



Governing Body

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Institutional Section

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Democratization in the ILO's governance and update on the status of ratification of the 1986 Instrument for the Amendment of the Constitution of the ILO

Purpose of the document

As requested by the Governing Body at its 350th Session (March 2024), this document provides an update concerning the ratification of the Instrument for the Amendment of the Constitution of the International Labour Organisation, 1986 ("the 1986 Amendment"), and addresses possible alternative options to advance the democratic, fair and equal representation of constituents in the ILO's governance, further to two rounds of tripartite consultations held on 3 May and 3 July 2024. The Governing Body is invited to request the Director-General to continue to use all means within his authority for bringing about the entry into force of the 1986 Amendment and to provide guidance on alternative options to advance the democratization in ILO's governance (see draft decision in paragraph 47).

Relevant strategic objective: All.

Main relevant outcome: Enabler B: Improved leadership and governance.

Policy implications: None.

Legal implications: Will depend on the decision of the Governing Body.

Financial implications: Will depend on the decision of the Governing Body.

Follow-up action required: Will depend on the decision of the Governing Body.

Author unit: Office of the Legal Adviser (JUR)

Related documents: [GB.350/INS/8](#); [GB.350/PV](#).

► Introduction

1. At its 350th Session (March 2024), the Governing Body had before it a document ¹ that provided an overview of the work of the tripartite working group on the full, equal and democratic participation in the ILO's tripartite governance and an update on the status of ratification of the Instrument for the Amendment of the Constitution of the International Labour Organisation, 1986 ("the 1986 Amendment") ² and recent action taken to promote its ratification. Members of the Governing Body were also informed that the Director-General had received a letter from the Chairperson of the Government group, dated 27 February 2024, with suggestions in relation to promoting the ratification of the 1986 Amendment, including support to the eight Members of chief industrial importance that had not yet ratified it.
2. Before the 350th Session, in light of the support expressed for presenting additional proposals independent of the process related to the 1986 Amendment, ³ the Office had circulated a "non-paper". In this document, the Office explained that "it might be possible to initiate an informal consultative process with a view to ascertaining whether there is support for exploring ways aimed at establishing in practice the right of deputy members of the Governing Body to participate on an equal footing in all decisions made by vote". ⁴ The possibility of granting voting rights to deputy members of the Governing Body was presented as a "pragmatic approach" to make progress, pending the entry into force of the 1986 Amendment.
3. During the Governing Body's discussion, ⁵ there was general agreement that the entry into force of the 1986 Amendment should remain the priority for the democratization of ILO governance, in line with the express call to that effect of the ILO Centenary Declaration for the Future of Work (2019). Concerning the "pragmatic approach", the Governing Body considered that more time was necessary for constituents, in particular governments, to analyse all the possible legal and technical implications to ensure that the implementation of such arrangements without formally amending the Constitution would not give rise to any controversy. At the same time, it considered that the Director-General should continue his efforts and engagement to encourage further ratification of the 1986 Amendment. More specifically, the Governing Body requested the Director-General to:
 - (a) undertake tripartite consultations, where appropriate, while giving effect to the issues raised in the letter from the Chairperson of the Government group dated 27 February 2024, and provide an update to the 352nd Session (October–November 2024) of the Governing Body on the concrete measures taken to accelerate the ratification of the 1986 Instrument for the Amendment of the Constitution of the ILO;
 - (b) develop, in consultation with tripartite constituents, possible alternative options to advance the democratic, fair and equal representation of constituents in the ILO, including enabling voting and other rights to the deputy members of the Governing Body, pending the entry into force of the 1986 Amendment, taking into account the situation of

¹ GB.350/INS/8.

² <https://www.ilo.org/resource/constitutional-amendments-1986>.

³ GB.350/INS/8, para. 18.

⁴ The "non-paper" and related documents prepared by the Office for the tripartite consultations are available for the members of the Governing Body at <https://www.ilo.org/informal-papers-prepared-office-concerning-democratization-ilos-governance>.

⁵ GB.350/PV, paras 257–337.

all constituents and including an analysis of all possible technical and legal implications and provide a report to the 352nd Session (October–November 2024) of the Governing Body for further consideration and decision-making, including in view of a possible submission to the 113th Session (2025) of the International Labour Conference.⁶

4. This document responds to the Governing Body's request. It is divided into two parts: The first provides an update on the ratification of the 1986 Amendment, and the second summarizes the discussions in the two rounds of tripartite consultations so far on the three existing options to advance democratization, namely:
 - granting voting and other rights to deputy members through ad hoc decisions of the Conference and Governing Body to increase the number of voting members of the Governing Body from 56 to 112 ("pragmatic approach");
 - adopting a new constitutional amendment to increase the number of Governing Body members from 56 to 112 without abolishing the ten non-elective seats;
 - taking no new initiatives and focusing instead on the promotion of the ratification of the 1986 Amendment ("status quo").

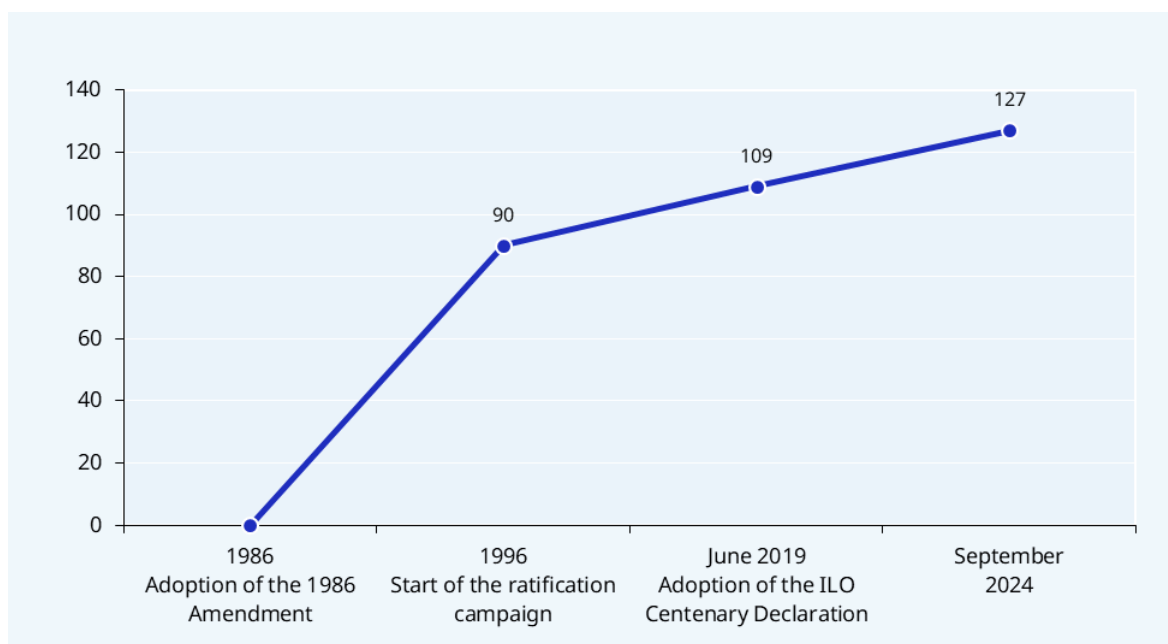
The second part also explains in detail the first two options.

► I. Update on the status of ratification and concrete measures to accelerate ratification of the 1986 Amendment

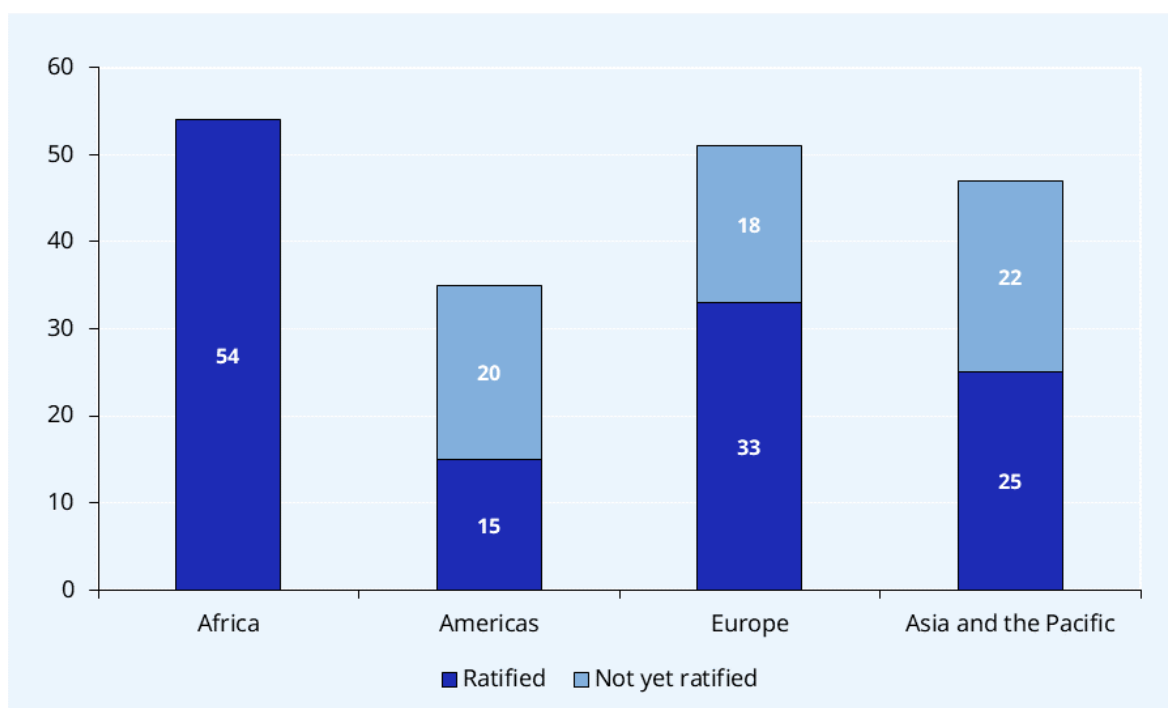
5. At the 350th Session (March 2024) of the Governing Body, the Office provided updated information on the status of ratification of the 1986 Amendment.⁷ Since then, one new ratification has been registered, by Australia. As of 15 September 2024, the 1986 Amendment had been ratified by 127 Member States – more than two thirds, or 68 per cent, of ILO Member States (see figure 1). The ratifications include two from the ten Members of chief industrial importance (India and Italy).

⁶ GB.350/PV, para. 337.

⁷ GB.350/INS/8, para. 14. At its 332nd Session (March 2018), the Governing Body decided that the update on the status of ratification of the 1986 Amendment should become a standing item on the agenda of its March and November sessions until the amendment entered into force, GB.332/PV, para. 294(a).

► **Figure 1. Evolution of the number of ratifications of the 1986 Amendment**

6. Africa continues to be the only region where all ILO Member States have ratified the 1986 Amendment (see figure 2). The ratification rate is 65 per cent in Europe (33 ratifications among 51 Member States), 43 per cent in the Americas (15 ratifications among 35 Member States) and 53 per cent in Asia and the Pacific (25 ratifications among 47 Member States).

► **Figure 2. Number of ratifications per region (as of September 2024)**

7. Only three ratifications from the remaining eight Members of chief industrial importance (Brazil, China, France, Germany, Japan, Russian Federation, the United Kingdom of Great Britain and Northern Ireland, and the United States of America) are needed for the 1986 Amendment to take effect.

8. On 17 January 2024, the Director-General wrote to the foreign ministers and labour ministers of those eight Members of chief industrial importance, appealing for support for the ratification of the 1986 Amendment to ensure that the views of the vast majority of ILO Member States that had already ratified it were respected and implemented. As of 15 September 2024, no formal replies had been received to this communication.
9. On 11 June 2024, during the 112th Session of the International Labour Conference, the Director-General held a high-level meeting with representatives of all ten Members of chief industrial importance. The meeting was organized as part of the follow-up to the letter received by the Director-General from the Chairperson of the Government group dated 27 February 2024. Overall, the Members of chief industrial importance expressed their openness to reflecting on the “pragmatic approach” and indicated that they were in the process of analysing its legal and constitutional basis. Two of them also supported considering a new constitutional amendment that would increase the membership of the Governing Body without removing the non-elective seats.
10. On 13 June 2024, during his visit to the 112th Session of the Conference, President Lula of Brazil announced that Brazil would work to ratify the 1986 Amendment.⁸
11. In addition to the above measures, the Director-General has discussed the ratification of the 1986 Amendment in high-level bilateral meetings and instructed the regional offices and relevant liaison offices to take concrete action to promote ratification. In the Americas, three tripartite seminars have been organized and bilateral contacts have been maintained to promote ratification. In the Asia and the Pacific region, meetings, briefings and other follow-up activities have been undertaken with Member States that have not yet ratified the 1986 Amendment. In Europe and Central Asia, the Regional Director has included briefings and discussions on the 1986 Amendment in her missions across the region and also addressed the topic during a number of bilateral side meetings during the 112th Session of the International Labour Conference.
12. The Office has updated the video, brochure and banners promoting ratification of the 1986 Amendment and displayed and distributed them during the Conference. The video and brochure are available in English, French and Spanish on the dedicated web page,⁹ to which links have been created from other relevant pages. Paper copies of the brochure have been made available to the relevant regions for further distribution as needed.

► II. Consideration of possible alternative options to advance the democratic, fair and equal representation of constituents in the ILO’s governance

13. Further to the decision taken by the Governing Body at its 350th Session (March 2024), the Office proposed two rounds of tripartite consultations. For the purposes of the first round, the Office circulated a short note with the above-mentioned three options to advance democratization.

⁸ ILC.112/Record No. 9C, p. 30.

⁹ See “Questions and answers about the 1986 Instrument of Amendment to the ILO Constitution” and the promotional brochure.

14. The first round of tripartite consultations was held on 3 May 2024. During these consultations, participants reiterated their openness to exploring alternative approaches and reaffirmed their commitment to the objectives of the 1986 Amendment. Most participants confirmed, in general, their interest in considering the “pragmatic approach”, while stressing the need to obtain clarity and certainty as to its soundness from a legal and constitutional perspective. Clarifications were sought on specific legal questions, on the application of the interim arrangements to the Employers’ and Workers’ groups and on possible cost implications. The Office was also requested to provide additional information on the institutional history and practice. In addition, the Office was invited to develop further the option of a new constitutional amendment. No specific proposals were put forward by constituents during the consultations.
15. On 30 May 2024, the Office circulated a background note for the second round of consultations. This note addressed the legal basis and institutional rationale underlying the “pragmatic approach”. The note provided detailed replies to the legal questions raised during the first round of consultations. In addition, the Office presented the results of its research on the evolution of voting practices in the Governing Body and provided clarifications on the implications of the arrangements for the Employers’ and Workers’ groups in the Governing Body to ensure that the 2:1:1 ratio between the respective voting power of the Government, Employers’ and Workers’ groups would be maintained. The cost implications were also clarified and explanations were provided on the total number of members of the Governing Body that would result from the entry into force of the 1986 Amendment. In addition, the note presented specific information on the option of a new constitutional amendment, including details on the procedure and time frame for adopting it.
16. On 1 July 2024, in response to specific queries received from some Governments, the Office prepared and circulated additional information regarding the constitutionality of the proposed referral of the outcome of the Director-General’s election to the Conference for approval pending the entry into force of the 1986 Amendment.
17. The second round of consultations was held on 3 July 2024. As no ideas, options or proposals had been received from constituents, the discussions continued to focus on the three options presented by the Office. On the whole, the participants reiterated their support for the democratization of the ILO’s governance, which the majority considered should be achieved through the entry into force of the 1986 Amendment. Most participants were of the view that the adoption of interim measures should be done in parallel with continued efforts to promote the entry into force of the 1986 Amendment. A number of participants continued to express doubts on the legality of the “pragmatic approach”. Other participants considered that it should be pursued, provided that there was clear and solid support from governments (some participants referred to “unanimous support”). There was some support for adopting a resolution in 2025 concerning the “pragmatic approach”, together with the continued promotion of the 1986 Amendment. Some participants considered that the adoption of a new instrument of amendment would be more legally sound than the “pragmatic approach”, which would in any event be formalized in a Conference resolution with less weight than a constitutional amendment. Other participants considered, on the contrary, that the proposed new instrument of amendment would be a step backward, as it would not include all the measures set forth in the 1986 Amendment, in particular, the elimination of the category of Members of chief industrial importance. Furthermore, there were questions as to whether the Member States that had ratified the 1986 Amendment and the Members of chief industrial importance would be in a position to ratify such new amendment. It was also noted that in all likelihood it would take a long time before such an amendment could enter into force.

- 18.** In accordance with the Governing Body's decision at its 350th Session (March 2024), the Office has summarized below the key elements of the two alternative options. Both options aim at enabling the ILO to implement significant measures for the democratization of its governance, given the difficulties in achieving the entry into force of the 1986 Amendment. Both options also aim at bringing the Governing Body closer to the structural design provided for in the 1986 Amendment, in terms of the number of members and substantive decision-making power. Neither of these options seeks to eliminate the ten non-elective seats. Both options would require coordinated decisions from the Conference and the Governing Body and consequential amendments to the Standing Orders of the Conference and the rules applicable to the Governing Body. Each option would have the same financial implications resulting from the election of ten additional deputy members (five each for the Employers' and Workers' groups).

A. Granting voting and other rights to the deputy members of the Governing Body pending the entry into force of the 1986 Amendment

- 19.** This option consists in a "pragmatic approach" of adopting interim arrangements under which the regular members of the Governing Body would agree:
- (a) to grant deputy members the same rights as regular members, including the right to vote; and
 - (b) to submit to the Conference the appointment of the Director-General by the Governing Body for approval.
- 20.** It is proposed that the adoption of these arrangements be implemented through:
- (a) a solemn and consensual Conference resolution that would invite the Governing Body to consider as promptly as practically feasible the adoption of the interim arrangements; and
 - (b) a consensual decision by the Governing Body adopting the arrangements recommended by the Conference for the duration of its term of office.
- 21.** Deputy members of all three groups would be granted the same rights to participate in the work of the Governing Body as those enjoyed by regular members, including the right to vote, the right to call for a vote by blocking consensus and the right to move resolutions, amendments and motions. The Governing Body, as a constitutional organ of the ILO, would fulfil all its responsibilities and functions based on the participation of both the regular members and the deputy members in the decision-making process, including the functions set forth in the Constitution (for example, the appointment of the Director-General, the setting of the agenda of the Conference and the approval of report forms for Conventions).
- 22.** While the rights would be granted to the deputy members of all three groups, the implications would differ between the Government group on the one hand and the Employers' and Workers' groups on the other. The rights would be granted to all 28 Government deputy members. With respect to the Employers' and Workers' groups, which each have 19 deputy members, the rights would be granted to 14 out of the 19 deputy members, so that the 2:1:1 ratio between the respective voting powers of the Government, Employers' and Workers' groups would be maintained.
- 23.** However, Employer and Worker members of the Governing Body serve in their individual capacity and do not have substitutes (unless they anticipate that they will be absent and nominate a substitute in advance). The Employers' and Workers' groups need deputy members to replace members who may be absent from the entire session or specific sittings without

having nominated a substitute. If 14 of the 19 deputy members are granted the right to vote, there will be only 5 deputy members left to replace any of the 28 voting members who might be absent. If the 1986 Amendment were to enter into force, the 28 regular members of each of the two groups would have 10 deputy members to replace them. Therefore, it would be reasonable to provide for the same number of deputy Employers' and Workers' members under the interim arrangements. This would require:

- (a) an amendment to article 55(2) of the Standing Orders of the Conference to increase the 19 deputy members to 24 for each of the Employers' and Workers' groups, which would be included in the same resolution inviting the Governing Body to adopt the interim arrangements; and
- (b) a decision of the Governing Body approving the cost implications arising out of the election of 5 additional deputy members for each of the two groups, given that their travel and subsistence expenses are to be covered by ILO funds, in accordance with paragraph 1.5.5 of the Standing Orders of the Governing Body. This would amount to approximately US\$85,440 per session.

During the consultations, the Workers' group stated that the increase in deputy members for the Employers' and the Workers' groups was a precondition for the group's support for the interim arrangements.

- 24. The option would not lead to the creation of two different categories of deputy members in the Employers' and Workers' groups – those with voting rights and those without. As is currently the case, the groups would continue to elect 14 regular members and 19 (or 24) deputy members. It would be for the groups to determine, autonomously at the time of any voting, which of the 19 (or 24) deputy members would cast the 14 deputy votes, taking into account that some of the deputy members may already be voting or exercising other rights in place of absent regular members.
- 25. As already indicated, the option would not eliminate the category of Members of chief industrial importance. In addition, the status of regular members could not be attributed to deputy members, directly or indirectly. The distinction between regular and deputy members would still be made at the time of Governing Body elections and throughout the three-year term of office. The distinction would remain necessary, as only regular members have the right to be elected as one of the Officers of the Governing Body under article 7(7) of the Constitution and the right to request in writing the convening of a special meeting under article 7(8). Indeed, both provisions refer to the individual representatives (and thereby the persons referred to in article 7(1)) rather than the Governing Body as an organ.
- 26. With respect to the legal feasibility, it is recalled that the category of deputy members is not provided for in the Constitution. Article 7 refers to 56 persons – namely, the regular members – and possible substitutes. The election of the deputy members by the Conference and their participation in the work of the Governing Body are based on the rules of procedure of each organ, which may be amended, as appropriate. Thus, the legal basis of the option would be an ad hoc decision of the regular members to fully associate deputy members in the Governing Body's decision-making by granting them voting and other rights. In addition:
 - (a) the arrangements would be anchored on a unanimous/consensual resolution of the Conference that would call for urgent action; while from a strictly legal point of view, the decisions to be taken by the Conference and the Governing Body would be adopted through consensus (and not unanimity), the unreserved support of tripartite constituents would be necessary to move ahead confidently with the proposal;

- (b) the arrangements would be implemented by a unanimous/consensual decision of the Governing Body in response to the urgent call of the Conference. It is proposed that the interim arrangements would be reaffirmed by the newly elected regular members after election, through a renewed commitment to fully associate deputy members in the decision-making process. This would be a further reflection of the fact that the deputy members would have voting rights conferred not by the Constitution but by a discretionary decision of the regular members;
 - (c) the Conference and the Governing Body would be acting within their constitutional powers to regulate their own procedures (articles 7(8) and 17(1) of the Constitution, respectively).
27. The interim arrangements under this option build on the progressive evolution of the status, role and responsibilities of deputy members of the Governing Body over the years.
 28. The introduction of deputy members as a distinct category from the regular members and substitutes was initiated by the Conference in 1921 and enacted by the Governing Body in 1923 to enable broader participation of members in the work of the Governing Body, in particular members from non-European countries. This rationale has been decisive in the consolidation of deputy members as a distinct category of members of the Governing Body.¹⁰
 29. In June 1951, the Conference decided that the Government electoral college would elect its deputy members in addition to its regular members (the deputy members of the Employers' and Workers' groups were already elected in practice at each Governing Body election).¹¹ The election of deputy members by the Conference represented a significant step, as it conferred upon those members the same institutional legitimacy as the regular members. Shortly afterwards, in March 1952, the Governing Body decided to amend its Standing Orders to enable deputy members to be appointed as titular members of the Committees of the Governing Body, in order to have enough members to be able to run committees simultaneously.¹² Therefore, the implementation of the option would constitute a further step in this process, which has evolved solely based on amendments to the rules of procedure of the Conference and the Governing Body, without a formal constitutional amendment.
 30. Since the early years of the Organization, article 7(1) of the Constitution has not covered the entire membership of the Governing Body, and the 56 persons provided for under that article have been referred to as the regular members of the Governing Body in the Standing Orders of the Governing Body and the Conference. Since the 1950s, all deputy members, just like regular members, have received their mandate directly from the Conference. The creation and consolidation of deputy members as a specific category of members of the Governing Body have allowed a significantly higher number of ILO constituents to be involved in the decisions taken by the Governing Body over the years and enhanced its representativeness. Deputy members have been participating fully in the deliberations of the Governing Body, and have also played a role in decision-making, for instance, by joining or blocking consensus¹³ or acting

¹⁰ [Resolutions concerning the constitution of the Governing Body, proposed by the Commission of Selection](#), International Labour Conference, Third Session, 1921, p. 863; see also, [Minutes of the 17th Session of the Governing Body](#), p. 71, and [Minutes of the 18th Session of the Governing Body](#), p. 37.

¹¹ At its 34th Session (1951), the Conference adopted the Report of the Committee on Standing Orders; see International Labour Conference, [Record of Proceedings](#), p. 244.

¹² See [Minutes of the 118th Session of the Governing Body](#) (March 1952), pp. 40, 105.

¹³ The existence of consensus is regularly ascertained on the basis of the entire membership without distinction being made between regular and deputy members. In fact, this *modus operandi* was codified in the "Special Arrangements" adopted for virtual meetings of the Governing Body during the COVID-19 pandemic for decisions by correspondence (see para 27(a) of

as titular members of the former committees of the Governing Body. The deputy members have become a second category of members of the Governing Body to which certain rights are attached independently from the regular members. These important developments in the composition and functioning of the Governing Body have taken place without being formalized in any amendment to the Constitution.¹⁴ This is perhaps an inevitable part of the institutional life of an international organization, and is certainly a sign of the resourcefulness required by an international organization to develop as an institution.

31. The arrangements are also inspired from the set of interim measures taken by the ILO in 1995 to increase the number of deputy members to bring the composition of the Governing Body as close as possible to the total number of seats provided for in the 1986 Amendment. This decision was made in light of the slow progress of its ratification.¹⁵
32. The second component of the option, the referral of the appointment of the Director-General by the Governing Body to the Conference for approval, corresponds to the revised article 8(1) under the 1986 Amendment. The negotiating history shows that this originates from certain Member States calling for the Director-General to be elected by the Conference because of the perceived lack of representativeness of the Governing Body. Implementing this procedure pending the adoption of the 1986 Amendment would require a corresponding amendment to the Rules governing the appointment of the Director-General.
33. With respect to the constitutionality of the proposed referral without a constitutional amendment, it is useful to consider the intent behind the proposed amendment to article 8(1) of the Constitution set forth in the 1986 Amendment. The proposed amendment does not affect the substance of the provisions of article 8 on the appointment of the Director-General by the Governing Body and the exercise of his or her duties "subject to the instructions of the Governing Body". Instead, it consists in adding a provision on the submission of the appointment of the Director-General by the Governing Body to the Conference for approval. During the negotiations of the 1986 Amendment, no constituents disputed the need for the Director-General to enjoy the confidence of the Governing Body, with which he or she engages more continuously than with the Conference, which only meets once a year. An agreement was reached on a proposal which consisted in: (i) reaffirming that, in accordance with article 8 of the Constitution, the appointment of the Director-General is made by the Governing Body,

the [November 2020 arrangements](#) and para 27(a) of the Appendix of the [arrangements for March 2021](#)). The capacity of deputy members to block consensus is also reflected in the [Minutes of the 340th Session](#) (October–November 2020), paras 246, 254. In the past, the Governing Body frequently put to a vote a series of ordinary matters, such as the agenda of the Conference, the arrangements for Regional Conferences, agreements with other international organizations, the establishment of consultative relationships with NGOs and the adoption of the reports of its committees. Those votes were held either in the plenary or in the committees; for example, the Committee on Industrial Committees voted regularly (11 votes from 1954 to 1957, 50 votes from 1957 to 1960, 11 votes from 1960 to 1963 and 13 votes from 1963 to 1966). Similarly, the Financial and Administrative Committee held 9 votes in the period 1957–60 and 5 votes in the period 1960–63.

¹⁴ When the Conference amended the Constitution to increase the number of persons on the Governing Body under article 7(1), the question of formalizing the status of deputy members in the Constitution was not addressed. Rather, it was considered that the status and role of deputy members pertained to the rules of the Governing Body and the Conference. Thus, at the 36th Session (1953) of the Conference, during the discussions on a draft instrument for the amendment of the Constitution to increase the membership of the Governing Body, concerns regarding the role of the "deputy members" on the Governing Body were raised. Some governments indicated that they would abstain from voting on the proposed amendment, unless "agreement was reached leading to a reduction in the number of deputy members". The majority of the members of the Committee rejected this proposal, stating that the matter of deputy members was "one for consideration by the Governing Body", "since it is not dealt with in the text of the Constitution but only in the Standing Orders"; see Record of Proceedings, [Appendix XI: Composition of the Governing Body](#).

¹⁵ The Conference adopted the recommendation of its Standing Orders Committee; see [Report of the Standing Orders Committee](#), 82nd Session, 1995, p. 11/1.

from which the Director-General would receive instructions and to which he or she would be primarily responsible; (ii) supplementing these arrangements by “an additional constitutional procedure providing that the Governing Body should submit this appointment to the Conference for approval”.¹⁶ The Legal Adviser considered at the time that the proposal left open the question of whether a constitutional amendment was required. However, “to eliminate any ambiguity concerning the text proposed ..., it could in fact be interpreted as requiring constitutional change”.¹⁷ The amendment to article 8 was made in the interest of legal clarity and reaffirmed the constitutional authority of the Governing Body. Yet, it appeared possible at the time that the same objective could be attained without a constitutional amendment. That is what the option would seek to achieve, without affecting the constitutional authority of the Governing Body in relation to the Director-General. In the unlikely event that the Conference did not approve the appointment, it would be sent back to the Governing Body for decision on the follow-up to be taken.

34. To sum up, it is recalled that the arrangements included in the option would be temporary, both legally and politically. They would be temporary from a legal point of view because it is proposed that the granting of voting rights to deputy members would be decided by the regular members for the duration of a term of the Governing Body and a new decision would have to be taken after each Governing Body election. Politically, the assumption is that the 1986 Amendment will come into force in the foreseeable future and will definitively replace all interim arrangements – those of 1995 as well as the proposed additional arrangements, if adopted. Because of the temporary nature of the arrangements, it would be logical to suspend any incompatible provisions of the Standing Orders of the Governing Body, instead of formally amending them. However, should constituents prefer to amend rather than suspend the Standing Orders, such amendment would require the adoption of a corresponding decision by the Governing Body. As already underlined, two amendments would in any event be required: an amendment to article 55(2) of the Standing Orders of the Conference to increase the number of deputy members for the Employers’ and Workers’ groups, and an amendment to the Rules governing the appointment of the Director-General set forth in Annex III to the Compendium of the rules applicable to the Governing Body. It would also be useful to add a short paragraph to the Introductory Note to the Standing Orders explaining the reasons for the granting of voting rights to deputy members and the process through which it was implemented.
35. Should the Governing Body decide to implement at any point the interim arrangements under this option, various steps would need to be taken. In particular, the Governing Body would have to transmit to the Conference a draft resolution whereby the Conference would (i) call upon the Governing Body to consider adopting as early as possible the relevant interim arrangements and (ii) decide to amend article 55(2) of the Standing Orders of the Conference. Consideration of the resolution would not require a corresponding item to be placed on the agenda of the Conference.¹⁸ At the same session, the Governing Body would have to approve the financial implications of the appointment of ten additional deputy members. If the resolution were to be adopted by the Conference, at the same session of the Conference, the Employer and Worker electoral colleges would meet to each elect five additional deputy members. Subsequently, the Governing Body would have to: (i) decide, for a certain period, to grant voting rights and other rights to 56 deputy members and to refer the appointment of

¹⁶ Report of the Third Meeting of the Working Party on Structure, 28 April – 3 May 1975, p. 30.

¹⁷ Report of the Third Meeting of the Working Party on Structure, p. 21.

¹⁸ GB.350/PV, para. 300.

the Director-General by the Governing Body to the Conference for approval; (ii) suspend the provisions that are incompatible with the new arrangements for the same period; and (iii) request the Director-General to prepare draft amendments to the Rules governing the appointment of the Director-General.

B. Increasing the number of regular members of the Governing Body through a new constitutional amendment

- 36.** This second option consists in formally amending two provisions of the Constitution: article 7(1) to increase the membership of the Governing Body to 112 persons (56 representing governments, 28 representing employers and 28 representing workers); and article 8(1) to provide for the submission of the appointment of the Director-General by the Governing Body to the Conference for approval.
- 37.** Procedurally, the amendments would be undertaken in accordance with article 36 of the Constitution and articles 66 to 67 of the Standing Orders of the Conference and would involve the following stages:
 - (a) inclusion by the Governing Body in the agenda of the Conference of the proposed amendments at least four months before the opening of the session at which they are to be considered;
 - (b) submission by the Office to the Conference of the draft amendments in accordance with the decision taken by the Governing Body defining the subject matter in respect of which the amendments are proposed, including the provisions of the Constitution concerned;
 - (c) referral by the Conference of the draft amendments prepared by the Office to a committee to report to the Conference (most likely the General Affairs Committee);
 - (d) referral to the Drafting Committee of the Conference of the draft amendments adopted by the Conference committee, for inclusion in an instrument of amendment to be prepared and formally approved by the Drafting Committee;
 - (e) separate adoption by the Conference of each amendment by consensus or, in the absence of consensus, by a two-thirds majority of the votes cast;
 - (f) final vote on the adoption of the draft instrument of amendment in accordance with article 36 of the Constitution requiring a two-thirds majority of the votes cast.
- 38.** The constitutional amendment would eliminate the distinction between the regular members and deputy members for the Government group, which would henceforth elect 46 regular members (56 members minus the 10 permanent members). The category of deputy members would only apply to the Employers' and the Workers' groups, each of which would have ten deputy members. The constitutional amendment would not seek to abolish the ten non-elective seats.
- 39.** The number of regular members of the Governing Body has already been increased four times through constitutional amendments, which were adopted by the Conference and ratified by the required qualified majority of Member States.¹⁹ An instrument was adopted in 1922 to increase the regular members from 24 to 32 (16-8-8); in 1953 to increase the regular members

¹⁹ Under article 36 of the Constitution, amendments to the Constitution are adopted by a majority of two thirds of the votes cast by the delegates present and they take effect when ratified or accepted by two thirds of the Member States, including five of the ten Members of chief industrial importance.

to 40 (20-10-10), in 1962 to increase the regular members to 48 (24-12-12) and in 1972 to increase the regular members to 56 (28-14-14). Following the gradual increase in the membership of the Organization, each of these amendments increased the number of regular members by 8 (an additional 4 Government members, 2 Employer members and 2 Worker members). A new constitutional amendment to double the number of Governing Body members from 56 to 112 would mark the most significant increase in the Governing Body's membership since the creation of the ILO.

40. Adopting a new instrument of amendment of the Constitution would represent a clear and direct manner to double the Governing Body membership from 56 to 112, and in so doing, grant voting rights to 112 members instead of the current 56 members. It would follow a line of precedents whereby article 7(1) of the Constitution was amended to enhance the representativeness of the Governing Body. A new constitutional amendment would be legally straightforward, in full conformity with the procedure set forth in article 36 of the Constitution and articles 66 and 67 of the Standing Orders of the Conference, and thus unlikely to be questioned on constitutional or procedural grounds.
41. In accordance with article 36, the instrument would enter into force after having been ratified by two thirds of the Members of the Organization, including five of the ten Members of chief industrial importance. Nevertheless, it would inevitably take some time for a new constitutional amendment, however well-prepared and consensually adopted, to enter into force. While the 1953, 1962 and 1972 amendments took only one to two-and-a-half years to enter into force, the latest constitutional amendment on the abrogation of obsolete Conventions took effect 18 years after its adoption.
42. The proposed new instrument of amendment could include a final provision under which the 1986 Amendment would, upon its entry into force, supersede the later instrument. If it had not yet entered into force, the later instrument would then be closed to further ratification or acceptance, or, if it had already entered into force, it would cease to produce any legal effect.
43. The constitutional amendment would be supplemented with consequential amendments to the Standing Orders of the Conference and the Governing Body. The cost implications would relate to the travel and subsistence expenses of ten additional members of the two non-governmental groups and would be the same as under the first option: approximately US\$85,440 per session.
44. Regarding the possible time frame for implementation, the adoption of the draft text of a new constitutional amendment, including the draft consequential amendments to the Standing Orders of the Conference, should be uncontroversial, but two aspects relating to its placement on the agenda of the Conference and the timing would also have to be taken into account. First, under article 5.1.1. of its Standing Orders, the Governing Body must hold two discussions before it can decide to place an item on the agenda of the Conference, unless there is unanimous consent of the members present. Second, under article 66(1) of the Standing Orders of the Conference, the inclusion in the agenda must be decided at least four months before the opening of the session of the Conference at which the amendments to the Constitution are to be considered.

► Conclusions

45. In view of the persistent difficulties regarding the entry into force of the 1986 Amendment, this document proposes two alternative options to permit the implementation of some but not all

of the arrangements set out in the 1986 Amendment pending its entry into force. While one of the key features of the 1986 Amendment, the elimination of the ten non-elective seats, would remain outside the purview of the two alternative options, both would double the number of Governing Body members with decision-making powers (from 56 to 112).

- 46.** The Office has elaborated the different aspects of the options and sought to provide exhaustive answers to the questions raised. The alternative options are submitted to the Governing Body for decision. Given that the two rounds of tripartite consultations have not proved conclusive, the Office also proposes that the Governing Body resume its consideration at a later session. In any event, the Governing Body is invited to request the Director-General to continue the promotion of the ratification of the 1986 Amendment, which currently remains the only option which enjoys general support.

► Draft decision

- 47. The Governing Body requested the Director-General to:**

- (a) **Continue to use all means within his authority for bringing about the entry into force of the 1986 Instrument of Amendment to the Constitution of the ILO;**

Option 1

- (b) **prepare, pending the entry into force of the 1986 Amendment, a proposal for further consideration and decision-making at its 353rd Session (March 2025) on granting voting and other rights to deputy members of the Governing Body and referring the appointment of the Director-General by the Governing Body to the Conference for approval, in view of the possible transmission of a draft resolution to the International Labour Conference at its 113th Session (2025).**

Option 2

- (b) **prepare, pending the entry into force of the 1986 Amendment, a proposal for further consideration and decision-making at its 353rd Session (March 2025) on a new constitutional amendment to increase the number of Governing Body members from 56 to 112 and to refer the appointment of the Director-General to the Conference for approval, in view of its possible inclusion on the agenda of the 114th Session (2026) of the International Labour Conference.**

Option 3

- (b) **pursue, pending the entry into force of the 1986 Amendment, consultations with the tripartite constituents with a view to resuming, at a later session of the Governing Body, the examination of possible alternative options to advance the full, equal and democratic participation of constituents in the ILO's tripartite governance, including the two alternative options outlined in paragraphs 19–44 of document GB.352/INS/7.**