



NINTH ITEM ON THE AGENDA

**Report of the Committee on Legal Issues
and International Labour Standards***Contents*

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1. The Committee on Legal Issues and International Labour Standards (LILS) met on 11 November 2005. It elected the following Officers:

Chairperson: Mr. G. Corres (Government, Argentina)

Employer Vice-Chairperson: Mr. B. Boisson

Worker Vice-Chairperson: Mr. U. Edström

First part: Legal issues

I. Compendium of rules applicable to the Governing Body

2. At its 292nd Session (March 2005), the Governing Body approved a detailed draft plan of the consolidation in a single document of the existing rules applicable to the Governing Body, with a view to submitting the draft at the present session.¹ The Committee now had before it a document² containing the Compendium of rules applicable to the Governing Body.
3. The Legal Adviser recalled that the project to consolidate all the rules applicable to the Governing Body had been the subject of tripartite consultations – of Governments, Employers and Workers – carried out via an interactive electronic forum.³ A decision was taken to invite all member States to participate, through their respective missions, given the nature of the document and the fact that any member State of the ILO could become a member of the Governing Body. The consultative process took place over five weeks. In the future, however, this period of time would probably need to be extended to allow for the capital cities to participate more. The objective of the consultation was to speed up the decision-making process by allowing members of the Governing Body to familiarize themselves with the document, to transmit their reactions, and if they wished to do so, they could request more details and share their opinions. These last two aspects of the process, however, did not prove to be conclusive as only four governments and the secretariat of one of the social partners had taken part. Comments were mainly made on the Introductory note and led to some changes to it when the comments were sufficiently detailed. The few comments received on the provisions of the Standing Orders were not included at this stage because of the limits of the mandate of the Committee on consolidation of the rules, but these comments would be useful in the context of further discussions on reforms to ILO bodies.
4. Some other comments were not used, such as the suggestion to insert information on the procedure for the appointment of the Chairperson of the Governing Body. The practice with regard to the appointment of the Chairperson does not only derive from procedural rules: if the Government group does not manage to present just one candidate, the Governing Body, under article 17.3 of its Standing Orders, calls for a ballot vote in which

¹ GB.292/LILS/4; GB.292/10(Rev.), paras. 40-53.

² GB.294/LILS/1.

³ <http://www.ilo.org/public/english/bureau/leg/download/information.pdf>.

all regular members of the Governing Body, Government members, Employer members, and Worker members, participate. It does not seem appropriate for the Office to make proposals to this group on how it should choose its candidate(s); it is for this group itself to determine its own rules, taking into consideration the unwritten rule of geographical rotation, to facilitate its choice of a candidate. As for paragraph 7 of the Introductory note as to what constitutes a reasonable size for Government delegations, experience has shown that Government delegations to the Governing Body rarely include more than a dozen persons be they registered as delegates or as advisers, which is a reasonable number given the technical nature of certain subjects that require specialist assistance. Nevertheless, consideration must be given to the balance, physical included, which must exist between the Government, Employer and Worker members, and a limit must be proposed for the size of delegations in terms that allow a certain degree of flexibility to deal with exceptional circumstances. A limit of 15 persons is based *mutatis mutandis* on the constitutional provisions for the Conference.

5. The Legal Adviser considered that the office had taken a cautious approach, in particular by limiting additions to the Standing Orders to provisions that come from the provisions of the Constitution or from the Conference Standing Orders, the inclusion of which in the Standing Orders of the Governing Body appeared useful to ensure the effective use and understanding of the said Standing Orders. Editorial changes effected took account of the drafting rules for ILO instruments and current terminology.
6. The Worker members welcomed the Compendium of rules applicable to the Governing Body and recalled the scope of the exercise agreed to at the 292nd Session of the Governing Body, which was to consolidate scattered rules without making amendments to those rules. The Worker members supported the adoption and dissemination of the Compendium with the following suggestions. In paragraph 5 of the Introductory note of the Compendium, a distinction should be made between functions under the responsibility of the Governing Body and functions assigned to its Officers. In paragraph 15 of the Introductory note concerning the role of the groups, it could be clarified that each of the groups has its own way of functioning (e.g., no regional coordinators existed in the Workers' group) and the reference to tripartism could be strengthened. In paragraph 17, the reference to the International Confederation of Free Trade Unions (ICFTU) could soon be outdated and, if so, would entail an editorial change to the document. It was further noted that the explanation in paragraph 17 could be expanded regarding both the Employers' and Workers' groups, as had been done for the Government group in paragraph 16. The Office was encouraged to prepare an index and contents page. Concerning the informal consultations via the electronic forum that preceded this session of the Governing Body, the Worker members noted that while electronic means are useful for retrieving documents, they may not be as practical for discussions on important topics and should be only used as an exception.
7. The Employer members, concurring with the comments of the Worker members, congratulated the Office on its work on the Compendium as it was viewed as a useful tool and a living document that could benefit from a periodic review. They clarified that the approval of the document would not exclude future improvements. The Employer members encouraged the Office to strengthen the language regarding tripartism in paragraph 15 of the Introductory note, as it is the heart of the ILO, and to expand the description of the Employers' and Workers' groups contained in paragraph 17 of the Introductory note. It also shared the view that an index would be beneficial. In Annex II, *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*, the Employer members recalled paragraph 34 that states that complaints lodged with the ILO, either directly or through the United Nations, must come either from organizations of workers or employers or from governments. Regarding the informal

consultations via the electronic forum that preceded this session of the Governing Body, the Employer members welcomed such a process and considered it an innovative tool that, although it could not apply to every single topic or discussion, was a good first step that was to be encouraged.

8. The representative of the Government of the United States, speaking on behalf of the industrialized market economy countries (IMEC), welcomed the Compendium as it would make the rules more transparent and accessible. It could also contribute to the more efficient functioning of the Governing Body and prove useful to new members and long-time participants alike. Therefore, it should be adopted and published without delay. Turning to the informal consultations via the electronic forum, although it was considered an innovative idea, she remarked that it did not appear to be a widely used vehicle and that the production of the document had been delayed despite the fact that an earlier version was made available during October for the online consultations. The Office was encouraged, where such a tool is to be used in the future: to make the process of online consultations easier to use; to find ways to encourage broader participation; and to ensure that such online consultations not compromise the timely delivery of documents.
9. While supporting the comments made on behalf of IMEC, the representative of the Government of Finland wished to add that the statement in the Introductory note concerning the size of the government delegations should allow for more flexibility since there might be exceptional circumstances that would warrant larger delegations. Regarding the existence of substitute members of committees, he wondered whether this served a useful purpose and what were the differences between the various types of committee members.
10. The representative of the Government of Mexico, endorsing the statement made on behalf of IMEC, reiterated the importance of the Compendium and called for its early publication. However, she added that the online consultations could have been made easier.
11. The Government member of Nigeria, speaking on behalf of the Africa group, acknowledged the efforts made by the Office in preparing the Compendium. She noted, in particular, the inclusion of Annex II on 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*, the functioning of which had been a concern for the region. Referring to paragraphs 24 and 25 of Annex II, she hoped that the future work of the Committee would provide confidence in the decisions reached by the Committee, but had no objection to paragraph 9 of the document.
12. Speaking on behalf of her Government only, the representative of Nigeria noted that according to paragraph 7 the number of persons accompanying regular or deputy Government members, “whether as substitutes or advisers, cannot exceed 15”. While understanding the need for the limitation, in particular because of space constraints, she believed that the limitation was in contradiction with the rights of sovereign States to determine their level of participation in accordance with their national needs. Therefore, Nigeria could not support the provision.
13. The representative of the Government of Australia, supporting the statement made on behalf of IMEC, remarked that she had participated in the online consultations and had provided comments to the Office. As not all comments had been reflected in the Compendium, she made the following suggestions. Inclusion of a comprehensive index, which would enable Governing Body members to locate information quickly and easily. Inclusion of information on the processes for appointing the Chairperson of Governing Body committees and procedures to be followed if there is a lack of consensus on the basis that it should be documented somewhere, as well as the arrangements for handling the

Chairperson's conclusions. In the Introductory note a concise statement of the rule under the relevant sub-heading could be added, in a fashion similar to the tone and format of Annex IV on travel expenses, followed by the descriptive text on the development of the rule. As a matter of fact, the description of the history and development of the rules and the rules themselves are mixed together, thus making it difficult to demarcate the rule in longer paragraphs of the descriptive text.

14. The representative of the Government of Italy, supporting the statement made by IMEC, reiterated the importance of this initiative, since it would surely enhance the transparency of the rules and practices followed by the Governing Body that are currently disseminated in different texts and publications. He added that such a Compendium could increase the efficient functioning of the Governing Body, since it would permit the members to share a vision of the applicable Governing Body rules and practices. He joined the view already expressed that an index would be useful and endorsed the point for decision.
15. The representative of the Government of the Russian Federation welcomed the online consultations and, under certain circumstances, considered that they could be helpful in the future. He welcomed the Compendium as useful to the future work of the Governing Body. Concerning paragraph 7 of the Introductory note, Composition and membership of the Governing Body, which states that "The number of persons accompanying regular or deputy Government members, whether as substitutes or advisers, cannot exceed 15", he shared the Office's view that the size of a delegation needs to be sensible. However, while understanding the Office's rationale, he expressed doubts on limiting the governments' prerogatives and would prefer a non-legally binding and flexible language. Thus, he urged caution and proposed that the number "should not exceed 15".
16. The representative of the Government of Germany joined the statements made on behalf of IMEC and those made by the representative of the Government of the Russian Federation. Concerning paragraph 7 of the Introductory note, the German representative proposed that such number "should not, as a general rule, exceed 15".
17. The representative of the Government of Morocco expressed support for the position taken by the representative of the Government of Nigeria regarding the limit on the size of delegations mentioned in paragraph 7 of the document. She asked whether deputy members and substitutes were elected or appointed.
18. The representative of the Government of the Philippines considered that the online consultations had generated a useful exchange of ideas and assured that the absence of reaction by the Philippines did not indicate lack of interest. The speaker wondered whether it would be possible to provide for the inclusion in the Committee's report of statements that were not actually delivered before the Committee, because of time constraints or in case of emergency. Joined by the Government member of Australia, she requested that the references to "Asia" be changed to "Asia and Pacific" to reflect the actual composition of that region.
19. The representative of the Government of South Africa, concurring with the statement made on behalf of the Africa group, expressed support for a detailed index and table of contents. She welcomed the improvement in cross-referencing, as compared to the draft that had been made available through the online consultation process and joined the view that provision be made for regular updates and self-improvements. With respect to the size of Government delegations addressed in paragraph 7 of the Introductory note, she reiterated the need for flexibility, which could be worded as an exception under particular circumstances.

20. The representative of the Government of Kenya, adding her support to the statement made on behalf of the Africa group, stated her appreciation for the Compendium as it embodies the rules and practices of the Governing Body. Such a document would be an immense value to the constituents, as it offers a one-stop shop guide. For example the procedures described in Annex I for the examination of representations under articles 24 and 25 of the Constitution of the ILO and Annex II on the Committee on Freedom of Association are useful references and guide to members and other constituents.
21. In reply to questions raised by various members of the Committee, the Legal Adviser explained that extending the consultation process to include all of the Members of the ILO was exceptional, in view of the subject of the consultation. He pointed out that the document under discussion was a draft and that after adoption by the Governing Body, it would include an index and a list of contents. The format would also more effectively highlight the fact that the Introductory note was not part of the Standing Orders. However, he considered that the references to historical developments needed to be kept in the Introductory note as they were useful in differentiating between simple practices and rules to do with custom. He confirmed that tripartism was not *a* pillar of the ILO but rather *the* pillar of the Organization and confirmed that the text of the document would be changed to reflect this. Further, he explained that a revision would be made to the presentation of the roles of the three groups in such a way that they would be presented in a more balanced way. He then drew attention to an error in the text of the document: contrary to what is stated in paragraph 16, the Chairperson of the Government group is not elected for the duration of the term of office of the Governing Body, but for only one year. As regards the matter of substitute members in committees, the Legal Adviser explained that there always had been both regular members and substitute members on the committees. Only the regular members had the right to vote and were counted in calculating the weighting of votes. However, as voting took place only very rarely in the committees, this distinction could undoubtedly be dropped. He explained that there were regular members, deputy members and substitute members of the Governing Body, of whom only regular members had the right to vote. Further, deputy members were elected members but without the right to vote, whereas substitute members might not be elected and, consequently, might not be members of the Governing Body.
22. Regarding the adoption of committee reports, the Legal Adviser pointed out that only statements that had actually been made could be included in the reports; if this were not the case, members would not have the opportunity to react to the content of statements made by other members. As regards the limit on the size of Government delegations mentioned in paragraph 7 of the document, he suggested making the text a little more flexible by providing that the number of persons accompanying regular or deputy Government members, whether as substitutes or advisers, “should not exceed 15 persons, except in exceptional circumstances”. In reply to a question from the representative of the Government of Nigeria, he explained that determining what constituted exceptional circumstances could be the subject of discussions between the Office and the Government concerned; exceeding the limit could not become a habit and it should be justified by, for example, specific events. As regards the name of the Asian region, the Legal Adviser and the Executive Director of the Standards and Fundamental Principles and Rights at Work Department pointed out that the matter of the name of this region was currently under discussion in the context of the forthcoming Asian Regional Meeting and that this text would be amended depending on the results of the discussions. Similarly, the Office would amend the text if the ICFTU were to change its name. Finally, the Legal Adviser recalled that consolidating the rules was not intended to create rigidity as to practices and the rules applicable to such practices. Further, the text was the property of the Governing Body which could amend it as and when it saw fit to do so.

23. The Worker members, noting the Legal Adviser's response, reiterated their support for adoption of the Compendium with the editorial changes discussed by the Committee.
24. *The Committee recommends that the Governing Body approve the Compendium of rules applicable to the Governing Body and request the Office to publish it without delay.*

II. Progress in the work to adapt the Manual for drafting ILO instruments: Oral report

25. The Legal Adviser gave an oral report to the Committee on the progress with the work to adapt the Manual for drafting ILO instruments. He recalled that this Manual had been prepared by the Office of the Legal Adviser as requested by the Governing Body and had been examined by a tripartite group of experts which met from 19 to 21 January 2005. At its 292nd Session (March 2005), the Governing Body took note of the document and requested the Office to proceed with the modifications needed to facilitate its use by the different types of potential users.⁴ He presented an electronic version of the Manual that had been prepared by the Turin Centre and that was designed for publication on the Office's Internet site. This version proposed two levels of access to the Manual. The first level caters in particular for the needs of the members of Conference technical committees who are not jurists nor specialized in the drafting of international texts and who need practical and prompt references. The presentation covers all the proposals and recommendations prepared according to the editing practices followed up to the present time for the preparation of the texts of international labour Conventions and Recommendations. It includes a brief demonstration of the process for the adoption of these standards and an explanation of the monolingual or parallel drafting of the texts of instruments. Annexes containing examples complete the presentation. The second level gives access to the complete text of the Manual. It is intended for jurists, specialists and any person directly involved in drafting international labour standards, particularly members of drafting committees as well as officials of the technical departments of the International Labour Office. Users can move from one level to the other at any time.
26. The Employer members, while recognizing that this was not the only tool but still a very important one, welcomed the presentation by the Legal Adviser of the electronic version of the Manual for drafting ILO instruments. They also expressed their wish to have a presentation of the final electronic version of the Manual at the next session of the Governing Body (March 2006) and encouraged the Office to proceed in this direction.
27. The Worker members likewise expressed their appreciation for the electronic version of the Manual for drafting ILO instruments. However, they cautioned the Office against overly relying on the Internet for its dissemination, as a large portion of workers did not have access to such technology. Bearing in mind this general concern, the Worker members encouraged the Office to promote in other ways the Manual for drafting ILO instruments.
28. The representative of the Government of Nigeria, joining the Worker members, emphasized that the Office should disseminate paper copies of the Manual.
29. The Legal Adviser said that he understood the concerns expressed as to the difficulty for some people to access the Internet version of the Manual. He explained that three versions

⁴ See GB.292/LILS/3 and GB.292/10(Rev.), para. 39.

of the Manual were planned at present: the complete printed version⁵ already existed but was not easy to use; the Internet electronic version just presented; and the same electronic version available on CD-ROM. The latter version could possibly be added to a CD on standards produced by the Standards Department. As well, a shorter print version of the Manual was being considered that could be used as a quick reference work by Conference delegates.

30. The Committee took note of the progress made and expressed its gratitude to the staff of the Turin Centre for their excellent work.

III. Other legal issues

(a) *Rules on voting at the Conference*

31. The Committee had before it a document⁶ on the rules on voting at the Conference.
32. The Worker members considered that the paper provided valuable information in view of the problems encountered at the last International Labour Conference, which had resulted in a misrepresentation of the political will of the constituents. The speaker requested the responsible officials of the Office to work more closely with the Bureau for Workers' Activities (ACTRAV) in order to be better informed of the attendance and departures of members of the Workers' group. Regarding the reference in paragraph 15 of the document to biometric identification techniques to identify voting delegates, he stated that if this were to be understood as a proposal to introduce such techniques, the Workers' group would oppose it.
33. The Employer members, although not aware of the origin of the request that gave rise to the inclusion of the document on the agenda, took note of it.
34. The representative of the Government of Nigeria, speaking on behalf of the Africa group, recalled the outcome of the proposed Convention concerning work in the fishing sector that had occurred at the 93rd Session of the International Labour Conference (June 2005). On this basis, the Africa group expressed its appreciation for the document and specifically drew attention to article 17 of the ILO Constitution and articles 20 and 66 of the Standing Orders of the International Labour Conference, as well as the problems identified that were due to the early departure of delegates and the necessity to nominate substitute delegates. Concern was expressed over the mention of biometric identifiers in paragraph 15 of the document and the question was raised as to its compatibility with the right of delegations to transfer the right to vote to another individual.
35. The Legal Adviser clarified that it was not proposed to introduce biometric identification techniques to identify voting delegates; the reference to such techniques in paragraph 15 served only to illustrate the fact that it was in practice very difficult to ensure that the person casting the vote was indeed the person authorized to vote.

⁵ <http://www.ilo.org/public/english/bureau/leg/man.pdf> and <http://www.ilo.org/public/english/bureau/leg/manannex.pdf>.

⁶ GB.294/LILS/3/1.

(b) Request concerning complaints under article 26 of the ILO Constitution

36. The representative of the Government of Honduras, speaking on behalf of the Group of Latin American and Caribbean States (GRULAC), recalled that the 292nd Session of the Governing Body had called for a review of the criteria for the receipt and admissibility of complaints under article 26 of the ILO Constitution with a view to avoid possible duplication, as stated in paragraph 917 of the 336th Report of the Committee on Freedom of Association to the Governing Body.⁷ As a result, GRULAC had urged this Committee to prepare for the 293rd Session of the Governing Body a document analysing the admissibility criteria that could serve as the basis for a discussion of the subject. Given that the 293rd Session of the Governing Body (June 2005) met for only one day, the document requested was neither prepared nor considered. GRULAC now reiterated its request, so that this topic could be placed on the agenda of the next session of the Governing Body (March 2006).
37. The Worker members, quoting paragraph 29 of document GB.292/LILS/7 discussed by the Committee in March 2005, recalled that the Governing Body had already concluded that no improvement of the complaints procedure was called for and confirmed that this remained the position of the Workers' group.
38. The Employer members agreed that the matter had already been fully discussed and there was broad consensus that there was no need to change the procedure.
39. The Legal Adviser affirmed that a certain number of discussions had taken place on the question of the adoption of rules of procedure for articles 26 and those following article 26, and on the question related to the application of article 33. The Constitution was clear on the complaints procedure and any rule adopted by the Governing Body would have to closely follow the rules of the Constitution, as was the case for the Standing Orders regarding the procedure for representations under article 24, which neither adds to nor detracts from the constitutional provisions. The procedure applied to all the cases before the Fact-finding and Conciliation Commission has been *mutatis mutandis* that which the Governing Body accepted when it examined the first complaint that gave rise to the constitution of the Fact-finding and Conciliation Commission.

Second part: International labour standards and human rights

IV. Improvements in the standards-related activities of the ILO: Outlines of a future strategic orientation for standards and for implementing standards-related policies and procedures

40. A representative of the Director-General (Ms. Doumbia-Henry, Director of the International Labour Standards Department) began by presenting the improvements made to standards-related activities between June 1994 and November 2005, as the Committee had requested at the 292nd Session (March 2005) of the Governing Body. She recalled the decisions taken by the Governing Body at its 292nd Session which had led to the

⁷ GB.292/8.

preparation of a paper⁸ on outlines of a future strategic orientation for standards and for implementing standards-related policies and procedures, which the Committee had before it at the present session. On this subject, she presented the four main aspects of the proposed strategic orientation, and emphasized that the latter should have the sole purpose of strengthening the standards system and that tripartite consultations would be needed on its implementation.

41. The Employer members welcomed the Office's paper and noted that the publication *Rules of the game: A brief introduction to international labour standards* was useful and would be distributed widely in United States employers' organizations. They also particularly welcomed the publication of *Employer organizations and the supervisory mechanisms of the ILO*. With regard to paragraph 7, the Employers welcomed the idea that standards could and should contribute to development, but they stressed that this contribution was not automatic. There was a clear need for further research on the relationship between standards and productive employment. With regard to paragraph 8, they noted that the language used to describe standards was at times confusing. Standards were a pillar of decent work, but for the Employers the cornerstone of the ILO was not standards but employment. Standards certainly contributed to creating and sustaining employment, but they were not the sole strategy for attaining this objective. In addition to the four components of the strategy outlined in the paragraph, the Employers suggested adding a fifth, namely continuous review and updating of standards. The review of standards, as had been carried out by the Working Party on Policy regarding the Revision of Standards, should not be done just occasionally but on a regular basis. With regard to the proposal to carry out research on the economic impact of standards, the Employers suggested that this proposal be included in the items for action in paragraph 22, and that a methodology for carrying out such research be presented to the LILS Committee at the March session. With regard to paragraph 15, they believed that common ground had been established with the Worker members on the functioning of the Conference Committee on the Application of Standards, but certain Governments still harboured concerns. Consultations in this regard could clarify these concerns.
42. With regard to the proposals in paragraph 22, in addition to enhancing the impact and visibility of standards, the ILO should also strive to improve their content and quality. The ILO should not divert resources from promoting the fundamental Conventions to promote priority standards. More clarification on the proposal to promote priority standards was needed (paragraph 22(a)). A promotion campaign for priority standards would require different means than those used for the fundamental standards, with a greater emphasis on technical assistance and legal advice before ratification. With regard to paragraph 22(b), the ILO should also ensure that existing standards were relevant and up to date. Consultations should be held to find new topics for standards setting, and it should not be assumed that such topics were obvious. With regard to strengthening relationships with other international agencies, the Employer members stressed that the Governing Body should be involved in providing guidance to this process. Finally, they asked for clarifications as to the other partners with which the Office proposed to establish cooperation.
43. The Worker members noted the campaign for acceptance or ratification of the 1997 Instrument of Amendment to the ILO Constitution, and hoped that at the next meeting there would be information on the replies received to the letters sent out in this regard. They also looked forward to information on the follow-up to letters which had been sent out regarding certain countries' failures to fulfil their reporting obligations, and to know which countries had been involved in this exercise. In the context of such an exercise,

⁸ GB.294/LILS/4.

existing tripartite structures in countries could be used. They also sought further information on the follow-up to the 19 recommendations for technical cooperation which had been made by the Conference Committee in its last session. They congratulated the Office for the different publications, and in particular the booklet *Rules of the game*, and indicated that the members of the Committee should also receive the other publications. With regard to paragraph 7, the Worker members stressed that standards contributed to good governance in the labour market. The fundamental question to overcoming obstacles in applying standards was the political will of the countries. If this was not present, then there was no possibility of applying standards. With regard to paragraph 8, they emphasized the importance of strengthening the supervisory system, a point that had not come out clearly in the Office's initial presentation. This point was also relevant in paragraph 22(d), which only referred to "maintaining" an effective supervisory system. Regarding paragraph 9, they wished for better definition of the term "balanced". For the Worker members, this term could imply that Conventions should be ratified and implemented by all countries in all regions, or that fundamental and technical Conventions were ratified and applied in equal measure. More information was needed on the follow-up to the work of the Working Party on Policy regarding the Revision of Standards. Unless governments implemented the Working Party's recommendations, the work would have been for nought. In this respect, the Office needed to better disseminate the country profiles established on the basis of the Working Party's recommendations, and to follow through with direct contacts in the countries concerned. Also in respect to the outcome of the Working Party, the Worker members noted that a number of instruments had an interim status, some were subject to requests for more information, and that no agreement had been reached on the Termination of Employment Convention, 1982 (No. 158), and its accompanying Recommendation (No. 166). The status of these instruments did not imply for the Workers that these instruments were not relevant, and therefore they should not be lost from sight.

44. With regard to the ratification campaign on the fundamental Conventions, there was a need to shift focus on implementation but also to continue promoting ratification. They noted that Conventions Nos. 87 and 98 risked becoming the least ratified fundamental Conventions, and that the majority of the world's workers lived in countries which had not ratified these instruments. The document should also have mentioned paragraph 47 of the United Nations General Assembly resolution on the outcome of the 2005 World Summit, which referred to employment and respect of the fundamental principles and rights at work. With regard to the proposal for research on the economic impact of standards, the Workers believed that this was important. The undertaking of research should not be used as an excuse not to take further action on the promotion of standards. In this regard it was important to note that some governments cited poverty as a reason for not implementing standards. Poverty was not a good excuse to violate workers' rights. The reference to a "new consensus" in paragraph 13 on the future of standards policy should not imply that the ILO would stoop to the lowest common denominator in the search for such a consensus. With regard to developing new standards, the Worker members noted that the world did not stand still, and that the evolution of the world of work, especially in the face of globalization, which required minimum global international labour standards, called for developing systems to cope with change based on sound industrial relations and genuine social dialogue. They stressed the need for standards that added value for the world of work.
45. With regard to the functioning of the Conference Committee as mentioned in paragraph 15, the Worker members were under the impression that this topic had been discussed at the International Labour Conference in 2004. They wondered if it was really necessary to reopen the debate, although they would not object to a discussion if it led to a consensus on strengthening the supervisory system. With regard to the information and communication strategy, there was clearly more that could be done on all standards and the

outcome of the supervisory bodies. Care had to be taken not to rely only on the Internet, as many countries did not have access to it. The establishment of a system similar to the UN-FM broadcasting in Geneva could be considered, which could make the work of the ILO more widely accessible. Technical cooperation and assistance were crucial for the implementation of standards. Yet the successful outcome of technical cooperation depended on political will, and requests for the former should not be used to hide the lack of the latter.

46. With regard to the points for action in paragraph 22, the Worker members agreed with paragraph 22(a), and disagreed with the Employers' view that only fundamental Conventions should be promoted. All the priority Conventions should be promoted like Convention No. 144. With regard to paragraph 22(b), further clarification was needed as to which standards would be appropriate for consolidation. Paragraph 22(d) should reflect their concerns on strengthening the supervisory system with regard to the Committee on the Application of Standards, not just maintaining it. Further explanations were necessary to spell out the relationship between standards and technical cooperation as mentioned in paragraph 22(e). As regards the international agencies mentioned in paragraph 22(g), the Workers could envisage the Bretton Woods institutions, the World Trade Organization (WTO), and the development banks. They supported the proposals in paragraph 22 and hoped that the Office disposed of the resources to do so. With regard to the proposed consultations, they also suggested examining ratification patterns to see what obstacles prevented certain countries from ratifying Conventions adopted for instance in the past 20 years and also suggested research in the matter. Finally, the Worker members welcomed the annex to the paper, which indicated numerous instances of integration of standards and the work of the supervisory bodies in ILO activities at the national level.
47. The representative of the Government of the United States, speaking on behalf of IMEC, endorsed the proposed four-part strategy to strengthen the ILO standards and supervisory system. Its interrelated components correctly focused on enhancing the value and impact of ILO standards as a means of achieving social progress and development. As IMEC had noted in the past, the process of reviewing and improving the ILO's standards-related activities must be permanent and continuous. The ILO's standards strategy should therefore be a long-term one that would itself be reviewed periodically. In addition, IMEC considered that the strategy should allow for consideration of issues that had not been resolved in the previous review initiated in 1994.
48. As to the specific work items to implement the strategy, IMEC agreed that there should be significant and more balanced progress in the application of all up-to-date ILO standards. However, while it was appropriate to focus more attention on the non-fundamental Conventions, targeting other Conventions should not distract from or dilute efforts to promote application of the eight core Conventions.
49. The ILO's existing technical standards should be continually monitored to ensure that they remained relevant and in line with ILO objectives and priorities, and to consider the possibility of consolidation and streamlining, taking into account the experiences in this respect of the consolidated maritime Convention and the revision of instruments in the fishing sector. IMEC suggested that a mechanism similar to the Cartier Working Party could be established for this purpose. IMEC agreed that a key consideration in developing a policy for future standards should be whether they add value to the existing body of standards. Further, tripartite consultations and consensus were indispensable to ensure that discussions in the International Labour Conference were productive and fruitful and that new standards were relevant and ratifiable.
50. With regard to the supervision of standards, IMEC agreed that the reporting system needed to be further simplified and rationalized and that there should be a balance between

identifying serious breaches of standards and creating inducements for ratification and compliance. IMEC also believed that there should be a balance between serious breaches and more technical problems, and that the relevant supervisory observations and requests for information should clearly distinguish between the two types of situations. Further, in addition to identifying violations, it would be useful if the supervisory mechanism served to highlight best practices. Paragraph 15 of the document referred to strengthening the functioning of the Conference Committee on the Application of Standards. As IMEC had said on several occasions, IMEC continued to believe that the Committee's working methods were fundamentally sound. There was always room for greater efficiency and better management, however, particularly making better use of time during the first week when perhaps one or two cases of non-compliance could be discussed.

- 51.** IMEC welcomed the initiatives undertaken and planned to communicate information about ILO standards for both constituents and a broader audience. This was especially welcome if the information tools developed could help lighten the administrative burden of reporting and better focus supervisory comments on the application of standards. Given scarce resources, however, these activities should be limited to those that had a clear link to the promotion of ratification and implementation of standards. In this connection, IMEC would urge the Office to continue to improve the ILO web site. Even for those well versed on international labour standards, it was not always easy to navigate.
- 52.** The speaker noted that the document stated that “it is fundamentally important that international labour standards are integrated into all ILO programmes and activities”, particularly with regard to information from the supervisory system. This appeared to be missing from the action items in paragraph 22, and IMEC suggested the addition of an item to that effect. In conclusion, IMEC endorsed the proposed strategy on ILO standards-related activities. To ensure that the strategy was appropriately implemented, IMEC agreed that broad tripartite consultations were warranted and necessary.
- 53.** The representative of the Government of Honduras, speaking on behalf of GRULAC, said that the document lacked clarity with regard to every one of the issues raised, in that it did not clearly indicate what the prospects were for the standards, or the overall direction of standards policy – was it the adoption of new standards, or the revision of obsolete ones? In that regard, it was also not clear what the relevant improvements were with regard to the supervisory procedures, nor was it clear what the specific proposals were for a constructive discussion. The document appeared to set aside any historical perspective and, instead of taking advantage of accumulated experience, new questions were now being raised, without, however, resolving issues of many years' standing.
- 54.** The speaker recalled that, in June 2005, a number of innovations had been introduced in the method by which the Conference Committee on the Application of Standards formulated its conclusions. This had prompted the Committee Chairperson to make the following observations: (1) discussions of individual cases should be of reasonable length and should allow a balanced discussion of all the cases; (2) all statements made should be aligned with the terms of the observations made by the Committee of Experts; (3) the conclusions should reflect the consensus identified during the discussions, and needed to be synthetic, rather than descriptive; and (4) for the conclusions to have any impact, they needed to be drafted in simple language. The speaker also said that as long as there were still reservations on the part of many Government delegations as to the manner of selecting individual cases within the Conference Committee, the Office should regard that Committee's conclusions simply as an extra element in its strategic vision, and should promote dialogue between the constituents in order to put forward a more transparent method of selecting cases.

55. With regard to the section on “A possible vision and strategy for standards: Going forward”, GRULAC felt it necessary to refer not only to the report of the World Commission on the Social Dimension of Globalization but also paragraph 47 of the outcome document adopted on 20 September 2005 by the United Nations General Assembly. The Office needed to follow the appropriate path to ensure that its “vision and strategy” regarding international labour standards coincided with the consensus reached by the Heads of State in New York in relation to the Millennium Development Goals.
56. The speaker added that in order to establish the strategy for the development of standards-related activities, it needed to be borne in mind that the term of office of the present Governing Body would end in 2008, and it would be appropriate to ascertain what progress and outcomes could be achieved in order to achieve the objectives established in the Programme and Budget for 2006-07. It was necessary to focus on more effective application of the so-called “up-to-date” Conventions, giving priority to the commitments made by governments by virtue of ratified Conventions in force, without setting aside Conventions which, although not up to date, might be relevant for a particular country.
57. The speaker recalled that GRULAC had full confidence in the ILO’s standards, and acknowledged the value of the corpus of existing standards. It would be appropriate for any proposals for new standards-related action to be discussed in depth in the Governing Body plenary; the failure to obtain approval for a Convention during the most recent session of the Conference was a precedent which should not be forgotten. The speaker considered that it was important to be more open to the views of constituents at the stage of deciding on the form of the instrument, and that the Office should encourage governments to participate more actively in replies to questionnaires on the content of Conventions.
58. GRULAC was concerned at the lack of any mention of the Committee on Freedom of Association, and the fact that the “integrated and coherent” vision of international labour standards should also include some reflection on the activities of that Committee, in particular the reasons for the excessive focus in the work of that Committee on certain regions and the proliferation of cases whose nature did not justify action by an international body. The speaker wondered what strategies could be developed to ensure that the Committee on Freedom of Association played a balanced and universal role which would facilitate examinations of the relevant cases.
59. With regard to the communications strategy, GRULAC wished to emphasize that the priority should be to improve the capacity of governments and organizations of employers and workers in relation to standards and supervisory procedures.
60. GRULAC endorsed subparagraph (a) in paragraph 22, but considered that more detail was required in subparagraphs (b) and (c). Initiatives to “consolidate and streamline” standards were questionable, when the priority should really be to improve the application of ratified Conventions. With regard to subparagraph (d), GRULAC considered that it would be better to await the results of the review undertaken by the Committee of Experts on its methods of work and to have an assessment of the reporting system which was introduced in 2003, before carrying out new consultations on the subject. With regard to subparagraph (g), it would be appropriate to refer to the more favourable terms for international labour standards included in paragraph 47 of the outcome document adopted by the General Assembly in New York in September 2005. Lastly, the speaker considered that subparagraph (g) of paragraph 22 should also state clearly that it was important to avoid making development assistance conditional on compliance with labour standards, and the “other partners” referred to in subparagraph (h) needed to be specified clearly.
61. The representative of the Government of Nigeria, speaking on behalf of the Africa group, welcomed the document. The Africa group also considered that the new ILO publication,

Rules of the game: A brief introduction to international labour standards, would be extremely useful to both old and new members of the Governing Body, as well as to all its constituents in the field. The Africa group noted not only the efforts of the Office to increase technical assistance and cooperation to its member States but also its campaign for the ratification or acceptance of the Constitution of the ILO Instrument of Amendment, 1997. It was recalled that the Africa group at the 292nd Session of the Governing Body in March 2005 called for ratification and implementation of Conventions in equal proportion with the number of member States. The option of technical assistance and cooperation, as noted in paragraphs 4 and 8 of the document before the Committee, would assist in realizing the expectation of the ILO for its member States to ratify, not only the 1997 Instrument of Amendment, but also of the core ILO Conventions. The speaker also noted the text in paragraph 15 and the desire of the Office to improve the work of the Conference Committee on the Application of Standards. The consultations proposed in that paragraph reflected recognition of the concerns expressed by the Africa group on the functioning of that important Committee. The Africa group noted paragraph 22(a) and believed that the Office's consultations with the tripartite constituents as indicated in paragraph 22(c) would determine the guidelines required in paragraph 22(b). In view of the above, the Africa group endorsed paragraph 22(d).

62. The representative of the Government of the Islamic Republic of Iran stated that ratifying up-to-date Conventions and Recommendations demanded a strong and effective commitment on the part of the ILO constituents. Policy-makers at the international level should take practical steps in order to remove existing obstacles and further create fair opportunities proportional to national capacity. Evidence of the positive economic and social impact arising from the application of ILO standards would encourage ILO constituents to develop and maintain the ILO supervisory mechanism. The effectiveness of ILO standards in the realization of national development goals would be the best incentive for the ratification and application of standards, not to mention a cost-effective means of strengthening the appeal of the ILO supervisory system. He believed there was a need to create a balance between standard setting, ratification and the application of standards, which would result in streamlining the functioning of the ILO and ensuring an efficient use of the efforts and financial resources of both the ILO and its constituents.
63. In view of the above, he supported a constructive relationship based on mutual understanding between the ILO and the legislative bodies in member States. The realization of such a relationship could lay the ground for amending national laws in conformity with ILO standards on the one hand, and creating a catalyst for further ratifications on the other. In addition, the existing reporting system of the ILO was not encouraging enough and therefore had to be thoroughly revised and simplified, particularly in relation to employers' and workers' organizations. The speaker concluded by stressing the importance of tripartite training on standards, which was already provided by the Turin Centre.
64. The representative of the Government of Brazil endorsed the statement made on behalf of GRULAC. He considered it appropriate, in order to improve the efficiency and effectiveness of the supervisory system, to introduce a mechanism for revising the report forms under article 22 of the Constitution to simplify them and ensure that the questions they contained were more objective. He added that the revision of questionnaires would result in increased participation of the social partners in the preparation of reports, which would be a constructive contribution to the ILO supervisory system.
65. The representative of the Government of Germany supported the IMEC statement. She was in favour of the pursuit of an effective communication strategy on standards, and further consultations. She recalled that, in view of the overall number of ratifications of ILO Conventions, the Committee of Experts and the International Labour Standards

Department were overwhelmed with reports, not always allowing for a thorough examination of documents. She therefore suggested that each year a lottery be held as to which government reports would be examined by the Committee. Such a lottery would select only 30 or 40 per cent of the reports, and would be held only a few months before reports were due, so as to prevent governments from neglecting their obligations with respect to the application of standards. Such a system would lighten the workload of the Committee of Experts and the Office. She also inquired about ensuring that the Internet texts of ILO standards were in conformity with the authoritative paper versions.

66. The representative of the Government of the Russian Federation expressed support for the strategic orientation proposed by the Office, highlighting the following aspects. As mentioned in paragraph 12 of the document, it was important to understand the impact of international labour standards on the economy and employment. In-depth studies should be carried out to encourage member States to ratify Conventions and to strengthen the application of standards, as well as developing new instruments. The speaker supported the proposal contained in paragraph 22(d) to undertake consultations with a view to streamlining the reporting procedure and improving the supervisory system in general, including consultations on the functioning of the Conference Committee on the Application of Standards. Lastly, he stressed the importance of training on international labour standards as part of technical cooperation and assistance, which was essential to universal ratification of Conventions and enabled account to be taken of specific requirements and conditions in each country.
67. The representative of the Government of Cuba endorsed the statement on behalf of GRULAC. She recalled that in recent years regional groups and the countries of the Non-Aligned Movement had put forward concrete proposals for improving standards-related activities and the supervisory machinery, and she would have liked to see an Office analysis of these proposals. Concerning the measures set forth in paragraph 22, the speaker considered that subparagraph (b) should refer to the studies carried out by the Cartier Working Party and avoid duplicating the work already done by it. She felt that the conclusions of the Working Party should be followed up. In subparagraph (h), it should be made clear what other partners were being referred to.
68. The representative of the Government of France associated herself with the statement made on behalf of IMEC. The main elements of a strategic orientation proposed by the Office fully met the expectations expressed by the Governing Body at its 292nd Session. They were all the more ambitious in that they were part of an integrated strategy. The role of ILO standards in improving conditions of work and employment worldwide called for closer linkages between standards policy on the one hand and, on the other, standards-related and international cooperation activities in the area of economic and social development. There was a need for better coordination, and this was exactly what the Office's coherent proposal was intended to provide, by setting out a strategic orientation with several closely interrelated components.
69. Concerning the first component, aimed at better promotion and application of up-to-date ILO standards, this should obviously cover both fundamental and priority and technical Conventions. The objective of ILO standards – to ensure that each person's recognized rights were protected – would only be achieved if the real contribution of these standards to economic and social development were demonstrated. She therefore welcomed the intention to take a cross-cutting view of standards policy by integrating “international labour standards into all the ILO's programmes and activities” (paragraph 12 of the document). Initiatives aimed at consolidating and streamlining existing standards and holding consultations on the need to add new standards (paragraph 22(b) and (c)) should be examined in tandem. In this regard, the speaker recalled the importance attached by her Government to coherent initiatives, such as the current development of a consolidated

maritime labour Convention, or those under the integrated approach, which was based on consensus and enabled specific action plans to be adopted. Lastly, the suggestion of the Employer members for an ongoing process of revision of standards should be supported and was worth examining through consultations.

- 70.** With regard to the second component concerning strengthening the supervisory system, the speaker strongly supported the view that an assessment of the current reporting system could be carried out as of now. Reforms were urgently needed, for the efficiency and relevance of the current system were undermined by its ponderous and restrictive nature. Regarding the third component of enhancing the visibility of ILO standards, the strategy of ensuring wider communication on international labour standards to reach a broader audience would appear to be an effective means of ensuring that all citizens enjoy access to their rights. The array of information tools suggested by the ILO could usefully be supplemented with statistical tools and a cross-cutting database covering different aspects in addition to labour regulation, such as jurisprudence, studies and doctrine, as well as information on member States' institutions, administrations and labour jurisdictions or agencies.
- 71.** Concerning the fourth component, aimed at integrating standards and technical assistance, the speaker emphasized that technical assistance certainly contributed to economic and social development through awareness raising and promotion of the rights laid down in the standards. It also provided a means of solving the problems faced by countries with regard to the ratification and application of standards. More use should be made of training and capacity building to ensure wider and better coordination between standards policy and technical assistance. That is why the International Training Centre in Turin should be strengthened.
- 72.** The representative of the Government of Kenya supported the statement made on behalf of the Africa group. She considered that the suggestions contained in the Office document inspired optimism, particularly in those member States in dire need of technical assistance to facilitate ratification. She was pleased with the actions taken by the ILO since March 2005, especially the specific follow-up communication, which was sent to those member States that had exhibited difficulties with their reporting obligations with a view to encouraging them to seek technical assistance, as well as the publications intended to assist the non-specialists in meeting their reporting obligations. While appreciating the initiatives proposed for the achievement of more balanced progress in the application of ILO standards, she believed that few member States set out to deliberately to overlook the need to ratify either the core or priority Conventions or even adherence to the ILO reporting system. The impediment was in the lack of technical expertise and means to ensure compliance. She supported the suggestions for a simplified reporting system, the creation of inducements to ratification and technical assistance for capacity building, and the harmonization of national legislation with international labour standards. The speaker recommended that the ILO critically examine all the Conventions that were obsolete and therefore not in tandem with modern economic realities, with a view to having them revised or replaced in order to lessen the burden of mass denunciation of the Conventions by member States. She endorsed the point for decision at paragraph 23.
- 73.** The representative of the Government of China supported the campaign for the ratification or acceptance of the 1997 Instrument of Amendment to the Constitution. He welcomed the new communication tools on international labour standards and expressed the hope that these various tools would be more widely translated. While noting the important and positive results of the promotional campaigns for the ratification of fundamental Conventions, he supported the idea of achieving a more balanced progress in the application of standards and in particular the need to achieve balance between the fundamental Conventions and the technical Conventions as well as between ratification

and implementation. With regard to the strengthening of the supervisory system, the time had come for rational suggestions to be made on how to move forward on all the issues already discussed, including the simplification of the reporting system. The speaker supported the proposal relating to an effective communication strategy on standards. Finally, he emphasized the importance of technical cooperation in the promotion of international labour standards. The ILO should provide more support to its member States, including through the International Training Centre in Turin. In this respect, the proposed studies on the economic impact of international labour standards would help member States to draw references.

74. The representative of the Government of Australia endorsed the statement made on behalf of IMEC. She agreed that an effective strategy should have the four components identified in the agenda paper. It would also be important for the strategy to address why so many ILO Conventions did not attract widespread ratification. She considered that the code of international labour standards was losing its relevance for both developing and developed countries in a rapidly changing world, mainly for the following reasons: (1) the code was overly complex, with a multiplicity of Conventions covering different aspects of similar subjects; (2) Conventions and Recommendations had been developed serially, in a relatively patchy way, with no overall vision; (3) many Conventions were overly prescriptive or technical, inhibiting ratification by member States that may well comply with the goals of the Conventions, the gravity of this situation being evidenced by the failure of the 2005 session of the International Labour Conference to adopt a new Convention and Recommendation on work in the fishing sector; (4) the Office, when preparing draft text, should start off with less prescription; if more clarity or detail was considered necessary, delegates should be left to develop appropriate language; (5) membership of the ILO had increased dramatically in recent years, and some of the older standards did not take into account the differing social and economic situations of these new Members. These factors lowered the standing of the international labour code and ultimately damaged the credibility of this vital aspect of ILO work.
75. The speaker acknowledged the results of the previous ten years of review, and stressed that efforts should be continued and redoubled to consolidate, simplify and bring up to date the international labour code, with a view to creating Conventions capable of widespread ratification. This could be achieved by ongoing review of the processes for the development, revision, adoption and supervision of labour standards. In this regard the proposals in the agenda paper should go further. She welcomed the proposals concerning the need for a simpler reporting system, and a balance between identifying serious breaches of standards and creating inducements to ratification and compliance. The Committee of Experts should move beyond its current focus on technical compliance with legal texts and concern itself primarily with whether a member State's law and practice was achieving the desired outcome. The current focus inhibited many Members from ratifying particular Conventions because the Committee of Experts required full technical compliance, even though national law and practice might achieve the fundamental objectives of the Convention by other means. This was the case in Australia with respect to Convention No. 138 on minimum age. The proposal that further consultations on these issues be undertaken with the tripartite constituents was most welcome; however, the Australian Government wanted the Office to move beyond consultations to provide concrete options and choices to progress this issue, which had already been the subject of much discussion. Her Government would support the development of a comprehensive reform strategy to ensure that the ILO's code of international labour standards was consolidated, simplified and brought up to date, with a view to creating Conventions capable of widespread ratification.
76. The representative of the Government of Japan supported the statement made on behalf of IMEC. She was of the view that international labour standards constituted the most

important and distinguished work of the ILO. She endorsed the proposed strategies and looked forward to future discussions being more concrete. It was necessary to avoid establishing additional supervisory mechanisms. The ILO already had several parallel mechanisms, and increasing the number of mechanisms or creating quasi-supervisory mechanisms would only add to the burden of both the Office and member States, and it could also undermine the credibility of the existing mechanisms. Therefore, the supervisory mechanisms should be modernized, integrated and unified in order to make the system more rational.

- 77.** The representative of the Government of Italy endorsed the statement made on behalf of the IMEC group. He expressed his support for the standards policy strategy of the ILO and the four components referred to in paragraph 8 of the document. With regard to the reporting procedure under article 22 of the Constitution, he pointed out that this was one of the ILO's essential tools. Nonetheless, he drew attention to the immense workload involved for member States in meeting this obligation, especially those that had ratified a large number of Conventions. Although the Governing Body's decision in 2003 to group standards together by subject had lightened the load, some thought should be given to the adoption of measures to reduce the burden for constituents and the supervisory bodies. To this end, he suggested streamlining the questions in the report forms and making more use of the Internet and email to transmit forms and receive replies. He felt it would be necessary to exchange information between departments of the Office to prevent duplication of reports and questionnaires. He also stressed the importance of technical cooperation and assistance. He closed by expressing support for all the measures proposed in paragraph 22 aimed at strengthening the impact and visibility of international labour standards, and subparagraphs (d) and (g) in particular. He supported the point for decision.
- 78.** The representative of the Government of the Philippines supported paragraphs 21 and 22, as monitoring and evaluation of the application of standards was important. Her Government strongly supported the involvement of the tripartite constituents in the process of the country programme evaluations. These evaluations, as well as capacity development of constituents, had to be fostered and she welcomed the involvement of the Turin Centre. She also looked forward to further training activities at the national level involving labour inspectors and judges on obligations and the implementation of standards in conjunction with the International Labour Standards Department.
- 79.** The representative of the Government of Barbados supported the statement made on behalf of GRULAC concerning the ILO proposals for implementation of an integrated and comprehensive strategy for enhancing the impact and visibility of international standards. She supported the strategy documented in paragraph 22, in particular those relating to promotional activities (paragraph 22(a)). In addition she considered that the recommended strategy for consultations towards streamlining the work of reporting countries and maintaining effective supervision should facilitate the process in developing countries, which would be capable of meeting and responding to the extensive ILO reporting requirements. There was an ongoing need to review and strengthen the impact of international labour standards, which was essential to convince all players that labour was an essential factor in national development strategies.
- 80.** The representative of the Government of Finland supported the statement made on behalf of IMEC and further stressed the importance of a comprehensive policy on the standards-related activities of the ILO. He thanked the Office for its assistance provided to countries which were facing difficulties with ratification and reporting obligations. He emphasized the idea expressed under paragraph 7 of the document that universally accepted labour standards were not an obstacle to productive employment but a useful tool in building fair working life and competitiveness everywhere. He considered that a systematic method based on continuous surveys and scientific studies of working life phenomena and the real

problems involved therein could help identify future topics for standards setting. Tripartite consultations on the findings of such studies yield even better results in relation to actual needs in the world of work.

- 81.** The representative of the Government of El Salvador endorsed the statement made on behalf of GRULAC and added that she only supported the point for decision in paragraph 23 of the document.
- 82.** The representative of the Director-General, replying to the comments made by members of the Committee, indicated that many useful suggestions had been made, which the Office would take into account. She noted the support for the Office communication strategy and indicated that the Department would continue to improve it, including the accessibility to information on the web site.
- 83.** In reply to the comment that the paper failed to mention past developments in standards policy, she noted that this had been done in the paper submitted to the past session of the LILS Committee, and now was the time for a forward-looking document. In response to questions about the follow-up letters sent out by the Office to member States that had failed to comply with their reporting and other standards-related obligations, she indicated that the Office had sent targeted letters to the governments in all 19 cases in which recommendations contained in the conclusions of the Conference Committee at the 93rd Session (2005) of the Conference had referred to technical assistance and cooperation by the Office. The Office had sent specific follow-up letters to 53 member States that concerned reporting and other standards-related obligations, which, among other things, requested them to identify aspects of reporting or other obligations which in their view would most require technical assistance. Three member States had provided substantial replies: Afghanistan, Guinea and the United Kingdom (Montserrat). A number of other member States had, following the discussions in the Conference Committee, fulfilled their reporting and other standards-related obligations in part or in full, with, in some instances, assistance from the Office. These included Azerbaijan, Denmark (Greenland), Equatorial Guinea, Haiti, Serbia and Montenegro, Solomon Islands, Tajikistan, and United Republic of Tanzania (Zanzibar). Technical assistance missions had been undertaken in Argentina and Colombia, and missions were under discussion in the Islamic Republic of Iran, Mauritania, Niger, Qatar and Swaziland.
- 84.** The speaker stated that the Office would do more to promote awareness of the recommendations of the Working Party on Policy regarding the Revision of Standards, and to disseminate the relevant country profiles in a more targeted manner. More could also be done to ensure that standards with an interim status did not become neglected. Promotion of ratification of the non-fundamental Conventions had not been as successful as those for the fundamental Conventions, and it was therefore clear that more technical assistance was needed as an added component in these endeavours.
- 85.** On the need for empirical evidence concerning the economic impact of labour standards, she indicated that the Office had already initiated a project to map out a methodology for such empirical research, with funding from the Government of the Netherlands. The Office would not start from scratch and had already written to all departments and field offices of the ILO requesting that they contribute to an inventory of existing research and research methodologies in order to identify the gaps that were still necessary to fill. She emphasized that research should not, in any event, delay the taking of normative action.
- 86.** Concerning paragraph 22(a), which referred to the “promotion” of up-to-date standards other than the fundamental ILO Conventions and to a “promotional campaign”, the speaker noted that reference could also be made to paragraphs 10 and 17-21, which underlined the need, among other things, for improved knowledge of the real impact of standards,

including development realities; to strengthen and integrate standards with technical cooperation and assistance, using a step-by-step approach; and for a broader culture of compliance with labour standards. With regard to paragraph 22(c), she emphasized the critical importance of developing new standards, given that the world of work continued to change and evolve. More specifically, she referred to paragraph 11 of the document, where reference was made to implementing some of the proposals made to previous sessions of the International Labour Conference for improving standards-related activities. Concerning the meaning of “other partners” in paragraph 22(h), she referred to paragraph 6 of the appendix, which mentioned, for example, training activities for judges, lawyers, and law professors, collaboration with the judiciary, and seminars targeting trade union delegates, labour judges and labour inspectors. It was also necessary to raise awareness of international labour standards with international financial institutions.

- 87.** The Employer members clarified that in their view standards played an essential role but were not an end in itself. They were instead an important means to the main objective of the ILO, which was the development of sustainable employment.
- 88.** The Worker members stated that it was not realistic to consider that there was no need for new standards, as the world of labour and its needs were constantly evolving. The Seafarers’ Identity Documents Convention (Revised), 2003 (No. 185), was a good example of when the ILO had been able to spring to action in response to a need very quickly. With regard to comments about the supposed overrepresentation of certain regions in the cases before the Committee on Freedom of Association, they noted that the work of the Committee was based on complaints. The use of complaint mechanisms was a sign of democracy, and therefore not a sign that the system was essentially biased. With regard to comments about the burden of the reporting system, the Worker members recalled that these were the obligations resulting from ratifications. As the ILO did not dispose of an international inspection mechanism, the reporting system was the only means of ensuring if the standards were being applied. Nonetheless, they shared concerns if unnecessary reporting obligations existed beyond what was needed. With regard to the implementation of standards, the primary responsibility of this task rested with governments, and not with the Office, which should provide technical assistance when needed. Turning to the comments by the representative of the Government of Australia, they encouraged the Government to examine the recommendations of the Working Party on Policy regarding the Revision of Standards and implement these at the national level. Such an exercise might address several concerns that had been raised. With regard to consultations of the functioning of the Conference Committee, they pointed to paragraph 25 of document GB.292/LILS/7. The Worker members supported the suggestion of IMEC concerning the integration of international labour standards into all programmes and activities. Finally, they reiterated the proposal to examine ratification patterns and study why certain countries could not ratify standards adopted for instance in the last 20 years.
- 89.** The Committee adopted the point for decision in paragraph 23 of the Office paper. It was agreed that an initial consultation would be held by the 295th Session (March 2006) of the Governing Body and that the Office would submit to the Committee’s next meeting a progress report for the period from November 2005 to March 2006 in the area of standards-related activities.
- 90. *The Committee recommends that the Governing Body:***
- (a) approve the proposals contained in paragraph 22 of the Office paper in the light of the comments made during the discussion;*
 - (b) invite the Office to hold consultations with the tripartite constituents by its next session, also in the light of the discussion;*

- (c) *invite the Office to prepare a progress report for the period from November 2005 to March 2006.*

V. Ratification and promotion of fundamental ILO Conventions

91. The Committee had before it a document⁹ on the ratification of ILO fundamental Conventions under the campaign launched by the Director-General in May 1995.
92. A representative of the Director-General (Ms. Doumbia-Henry) explained that the purpose of this paper was to provide an overview on new ratifications and on the positions of those countries, which have not yet ratified all of the Conventions concerned, including information on ratification prospects. The content of the paper resulted from the main objective of the campaign, which so far has essentially been one of advocacy. However, important changes have occurred since the campaign has been launched. Fundamental principles and rights at work and the related standards were placed at the core of the Decent Work Agenda. There was a strong consensus that ratification was important, but that application was equally important. Accordingly, great attention was being paid to standards-related technical assistance.
93. Since the beginning of the ratification campaign it was possible to record enormous progress. Some 470 new ratifications – or confirmations of previous commitments – were registered. A total of 163 member States ratified one or more core Conventions in the context of the campaign, while 117 Members have now ratified all eight fundamental Conventions. The campaign had helped to establish the positions of the 61 countries that have not yet ratified all these instruments, including information on obstacles for ratification. These countries could be roughly divided into four groups: (1) countries that decided to ratify a Convention and have initiated the necessary procedures; (2) countries that decided to move towards ratification and undertake measures to prepare for such a decision, such as studies or legislative reforms; (3) a group of relatively new member States that was in the process of examining the Conventions concerned with a view to ratification; and (4) finally, some countries that had indicated circumstances of various nature that they considered as obstacles to ratification.
94. The Office pursued a wide range of activities to promote fundamental principles and rights at work and ratification of the related Conventions, even though this action was not reflected in detail in this particular paper. However, the issue at stake was how the promotion of fundamental Conventions could be integrated in the decent work country programmes which were the ILO's operational framework. The Office should make a systematic effort, together with governments and social partners at the national level, to give particular consideration to this issue in the design and implementation of these programmes. The campaign should be moved forward by giving a stronger emphasis on the search for and implementation of solutions to address obstacles for ratification, and by providing information in this regard to the Committee.
95. Finally, the speaker announced that since the paper was issued the ratification of the eighth fundamental Convention by the Bolivarian Republic of Venezuela, Convention No. 182, was registered on 26 October 2005. The ratification by Singapore of Convention No. 138 was registered on 7 November 2005. In addition, the Office had received further information regarding 25 countries, which would be reflected in the Committee's report. Accordingly, the respective paragraphs of the document were updated as follows:

⁹ GB.294/LILS/5.

paragraph 7 – Samoa stated in October 2005 that it was considering ratifying all fundamental Conventions soon. Subsequently, the Office assisted the Government in the preparation of the ratification process; *paragraph 9* – following technical assistance provided by the Office, Vanuatu initiated the formal ratification process for all core Conventions and Parliament was expected to ratify them in November 2005; *paragraph 10* – the Office assisted the Solomon Islands in October 2005 to launch the ratification process for the remaining seven core Conventions; *paragraph 14* – China stated in August 2005 that the Standing Committee of the National People’s Congress of China adopted the proposal on the ratification of Convention No. 111 on 28 August 2005; *paragraph 19* – India indicated in September 2005 that ratification of Convention No. 182 would be considered once national laws were in conformity with the requirements of the Convention; *paragraph 20* – in October 2005, the Office assisted Kiribati in the preparation of the ratification process for the four fundamental Conventions yet to be ratified; *paragraph 24* – Suriname indicated in September 2005 that efforts were under way to set up a minimum wage system, as a step towards ratification of Conventions Nos. 100 and 111. The instrument of ratification for Convention No. 182 was awaiting signature by the President. Concerning *paragraph 25*, Viet Nam had stated in September 2005 that a survey was under way to compare the country’s legal system with the provisions of Conventions Nos. 29 and 105 with a view to ratifying these Conventions, starting with Convention No. 29. It was likely that similar surveys and studies would be carried out also concerning Conventions Nos. 98 and 87. With regard to *paragraph 27* – Canada had informed the Office in September 2005 that it was not in a position to ratify Convention No. 29 at this time, as the Committee of Experts had determined that work performed in privately managed prisons or in the context of public-private partnership arrangements constituted forced labour; *paragraph 30* – Latvia stated in September 2005 that submission of the draft laws ratifying the outstanding Conventions (Nos. 29, 138 and 182) to the Cabinet of Ministers was planned for October 2005; *paragraph 34* – a representative of the Government of Uzbekistan stated in the context of an ILO subregional workshop held in Bishkek in 2004 that the country intended to ratify Conventions Nos. 87, 138 and 182; *paragraph 35* – Australia indicated in September 2005 that legislative compliance with Convention No. 182 in all jurisdictions was likely to be achieved in 2005, which will make ratification possible; *paragraph 43* – New Zealand stated in September 2005 that a compatibility assessment of New Zealand’s policy and practice with the provisions of Convention No. 138 was currently being undertaken; *paragraph 50* – the Office received information from the Ministry of Labour of Cape Verde indicating that Convention No. 138 might be ratified before the end of 2005; *paragraph 49* – according to information received in September 2005 concerning Cambodia, the Parliament had approved ratification of Convention No. 182; *paragraph 54* – Estonia informed the Office in August 2005 that the procedure for ratification of Convention No. 138 had been initiated and ratification was expected before the end of 2005; *paragraph 57* – Iraq stated in August 2005 that the Ministry of Labour and Social Affairs had suggested studying the possibility of ratifying Convention No. 87; *paragraph 64* – Pakistan informed the Office in November 2005 that a consultative process for ratification of Convention No. 138 had been initiated. *Bangladesh, Brazil, Cuba, Haiti, Oman, Japan, Malaysia, Mexico and Singapore* had reiterated their positions regarding non-ratified Conventions as communicated previously. The updated table of ratifications and information regarding outstanding ratifications is annexed to the Committee’s report (see Appendix II).

96. The Worker members welcomed the paper and expressed their satisfaction with the increasing number of ratifications of fundamental Conventions, particularly the significant progress made since the Committee dealt with this item in November 2004. The fact that Convention No. 87 was the second lowest ratified fundamental Convention was of serious concern, which required special efforts. The Worker members were pleased to note the efforts made by the three latest ILO Members to ratify these Conventions. However, they were surprised that some governments merely stated that no efforts were being made

towards ratification. A more proactive role of the Office was needed, particularly in cases where misunderstandings concerning the content of the instruments existed and where no recent information was available. The Office should also enter into contact with Malaysia and Singapore on the issue of re-ratification of the fundamental Conventions they had denounced years ago. An effort should also be made to assist Turkmenistan to file the declaration required under Article 2(1) of Convention No. 138. While it was important for all Members to ratify the fundamental Conventions, it was particularly important for those serving on the Governing Body. The Worker members requested that, as in previous years, a table providing an overview on ratification and information concerning the fundamental Conventions be annexed to the Committee's report. They agreed that a similar paper should be submitted in November 2006, which should include more information on the specific follow-up action taken by the Office and the reasons given by governments for not ratifying the Conventions in question.

97. The Employer members noted the paper. They welcomed the progress regarding ratifications of fundamental Conventions, but also reiterated that ratification was only a means to an end.
98. The representative of the Government of Nigeria, speaking on behalf of the Africa group, commended the Office for providing the paper. The representative assured the Committee that the African member States would do their utmost to ratify these Conventions and called for ILO support in this regard.
99. The representative of the Government of China stated that the National People's Congress of China adopted the proposal on the ratification of Convention No. 111 on 28 August 2005 and the instrument of ratification was en route to the ILO in the meantime.
100. The Committee noted the information in the document.

VI. Form for reports on the application of ratified Conventions (article 22 of the Constitution): The Seafarers' Identity Documents Convention (Revised), 2003 (No. 185)

101. The Committee had before it a document¹⁰ on the proposed form for reports on the application of a ratified Convention (article 22 of the Constitution): the Seafarers' Identity Documents Convention (Revised), 2003 (No. 185).
102. A representative of the Director-General (Ms. Doumbia-Henry) introduced the report form. She stressed that it was important to avoid duplication in submission of information. For those member States which had ratified Convention No. 108, in case they had made a declaration under Article 9 of Convention No. 185, a reference to Article 9 of the Convention had been included on the cover page of the questionnaire. The requisite information would be provided only under Convention No. 185, and not under Convention No. 108. Also, information supplied in accordance with the national auditing procedure under Article 5 would not be required to be resubmitted.

¹⁰ GB.294/LILS/6.

- 103.** The Employer members supported the adoption of the report form. They emphasized the importance of ensuring the balance between submission of appropriate information and ensuring that the reporting did not become so onerous that it would constitute an obstacle to ratification.
- 104.** The Worker members, while completely agreeing with the thrust of the questionnaire, submitted the following additional proposals: (a) page 4 of the document (English version), at the end of item I, add a new paragraph: “Has the Government taken into account the appended text of the ‘Recommended procedures and practices’ in Part B of Annex III, the provisions of which supplement the present Convention and its mandatory Annexes I, II and III, Part A, and contribute to a better understanding of its requirements and facilitate its application?”; (b) page 11 of the document (English version), the question concerning Article 6, paragraph 1, should read as follows: “Please indicate the steps that are taken by the competent authorities to verify that the seafarer is the holder of the identity document produced by him or her, as well as the clear grounds which may lead to doubts over the authenticity of a seafarers’ identity document.”; (c) page 12 of the document (English version), the question concerning Article 6, paragraph 7, should read as follows: “Please confirm that, where there are no grounds for refusing admission for the purpose of joining a ship or transit or transfer, seafarers holding a valid seafarers’ identity document supplemented by a passport are in principle given permission to enter your country’s territory, when it is known that the ship will enter one of your country’s ports, or please indicate the length of any waiting periods that may be required.”; (d) page 12 of the document (English version), after the last question concerning Article 6, paragraph 8, add a new question concerning paragraph 9: “If any satisfactory evidence, including documentary evidence of a seafarer’s intention and ability to carry out that intention may be required before permitting entry into your territory for the purposes set out in paragraph 7 of this Article, please provide details.”
- 105.** The representative of the Government of Nigeria, speaking on behalf of the Africa group, indicated that the number of member States in Africa, which had ratified this Convention, remained low. She recalled that, during the deliberations on this item in March 2005, the African region had requested technical assistance to put in place structures and equipment required to give effect to this Convention in member States. However, the Group had received no reports from the member States that such assistance had been in fact provided. She reiterated the previous request for technical assistance and expressed support for approval of the report form.
- 106.** The representative of the Government of Brazil emphasized that the report form was a highly technical document. Although he did not oppose the approval of the proposed amendments, he suggested that in the future such amendments should be circulated beforehand to allow holding consultations with the national experts.
- 107.** The representative of the Director-General, in reply to the proposed amendments, indicated that the addition of the new question on page 4 of the document was essentially a reminder of what the governments already had to do and, as such, did not add new aspects. Thus, the addition of this question raised no concerns. Regarding Article 6, she indicated that adding an extra set of elements that the governments might wish to provide could be useful. The extra set of words proposed for insertion into the question concerning Article 6, paragraph 7, would result in provision of complementary information. Finally, the addition of a new paragraph 9 would be useful to establish seafarers’ intentions, and could add to better security.
- 108.** The Employer members expressed support for the adoption of the original document. They had had an opportunity to consult with the shipping employers on the document. However, they did not have an opportunity to consult with shipping experts with respect to

amendments submitted by the Worker members on the floor. The Employer members might have reservations, which could arise in the future. In their view, however, the report form was largely an issue for the Governments. Therefore, if the Governments found the amendments appropriate, the Employers would not seek to intrude and would support their adoption unless otherwise advised by the shipping industry.

- 109.** The representative of the Government of the United States indicated that her Government was considering ratification of Convention No. 185. Because of the importance of the issue, she would feel more comfortable if the proposed amendments were sent to the technical experts.
- 110.** The representative of the Government of Germany expressed support for the statement of the representative of the Government of the United States. She recalled that so far only four countries had ratified Convention No. 185, and that there were considerable difficulties in the process of ratification in the European Union States. She suggested to follow the approach proposed by the United States and to solicit for expert advice.
- 111.** The representative of the Government of the United Kingdom expressed her support for the statements of the representatives of the Governments of the United States and Germany.
- 112.** The Worker members indicated that the debate was not about the provisions of the Convention, but about the formulation of questions. They had been previously assured by the Office that the proposed amendments did not pose any problems. The Governing Body had the authority to decide on the formulation of questions and adoption of the report form should not be delayed. Therefore, if the Governments could not come to a decision on the proposed amendments, the Worker members were prepared to withdraw their amendments altogether and to have the document adopted as it stood. They recalled that technical assistance had been promised to the African group of countries and emphasized the importance of seafarers being able to have decent jobs. They also indicated their readiness to have a discussion with employers and governments whether or not it was the task of the Governing Body to formulate questions in the report form.
- 113.** The Committee adopted the report form without amendments.
- 114.** *The Committee recommends that the Governing Body adopt the report form on the application of ratified Conventions (article 22 of the Constitution): the Seafarers' Identity Documents Convention (Revised), 2003 (No. 185), contained in Appendix III.*

VII. Other questions

1. *Mapping out a strategy for possible future ILO action on working time*

- 115.** The Committee had before it a document¹¹ on mapping out a strategy for possible future ILO action on working time.
- 116.** A representative of the Director-General (Ms. Doumbia-Henry) stated that the document was prepared in an effort to follow up constructively on the conclusions of the Committee

¹¹ GB.294/LILS/7/1.

of Experts regarding the relevance of ILO Conventions Nos. 1 and 30 as reflected in this year's General Survey, and the subsequent discussions at the Conference Committee on the Application of Standards. The document briefly traced the evolution of the debate concerning the need for revision of ILO standards on working time in the last 12 years and explored some common ground on which the Governing Body could build a new initiative on the subject. With reference to the point for decision, she expressed the view that the proposed tripartite meeting of experts for the purpose of reviewing and advising on modern working-time arrangements might prove the appropriate tool for initiating a comprehensive analysis of the question of working time in all its complex facets and also for providing useful guidance on any possible future action.

117. The Employer members stated that they would support the Office proposal contained in paragraph 22 of the document subject to some changes to be introduced in subparagraph (a). In the light of the difficulties encountered in the past, the Employer members considered there was need for precision in defining the objective of the meeting of experts so that it did not result in a mere general discussion. They therefore proposed to amend subparagraph (a) of paragraph 22 to read:

- (a) approve the organization of a tripartite meeting of experts, in the light of the 2005 Committee of Experts' survey and the discussions at the Conference Committee on the Application of Standards, with a view to initiating a comprehensive analysis of the issue of working time in all its multiple dimensions. The tripartite meeting of experts could outline an integrated framework of principles and policy options, which might serve as a basis for a general discussion on working time and related issues at a future session of the International Labour Conference should the Governing Body decide to hold such a discussion.

118. The Worker members thanked the Office for the document and noted that working time was an extremely topical issue in both developed and developing countries. Recalling that the need to regulate the hours of work was already mentioned in the Versailles Treaty and also that the first international labour Convention sought to limit the working week to 48 hours, the Worker members emphasized that working time touched upon the essence of decent work – from a safety and health approach to the guarantee of social, civic and family life – and had a gender perspective. Flexibility through collective bargaining might be necessary but what remained unacceptable was changes in working time that were unilaterally adopted by employers under the blackmailing of the possibility of job cuts, part-time working arrangements and temporary work. By way of example, workers employed by subcontractors of multinational enterprises were often the victims when orders were placed with short notice and delivery time. Moreover, Swedish experience showed that work “on call” had increased significantly and affected mostly young women, which confirmed the clear gender perspective of working-time arrangements. The Worker members continued to share the Committee of Experts' view that even though Conventions Nos. 1 and 30 did not entirely reflect recent developments in work planning they remained relevant, and expressed their surprise at the fact that no reference was made to the more recent Forty-Hour Week Convention, 1935 (No. 47). In connection with the 1993 Meeting of Experts which failed to produce any results due to the polarized positions, the Worker members expressed the fear that to embark immediately upon a new meeting might lead to a similar situation. They commended the Office for having undertaken research activities on the subject and working on a revised statistical resolution on hours of work. As regards the point for decision, the Worker members were in favour of the Office proposal and did not agree with the amendment proposed by the Employer members.

119. The representative of the Government of the United States, speaking on behalf of IMEC, recalled that the question of whether and how the ILO Conventions on working hours should be revised had been a subject of controversy for many years. It was noted, however, that, in discussing the Committee of Experts' General Survey, the Conference Committee

on the Application of Standards recognized the need to explore innovative ways to move the issue forward while there appeared to be an emerging consensus in favour of convening a tripartite meeting of experts to provide guidance on arrangements with regard to hours of work and other aspects of working time. In that context, IMEC could support, in principle, a tripartite meeting of experts on working time that would have at its disposal the results of extensive ILO research on all relevant issues. However, approval of this meeting should not be interpreted as an automatic position regarding the advisability of revising Conventions Nos. 1 and 30, nor should it prejudice IMEC views with regard to a future Conference agenda item on working time. Those decisions should be taken in light of the research carried out by the Office and the experts' subsequent findings and recommendations as well as the likelihood of tripartite consensus thereon. The point for decision constituted a provisional approval, since the final approval for the tripartite meeting of experts depended on information to be supplied to the Governing Body at its next session regarding the agenda of the meeting, its composition and financial implications.

- 120.** The representative of the Government of Nigeria, speaking on behalf of the Africa group, observed that the Office document carefully enumerated the various steps taken by the ILO to ensure that Conventions Nos. 1 and 30 met the current realities in an increasingly globalized world. The Africa group agreed with the views reflected in paragraph 12 of the document which placed emphasis on respect for the principle of collective bargaining and also associated itself with the position taken in paragraph 16 of the document that, even if it was going to be difficult to reach agreement on the regulation of working time in the future, that should not prevent the ILO from pursuing this effort. In view of the need to update the Conventions on working time to meet current realities, the Africa group endorsed the proposal set out in paragraph 22 and opposed the amendment suggested by the Employer members.
- 121.** The representative of the Government of Australia, while endorsing the statement made on behalf of IMEC, expressed support for the proposal in paragraph 22 subject to the amendment suggested by the Employer members. She recalled that the fixed working hours system prescribed in Conventions Nos. 1 and 30 was inconsistent with modern demands for flexibility in working arrangements and therefore the Government of Australia was not considering ratification of either Convention. She agreed that the Conventions in question should be reviewed, and considered that, as a matter of principle, priority should be given to reviewing outdated instruments ahead of proposals for the development of new international labour standards. While she felt that it was appropriate to initiate the review process through a meeting of experts, she emphasized that this process should not end with the adoption of a new, more detailed, and prescriptive Convention.
- 122.** The representative of the Government of Germany, while endorsing the statement made on behalf of IMEC, requested the Office to specify whether the financial resources necessary for the organization of the proposed tripartite meeting of experts were to be drawn from the technical meetings reserve. She recalled, in this connection, that the Programme, Financial and Administrative Committee had already decided to finance two technical meetings and to allocate US\$500,000 to the Maritime Session of the International Labour Conference. In addition to these meetings, there would be three other competing demands for the remaining funds. While not opposed to the idea of convening a tripartite meeting of experts on working time, she expressed concern for its financial implications.
- 123.** The representative of the Government of the Republic of Korea thanked the Office for preparing a clear, precise and useful document on possible future action on working time. He considered that standard setting on working time was a difficult task because of the complexity of issues and the conflicting interests of the social partners, and referred by

way of example to the experience of his country which started implementing new working-time arrangements after six years of negotiations despite an initial tripartite agreement reached in 1998. He further noted that the Office's step-by-step approach and suggestion to convene a tripartite meeting of experts was very practical and endorsed the point for decision in paragraph 22 and the amendment proposed by the Employer members.

- 124.** The representative of the Government of Kenya, while supporting the statement made on behalf of the Africa group, expressed the view that ILO standards on the issue were scattered in numerous instruments which needed consolidation and review to either enhance their sectoral relevance in a more complex and competitive business environment or accommodate work forms that called for greater flexibility in work organization. She recalled that globalization impacted immensely on work organization rendering flexible work arrangements a necessity rather than a choice, and pointed out that there was a real need for standards which recognized the place of regulations on the one hand and balanced flexibility on the other. While appreciating the complexity of the task and the extensive research work already undertaken by the Office, she considered that a tripartite meeting of experts would be an appropriate forum for tripartite dialogue as a preliminary measure to enable the Governing Body present the matter at the International Labour Conference at some future date. She therefore supported the proposal contained in paragraph 22 of the Office document.
- 125.** The representative of the Government of Finland, while endorsing the statement made on behalf of IMEC and therefore accepting the point for decision in paragraph 22, stressed that the issue of working time could no longer be separated from questions concerning family life and a set of new obligations concerning civic life and especially children's upbringing and education. What was at stake was not only reasonable rest periods but more importantly the problem of balancing work and family life in the present-day working environment which was far different from the times when the standards on working time were adopted. He therefore suggested that due attention should be given to family issues in the research work for the meeting of experts and also that situations such as self-employment and freelance work would need to be further investigated.
- 126.** The Worker members once more objected to the amendment submitted by the Employer members, considering that it aimed at looking into the issue of working time only through the lens of Conventions Nos. 1 and 30, and renewed their support for the Office proposal set out in paragraph 22.
- 127.** The Employer members agreed that more knowledge was needed on such a multifaceted issue as working time which pertained not only to flexibility but also to income, family life and so many other economic and social parameters calling for careful consideration. While reiterating their support for the holding of a tripartite meeting of experts, they explained that the proposed amendment to the point for decision only sought to make the objective of that meeting more precise. Contrary to what the Worker members had understood, their intention was not to limit in any way the experts' examination of the issue of working time since their proposed amendment called for "a comprehensive analysis of the issue in all its multiple dimensions" in the context of the issues raised by the Committee on the Application of Standards at the 2005 session of the Conference. However, with a view to enabling the Committee to move forward and although several Government representatives had already spoken in favour of the proposed amendment, the Employer members agreed to withdraw their amendment on the understanding that the Office would duly take into account their views in preparing the document for final approval for the next Governing Body session.

128. In reply to certain questions raised during the discussion, the representative of the Director-General stated that the absence of reference to Convention No. 47 concerning the 40-hour week was not intentional. She referred to paragraph 8 of the Office document in which “the continuing objective of the 40-hour week” was expressly mentioned. She further explained that all relevant issues would be addressed in the documents that would be prepared for the meeting and that no aspect would be excluded. As regards the financial resources to cover the cost of the proposed meeting, she clarified that this item would be among the other items that would be proposed for funding out of the technical meetings reserve and that it would be for the Governing Body at its March 2006 session to decide among them based on the resources available. She drew attention to the fact that the decision of principle as to whether it was advisable to pursue some new activity on working time should be kept separate from the question of resources which might of course condition the timing of any such activity.
129. The Chairperson noted that there was consensus for the adoption of the point for decision in paragraph 22, it being understood that the Office, in preparing the document to be submitted to the Committee at its next session, would take into account the observations made by the Employer members on subparagraph (a).
130. The Committee adopted the point for decision in paragraph 22 of the document.
131. *The Committee recommends that the Governing Body:*
- (a) *approve the organization of a tripartite meeting of experts to review and advise on modern working-time arrangements;*
 - (b) *request the Office to prepare a document on the proposed agenda, composition and financial implications of the meeting with a view to its submission to the 295th Session (March 2006) of the Governing Body for decision.*

2. Interim report of the Joint ILO/UNESCO Committee of Experts on the Application of the Recommendations concerning Teaching Personnel: Allegations submitted by teachers’ organizations

132. The Committee had before it a paper¹² which had as an appendix the Interim report of the Joint ILO/UNESCO Committee of Experts on the Application of the Recommendations concerning Teaching Personnel (CEART). The CEART report gave further consideration to the allegation received from the All Japan Teachers and Staff Union (ZENKYO) previously examined by the Joint Committee in 2003.
133. The Employer and Worker members took note of the Joint Committee’s report, and supported the point for decision.
134. Responding to a query as to whether the Committee should enter into a substantive discussion on the report before it, the Legal Adviser clarified that the Committee had two recommendations on which to act upon on this point: (1) to take note of an interim report adopted by an independent body; and (2) to authorize the Director-General to communicate this report to the Government of Japan and to ZENKYO, inviting them to

¹² GB.294/LILS/7/2.

take the necessary follow-up action as recommended in the report. Although the Committee was not called upon to enter into a substantive discussion on the content of the Joint Committee's report, any government had the right to submit reservations to the report.

135. The representative of the Government of Japan expressed his respect for the members of the Joint Committee who had investigated the allegation submitted by ZENKYO. Unfortunately, it was difficult to accept the Joint Committee's report as it did not take fully into consideration the sincere consultations that had been held with ZENKYO or of the appropriate implementation of the systems under allegation. The Joint Committee's report was based on one-sided assertions and included many misconceptions of existing systems in Japan, namely the personnel management system for teachers with insufficient ability, and the teacher performance evaluation system, despite documents submitted to explain the systems. Secondly, the Joint Committee report did not accurately interpret a judgement of the Supreme Court of Japan, which recognized that the personnel management system for teachers with insufficient ability had been implemented in an appropriate manner. The Joint Committee was urged to take into full consideration the principle expressed in the preface of the ILO/UNESCO Recommendation concerning the Status of Teachers, 1966, which took into account the "diversity of arrangements which in different countries apply to teaching staff, in particular according to whether the regulations concerning the public service apply to them". The Government of Japan therefore objected to the Joint Committee's report and requested that the Government's comments be noted in the Committee's report to the Governing Body. In addition, the Government was willing to provide additional information to the ILO and to the Joint Committee, in order to deepen understanding of its ideas and efforts in this matter.

136. The representative of the Government of Nigeria, speaking on behalf of the Africa group, stated that this matter should be dealt with by the Committee of Experts on the Application of Conventions and Recommendations. Notwithstanding, in the tradition of social dialogue, she particularly supported paragraph 19(b) of the Joint Committee's report, which urged the parties to enter into ongoing discussions.

137. *The Committee recommends that the Governing Body:*

(a) take note of the interim report of the Joint ILO/UNESCO Committee of Experts on the Application of the Recommendations concerning Teaching Personnel (CEART), relating to an allegation in Japan on the non-observance of certain provisions of the ILO/UNESCO Recommendation, 1966;

(b) authorize the Director-General to communicate the CEART report to the Government of Japan and to the All Japan Teachers and Staff Union (ZENKYO), and invite them to take the necessary follow-up action as recommended in the report.

3. *Agenda of the next session of the Committee on Legal Issues and International Labour Standards*

138. A representative of the Director-General (Mr. Tapiola, Executive Director of the Standards and Fundamental Principles and Rights at Work Sector), in accordance with usual practice, concluded the session of the Committee by summarizing the items that would be put before the Committee at its next session, as far as had already been determined: practical arrangements for the discussion, at the 95th Session (June 2006) of the International

Labour Conference, of the Global Report prepared under the follow-up to the ILO Declaration on Fundamental Principles and Rights at Work; improvements in the standards-related activities of the ILO: A progress report (November 2005-March 2006); general status report on ILO action concerning discrimination in employment and occupation; form for reports on the application of unratified Conventions and Recommendations (article 19 of the Constitution); the Labour Clauses (Public Contracts) Convention, 1949 (No. 94), and its accompanying Recommendation (No. 84).

Geneva, 15 November 2005.

Points for decision: Paragraph 24;
Paragraph 90;
Paragraph 114;
Paragraph 131;
Paragraph 137.

Appendix I

Draft 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.¹³ 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.¹⁴ At its 292nd Session (March 2005), the Governing Body adopted the detailed plan of the present compendium of rules applicable to the Governing Body.¹⁵
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 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.
4. The Constitution contains many provisions referring to the role and functions of the Governing Body. It has two types of function: 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.

¹³ GB.289/3/2(Rev.).

¹⁴ GB.291/LILS/3; GB.291/9(Rev.), paras. 33-42.

¹⁵ GB.292/LILS/4; GB.292/10(Rev.), paras. 40-53.

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)

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 64 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 | 16 |
| 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 group for the period 2005-08 and will be held by the Africa group for the 2008-11 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 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.¹⁶ The persons authorized to remain present are 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 none the less 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 Structure¹⁷ and implemented as of June 1968 according to the following four-year cycle: Americas, Africa, Asia and Europe. In

¹⁶ See Standing Orders of the Governing Body, Annex I.

¹⁷ GB.171/7/19, Annex: Fifth report, 21 Feb. 1968, para. 48.

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 term. 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.¹⁸

Role of the groups

15. Reflecting the tripartism that is the pillar of the Organization, three groups sit on the Governing Body, each with the necessary facilities for its participation: an office, 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 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.

¹⁸ GB.190/PV, Twentieth item on the agenda.

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 Confederation of Free Trade Unions (ICFTU) 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. 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.

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 reproduced in Appendix II of the Standing Orders of the Governing Body. It 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 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 (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 renamed 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.¹⁹ 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.

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;

¹⁹ See *United Nations Juridical Yearbook*, 1974, pp. 163-164.

- (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.²⁰

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 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).

* * *

²⁰ 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.

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 ... November 2005.

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 Chairman.

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 Chairman 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 has not himself appointed a deputy member to vote in his place 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 Chairman 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 the Chairman 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 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 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 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 may, in agreement with the Vice-Chairmen, 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 and two Vice-Chairmen 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 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 or resignation of an Officer shall sit for the unexpired portion of the term of office of his predecessor.

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 Chairman

2.2.1. The Chairman shall declare the opening and closure of the sitting. Before proceeding with the agenda he shall bring before the Governing Body any communications which may concern it. He 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 Chairman 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 Chairman 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 Chairman, the two Vice-Chairmen shall preside at alternate sittings.

2.2.5. The functions conferred on the Director-General by the Constitution of the Organization being reserved, the Chairman 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 purpose, 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 Chairman 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 take, within the limits of his power, any steps which may be necessary. He will at his discretion consult the Vice-Chairmen upon any matter submitted to him for decision.

2.2.8. The Chairman 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 official international organizations;
- (c) 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 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 may, after consultation with the Vice-Chairmen, 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 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 of the Governing Body, who shall be Chairman 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, an Employer Vice-Chairman and a Worker Vice-Chairman.

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, 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 paragraph 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, the Governing Body should decide that it is desirable to consider placing upon 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 consider 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 specially 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 shall report to each session of the International Labour Conference on the work of the Governing Body during the preceding year. He shall consult the Vice-Chairmen on the matters to be covered in his report.

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

5.5.3. The Secretary shall keep the minutes of the meetings. They shall not be published. At the commencement of each session the minutes of the previous session shall be confirmed.

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 8, paragraph 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, 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. In fixing this date the Director-General shall endeavour to secure, as far as may be practicable, that the publication of such documents does not take place before members of the Governing Body have received them. Documents marked "confidential" by their author in communicating them to the Office or by the Office in 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 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. This text shall, whenever possible, 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 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 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, 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 need be handed to the Chairman 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 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 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 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 the present Standing Orders.

6.1.2. In case of doubt as to the result of a vote by show of hands, the Chairman 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 Chairman 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 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 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 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 a list of all the questions proposed is given, and shall indicate the order in which he wishes them to be considered for inclusion in the agenda by marking his first preference "1", his 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 member shall place his voting paper in the ballot box as his name is 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 2 and 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.

Annex I

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

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). It was 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.¹
 - 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.²
 - 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”.³

¹ 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).

² *ibid.*

³ 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 authorisation, 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.⁴

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, para. 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.

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

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.

⁴ 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).

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.⁵
 - (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 employers' associations having consultative status with the ILO, or from other

⁵ *ibid.*, para. 67.

international workers' or employers' associations when the representation concerns matters directly affecting their affiliated organizations.⁶

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.

* * *

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.

⁶ *ibid.*, para. 34.

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 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.

Annex II

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

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), its 123rd Session (November 1953), its 132nd Session (June 1956), its 140th Session (November 1958), its 144th Session (March 1960), its 175th Session (May 1969), its 184th Session (November 1971), its 202nd Session (March 1977) and its 209th Session (May-June 1979) 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.

* * *

Background

1. In January 1950 the Governing Body, following negotiations with the Economic and Social Council of the United Nations, decided to set up a Fact-Finding and Conciliation Commission on Freedom of Association and defined the terms of reference of the Commission, the general lines of its procedure and criteria for its composition. 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, under which it would refer to the ILO complaints received by the United Nations concerning Members of the United Nations which are also Members of the ILO.

Forwarding of complaints

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.

5. The procedure for the examination of complaints of alleged infringements of the exercise of trade union rights, as it has been established, 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.
6. The Committee, when examining allegations concerning the infringement of trade union rights by one government, indicated that there existed 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.
7. 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.
8. 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.
9. 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

10. 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. 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.
11. While following this rule, the present practice adopted by the Committee in February 1958 allows substitute members who have so requested to participate in the discussion of the cases before the Committee whether or not all the regular members are present, if the chairman so agrees. They must respect the same rules as regular members.
12. 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.

13. The Committee always endeavours to reach unanimous decisions. In the event of a vote, substitutes do not vote with the regular members. In the event of a regular Government member being absent or disqualified in respect of a particular case under consideration (see paragraph 12 above), the Government member appointed by the Governing Body as the particular substitute for that regular member replaces him. The right to record an abstention is exercised on the same conditions as the right to record an affirmative or negative vote.
14. If both a regular Government member and his appointed substitute are not available when the Committee is considering a particular case, the Committee calls upon one of the remaining substitute members to complete the quorum of three; in selecting such a substitute member, the Committee has regard to seniority and also to the rule referred to in paragraph 12 above.

Mandate and responsibility of the Committee

15. The responsibility of the Committee is essentially to consider, with a view to making a recommendation to the Governing Body, whether cases are worthy of examination by the Governing Body.
16. 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 next session of 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.
17. The Committee may recommend the Governing Body to communicate the conclusions of the Committee to the governments concerned, drawing their attention to the anomalies which it has observed and inviting them to take appropriate measures to remedy the situation.
18. 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.
19. A distinction is made between countries which have ratified one or more Conventions on freedom of association and those which have not.
20. 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.
21. 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.

22. 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.
23. The Committee has emphasized that the function of the International Labour organization in regard to trade union rights is to contribute to the effectiveness of the general principle of freedom of association and to protect individuals as one of the primary safeguards of peace and social justice. 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.
24. 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.
25. 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.

The Committee’s competence to examine complaints

26. 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.
27. The Committee has recalled that questions concerning social security legislation fall outside its competence.
- 27bis. When considering a preliminary draft of a law on professional activities, having analysed its provisions, the Committee considered that the preliminary draft regulated questions which lay outside the scope of the Conventions on freedom of association, as it confined itself to regulating access to the various occupations listed, the exercise of these occupations and the organizations and bodies competent in these matters [see 218th Report, Case No. 1007, para. 464].
28. 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.
- 28bis. 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 [see 287th Report, Case No. 1627, para. 32].
29. In a number of cases the Committee has recalled that it has formulated, in its First Report, certain principles for the examination of complaints where the government concerned considers that the questions raised are purely political in character. It has decided that,

even though cases 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.

- 29bis. 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 [see 268th Report, Case No. 1500, para. 693].
30. When the Committee has had to deal with precise and detailed allegations regarding draft legislation, 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 the Committee from expressing its opinion on the merits of the allegations made. The Committee has considered it desirable that, in such 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.
31. 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 has considered that it should take this into account when examining the complaint.
32. 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.
33. 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

34. 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. 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. Furthermore, it does not consider as irreceivable complaints emanating from trade union organizations in exile or from organizations which have been dissolved.

Receivability as regards the complainant organization

35. At its first meeting in January 1952 (First Report, General observations, para. 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.

36. 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.
37. 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.
38. 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.
39. 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.
40. 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

41. 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.
42. In a number of cases 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 was adduced and brought to its notice.
- 42bis. 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 [see 297th Report, para. 13].

Form of the complaint

43. 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.
44. When the Committee receives, either directly or through the United Nations, mere copies of communications sent by organizations to third parties, it has hitherto taken the view that such communications did not constitute formal complaints and did not call for action on its part.
45. 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

46. 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.
47. 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 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.
48. 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.
49. When a complaint has been communicated to the government concerned (see paragraphs 53-65 below) 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.
50. 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.

51. 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.

Requests for the postponement of the examination of cases

- 51bis. 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 [see 274th Report, Cases Nos. 1455, 1456, 1696 and 1515, para. 10].

Withdrawal of complaints

52. 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

53. 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. As the Committee on Freedom of Association indicated in its First Report, paragraph 32, in connection with trade union rights, “the function of the International Labour Organization in regard to trade union rights is to contribute to the effectiveness of the general principle of freedom of association as one of the primary safeguards of peace and social justice”. The Committee further indicated that, in fulfilling its responsibility in the matter, it must not hesitate to discuss in an international form cases which are of such a character as to affect substantially the attainment of the aims and purposes of the ILO as set forth in the Constitution of the Organization, the Declaration of Philadelphia and the various Conventions concerning freedom of association.
54. 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 (see paragraph 46 above).

55. A distinction is drawn between urgent 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, and cases arising out of a continuing state of emergency and cases involving the dissolution of 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.
56. In the past, the Committee's report on urgent cases was immediately submitted to the Governing Body and the reports on less urgent cases were held over until the following session of the Governing Body. Since 1977 all cases examined – whether in the “urgent” or “non-urgent” category – are included in the Committee's report which is immediately submitted to the Governing Body. This procedure was adopted because the majority of cases were of an urgent nature and, in the Committee's opinion, the examination of the small number of non-urgent cases which used to be postponed would not impede the Governing Body in immediately examining the urgent cases before it.
57. 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.
58. 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.
59. 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.
60. 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 nature of the case and the degree of urgency 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.
61. Once the procedure established in the preceding paragraphs has been exhausted, cases in respect of which governments continue in their failure to supply, within a reasonable time, the information or observations requested of them, are mentioned in a special paragraph of the introduction to the report established by the Committee at its session in May-June. 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 International Labour Conference, during the latter part of the Conference, in order to draw their attention to the particular cases involved and to discuss with them the reasons for the delay in transmitting the observations requested by the Committee. The chairman then reports to the Committee on the results of such contacts.

62. At a subsequent stage, if certain governments still fail to reply, they are warned, in a special introductory paragraph to the Committee's reports – and by an express communication from the Director-General – 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.
63. 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 transmitting their replies, in order to draw their attention to the importance of supplying the observations or information requested of them.
64. 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.
65. At various stages in the procedure, recourse may be had to the "direct contact" method whereby an ILO representative is sent to the country concerned 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 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.
- 65bis. The Committee has considered that 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 [see 229th Report, Case No. 1097, para. 51].

Hearing of the parties

66. 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.

Prescription

67. The Committee considers that, 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 – for a government to reply in detail to allegations regarding matters which occurred a long time ago.

Annex III

Rules governing the election of the Director-General (adopted by the Governing Body on 23 June 1988, at its 240th Session)

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.

[Source: GB.240; GB.271.]

Annex IV

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

Introductory note

The December 2005 edition of the Rules for the payment of travel expenses of members of the Governing Body and of certain committees and other bodies replaces the August 1994 edition. It incorporates in paragraph 18 the amendment approved by the Governing Body in March 2005, during the discussion of the Programme and Budget for 2006-07, concerning the supplement to the standard daily subsistence allowance.

Rules

Authority

1. These Rules were approved by the Governing Body of the International Labour Office on 5 March 1965, pursuant to article 39²¹ 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 23) and sickness and accident coverage (as specified in paragraphs 26 to 30).

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.

²¹ Now article 40.

- (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 on 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.
- (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 31 and 32.

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, the total cost should not exceed the cost of the air transport entitlement.
 - (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. The amount of the corresponding subsistence allowance (as established for commercial transport in subparagraphs 17(a) and (b)) shall be taken into account when determining the itinerary and mode of transportation.
- 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 terminal allowances including transfers and related costs, during the travel but not during the stay at the place of the meeting, between the member's place of residence and point of departure as well as between point of arrival and hotel, and vice versa, are covered by the payment of a lump sum, known as "terminal allowances";
 - (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 and daily transport expenses, 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:
- (a) the actual cost of the member's travel;
 - (b) the 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 train or rail sleeper, steamship and airline original tickets together with the travel invoice and boarding passes;
 - (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 (the lump sum for) terminal allowances.

Subsistence allowance

17. Subject to the special provisions relating to Governing Body meetings held in conjunction with Conference set out in paragraphs 31 and 32, 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);
 - (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;
 - (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;
 - (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.
23. Where meals are provided by the Office in the form of hospitality, they should be declared by the member who must as quickly as possible notify it to the finance department in order that a corresponding reduction could be applied on their daily subsistence allowance.

Advances

24. Only one estimated advance against the subsistence allowance may be made by the Office to members on application at their arrival, the final payment being made at the end of the meeting.

Accommodation

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

Sickness and accidents

26. 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.
27. 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.
28. 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.
29. 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.
30. 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

- (1) Members 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 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, paragraph 2, 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 27 to 30 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).

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

32. 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.

[Source: March 1994 edition as amended in 2005.]

Annex V

Representation of non-governmental international organizations at ILO meetings

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);
- 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.

[Source: GB.245/SC/2/1, paras. 3-4.]

* * *

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

Resolution adopted by the Governing Body at its 105th Session (14 June 1948)

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 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 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.

[Source: GB.105 (June 1948) (fourth item on the agenda) (with editorial changes).]

Regional consultative status for non-governmental organizations

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.

[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)

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 the 16 which have 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.

* * *

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 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 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 6, 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.

[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).]

* * *

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

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. International non-governmental organizations enjoying general or regional consultative status and international non-governmental 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.

[Source: GB.245/8/19, paras. 43, 44 and 50.]

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

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.

[Source: GB.183/PV (June 1971), pp. 64-65 and 194, GB.205/21/10 (Feb.-March 1978).]

Appendix II

Table of ratifications and information concerning the ILO's fundamental Conventions (as at 13 November 2005)

| | | |
|---------|---|---|
| No. 29 | – | Forced Labour Convention, 1930 |
| No. 87 | – | Freedom of Association and Protection of the Right to Organise Convention, 1948 |
| No. 98 | – | Right to Organise and Collective Bargaining Convention, 1949 |
| No. 100 | – | Equal Remuneration Convention, 1951 |
| No. 105 | – | Abolition of Forced Labour Convention, 1957 |
| No. 111 | – | Discrimination (Employment and Occupation) Convention, 1958 |
| No. 138 | – | Minimum Age Convention, 1973 |
| No. 182 | – | Worst Forms of Child Labour Convention, 1999 |

Explanation of symbols in the table

- X Convention ratified.
- O Formal ratification process already initiated (with or without mention of time frame); approval of ratification by the competent body, although the Director-General has not yet received the formal instrument of ratification or it is incomplete (concerns chiefly Convention No. 138) or is a non-original copy; bill currently before the legislative body for approval.
- ▲ Ratification will be examined after amendment/adoption of a Constitution, Labour Code, legislation, etc.
- Convention currently being studied or examined; preliminary consultations with the social partners.
- Divergences between the Convention and national legislation.
- ◆ Ratification not considered/deferred.
- No reply, or a reply containing no information.

All ILO member States not listed in this table have ratified all eight of the fundamental Conventions.

| Member State | Forced labour | | Freedom of association | | Equal treatment | | Child labour | |
|------------------------------------|---------------|--------|------------------------|-------|-----------------|--------|--------------|--------|
| | C. 29 | C. 105 | C. 87 | C. 98 | C. 100 | C. 111 | C. 138 | C. 182 |
| Afghanistan | – | X | – | – | X | X | – | – |
| Armenia | X | X | O | X | X | X | O | O |
| Australia | X | X | X | X | X | X | ◆ | ▲ |
| Bahrain | X | X | ● | ● | ● | X | ● | X |
| Bangladesh | X | X | X | X | X | X | ◆ | X |
| Brazil | X | X | ▲ | X | X | X | X | X |
| Cambodia | X | X | X | X | X | X | X | O |
| Canada | ◆ | X | X | ■ | X | X | ■ | X |
| Cape Verde | X | X | X | X | X | X | O | X |
| China | ● | ● | ◆ | ◆ | X | O | X | X |
| Cuba | X | X | X | X | X | X | X | ▲ |
| Czech Republic | X | X | X | X | X | X | O | X |
| Democratic Republic of Timor-Leste | ● | ● | ● | ● | ● | ● | ● | ● |
| El Salvador | X | X | ■ | ■ | X | X | X | X |
| Eritrea | X | X | X | X | X | X | X | O |
| Estonia | X | X | X | X | X | X | O | X |
| Gabon | X | X | X | X | X | X | O | X |
| Ghana | X | X | X | X | X | X | O | X |
| Guinea-Bissau | X | X | O | X | X | X | O | O |
| Haiti | X | X | X | X | X | X | ● | ● |
| India | X | X | ■ | ■ | X | X | ■ | ▲ |
| Iran, Islamic Republic of | X | X | ▲ | ▲ | X | X | ● | X |
| Iraq | X | X | ● | X | X | X | X | X |
| Japan | X | ● | X | X | X | ● | X | X |
| Jordan | X | X | ● | X | X | X | X | X |
| Kenya | X | X | ▲ | X | X | X | X | X |
| Kiribati | X | X | X | X | O | O | O | O |
| Korea, Republic of | ■ | ■ | ▲ | ▲ | X | X | X | X |
| Kuwait | X | X | X | O | O | X | X | X |
| Lao People's Democratic Republic | X | ● | ● | ● | ● | ● | X | X |
| Latvia | O | X | X | X | X | X | O | O |
| Lebanon | X | X | ▲ | X | X | X | X | X |
| Liberia | X | X | X | X | O | X | O | X |
| Madagascar | X | ▲ | X | X | X | X | X | X |
| Malaysia | X | ▲ | ◆ | X | X | ◆ | X | X |

| Member State | Forced labour | | Freedom of association | | Equal treatment | | Child labour | |
|----------------------------------|---------------|--------|------------------------|-------|-----------------|--------|--------------|--------|
| | C. 29 | C. 105 | C. 87 | C. 98 | C. 100 | C. 111 | C. 138 | C. 182 |
| Mexico | X | X | X | ◆ | X | X | ■ | X |
| Morocco | X | X | ▲ | X | X | X | X | X |
| Myanmar | X | ◆ | X | ● | ◆ | ◆ | ◆ | ● |
| Namibia | X | X | X | X | ■ | X | X | X |
| Nepal | X | ● | ▲ | X | X | X | X | X |
| New Zealand | X | X | ▲ | X | X | X | ● | X |
| Oman | X | X | ● | ● | ● | ● | X | X |
| Pakistan | X | X | X | X | X | X | ● | X |
| Qatar | X | ● | ● | ● | ● | X | ● | X |
| Samoa | O | O | O | O | O | O | O | O |
| Saint Lucia | X | X | X | X | X | X | ● | X |
| Saint Vincent and the Grenadines | X | X | X | X | X | X | O | X |
| Saudi Arabia | X | X | ● | ● | X | X | ● | X |
| Sierra Leone | X | X | X | X | X | X | O | O |
| Singapore | X | ◆ | ◆ | X | X | ◆ | X | X |
| Solomon Islands | X | O | O | O | O | O | O | O |
| Somalia | X | X | – | – | – | X | – | – |
| Sudan | X | X | ● | X | X | X | X | X |
| Suriname | X | X | X | X | ▲ | ▲ | O | O |
| Thailand | X | X | ● | ● | X | ● | X | X |
| Turkmenistan | X | X | X | X | X | X | O | ● |
| United Arab Emirates | X | X | ◆ | ◆ | X | X | X | X |
| United States | ◆ | X | ◆ | ◆ | ◆ | O | ◆ | X |
| Uzbekistan | X | X | O | X | X | X | ● | ● |
| Vanuatu | O | O | O | O | O | O | O | O |
| Viet Nam | ▲ | ▲ | ◆ | ◆ | X | X | X | X |

Appendix III

Report form for the Seafarers' Identity Documents Convention (Revised), 2003 (No. 185)

Appl. 22.185

185. Seafarers' Identity Documents (Revised), 2003

INTERNATIONAL LABOUR OFFICE, GENEVA

REPORT FORM

FOR THE

SEAFARERS' IDENTITY DOCUMENTS CONVENTION (REVISED), 2003 (No. 185)

The present report form is for the use of countries which have ratified the Convention. It has been approved by the Governing Body of the International Labour Office, in accordance with article 22 of the ILO Constitution, which reads as follows: "Each of the Members agrees to make an annual report to the International Labour Office on the measures which it has taken to give effect to the provisions of the Conventions to which it is a party. These reports shall be made in such form and shall contain such particulars as the Governing Body may request."

This form is also for the use of countries which are party to the Seafarers' Identity Documents Convention, 1958, and taking measures, in accordance with article 19 of the Constitution of the International Labour Organisation, with a view to ratification of this Convention and have, pursuant to Article 9 of Convention No. 185, notified the Director-General of their intention to apply the present Convention provisionally.

The Government may deem it useful to consult the appended text of the "Recommended procedures and practices" in Part B of Annex III, the provisions of which supplement the present Convention and its mandatory Annexes I, II and III, Part A, and can contribute to a better understanding of its requirements and facilitate its application.

Practical guidance for drawing up reports

First reports

If this is your government's first report following the entry into force of the Convention in your country, full information should be given on each of the provisions of the Convention and on each of the questions set out in the report form.

Subsequent reports

In subsequent reports, information need normally be given only on the following points:

- (a) any new legislative or other measures affecting the application of the Convention;
- (b) replies to the questions in the report form on the practical application of the Convention (for example, statistics, results of evaluations or audits, judicial or administrative decisions) and on the communication of copies of the report to the representative organizations of employers and workers and on any observations received from these organizations;
- (c) **replies to comments by the supervisory bodies:** the report must contain replies to any comments regarding the application of the Convention in your country which have been addressed to your government by the Committee of Experts or the Conference Committee on the Application of Standards.

Reference to relevant documentation

Where up-to-date information relevant to the following questionnaire is already to be found in documentation provided to the Office pursuant to the Governing Body's "Arrangements concerning the list of Members which fully meet the minimum requirements concerning processes and procedures for the issue of seafarers' identity documents" (GB.292/10(Rev) and GB.292/LILS/11), it will be sufficient simply to refer to the relevant part of that documentation or its attachments.

Article 22 of the Constitution of the ILO

Report for the period to

made by the Government of

on the

Seafarers' Identity Documents Convention (Revised), 2003 (No. 185)

(ratification registered on

- I. Please give a list of the laws and regulations which apply the provisions of the Convention. Where this has not already been done, please forward copies of these texts to the International Labour Office.**

Please indicate whether there exist other means which are relevant to the implementation of the Convention, such as collective agreements, arbitration awards or court decisions. If so, please provide the texts of sample agreements or awards and of leading court decisions.

Please give any available information concerning the extent to which the laws and regulations have been enacted or modified to permit ratification or as a result of ratification.

- II. Please indicate in detail for each of the following Articles of the Convention the provisions of the laws and regulations or the other means under which each Article is applied. Please also give the information specifically requested below under each Article.**

If in your country ratification of the Convention gives the force of national law to its provisions, please indicate by virtue of what constitutional provisions the ratification has had this effect. Please also specify what action has been taken to implement those provisions of the Convention which require the competent authority or authorities to take action, such as a definition of its exact scope and the institution of indispensable practical measures and procedures to apply it.

If the Committee of Experts or the Conference Committee on the Application of Standards has requested additional information or has made an observation on the measures adopted to apply the Convention, please supply the information asked for or indicate the action taken by your government to settle the points in question.

Article 1

SCOPE

1. For the purposes of this Convention, the term “seafarer” means any person who is employed or is engaged or works in any capacity on board a vessel, other than a ship of war, ordinarily engaged in maritime navigation.

2. In the event of any doubt whether any categories of persons are to be regarded as seafarers for the purpose of this Convention, the question shall be determined in accordance with the provisions of this Convention by the competent authority of the State of nationality or permanent residence of such persons after consulting with the shipowners’ and seafarers’ organizations concerned.

3. After consulting the representative organizations of fishing-vessel owners and persons working on board fishing vessels, the competent authority may apply the provisions of this Convention to commercial maritime fishing.

Paragraph 2. Please indicate whether cases of doubt have arisen as to whether any categories of persons are to be regarded as seafarers for the purpose of this Convention, the procedure used for determination of the question and the consultations which have taken place with the shipowners’ and seafarers’ organizations concerned.

Paragraph 3. Please indicate to what extent the provisions of the Convention are applied to commercial maritime fishing and provide information on the consultations which have been held in conformity with this paragraph.

Article 2

ISSUANCE OF SEAFARERS’ IDENTITY DOCUMENTS

1. Each Member for which this Convention is in force shall issue to each of its nationals who is a seafarer and makes an application to that effect a seafarers’ identity document conforming to the provisions of Article 3 of this Convention.

2. Unless otherwise provided for in this Convention, the issuance of seafarers’ identity documents may be subject to the same conditions as those prescribed by national laws and regulations for the issuance of travel documents.

3. Each Member may also issue seafarers’ identity documents referred to in paragraph 1 to seafarers who have been granted the status of permanent resident in its

territory. Permanent residents shall in all cases travel in conformity with the provisions of Article 6, paragraph 7.

4. Each Member shall ensure that seafarers' identity documents are issued without undue delay.

5. Seafarers shall have the right to an administrative appeal in the case of a rejection of their application.

6. This Convention shall be without prejudice to the obligations of each Member under international arrangements relating to refugees and stateless persons.

Paragraph 2. Please describe the conditions prescribed by national laws and regulations for the issuance of seafarers' identity documents.

Paragraph 3. Please indicate whether seafarers' identity documents referred to in paragraph 1 are issued to seafarers who have been granted the status of permanent resident.

Paragraph 4. Please indicate the time that elapses in normal cases between receipt by the competent authorities of an application for a seafarers' identity document and the issue of the document to the seafarer concerned.

*Paragraph 5. Please describe the administrative appeal procedures available to seafarers in the case of a rejection of their application, taking into account **Annex III, Part A, paragraph 3(f)**.*

Article 3

CONTENT AND FORM

1. The seafarers' identity document covered by this Convention shall conform – in its content – to the model set out in Annex I hereto. The form of the document and the materials used in it shall be consistent with the general specifications set out in the model, which shall be based on the criteria set out below. Provided that any amendment is consistent with the following paragraphs, Annex I may, where necessary, be amended in accordance with Article 8 below, in particular to take account of technological developments. The decision to adopt the amendment shall specify when the amendment will enter into effect, taking account of the need to give Members sufficient time to make any necessary revisions of their national seafarers' identity documents and procedures.

2. The seafarers' identity document shall be designed in a simple manner, be made of durable material, with special regard to conditions at sea and be machine-readable. The materials used shall:

- (a) prevent tampering with the document or falsification, as far as possible, and enable easy detection of alterations; and
- (b) be generally accessible to governments at the lowest cost consistent with reliably achieving the purpose set out in (a) above.

3. Members shall take into account any available guidelines developed by the International Labour Organization on standards of the technology to be used which will facilitate the use of a common international standard.

4. The seafarers' identity document shall be no larger than a normal passport.

5. The seafarers' identity document shall contain the name of the issuing authority, indications enabling rapid contact with that authority, the date and place of issue of the document, and the following statements:

- (a) this document is a seafarers' identity document for the purpose of the Seafarers' Identity Documents Convention (Revised), 2003, of the International Labour Organization; and
- (b) this document is a stand-alone document and not a passport.

6. The maximum validity of a seafarers' identity document shall be determined in accordance with the laws and regulations of the issuing State and shall in no case exceed ten years, subject to renewal after the first five years.

7. Particulars about the holder included in the seafarers' identity document shall be restricted to the following:

- (a) full name (first and last names where applicable);
- (b) sex;
- (c) date and place of birth;
- (d) nationality;
- (e) any special physical characteristics that may assist identification;
- (f) digital or original photograph; and
- (g) signature.

8. Notwithstanding paragraph 7 above, a template or other representation of a biometric of the holder which meets the specification provided for in Annex I shall also be required for inclusion in the seafarers' identity document, provided that the following preconditions are satisfied:

- (a) the biometric can be captured without any invasion of privacy of the persons concerned, discomfort to them, risk to their health or offence against their dignity;
- (b) the biometric shall itself be visible on the document and it shall not be possible to reconstitute it from the template or other representation;
- (c) the equipment needed for the provision and verification of the biometric is user-friendly and is generally accessible to governments at low cost;
- (d) the equipment for the verification of the biometric can be conveniently and reliably operated in ports and in other places, including on board ship, where verification of identity is normally carried out by the competent authorities; and
- (e) the system in which the biometric is to be used (including the equipment, technologies and procedures for use) provides results that are uniform and reliable for the authentication of identity.

9. All data concerning the seafarer that are recorded on the document shall be visible. Seafarers shall have convenient access to machines enabling them to inspect any data concerning them that is not eye-readable. Such access shall be provided by or on behalf of the issuing authority.

10. The content and form of the seafarers' identity document shall take into account the relevant international standards cited in Annex I.

Please supply a specimen of the seafarers' identity document.

Paragraph 6. Please indicate the maximum validity of a seafarers' identity document.

Paragraph 9. Please indicate whether the seafarers' identity document contains any data that is not eye-readable, besides the bar code, as specified in Annex I, "Date and place of issue", paragraph III(k); and in Annex I, "Explanation of data", paragraph III(k). Please also describe how access is provided to machines enabling seafarers to inspect any such data concerning them that is not eye-readable.

Article 4

NATIONAL ELECTRONIC DATABASE

1. Each Member shall ensure that a record of each seafarers' identity document issued, suspended or withdrawn by it is stored in an electronic database. The necessary measures shall be taken to secure the database from interference or unauthorized access.

2. The information contained in the record shall be restricted to details which are essential for the purposes of verifying a seafarers' identity document or the status of a seafarer and which are consistent with the seafarer's right to privacy and which meet all applicable data protection requirements. The details are set out in Annex II hereto, which may be amended in the manner provided for in Article 8 below, taking account of the need to give Members sufficient time to make any necessary revisions of their national database systems.

3. Each Member shall put in place procedures which will enable any seafarer to whom it has issued a seafarers' identity document to examine and check the validity of all the data held or stored in the electronic database which relate to that individual and to provide for correction if necessary, at no cost to the seafarer concerned.

4. Each Member shall designate a permanent focal point for responding to inquiries, from the immigration or other competent authorities of all Members of the Organization, concerning the authenticity and validity of the seafarers' identity document issued by its authority. Details of the permanent focal point shall be communicated to the International Labour Office, and the Office shall maintain a list which shall be communicated to all Members of the Organization.

5. The details referred to in paragraph 2 above shall at all times be immediately accessible to the immigration or other competent authorities in member States of the Organization, either electronically or through the focal point referred to in paragraph 4 above.

6. For the purposes of this Convention, appropriate restrictions shall be established to ensure that no data – in particular, photographs – are exchanged, unless a mechanism is in place to ensure that applicable data protection and privacy standards are adhered to.

7. Members shall ensure that the personal data on the electronic database shall not be used for any purpose other than verification of the seafarers' identity document.

Paragraph 1. Please indicate how it is ensured that a record of each seafarers' identity document issued, suspended or withdrawn is stored in an electronic database and describe the measures taken to secure the database from interference or unauthorized access.

Paragraph 2. Please indicate details contained in the record which are essential for the purposes of verifying a seafarers' identity document or the status of a seafarer.

Paragraph 3. Please indicate the procedures put in place which will enable a seafarer to examine and check the validity of all the data held or stored in the electronic database which relate to him and provide for correction, if necessary, at no cost to the seafarer concerned.

Paragraph 4. Please indicate the designated permanent focal point and communicate the relevant details concerning the focal point.

Paragraph 5. Please describe the measures taken which ensure that the details referred to in paragraph 2 are at all times immediately accessible to the immigration or other competent authorities in member States of the Organization.

Paragraph 6. Please indicate the restrictions established in the exchange of data and any mechanism in place to ensure that applicable data protection and privacy standards are adhered to in the exchange of data, in particular, photographs.

Paragraph 7. Please indicate the measures taken to ensure that the personal data on the electronic database shall not be used for any purpose other than verification of the seafarers' identity document.

Article 5

QUALITY CONTROL AND EVALUATIONS

1. Minimum requirements concerning processes and procedures for the issue of seafarers' identity documents, including quality-control procedures, are set out in Annex III to this Convention. These minimum requirements establish mandatory results that must be achieved by each Member in the administration of its system for issuance of seafarers' identity documents.

2. Processes and procedures shall be in place to ensure the necessary security for:

- (a) the production and delivery of blank seafarers' identity documents;
- (b) the custody, handling and accountability for blank and completed seafarers' identity documents;
- (c) the processing of applications, the completion of the blank seafarers' identity documents into personalized seafarers' identity documents by the authority and unit responsible for issuing them and the delivery of the seafarers' identity documents;
- (d) the operation and maintenance of the database; and
- (e) the quality control of procedures and periodic evaluations.

3. Subject to paragraph 2 above, Annex III may be amended in the manner provided for in Article 8, taking account of the need to give Members sufficient time to make any necessary revisions to their processes and procedures.

4. Each Member shall carry out an independent evaluation of the administration of its system for issuing seafarers' identity documents, including quality-control procedures, at least every five years. Reports on such evaluations, subject to the removal of any confidential material, shall be provided to the Director-General of the International Labour Office with a copy to the representative organizations of shipowners and seafarers in the Member concerned. This reporting requirement shall be without prejudice to the obligations of Members under article 22 of the Constitution of the International Labour Organisation.

5. The International Labour Office shall make these evaluation reports available to Members. Any disclosure, other than those authorized by this Convention, shall require the consent of the reporting Member.

6. The Governing Body of the International Labour Office, acting on the basis of all relevant information in accordance with arrangements made by it, shall approve a list of Members which fully meet the minimum requirements referred to in paragraph 1 above.

7. The list must be available to Members of the Organization at all times and be updated as appropriate information is received. In particular, Members shall be promptly notified where the inclusion of any Member on the list is contested on solid grounds in the framework of the procedures referred to in paragraph 8.

8. In accordance with procedures established by the Governing Body, provision shall be made for Members which have been or may be excluded from the list, as well as interested governments of ratifying Members and representative shipowners' and seafarers' organizations, to make their views known to the Governing Body, in accordance with the arrangements referred to above and to have any disagreements fairly and impartially settled in a timely manner.

9. The recognition of seafarers' identity documents issued by a Member is subject to its compliance with the minimum requirements referred to in paragraph 1 above.

If a report on the independent evaluation of the administration of the system for issuing seafarers' identity documents, including quality-control procedures, referred to in paragraph 4, has not been provided within five years from when the Convention came into force for your country or, as the case may be, from the previous communication to the Office of such a report, please indicate the reasons and indicate when this report will be provided.

Please indicate the representative organizations of shipowners and seafarers in your country to which a copy of the last such report was sent.

If the name of your country has not been included on the list of Members which fully meet the minimum requirements concerning processes and procedures for the issue of seafarers' identity documents, including quality-control procedures, referred to in paragraph 6, or its name has been removed from that list, please indicate the measures that are being taken or proposed to redress the situation.

Article 6

FACILITATION OF SHORE LEAVE AND TRANSIT
AND TRANSFER OF SEAFARERS

1. Any seafarer who holds a valid seafarers' identity document issued in accordance with the provisions of this Convention by a Member for which the Convention is in force shall be recognized as a seafarer within the meaning of the Convention unless clear grounds exist for doubting the authenticity of the seafarers' identity document.

2. The verification and any related inquiries and formalities needed to ensure that the seafarer for whom entry is requested pursuant to paragraphs 3 to 6 or 7 to 9 below is the holder of a seafarers' identity document issued in accordance with the requirements of this Convention shall be at no cost to the seafarers or shipowners.

Paragraph 1. Please indicate the steps that are taken by the competent authorities to verify that the seafarer is the holder of the identity document produced by him or her.

Paragraph 2. Please confirm that the verification and any related inquiries and formalities needed to ensure that seafarers for whom entry on the territory of your country is requested pursuant to this Convention are at no cost to the seafarers or shipowners.

Shore leave

3. Verification and any related inquiries and formalities referred to in paragraph 2 above shall be carried out in the shortest possible time provided that reasonable advance notice of the holder's arrival was received by the competent authorities. The notice of the holder's arrival shall include the details specified in section 1 of Annex II.

4. Each Member for which this Convention is in force shall, in the shortest possible time, and unless clear grounds exist for doubting the authenticity of the seafarers' identity document, permit the entry into its territory of a seafarer holding a valid seafarers' identity document, when entry is requested for temporary shore leave while the ship is in port.

5. Such entry shall be allowed provided that the formalities on arrival of the ship have been fulfilled and the competent authorities have no reason to refuse permission to come ashore on grounds of public health, public safety, public order or national security.

6. For the purpose of shore leave seafarers shall not be required to hold a visa. Any Member which is not in a position to fully implement this requirement shall ensure that its laws and regulations or practice provide arrangements that are substantially equivalent.

Paragraphs 3 and 4. Please indicate the period of advance notice of the holder's arrival that is normally required by the competent authorities of your country for the purpose of admission on temporary shore leave; if the normal length of that period varies in different situations, please identify the different situations and indicate the period of notice normally required in each of them. Please confirm that, where reasonable advance notice has been given, and there are no grounds for refusing permission to come ashore, seafarers holding a valid seafarers' identity document are in principle permitted to come ashore as soon as their ship enters your country's ports, or please indicate the length of any waiting periods that may be required.

Paragraph 5. In cases where permission to come ashore has been refused although a valid seafarers' identity document has been produced, please provide information on the precise reasons which have been invoked to refuse that permission.

Paragraph 6. Please confirm that for the purpose of shore leave seafarers are not required to hold a visa or, if your country is not in a position to fully implement this requirement, please describe the laws and regulations or practice providing arrangements that are substantially equivalent.

Transit and transfer

7. Each Member for which this Convention is in force shall, in the shortest possible time, also permit the entry into its territory of seafarers holding a valid seafarers' identity document supplemented by a passport, when entry is requested for the purpose of:

- (a) joining their ship or transferring to another ship;
- (b) passing in transit to join their ship in another country or for repatriation; or any other purpose approved by the authorities of the Member concerned.

8. Such entry shall be allowed unless clear grounds exist for doubting the authenticity of the seafarers' identity document, provided that the competent authorities have no reason to refuse entry on grounds of public health, public safety, public order or national security.

9. Any Member may, before permitting entry into its territory for one of the purposes specified in paragraph 7 above, require satisfactory evidence, including documentary evidence of a seafarer's intention and ability to carry out that intention. The Member may also limit the seafarer's stay to a period considered reasonable for the purpose in question.

Paragraph 7. Please confirm that, where there are no grounds for refusing admission for the purpose of joining a ship or transit or transfer, seafarers holding a valid seafarers' identity document supplemented by a passport are in principle admitted as soon as their ship enters your country's ports, or please indicate the length of any waiting periods that may be required.

Paragraph 7, subparagraph b. Please indicate any other purpose, in addition to joining ship or transiting, which may be approved by the authorities of your country to permit the entry into your territory of seafarers holding a valid seafarers' identity document supplemented by a passport.

Paragraph 8. In cases where permission to transit or transfer has been refused, although a valid seafarers' identity document has been produced, please provide information on the precise reasons which have been invoked to refuse that permission.

Article 7

CONTINUOUS POSSESSION AND WITHDRAWAL

1. The seafarers' identity document shall remain in the seafarer's possession at all times, except when it is held for safekeeping by the master of the ship concerned, with the seafarer's written consent.

2. The seafarers' identity document shall be promptly withdrawn by the issuing State if it is ascertained that the seafarer no longer meets the conditions for its issue under this Convention. Procedures for suspending or withdrawing seafarers' identity documents shall be drawn up in consultation with the representative shipowners' and seafarers' organizations and shall include procedures for administrative appeal.

Paragraph 2. Please describe the procedures for suspending or withdrawing seafarers' identity documents, including procedures for administrative appeal, and the consultations with the representative shipowners' and seafarers' organizations which have taken place.

Article 9

TRANSITIONAL PROVISION

Any Member which is a party to the Seafarers' Identity Documents Convention, 1958, and which is taking measures, in accordance with article 19 of the Constitution of the International Labour Organisation, with a view to ratification of this Convention may notify the Director-General of its intention to apply the present Convention provisionally. A seafarers' identity document issued by such a Member shall be treated for the purposes of this Convention as a seafarers' identity document issued under it provided that the requirements of Articles 2 to 5 of this Convention are fulfilled and that the Member concerned accepts seafarers' identity documents issued under this Convention.

- III. Please state to what authority or authorities the application of the abovementioned laws and regulations is entrusted, and by what methods such application is supervised and enforced.**
- IV. Please state whether courts of law or other tribunals have given decisions involving questions of principle relating to the application of the Convention. If so, please supply the text of these decisions.**
- V. Please provide general information on the manner in which the Convention is applied in your country and supply – in so far as the information in question has not already been supplied or referred to in connection with other questions in this form – extracts from official reports, information regarding the number and the nature of contraventions reported and any other particulars on practical difficulties encountered in the implementation of the Convention.**
- VI. Please indicate the representative organizations of employers and workers to which copies of the present report have been communicated in accordance with article 23, paragraph 2, of the Constitution of the International Labour Organization.¹ If copies of the report have not been communicated to representative organizations of employers and/or workers, or if they have been communicated to bodies other than such organizations, please supply information on any particular circumstances existing in your country which explain the procedure followed.**
- VII. Please indicate whether you have received from the organizations of employers or workers concerned any observations, either of a general kind or in connection with the present or the previous report, regarding the practical application of the provisions of the Convention. If so, please communicate a copy of the observations received, together with any comments that you consider useful.**

¹ Article 23, paragraph 2, of the Constitution reads as follows: "Each Member shall communicate to the representative organizations recognized for the purpose of article 3, copies of the information and reports communicated to the Director-General in pursuance of articles 19 and 22."

Annex I

Model for seafarers' identity document

The seafarers' identity document, whose form and content are set out below, shall consist of good-quality materials which, as far as practicable, having regard to considerations such as cost, are not easily accessible to the general public. The document shall have no more space than is necessary to contain the information provided for by the Convention.

It shall contain the name of the issuing State and the following statement:

“This document is a seafarers' identity document for the purpose of the Seafarers' Identity Documents Convention (Revised), 2003, of the International Labour Organization. This document is a stand-alone document and not a passport.”

The data page(s) of the document indicated in **bold** below shall be protected by a laminate or overlay, or by applying an imaging technology and substrate material that provide an equivalent resistance to substitution of the portrait and other biographical data.

The materials used, dimensions and placement of data shall conform to the International Civil Aviation Organization (ICAO) specifications as contained in Document 9303 Part 3 (2nd edition, 2002) or Document 9303 Part 1 (5th edition, 2003).

Other security features shall include at least one of the following features:

Watermarks, ultraviolet security features, use of special inks, special colour designs, perforated images, holograms, laser engraving, micro-printing, and heat-sealed lamination.

Data to be entered on the data page(s) of the seafarers' identity document shall be restricted to:

I. Issuing authority:

II. Telephone number(s), email and web site of the authority:

III. Date and place of issue:



(a) Full name of seafarer:

(b) Sex:

(c) Date and place of birth:

(d) Nationality:

(e) Any special physical characteristics of seafarer that may assist identification:

(f) Signature:

(g) Date of expiry:

(h) Type or designation of document:

(i) Unique document number:

(j) Personal identification number (optional):

(k) Biometric template based on a fingerprint printed as numbers in a bar code conforming to a standard to be developed:

(l) A machine-readable zone conforming to ICAO specifications in Document 9303 specified above.

IV. Official seal or stamp of the issuing authority.

Explanation of data

The captions on fields on the data page(s) above may be translated into the language(s) of the issuing State. If the national language is other than English, French or Spanish, the captions shall also be entered in one of these languages.

The Roman alphabet should be used for all entries in this document.

The information listed above shall have the following characteristics:

I. Issuing authority: ISO code for the issuing State and the name and full address of the office issuing the seafarers' identity document as well as the name and position of the person authorizing the issue.

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- II. The telephone number, email and web site shall correspond to the links to the focal point referred to in the Convention.
- III. Date and place of issue: the date shall be written in two-digit Arabic numerals in the form day/month/year – e.g. 31/12/03; the place shall be written in the same way as on the national passport.

| |
|---|
| Size of the portrait photograph: as in ICAO Document 9303 specified above |
|---|

- (a) Full name of seafarer: where applicable, family name shall be written first, followed by the seafarer's other names;
- (b) Sex: specify "M" for male or "F" for female;
- (c) Date and place of birth: the date shall be written in two-digit Arabic numerals in the form day/month/year; the place shall be written in the same way as on the national passport;
- (d) Statement of nationality: specify nationality;
- (e) Special physical characteristics: any evident characteristics assisting identification;
- (f) Signature of seafarer;
- (g) Date of expiry: in two-digit Arabic numerals in the form day/month/year;
- (h) Type or designation of document: character code for document type, written in capitals in the Roman alphabet (S);
- (i) Unique document number: country code (see I above) followed by an alphanumeric book inventory number of no more than nine characters;
- (j) Personal identification number: optional personal identification number of the seafarer; identification number of no more than 14 alphanumeric characters;
- (k) Biometric template: precise specification to be developed;
- (l) Machine-readable zone: according to ICAO Document 9303 specified above.

Annex II

Electronic database

The details to be provided for each record in the electronic database to be maintained by each Member in accordance with Article 4, paragraphs 1, 2, 6 and 7, of this Convention shall be restricted to:

Section 1

1. Issuing authority named on the identity document.
2. Full name of seafarer as written on the identity document.
3. Unique document number of the identity document.
4. Date of expiry or suspension or withdrawal of the identity document.

Section 2

5. Biometric template appearing on the identity document.
6. Photograph.
7. Details of all inquiries made concerning the seafarers' identity document.

Annex III

Requirements and recommended procedures and practices concerning the issuance of seafarers' identity documents

This Annex sets out minimum requirements relating to procedures to be adopted by each Member in accordance with Article 5 of this Convention, with respect to the issuance of seafarers' identity documents (referred to below as "SIDs"), including quality-control procedures.

Part A lists the mandatory results that must be achieved, as a minimum, by each Member, in implementing a system of issuance of SIDs.

Part B recommends procedures and practices for achieving those results. Part B is to be given full consideration by Members, but is not mandatory.

Part A. Mandatory results

1. Production and delivery of blank SIDs

Processes and procedures are in place to ensure the necessary security for the production and delivery of blank SIDs, including the following:

- (a) all blank SIDs are of uniform quality and meet the specifications in content and form as contained in Annex I;*
- (b) the materials used for production are protected and controlled;*
- (c) blank SIDs are protected, controlled, identified and tracked during the production and delivery processes;*
- (d) producers have the means of properly meeting their obligations in relation to the production and delivery of blank SIDs;*
- (e) the transport of the blank SIDs from the producer to the issuing authority is secure.*

2. Custody, handling and accountability for blank and completed SIDs

Processes and procedures are in place to ensure the necessary security for the custody, handling and accountability for blank and completed SIDs, including the following:

- (a) the custody and handling of blank and completed SIDs is controlled by the issuing authority;*
- (b) blank, completed and voided SIDs, including those used as specimens, are protected, controlled, identified and tracked;*
- (c) personnel involved with the process meet standards of reliability, trustworthiness and loyalty required by their positions and have appropriate training;*

- (d) *the division of responsibilities among authorized officials is designed to prevent the issuance of unauthorized SIDs.*

3. Processing of applications; suspension or withdrawal of SIDs; appeal procedures

Processes and procedures are in place to ensure the necessary security for the processing of applications, the completion of the blank SIDs into personalized SIDs by the authority and unit responsible for issuing them, and the delivery of the SIDs, including:

- (a) *processes for verification and approval ensuring that SIDs, when first applied for and when renewed, are issued only on the basis of:*
 - (i) *applications completed with all information required by Annex I,*
 - (ii) *proof of identity of the applicant in accordance with the law and practice of the issuing State,*
 - (iii) *proof of nationality or permanent residence,*
 - (iv) *proof that the applicant is a seafarer within the meaning of Article 1,*
 - (v) *assurance that applicants, especially those with more than one nationality or having the status of permanent residents, are not issued with more than one SID,*
 - (vi) *verification that the applicant does not constitute a risk to security, with proper respect for the fundamental rights and freedoms set out in international instruments.*
- (b) *the processes ensure that:*
 - (i) *the particulars of each item contained in Annex II are entered in the database simultaneously with issuance of the SID,*
 - (ii) *the data, photograph, signature and biometric gathered from the applicant correspond to the applicant, and*
 - (iii) *the data, photograph, signature and biometric gathered from the applicant are linked to the application throughout the processing, issuance and delivery of the SID.*
- (c) *prompt action is taken to update the database when an issued SID is suspended or withdrawn;*
- (d) *an extension and/or renewal system has been established to provide for circumstances where a seafarer is in need of extension or renewal of his or her SID and in circumstances where the SID is lost;*
- (e) *the circumstances in which SIDs may be suspended or withdrawn are established in consultation with shipowners' and seafarers' organizations;*
- (f) *effective and transparent appeal procedures are in place.*

4. Operation, security and maintenance of the database

Processes and procedures are in place to ensure the necessary security for the operation and maintenance of the database, including the following:

- (a) the database is secure from tampering and from unauthorized access;*
- (b) data are current, protected against loss of information and available for query at all times through the focal point;*
- (c) databases are not appended, copied, linked or written to other databases; information from the database is not used for purposes other than authenticating the seafarers' identity;*
- (d) the individual's rights are respected, including:*
 - (i) the right to privacy in the collection, storage, handling and communication of personal data; and*
 - (ii) the right of access to data concerning him or her and to have any inaccuracies corrected in a timely manner.*

5. Quality control of procedures and periodic evaluations

- (a) Processes and procedures are in place to ensure the necessary security through the quality control of procedures and periodic evaluations, including the monitoring of processes, to ensure that required performance standards are met, for:*
 - (i) production and delivery of blank SIDs,*
 - (ii) custody, handling and accountability for blank, voided and personalized SIDs,*
 - (iii) processing of applications, completion of blank SIDs into personalized SIDs by the authority and unit responsible for issuance and delivery,*
 - (iv) operation, security and maintenance of the database.*
- (b) Periodic reviews are carried out to ensure the reliability of the issuance system and of the procedures and their conformity with the requirements of this Convention.*
- (c) Procedures are in place to protect the confidentiality of information contained in reports on periodic evaluations provided by other ratifying Members.*

Part B. Recommended procedures and practices

1. Production and delivery of blank SIDs

- 1.1. In the interest of security and uniformity of SIDs, the competent authority should select an effective source for the production of blank SIDs to be issued by the Member.
- 1.2. If the blanks are to be produced on the premises of the authority responsible for the issuance of SIDs ("the issuing authority"), section 2.2 below applies.

- 1.3. If an outside enterprise is selected, the competent authority should:
 - 1.3.1. check that the enterprise is of undisputed integrity, financial stability and reliability;
 - 1.3.2. require the enterprise to designate all the employees who will be engaged in the production of blank SIDs;
 - 1.3.3. require the enterprise to furnish the authority with proof that demonstrates that there are adequate systems in place to ensure the reliability, trustworthiness and loyalty of designated employees and to satisfy the authority that it provides each such employee with adequate means of subsistence and adequate job security;
 - 1.3.4. conclude a written agreement with the enterprise which, without prejudice to the authority's own responsibility for SIDs, should, in particular, establish the specifications and directions referred to under section 1.5 below and require the enterprise:
 - 1.3.4.1. to ensure that only the designated employees, who must have assumed strict obligations of confidentiality, are engaged in the production of the blank SIDs;
 - 1.3.4.2. to take all necessary security measures for the transport of the blank SIDs from its premises to the premises of the issuing authority. Issuing agents cannot be absolved from the liability on the grounds that they are not negligent in this regard;
 - 1.3.4.3. to accompany each consignment with a precise statement of its contents; this statement should, in particular, specify the reference numbers of the SIDs in each package.
 - 1.3.5. ensure that the agreement includes a provision to allow for completion if the original contractor is unable to continue;
 - 1.3.6. satisfy itself, before signing the agreement, that the enterprise has the means of properly performing all the above obligations.
- 1.4. If the blank SIDs are to be supplied by an authority or enterprise outside the Member's territory, the competent authority of the Member may mandate an appropriate authority in the foreign country to ensure that the requirements recommended in this section are met.
- 1.5. The competent authority should inter alia:
 - 1.5.1. establish detailed specifications for all materials to be used in the production of the blank SIDs; these materials should conform to the general specifications set out in Annex I to this Convention;
 - 1.5.2. establish precise specifications relating to the form and content of the blank SIDs as set out in Annex I;
 - 1.5.3. ensure that the specifications enable uniformity in the printing of blank SIDs if different printers are subsequently used;

- 1.5.4. provide clear directions for the generation of a unique document number to be printed on each blank SID in a sequential manner in accordance with Annex I; and
- 1.5.5. establish precise specifications governing the custody of all materials during the production process.

2. Custody, handling and accountability for blank and completed SIDs

- 2.1. All operations relating to the issuance process (including the custody of blank, voided and completed SIDs, the implements and materials for completing them, the processing of applications, the issuance of SIDs, the maintenance and the security of databases) should be carried out under the direct control of the issuing authority.
- 2.2. The issuing authority should prepare an appraisal of all officials involved in the issuance process establishing, in the case of each of them, a record of reliability, trustworthiness and loyalty.
- 2.3. The issuing authority should ensure that no officials involved in the issuance process are members of the same immediate family.
- 2.4. The individual responsibilities of the officials involved in the issuance process should be adequately defined by the issuing authority.
- 2.5. No single official should be responsible for carrying out all the operations required in the processing of an application for a SID and the preparation of the corresponding SID. The official who assigns applications to an official responsible for issuing SIDs should not be involved in the issuance process. There should be a rotation in the officials assigned to the different duties related to the processing of applications and the issuance of SIDs.
- 2.6. The issuing authority should draw up internal rules ensuring:
 - 2.6.1. that the blank SIDs are kept secured and released only to the extent necessary to meet expected day-to-day operations and only to the officials responsible for completing them into personalized SIDs or to any specially authorized official, and that surplus blank SIDs are returned at the end of each day; measures to secure SIDs should be understood as including the use of devices for the prevention of unauthorized access and detection of intruders;
 - 2.6.2. that any blank SIDs used as specimens are defaced and marked as such;
 - 2.6.3. that each day a record, to be stored in a safe place, is maintained of the whereabouts of each blank SID and of each personalized SID that has not yet been issued, also identifying those that are secured and those that are in the possession of a specified official or officials; the record should be maintained by an official who is not involved in the handling of the blank SIDs or SIDs that have not yet been issued;
 - 2.6.4. that no person should have access to the blank SIDs and to the implements and materials for completing them other than the officials responsible for completing the blank SIDs or any specially authorized official;

2.6.5. that each personalized SID is kept secured and released only to the official responsible for issuing the SID or to any specially authorized official;

2.6.5.1. the specially authorized officials should be limited to:

- (a) persons acting under the written authorization of the executive head of the authority or of any person officially representing the executive head, and
- (b) the controller referred to in section 5 below and persons appointed to carry out an audit or other control;

2.6.6. that officials are strictly prohibited from any involvement in the issuance process for a SID applied for by a member of their family or a close friend;

2.6.7. that any theft or attempted theft of SIDs or of implements or materials for personalizing them should be promptly reported to the police authorities for investigation.

2.7. Errors in the issuance process should invalidate the SID concerned, which may not be corrected and issued.

3. Processing of applications; suspension or withdrawal of SIDs; appeal procedures

3.1. The issuing authority should ensure that all officials with responsibility concerning the review of applications for SIDs have received relevant training in fraud detection and in the use of computer technology.

3.2. The issuing authority should draw up rules ensuring that SIDs are issued only on the basis of: an application completed and signed by the seafarer concerned; proof of identity; proof of nationality or permanent residence; and proof that the applicant is a seafarer.

3.3. The application should contain all the information specified as mandatory in Annex I to this Convention. The application form should require applicants to note that they will be liable to prosecution and penal sanctions if they make any statement that they know to be false.

3.4. When a SID is first applied for, and whenever subsequently considered necessary on the occasion of a renewal:

3.4.1. the application, completed except for the signature, should be presented by the applicant in person, to an official designated by the issuing authority;

3.4.2. a digital or original photograph and the biometric of the applicant should be taken under the control of the designated official;

3.4.3. the application should be signed in the presence of the designated official;

3.4.4. the application should then be transmitted by the designated official directly to the issuing authority for processing.

3.5. Adequate measures should be adopted by the issuing authority to ensure the security and the confidentiality of the digital or original photograph and the biometric.

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- 3.6. The proof of identity provided by the applicant should be in accordance with the laws and practice of the issuing State. It may consist of a recent photograph of the applicant, certified as being a true likeness of him or her by the shipowner or shipmaster or other employer of the applicant or the director of the applicant's training establishment.
 - 3.7. The proof of nationality or permanent residence will normally consist of the applicant's passport or certificate of admission as a permanent resident.
 - 3.8. Applicants should be asked to declare all other nationalities that they may possess and affirm that they have not been issued with and have not applied for a SID from any other Member.
 - 3.9. The applicant should not be issued with a SID for so long as he or she possesses another SID.
 - 3.9.1. An early renewal system should apply in circumstances where a seafarer is aware in advance that the period of service is such that he or she will be unable to make his or her application at the date of expiry or renewal;
 - 3.9.2. An extension system should apply in circumstances where an extension of a SID is required due to an unforeseen extension of the period of service; A replacement system should apply in circumstances where a SID is lost.
 - 3.9.3. A suitable temporary document can be issued.
 - 3.10. The proof that the applicant is a seafarer, within the meaning of Article 1 of this Convention should at least consist of:
 - 3.10.1. a previous SID, or a seafarers' discharge book; or
 - 3.10.2. a certificate of competency, qualification or other relevant training; or
 - 3.10.3. equally cogent evidence.
 - 3.11. Supplementary proof should be sought where deemed appropriate.
 - 3.12. All applications should be subject to at least the following verifications by a competent official of the issuing authority of SIDs:
 - 3.12.1. verification that the application is complete and shows no inconsistency raising doubts as to the truth of the statements made;
 - 3.12.2. verification that the details given and the signature correspond to those on the applicant's passport or other reliable document;
 - 3.12.3. verification, with the passport authority or other competent authority, of the genuineness of the passport or other document produced; where there is reason to doubt the genuineness of the passport, the original should be sent to the authority concerned; otherwise, a copy of the relevant pages may be sent;
 - 3.12.4. comparison of the photograph provided, where appropriate, with the digital photograph referred to in section 3.4.2 above;

- 3.12.5. verification of the apparent genuineness of the certification referred to in section 3.6 above;
- 3.12.6. verification that the proof referred to in section 3.10 substantiates that the applicant is indeed a seafarer;
- 3.12.7. verification, in the database referred to in Article 4 of the Convention, to ensure that a person corresponding to the applicant has not already been issued with a SID; if the applicant has or may have more than one nationality or any permanent residence outside the country of nationality, the necessary inquiries should also be made with the competent authorities of the other country or countries concerned;
- 3.12.8. verification, in any relevant national or international database that may be accessible to the issuing authority, to ensure that a person corresponding to the applicant does not constitute a possible security risk.
- 3.13. The official referred to in section 3.12 above should prepare brief notes for the record indicating the results of each of the above verifications, and drawing attention to the facts that justify the conclusion that the applicant is a seafarer.
- 3.14. Once fully checked, the application, accompanied by the supporting documents and the notes for the record, should be forwarded to the official responsible for completion of the SID to be issued to the applicant.
- 3.15. The completed SID, accompanied by the related file in the issuing authority, should then be forwarded to a senior official of that authority for approval.
- 3.16. The senior official should give such approval only if satisfied, after review of at least the notes for the record, that the procedures have been properly followed and that the issuance of the SID to the applicant is justified.
- 3.17. This approval should be given in writing and be accompanied by explanations concerning any features of the application that need special consideration.
- 3.18. The SID (together with the passport or similar document provided) should be handed to the applicant directly against receipt, or sent to the applicant or, if the latter has so requested, to his or her shipmaster or employer in both cases by reliable postal communication requiring advice of receipt.
- 3.19. When the SID is issued to the applicant, the particulars specified in Annex II to the Convention should be entered in the database referred to in Article 4 of the Convention.
- 3.20. The rules of the issuing authority should specify a maximum period for receipt after dispatch. If advice of receipt is not received within that period and after due notification of the seafarer, an appropriate annotation should be made in the database and the SID should be officially reported as lost and the seafarer informed.
- 3.21. All annotations to be made, such as, in particular, the brief notes for the record (see section 3.13 above) and the explanations referred to in section 3.17, should be kept in a safe place during the period of validity of the SID and for three years afterwards. Those annotations and explanations required by section 3.17 should be recorded in a separate internal database, and rendered accessible: (a) to persons responsible for monitoring operations; (b) to officials involved in the review of applications for SIDs; and (c) for training purposes.

- 3.22. When information is received suggesting that a SID was wrongly issued or that the conditions for its issue are no longer applicable, the matter should be promptly notified to the issuing authority with a view to its rapid withdrawal.
- 3.23. When a SID is suspended or withdrawn the issuing authority should immediately update its database to indicate that this SID is not currently recognized.
- 3.24. If an application for a SID is refused or a decision is taken to suspend or withdraw a SID, the applicant should be officially informed of his or her right of appeal and fully informed of the reasons for the decision.
- 3.25. The procedures for appeal should be as rapid as possible and consistent with the need for fair and complete consideration.

4. Operation, security and maintenance of the database

- 4.1. The issuing authority should make the necessary arrangements and rules to implement Article 4 of this Convention, ensuring in particular:
 - 4.1.1. the availability of a focal point or electronic access over 24 hours a day, seven days a week, as required under paragraphs 4, 5 and 6 of Article 4 of the Convention;
 - 4.1.2. the security of the database;
 - 4.1.3. the respect for individual rights in the storage, handling and communication of data;
 - 4.1.4. the respect for the seafarer's right to verify the accuracy of data relating to him or her and to have corrected, in a timely manner, any inaccuracies found.
- 4.2. The issuing authority should draw up adequate procedures for protecting the database, including:
 - 4.2.1. a requirement for the regular creation of back-up copies of the database, to be stored on media held in a safe location away from the premises of the issuing authority;
 - 4.2.2. the restriction to specially authorized officials of permission to access or make changes to an entry in the database once the entry has been confirmed by the official making it.

5. Quality control of procedures and periodic evaluations

- 5.1. The issuing authority should appoint a senior official of recognized integrity, loyalty and reliability, who is not involved in the custody or handling of SIDs, to act as controller:
 - 5.1.1. to monitor on a continuous basis the implementation of these minimum requirements;
 - 5.1.2. to draw immediate attention to any shortcomings in the implementation;
 - 5.1.3. to provide the executive head and the concerned officials with advice on improvements to the procedures for the issuance of SIDs; and

- 5.1.4. to submit a quality-control report to management on the above. The controller should, if possible, be familiar with all the operations to be monitored.
- 5.2. The controller should report directly to the executive head of the issuing authority.
- 5.3. All officials of the issuing authority, including the executive head, should be placed under a duty to provide the controller with all documentation or information that the controller considers relevant to the performance of his or her tasks.
- 5.4. The issuing authority should make appropriate arrangements to ensure that officials can speak freely to the controller without fear of victimization.
- 5.5. The terms of reference of the controller should require that particular attention be given to the following tasks:
 - 5.5.1. verifying that the resources, premises, equipment and staff are sufficient for the efficient performance of the functions of the issuing authority;
 - 5.5.2. ensuring that the arrangements for the safe custody of the blank and completed SIDs are adequate;
 - 5.5.3. ensuring that adequate rules, arrangements or procedures are in place in accordance with sections 2.6, 3.2, 4 and 5.4 above.
 - 5.5.4. ensuring that those rules and procedures, as well as arrangements, are well known and understood by the officials concerned;
 - 5.5.5. detailed monitoring on a random basis of each action carried out, including the related annotations and other records, in processing particular cases, from the receipt of the application for a SID to the end of the procedure for its issuance;
 - 5.5.6. verification of the efficacy of the security measures used for the custody of blank SIDs, implements and materials;
 - 5.5.7. verification, if necessary with the aid of a trusted expert, of the security and veracity of the information stored electronically and that the requirement for 24 hours a day, seven days a week access is maintained;
 - 5.5.8. investigating any reliable report of a possible wrongful issuance of a SID or of a possible falsification or fraudulent obtention of a SID, in order to identify any internal malpractice or weakness in systems that could have resulted in or assisted the wrongful issuance or falsification or fraud;
 - 5.5.9. investigating complaints alleging inadequate access to the details in the database given the requirements of paragraphs 2, 3 and 5 of Article 4 of the Convention, or inaccuracies in those details;
 - 5.5.10. ensuring that reports identifying improvements to the issuance procedures and areas of weakness have been acted upon in a timely and effective manner by the executive head of the issuing authority;
 - 5.5.11. maintaining records of quality-control checks that have been carried out;

- 5.5.12. ensuring that management reviews of quality-control checks have been performed and that records of such reviews are maintained.
- 5.6. The executive head of the issuing authority should ensure a periodic evaluation of the reliability of the issuance system and procedures, and of their conformity with the requirements of this Convention. Such evaluation should take into account the following:
 - 5.6.1. findings of any audits of the issuance system and procedures;
 - 5.6.2. reports and findings of investigations and of other indications relevant to the effectiveness of corrective action taken as a result of reported weaknesses or breaches of security;
 - 5.6.3. records of SIDs issued, lost, voided or spoiled;
 - 5.6.4. records relating to the functioning of quality control;
 - 5.6.5. records of problems with respect to the reliability or security of the electronic database, including inquiries made to the database;
 - 5.6.6. effects of changes to the issuance system and procedures resulting from technological improvements or innovations in the SID issuance procedures;
 - 5.6.7. conclusions of management reviews;
 - 5.6.8. audit of procedures to ensure that they are applied in a manner consistent with respect for fundamental principles and rights at work embodied in relevant ILO instruments.
- 5.7. Procedures and processes should be put in place to prevent unauthorized disclosure of reports provided by other Members.
- 5.8. All audit procedures and processes should ensure that the production techniques and security practices, including the stock control procedures, are sufficient to meet the requirements of this Annex.