Amendment. The ratifications of the 1986 Amendment by India and Italy showed that this could be achieved. The helpful proposal by the Office to solve the obstacle to ratification coming from obsolete terminology could assist the governments concerned.
- 37. The representative of the secretariat of the Employers' group** agreed with the views expressed by the representative of the secretariat of the Workers' group. She welcomed Spain's ratification of the 1986 Amendment and encouraged the Director-General to continue the promotion of its ratification.
- 38. One of the Co-Chairpersons, Switzerland,** noted that 114 ratifications of the 1986 Amendment constituted a significant number and that progress had been made in recent months, thereby showing the continued relevance of the 1986 Amendment.

## Democratization of ILO governance: scope and limits

- 39. The representative of the Director-General** noted that, in light of the Centenary Declaration, the Governing Body gave guidance in mandating the TWGD to develop proposals on the full, equal and democratic participation of the ILO's constituents in the Organization's tripartite governance by ensuring a fair representation of all regions and establishing the principle of equality among Member States. Thus, three elements could structure its discussions. First, the full, equal and democratic participation could be approached on a regional basis rather than an individual Member State basis, placing emphasis on ensuring full, fair and equal treatment between regions. Second, the TWGD could consider the principle of equality among Member States in participating in governance, which could mean for example participating in the designation of Member States that would take a seat. Third, with respect to the ILO tripartite governance, the TWGD should determine whether its discussions should focus on the Governing Body, or if they should extend beyond the Governing Body, in which case some prioritization would be necessary. The Office's view was that priority should be given to the Governing Body, the governance organ in relation to which the discussion on democratization began.
- 40. The Government member of Zimbabwe** acknowledged that the wording of the Centenary Declaration and its accompanying Resolution left room for interpretation and allowed the TWGD to address the issue of the democratization of the ILO governance beyond the scope of the Governing Body. He proposed that, for the second meeting of the TWGD, the members of the TWGD be invited to present their respective positions on their

understanding of the democratization of the Governing Body and the other ILO organs and to suggest concrete steps to achieve this goal.

- 41. The Government member of France** supported the proposal of the Government member of Zimbabwe. It would be crucial for the work of the TWGD to agree on a proper definition of the democratization of the ILO organs. The TWGD would also have to determine whether to limit its discussions to the Governing Body or extend it to other ILO organs. The discussions should enable the TWGD to present the best possible recommendations to the Governing Body.
- 42. The Government member of Belgium** stated that the discussions of the TWGD should be focused but not limited to the Governing Body, as the 1986 Amendment itself was not limited to the Governing Body. The discussions should be more inclusive and should cover other issues such as the question of whether the Director-General should continue to be elected by the Governing Body or by the Conference. Further reflections could also include the decisions-making process at the level of the Governing Body in the context of the ongoing COVID-19 crisis, which had not allowed all Members to properly participate. The background note differentiated between the equality among Member States and fair representation of regions and the respective meanings of “equality” and “fairness” in this specific context would warrant discussion.
- 43. The Government member of Spain** expressed his belief that the 1986 Amendment would be an important step for the democratization of the Governing Body and invited other Member States to follow the example of Spain and proceed with the ratification. As a first step, it would indeed be important for the TWGD to decide on the scope of its discussions and whether to focus on the Governing Body. Secondly, criteria for the democratization of the Governing Body should be established, including the criteria for the determination of its membership.
- 44. The Government member of Algeria** expressed the concern that the TWGD could lose its focus if it expanded its discussions beyond the Governing Body. The current composition of the Governing Body was discriminatory as it left Africa as the only region without a permanent member. The ratification of the 1986 Amendment would be the best way to reach the goal of the democratization of the Governing Body. The discussions of the TWGD therefore would have to follow the spirit of the 1986 Amendment and focus on ensuring equality in the representation between regions.
- 45. The Government representative of China** noted that the issue of the democratization of the Governing Body had already been discussed several times by the Governing Body. In 2008, the Governing Body had examined several proposals to address the lack of adequate representation of all regions but had not been able to reach a consensus on either of them. These discussions had demonstrated that this was a complicated issue. It would therefore be important to agree on a realistic proposal which could be presented to the Governing Body.
- 46. The Government member of the Philippines** acknowledged the importance to discuss the 1986 Amendment and other proposals concerning the membership of the Governing Body. Another important aspect was the composition of the regional groups in the Governing Body. While the countries of the ASPAG region jointly made up 61 per cent of the global labour force, ASPAG had only one representative in the tripartite screening group of the Governing Body, which decided on important issues such as the agenda of the Governing Body. As was stated in the Centenary Declaration, the full contribution of the ILO’s constituents to the achievement of social justice could only be ensured through

their full, fair and equal participation in the ILO's governance. The number of regional groups would thus warrant reconsideration.

- 47. The representative of the secretariat of the Workers' group** expressed support for focusing on the ratification and entry into force of the 1986 Amendment as the best way to achieve democratization of the Governing Body. This had been the constant position of the Workers' group. The 1986 Amendment would ensure a fair representation of the four regions in the Governing Body. The discussions of the TWGD should be limited to the Governing Body, since the composition of the Governing Body was the main focus of the 1986 Amendment.
- 48. The representative of the secretariat of the Employers' group** was also in favour of discussions in the TWGD being limited to the Governing Body and focusing on the 1986 Amendment, considering that its entry into force only required 11 more ratifications, including three from Members of chief industrial importance.
- 49.** With reference to the proposal made by the Government member of Zimbabwe, **the representative of the Director-General** suggested that the Office could compile all the responses of the members of the TWGD as regards their understanding of the democratization of the ILO governance and present them to the next meeting of the TWGD.
- 50. One of the Co-Chairpersons, Nigeria,** noted that the discussion had highlighted several aspects which required further consideration at the second meeting of the TWGD. These included the 1986 Amendment as well as other aspects beyond the Amendment. Members of the TWGD would be invited to express their views on the scope of the discussions and their understanding of the democratization of the ILO governance. He noted that there was agreement in the TWGD as regards the proposal of the Government member of Zimbabwe and the further suggestion made by the representative of the Director-General.

## Date and agenda of the second meeting

- 51. One of the Co-Chairpersons, Switzerland,** noted that there was agreement in the TWGD to hold the second meeting during the week of 18 January 2021, acknowledging the statement by the Government representative of the Syrian Arab Republic that the limited capacities of certain missions should be taken into account. The TWGD also agreed that a draft agenda for the meeting would be circulated by the Co-Chairpersons to the members of the TWGD, based on an Office's proposal.

## Appendix I. List of members and other participants

### Governments

#### **Africa group**

Algeria  
Cameroon  
Egypt  
Ethiopia  
Gabon  
Gambia  
Morocco  
Namibia  
Nigeria  
Senegal  
South Africa  
Sudan  
Uganda  
Zimbabwe

#### **Asia and Pacific group**

Australia  
Bangladesh  
India  
Indonesia  
Iran (Islamic Republic of)  
Japan  
Lebanon  
Malaysia  
Myanmar  
Nepal  
Philippines  
Republic of Korea  
Saudi Arabia  
Thailand

#### **Americas group**

Argentina  
Barbados  
Brazil  
Canada  
Chile  
Costa Rica  
Ecuador  
El Salvador  
Guatemala  
Mexico  
Panama  
Peru

#### **Europe**

##### *Eastern European group*

Bulgaria  
Croatia  
Estonia  
Lithuania  
Poland  
Russian Federation  
Slovenia

##### *Western European group*

Belgium  
France  
Germany  
Italy  
Spain  
Switzerland  
United Kingdom

### Employers' group secretariat

Ms Maria Paz Anzorreguy, International Organisation of Employers

**Workers' group secretariat**

Ms Raquel Gonzalez, International Trade Union Confederation

**Other interested Governments**

China

Syrian Arab Republic

## **Appendix II. Terms of Reference and Working Methods of the tripartite Working Group on the full, equal and democratic participation in the ILO's tripartite governance**

*(adopted at the first meeting on 11 December 2020)*

### **Background**

1. The tripartite working group on the full, equal and democratic participation in the ILO's tripartite governance (TWGD) has been established by the Governing Body to serve as a platform for focused dialogue. As per the decision taken by the Governing Body at its 340th Session (November 2020), the TWGD shall hold two meetings prior to the 341st Session (March 2021) of the Governing Body and submit its first report to that session. At its first meeting, the TWGD is expected to consider its terms of reference and working methods.

### **Mandate**

2. The TWGD is mandated to discuss, develop and present proposals to the Governing Body on the full, equal and democratic participation of ILO's constituents in the Organization's tripartite governance by ensuring a fair representation of all regions and establishing the principle of equality among Member States.
3. The TWGD shall operate under these terms of reference and any directions given by the Governing Body.
4. The programme of work shall be determined by the TWGD, taking into account any guidance provided by the Governing Body.

### **Composition**

5. The TWGD is composed of 14 Government members from each of the four regions and the Employers' and Workers' group secretariats. Members are not required to be members of the Governing Body. All interested governments may attend and participate in the discussions.

### **Chairperson/ conduct of debates**

6. The Government members of the working group shall nominate one of them as Chairperson of the TWGD. In the absence of any agreement on a single Chairperson, two Government members shall be nominated, who shall co-chair the working group and preside alternately over the meetings.
7. The Chairperson shall represent the TWGD before other ILO organs, as appropriate. The TWGD, through its Chairperson, shall report to the Governing Body.
8. The Chairperson shall direct the debates, maintain order, ensure the efficient conduct of deliberations, accord or withdraw the right to speak, put questions for decision, and ascertain and announce consensus.
9. The Chairperson shall have the right to take part in the discussions.

10. No member of the TWGD or other participant shall address its meetings without having asked and obtained the permission of the Chairperson, who shall normally call upon speakers in the order in which they have signified their desire to speak.

### Decision-making

11. The TWGD shall take decisions by consensus among its members and its consensual recommendations shall be submitted to the Governing Body for decision and follow-up action. Members of the TWGD shall make every effort to reach an agreement that is generally accepted, so that a decision can be adopted without formal objections. In such cases, any dissenting positions or reservations shall be placed on the record without however constituting an impediment to the adoption of the decision in question.
12. Where it is not possible to reach consensus on a specific issue, the divergent views shall be set out in the report of the TWGD to the Governing Body.

### Secretariat/ reporting

13. The secretariat of the meetings of the TWGD is appointed by the Director-General. The Secretary-General of the meeting represents the Director-General and is the chief of the secretariat. The secretariat shall provide the necessary administrative and substantive support to facilitate its deliberations.
14. The TWGD's working documents and the reports of its meetings to the Governing Body shall be made public.
15. A summary record of proceedings of the meetings of the TWGD reflecting the views expressed by its members and other participants shall be prepared by the secretariat of the meeting.
16. Upon receiving the first report of the TWGD in March 2021, the Governing Body shall determine whether its functioning should be extended.