

**FOR INFORMATION**

THIRD ITEM ON THE AGENDA

Other legal issues**Rules on voting at the Conference**

1. The lack of a quorum for the final vote on the adoption of the proposed Convention concerning work in the fishing sector at the 93rd Session of the International Labour Conference (2005) provoked reactions and a series of questions regarding the rules and voting procedure at the Conference. This document presents the rules that are applicable in this matter, their origin and their *raison d'être*, particularly regarding the quorum, the voting methods, the announcement of the result of a vote and the possibilities of proceeding to another vote.¹
2. The situation at the 93rd Session is not unprecedented at the ILO. Over the past fifty years, the absence of a quorum has prevented the adoption in 1961 (45th Session) of a Recommendation concerning reduction of hours of work and in 1962 (46th Session) of a Recommendation concerning equality of treatment of nationals and non-nationals in social security. Several resolutions have not been adopted through the lack of a quorum.

Determining the quorum

3. The rules regarding the quorum can be found in article 17 of the ILO Constitution and in articles 20² and 66³ of the Standing Orders of the Conference. In the words of article 17 of the Constitution, “the voting is void unless the total number of votes cast is equal to half the number of the delegates attending the Conference”. Article 20 of the Standing Orders of the Conference, as amended on 3 November 1922, specifies that “votes cast” means votes “for and against”. Consequently, abstention is not taken into account when calculating the quorum. The purpose of this measure is to ensure a minimum participation in decision-making and a minimum support for all the Conference’s decisions.

¹ A similar document was presented to the Governing Body at its 182nd Session (February-March 1971); see GB.182/SC/4/1.

² Article 20 is applicable to voting in the plenary session.

³ Article 66 applies to voting in the Committees and provides that a quorum is two-fifths of the total voting power.

4. Article 20 of the Standing Orders also specifies that, for their vote to be taken into account when calculating the quorum, delegates must not only be present at that session of the Conference, but also be entitled to vote. Consequently, the vote of any delegate representing a Member of the Organization⁴ which is in arrears in the payment of its financial contribution to the Organization and is therefore not allowed to vote at the Conference in accordance with paragraph 4 of article 13 of the Constitution is not taken into consideration when calculating the quorum. Also not counted when calculating the quorum are Employers' or Workers' delegates who, in accordance with article 4, paragraph 2, of the Constitution, cannot vote because the tripartite delegation is incomplete. Lastly, any delegate that the Conference has refused to admit in accordance with article 3, paragraph 9, of the Constitution is also not taken into account when calculating the quorum.
5. Paragraph 1(3) of article 20 of the Standing Orders also specifies that "any delegate who finally leaves the Conference before its termination and who gives formal notice of his departure to the Secretariat without authorizing an adviser to act in his place shall be regarded as no longer attending the Conference for the purpose of calculating the quorum".⁵
6. The quorum is provisionally determined by the Chairperson of the Governing Body in the brief report presented in accordance with article 26, paragraph 2, of the Standing Orders, and is then updated daily by the Conference Credentials Committee. The provisional quorum is determined on the basis of the number of accredited delegates, designated as such by the Members of the Organization, whose names have been communicated to the Office in accordance with article 3, paragraph 8, of the Constitution, and received before the end of the week preceding the opening of the Conference. However, the quorum determined by the Credentials Committee is based, since 1965 (49th Session of the Conference), on the number of registered delegates, which in practice means those who have collected⁶ their Conference badges (previously this was based on the number of registration forms issued to delegates).
7. The possibility of amending the rules concerning the quorum has been discussed following situations where the vote has not been passed for lack of a quorum. The various attempts to modify the rules concerning the quorum, even if they tried to amend only the Standing Orders of the Conference and not the Constitution, have never achieved a consensus. These discussions have, however, allowed a series of measures to be adopted to ensure that there is a quorum during voting at the Conference. These measures included special appeals to delegates by the President of the Conference or the chairpersons of the groups at the end of the second-to-last or at the beginning of the last week of the Conference; the option to indicate departure dates on attendance cards; a reminder to delegates who are in Committees to go and vote when a record vote is being taken in the plenary session while the Committees are still working;⁷ reintroducing the practice of reproducing the names of

⁴ That is, representatives of Governments, Employers and Workers.

⁵ This paragraph was added in 1935. An Employers' or Workers' delegate leaving without having delegated his right to vote to another member of his delegation does not invalidate the vote of the remaining non-governmental delegate. A complete delegation does not become an incomplete delegation because of the departure of one of the delegates.

⁶ In practice, the permanent mission in Geneva collects the badges for the Government delegates while the Employers' and Workers' delegates collect the badges for the members of their respective groups.

⁷ GB.171/SC/1/1.

the delegates present at each session in the *Provisional Record* during the last week of the session of the Conference. Since 1965, the secretaries of the employers' and workers' groups, as well as one of the two Government delegates, have been authorized to notify the departure of a delegate belonging to their respective group or delegation.

8. The problems identified generally concern announcing the final departure of delegates and nominating substitute delegates. In the past, several methods were envisaged, including that of determining the quorum by the number of completed and signed attendance cards in the plenary session hall.⁸ The attendance cards system has not been used for a number of years.
9. In practice, for several years, the quorum has been calculated electronically on the basis of information collected in a database managed by the secretariat of the Credentials Committee. In particular, the secretariat registers the departure of all delegates and the delegation of the right to vote to a technical adviser, notification of which has been received by the secretariat in accordance with article 20, paragraph 1(3), of the Standing Orders of the Conference. An indication of the latest data on the number of registered delegates is provided in the list annexed to the final report presented to the Conference by the Credentials Committee at the beginning of the final week of the Conference.
10. The delegates are systematically reminded of the rules concerning the notification of the departure or the delegation of the right to vote in a notice published in the *Daily Bulletin* of the Conference as of the first day of the final week.⁹ For their departure to be taken into account for the calculation of the quorum, departing delegates must submit the relevant forms to the secretariat of the Credentials Committee at least one hour before the start of the vote.
11. Evidently, these practical measures have not had the desired effect. The Office will continue to look into the measures necessary to ensure that the quorum is as accurate as possible, particularly as regards well-targeted information for delegates. However, these measures could prove to be insufficient without better organization within each delegation.

Voting method

12. According to article 19 of the Standing Orders, three kinds of voting are possible at the Conference: voting by a show of hands, voting by a record vote and voting by secret ballot. Voting is by show of hands except in cases where a majority of two-thirds of votes is required by the Constitution, apart from when voting on the inclusion in the agenda of the following session of an item already on the agenda of the session at which the decision is taken.
13. In accordance with article 19, paragraph 15, of the Standing Orders, all these types of vote, including the vote by show of hands, are done by electronic means, unless the Officers of the Conference otherwise decide in special circumstances. This rule, introduced in 1995, reflected a practice resulting from the introduction of electronic voting in 1993.

⁸ This method was not adopted, as these cards could be filled in by other people or the delegates could accidentally forget to fill them in. See GB.181/SC/3/4.

⁹ "Any delegate finally leaving Geneva and not appointing an adviser to act in his or her stead should also inform the secretariat of the Credentials Committee (office A-261) in writing." (Underlining added.)

14. The time of the vote is announced in the workplan of the Conference and is normally scheduled for the last two days of the session of the Conference. The *Daily Bulletin* of the Conference also informs delegates of the exact time of the vote.
15. When electronic voting was introduced, voters were identified using a magnetic card that was part of their name badge. A new system was introduced in 2003. In the hall where the voting takes place, delegations have at their disposal a personal touch-screen voting station. In order to be able to vote, each delegate¹⁰ must obtain a confidential code (PIN code) from the secretariat. After the question being voted upon is displayed in English, French and Spanish, the voting screen invites each delegate to enter his or her confidential code (PIN code) and to confirm his or her identity. Having a PIN code or a magnetic card does not provide the guarantees needed to identify a delegate. To do this, biometric identification techniques should be envisaged. Instructions for the various stages of the voting procedure then appear on the screen in English, French or Spanish, according to the preference indicated by each Member.
16. As a general rule, the voting takes place in two stages. Delegates are first invited to choose from three voting options: vote for; vote against or abstention. Once a choice has been made, the screen displays the choice that has been made and asks the delegate to confirm his or her vote. This stage also allows delegates to modify their votes. Only after this second stage is the delegate informed that his or her vote has been recorded. This two-stage system should allow delegates to avoid making mistakes with the voting station and to confirm their votes before it is finally recorded.

The results of the vote

17. Article 19, paragraph 8, of the Standing Orders states that the result of a vote is recorded by the secretariat and announced by the President. In practice, the digital results of the vote (the number of votes for, the number of votes against, the number of abstentions, the quorum and the required majority) are displayed immediately in the voting hall on an electronic screen, before the President is able to confirm them officially.
18. Article 19, paragraph 16, of the Standing Orders specifies the ways in which different votes are recorded:

In the case of a vote by show of hands, the individual votes cast by the delegates shall be accessible during the sitting at which the vote is taken, but only the final result of the vote shall be announced and recorded. In the case of a record vote, the individual votes cast by the delegates shall be recorded and published and the final result of the vote shall be announced and recorded. In the case of a vote by secret ballot, the individual votes cast by the delegates shall in no case be recorded or accessible and only the final result of the vote shall be announced and recorded.

19. In the case of a record vote, a list showing how each delegate voted is published in the *Provisional Record* of the Conference. In the case of a vote by secret ballot, there is no record of how delegates voted.
20. The vote is, in principle, definitive. However, article 20, paragraph 2, of the Standing Orders provides that, where a quorum has not been obtained in a vote by a show of hands, the President may immediately take a record vote or may be obliged to do so when a record vote is called for by 20 members present. The Governing Body, which proposed this amendment in 1936, observed that it was necessary to be able to retake a vote if the

¹⁰ Delegates entitled to vote are main delegates or their substitutes.

result was contested so that the decision could be taken without any ambiguity.¹¹ After an amendment was proposed saying that the Conference could not take a record vote twice on the same question, it was specified that the vote could not be repeated indefinitely.

21. Nevertheless, article 20, paragraph 3, of the Standing Orders also provides that “where a quorum has not been obtained in a vote by a show of hands or in a record vote, the President may take a record vote on the same question at one of the two next following sittings”.¹² The Standing Orders expressly provide that such a vote does not apply to a final vote for the adoption of a Convention or a Recommendation.¹³ By adopting this restriction in 1936,¹⁴ the Conference was of the opinion that a record vote cannot be retaken when it is the final vote on a Convention or a Recommendation.¹⁵
22. It is possible that, in spite of the two-stage electronic voting system, delegates may consider that the vote registered to them is due to an error in using the system and they can present a request to rectify their vote. Any action taken in response to this request, which can in no circumstances undermine the result of the vote, depends on the discretion of the President who will consult with the Officers of the Conference and may, during the session, make the necessary statements on the basis of which the Conference may, if necessary, make a decision. Obviously such a request cannot be made after the end of the sitting, even less so after the end of the session of the Conference: the result of the vote that is formally recorded by the President must be published as it stands.

Geneva, 6 October 2005.

Submitted for information.

¹¹ ILC, 20th Session (1936), *Record of Proceedings*, p. 325. See also minutes of the 74th Session of the Governing Body, Sixth Sitting, 22 February 1936, p. 55.

¹² In 1936, the Conference decided to replace the words “at a subsequent sitting” with the words “at one of the two next following sittings”, ILC, 20th Session (1936), *Record of Proceedings*, p. 549.

¹³ This clause was not part of the proposals made by the Governing Body and was added to the Standing Orders at the 20th Session of the Conference (June 1936), *Record of Proceedings*, pp. 549 ff.

¹⁴ After discussion by the Governing Body. See minutes of the 74th Session of the Governing Body, Sixth Sitting, 14th item on the agenda, February 1936.

¹⁵ ILC, 20th Session (1936), *Record of Proceedings*, p. 325.