

**Working Party on the Functioning of the Governing Body
and the International Labour Conference**

**Informal tripartite consultations
Geneva, 11–12 February 2010**

Issues paper

Working Party Issues paper

(For informal consultations 11–12 February 2010)

1. The discussions and positions expressed confirm that there is a general consensus about the roles and functions of the ILO's Governing Body (GB) as established by the ILO Constitution or assigned by the Conference.¹ No proposals have been presented on reviewing roles and functions. The suggestions which are compiled and reviewed in this paper concern the functioning of the GB.
2. The proposals are organized by four main chapters: (I) GB structure, the committees' function, meeting frequency and agenda setting; (II) Decision-making, transparency and Office support to tripartite constituents (particularly the Government group); (III) Documentation; and (IV) Time management and the administration of meetings. Within each chapter, the Office has followed, in general, the order of presentation within the Working Party, at the November 2009 session. The numbering has been introduced to facilitate references to respective proposals during the next phase of the consultations.

I. Structure, committees' function, frequency and agenda setting

Proposals:

Office comments:

A. Government group:

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1. *(General comment concerning the main issues to be considered by the WP):* (a) establishment of agendas, time management and administration of meetings; (b) timely availability of documents; (c) status of committees and their role, function and frequency; (d) transparency of decision-making; and (e) Office support to the functioning of the Government group.

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B. IMEC:

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1. The current committee structure should be revamped to align with the four strategic objectives.
 2. The **PFAC** would continue in its current role.
 3. **TC** issues relevant to each strategic objective could be taken up in the respective committee, while TC management/governance issues be addressed in the PFAC.
 4. Not all committees need to meet at every GB session. STM or MNE could be reduced to one meeting per year.
 5. LILS and ESP should continue to meet twice a year. They should focus on topical issues or issues which call for GB action.
 6. **ESP**: Employment and social protection could be dealt with separately, in March and November (this arrangement should still allow some flexibility).

It should be clarified whether this implies a committee for each strategic objective or achieving this aim through a more cohesive process of setting and following through the agendas.

The PFAC is a statutory committee.

This calls for discussing whether the TC Committee is necessary or can TC be dealt with in another way. (See also proposal G.4.)

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This is a question of agenda setting. (See also proposals C.1 and G.3.)

¹ See Appendix III, GB.306/WP/GBC/1.

I. Structure, committees' function, frequency and agenda setting

Proposals:

Office comments:

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| 7. No two major committees (such as LILS and ESP) should meet at the same time. | This is the current practice. But as no committee can meet parallel to the PFAC, it is difficult to shorten significantly the committee week. |
| 8. The WP/SDG should have a clear agenda and be more focused. | – |
| 9. Budget discussions (the next time in 2011) should be planned around a four-day debate. | This will be taken into account when planning for the March 2011 GB session. (See also proposals C.3 and G.7.) |
| 10. Shortening the March and November GB meetings by one day has shown itself to be feasible. | There is a potential for time pressure on Thursday afternoon. |
| 11. Except the PFAC and LILS, committee agendas should generally include no more than three items (unless there is an urgent need to deal with an additional issue or issues). | Views differ on this proposal. |
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C. GRULAC:

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| 1. ESP : Separate the sessions between March and November. | (See also proposals B.6 and G.3.) |
| 2. More time should be foreseen for LILS . | Currently it is difficult to foresee more than two sessions of LILS at each GB. |
| 3. More time for debate is needed in the PFAC . Four days are needed for discussing the programme and budget for the next biennium. | (See also proposals B.3 and G.9.) |
| 4. The agendas of the various committees should be shorter, more focused, and have clear objectives for each item. | JUR : The authority to establish the agenda (both for the plenary and the committees) relies on the Officers (section 3.1.1 of the Standing Orders). |
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D. ASEAN:

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| 1. The establishment of a small interim committee should be explored, to meet after the November GB session, to decide on the ILC agenda (instead of reopening the discussion in March). | <i>The ILC agenda needs a double discussion, but the consultation process can be improved. New formal structures outside the GB meeting schedule would have to be tripartite, which has cost implications. JUR: See section 5 of the GB Standing Orders (5.1 to 5.4).</i> |
| 2. The number of agenda items presented for each GB should be reduced (limits could be set; items not requiring immediate attention could be referred to another session). | JUR : section 3.1.1 cited. |
| 3. A screening mechanism could be put in place to holistically assess the agendas for the GB and the ILC. | Currently the Officers of the GB approve its agenda. The GB approves the ILC agenda. The discussions on the recurrent items at the Conference should help with future ILC agenda setting. |
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E. Nigeria:

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| 1. Progressive pursuit of shortening the length of the GB (because it is becoming a problem for Governments which sponsor delegations and who are absent from their offices for long periods of time). | – |
| 2. The PFAC should consider a greater number of subcommittees on thematic issues, reporting to the main Committee. | The PFAC now has two subcommittees. Each subcommittee has cost implications. The Workers propose dropping the IT Subcommittee. |
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I. Structure, committees' function, frequency and agenda setting

Proposals:

Office comments:

F. Australia/New Zealand:

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| 1. Limit the GB plenary discussion to substantive items of strategic significance. Matters which simply involve the noting of the outcomes of other meetings, or are essentially procedural, could be handled out of session. | The focus on policy and strategy has been agreed in principle. Out-of-session reports (their role and modalities) need more discussion. See the Employers' proposals. |
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G. Workers:

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| 1. <i>(General comments):</i>
(a) Improvements should have as an objective to strengthen the governance role of the tripartite constituents over the Office.
(b) Improvements in governance also need to address the effective follow-up by the Office of decisions taken by the GB and the ILC.
(c) In light of the Social Justice Declaration, the structure and functioning of the GB and its committees should ensure that the four strategic objectives get covered in an adequate way.
(d) There should first be a brainstorming on what improvements are needed to ensure the coherence required by the Social Justice Declaration rather than a discussion in isolation on the length or frequency of committee meetings.
(e) The GB should become a forum for political discussion which should lead to clear guidance to the Office on future work, follow-up decisions and a means of effective control over the adequacy of the implementation thereof. | – |
| 2. CFA and LILS Committees should remain unchanged. | – |
| 3. ESP Committee: better balance between agenda items from the Employment and the Social Protection Sector (either within a session or between the March and November sessions). In light of the linkages between economic and social policies the agenda of the Committee should not be split. | (See also proposals B.6 and C.1.) |
| 4. TC Committee: the current mandate is relevant (but) there is little governance by constituents. It could be transformed into a subcommittee of the PFAC. Another option is to abolish it and have the issues discussed in the PFAC itself. This would allow all sources of funding to be reported into the PFAC. | (See also proposal B.3.) |
| 5. STM Committee: other important areas of social dialogue (labour administration and labour inspection, labour law, industrial relations) are currently not addressed in the STM. There is relevance to expand the mandate of the STM to address such issues. | The suggestion for transforming STM into a Committee on Social Dialogue was discussed in 2004, but the initial agreement to this effect was not followed up. |
| 6. MNE Subcommittee: should be maintained. It could be transformed into a committee in light of the increasing prominence of multinationals in the process of globalization. | (See also proposals B.9 and C.3.) |

I. Structure, committees' function, frequency and agenda setting

Proposals:

Office comments:

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| 7. PFAC Committee: indication that in budget years the PFAC might not take more than three days instead of five seems overly optimistic and runs the risk of undermining the oversight function of constituents on what is a key committee. Such an arrangement would become even less appropriate if the TC Committee becomes part of the PFAC. | – |
| 8. Building Subcommittee: at least until a decision is taken on the renovation, this Subcommittee should be maintained. | – |
| 9. IT Subcommittee: abolish it and take the issues up in the PFAC. | – |
| 10. GB (plenary):
(a) GB should become the place where policy discussions and appropriate guidance is provided to the Office. There should be more topics on the agenda that allow for the discussions of topical items for the world of work (without creating duplication with the committees).
(b) Policy discussion on the effect given to the Social Justice Declaration (including in relation to the follow-up to the ILC cyclical reviews) should become a regular item (once or twice a year).
(c) The follow-up to decisions of the ILC should take place in the GB in a more policy-focused way. | – |
| 11. Side events should as a rule not be organized during the GB. Exceptional proposals should be transmitted for approval to the Officers. | – |

H. Employers:

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| 1. No committees in the current sense. A GB could consist of two bodies of the whole, meeting sequentially: <ul style="list-style-type: none">– High-level policy body, to give effect to the SPF and ILO programme, ensure policy follow-up to matters arising from previous GB and ILC debates, give effect to the 2008 Declaration.– Oversight and implementation body, focused on implementation and impact, monitor budget expenditure and programme evaluations. | |
| 2. Within this concept: <ul style="list-style-type: none">– CFA would continue but its report would be adopted by the Oversight body;– activities regarding articles 24 and 26, handling of the DG's report and other matters would need to be considered;– Article 33 would be dealt with in the oversight committee, although the development of such a complaint could lie with the policy body;– WP/SDG could be convened where an issue warrants such a session;– LILS would be retained (although its agenda should be included in the wider reform discussion). | |
| 3. Not all GB sessions need to have the same length. The agreed agenda should determine its length. | – |

***JUR** (On H.1 and 2):*

This proposal may require some clarification from its authors. When they speak of "two bodies of the whole" they may not have in mind the format of the "Committee of the Whole" referred to by section 4.3 of the GB Standing Orders (in which even governments that are not represented on the GB may, under certain conditions, be given an opportunity to express their views). It would seem that the Employers rather refer to different "specialized" sittings of the Plenary. If this reading is correct, then there would be no particular legal difficulty to implement this proposal. Of course the GB Standing Orders should be amended, in particular as far as section 4.1 on PFAC is concerned. The distribution of the items to be considered by the different sittings of the GB is a matter within the authority of the Officers.

I. Structure, committees' function, frequency and agenda setting

Proposals:

Office comments:

4. Intersessional work may take place. Officers would have enhanced responsibilities vis-à-vis its agendas and working methods.

This is part of the question on what to do between sessions of the GB. Cost implications and modalities need to be clarified.
JUR: *This proposal would require amendments to section 2.3 of the GB SO.*

5. Genuine "information papers" should be agreed to by the Officers and be made available to GB members, but not form part of the agenda.

The role and modalities for out-of-session documentation need to be explored.
JUR: *Doubts on the legal value of these papers.*

I. Others:

1. All groups to hold preliminary consultations between the first and second discussions on the selection of items for the agenda of the Conference (*previous GB reform*).

Modalities and costs have to be clarified.

2. Holding meetings of two Committees at the same time should be avoided (*web forum*).

(See comment on proposal B.7.)

3. (*Recent practice*): grouping the agenda items by theme for the purpose of the GB plenary discussion (*non-paper*).

Present practice with the TOB (tentative order of business).

II. Decision-making, transparency and office support to tripartite constituents (including to the Government group)

Proposals:

Office comments:

A. IMEC:

1. For each and every representative from the social partners there should be an equal representation from Governments. Consultations and working groups established by the GB should always follow the format of 8:16:8 (or 4:8:4 or 1:2:1).

JUR: *This proposal touches upon one of the most fundamental ways of functioning of the ILO. First of all, a clarification is required. In the framework of the GB the composition of a committee – or subcommittee or working party – does not necessarily determine the distribution of voting power among the three groups. According to section 4.3.1 of the GB Standing Orders "The representatives of governments, employers and workers in the committees shall have an equal number of votes, unless the GB shall otherwise expressly determine". Therefore, even if a format, say 8:16:8, like the one chosen for the working party itself, is decided, this does not automatically change the distribution of the voting power among the groups, which remains regulated by the formula 1-1-1 (unless the GB otherwise expressly determines).*

The practice based on the formula 1-1-1 in committees – both at the Conference and at the GB – while under the Constitution the ratio in the plenary of the two bodies is 2-1-1, is a very ancient one. Its roots are to be found in the discussions at the 1919 Peace Conference. Within the relevant commission, the US delegation had strongly supported the view that even at the Conference level for final decisions, the three groups should have an equal number of votes (1-1-1) because the governments were sufficiently protected by the need to ratify Conventions (the proposal of the Italian delegation to have the Conventions directly entering into force after their adoption by the Conference had been rejected).

The final decision, as we know, was that the formula 2-1-1 was retained for both the Conference and the GB. Nevertheless, already at the First Session of the ILC in 1919, in Washington, Committees established by the ILC were to take decisions on

II. Decision-making, transparency and office support to tripartite constituents (including to the Government group)

Proposals:

Office comments:

- the basis of an equal number of votes attributed to the three groups (1-1-1). The same happened with the GB as of 1920 by the establishment of its Standing Orders Committee (2-2-2). Should the proposal – as understood by JUR – be retained, it would imply an amendment to the cited section 4.3.1 of the GB Standing Orders.*
2. Documents, including drafts, must be shared with Governments at the same time that they are shared with ACTRAV and ACT/EMP. Modalities need to be clarified. Should every draft be circulated to the regional coordinators? ACT/EMP and ACTRAV are part of the Office structure.
3. Improved consultation with Governments both through regional coordinators and directly (including Internet to communicate with non-Geneva-based Government representatives). Agreed.
4. Use of online discussion forums open to the tripartite constituents. Improvements in the ILO web site to facilitate information sharing. Agreed.
5. Clarification by the Office after each Governing Body committee discussion on how the views expressed by constituents will concretely be incorporated in the follow-up to each adopted decision point. Modalities need to be clarified.

B. GRULAC:

1. There should be more consultations with Governments and the regional groups before decisions are taken. Agreed.
2. Consultations with the regional groups on the content of the GB agenda as well as the expected results for each agenda item. **JUR:** One should keep in mind the responsibility of the GB Officers in this matter.

C. Africa group:

1. There should be greater involvement of Governments not only during consultations but also in the elaboration of documents and other projects. **JUR:** One should keep in mind the responsibility of the Office (section 5.5.5 of the GB SO). This proposal is hardly compatible with the constitutional position of the Office (article 10.2(a) of the ILO Constitution).

D. ASPAG:

1. Government members should have greater scope for early inputs into agenda setting, decision-making and policy implementation. Modalities need to be clarified.

E. France:

1. Greater coordination with the Government group. Could we think about a small secretariat responding to the specific needs of the Governments? This would not mean a structure such as ACTRAV or ACT/EMP, but a light one dedicated to and working in tandem with the Government group. Cost implications need clarification. The role and services of RELOFF are being re-examined for this purpose.

II. Decision-making, transparency and office support to tripartite constituents (including to the Government group)

Proposals:

Office comments:

2. (Eventual suggestion): institutionalization of a vice-chair representing the Government group.

***JUR:** From a legal point of view this proposal would imply an amendment to section 2.1.1 of the GB Standing Orders, which currently so reads: "2.1.1. The Officers shall consist of a chairperson and two vice-chairpersons chosen one from each of the three groups. Only regular members of the Governing Body may be elected Officers."*

F. Nigeria:

1. Representation of the Government group in the Office much akin to the existence of ACTRAV and ACT/EMP.

(See comment to proposal E.1.)

G. Workers:

1. Good functioning of the GB depends on joint communication with the group secretariats as well as the government regional coordinators. This communication should be improved.

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H. Employers:

1. Clear decision-making implementation and follow-up: decisions taken be captured and reported to the GB members, including identification of ILO responsible officers.
2. Enhance the engagement of the groups in the work of the GB so as to enhance the governance of the ILO.

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III. Documentation

Proposals:

Office comments:

A. IMEC:

1. Short, well-written, concise documents with executive summaries when required and with clear decision points.
2. Documents should be available at least 15 working days before the start of the GB.
3. If documents are not available by that deadline, consideration of the item should automatically be deferred to the next GB session. (Exceptions to this rule should include updates necessary to the proper consideration of an issue.)
4. Documents presented for information should generally not be discussed. Rather, once the committee has dealt with all the items for decision and if there is time remaining in the session the Chair may entertain requests for inquiries on such items.

There could be a requirement for executive summaries for all longer papers (c.f. ILC agenda proposals document).

(See also proposals B.2, E.1 and E.2.) Does this mean 15 days before GB or before the discussion? What is the real starting date for the GB? A distinction may be introduced between committee documents and GB documents. Some documents for the GB itself need, by nature, to be distributed later (e.g. the DG's Report, obituaries).

Depends on the item. Not everything can be postponed.

Depends on the item (e.g. discrimination report in LILS).

III. Documentation

Proposals:

Office comments:

B. GRULAC:

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| 1. A reasonable but limited number of pages for each document, with a summary to orient the debate. | Feasible but implying the establishment of an internal control mechanism. |
| 2. Documents must be available electronically, in the three working languages of the ILO, at least two weeks prior to the date foreseen for the discussion. | (See also A.2, and E.1 and E.2.) |
| 3. If documents are not available within this deadline, then the discussion should be postponed to the next meeting (unless a tripartite consensus is taken to the contrary, and only if the subject is of an urgent nature). | If one group is not ready, the item is already now regularly deferred. |
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C. Africa group:

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| 1. An executive summary for each document would be a first step towards reducing the volume. | – |
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D. ASEAN:

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| 1. The main body of documents should be limited to an agreed number of pages (depending on whether they are submitted for decision or debate and guidance). | – |
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E. Workers:

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| 1. As a rule documents should be made available 15 days before the start of the specific GB committee (as of now the rule is 15 days before the start of the GB). | (See also A.2 and E.2.) |
| 2. Key documents should be made available one month before the GB. | (See also proposals A.2 and B.2.) This may be difficult to conciliate with the need expressed below (E.3) to have “documents of high technical quality that rely on a good body of research and that contain policy options ...”. |
| 3. The discussion should not strictly focus on the reduction in the number and length of documents. Budgetary consideration, while important, cannot be the only criterion. The criteria should be what is needed to allow constituents to exercise their governance function: documents of high technical quality, that rely on a good body of research and that contain policy options for the consideration of constituents (something along the lines of the crisis document submitted to the ESP/WPSDG and GB in March 2009). | (See comment above.) |
| 4. The presentation of important papers should be sequenced (not all the papers at one session). | – |
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F. Employers:

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| 1. Clarification is needed of the process by which papers are classified “for decision”, “for debate and guidance” and “for information” and how points for decision are highlighted in the papers. | – |
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III. Documentation

Proposals:

Office comments:

G. Others:

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| 1. Reducing by one quarter the number and length of documents prepared for the GB (<i>adopted by the GB at its 286th Session</i>). | (<i>Adopted by the GB at its 286th Session.</i>) |
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IV. Time management and administration of meetings

Proposals:

Office comments:

A. IMEC:

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| 1. A maximum of five minutes for individual speakers (with the understanding that group statements could be longer). | <i>JUR: The acceptance of this proposal would require in principle an amendment to the GB Standing Orders, but could also be put in place under the authority of the chairperson under section 2.2.1 of the GB Standing Orders.</i> |
| 2. Governments must have the right to reply if specifically mentioned at any stage of a discussion including in the concluding remarks by the vice-chairs. | <i>JUR: The practice of the right to reply is well known at the Conference, where it is frequently used. The practice, which is not referred to in the Standing Orders of the Conference, stems from parliamentary customs. JUR's view is that it could be used in the GB without the need of any amendment to its Standing Orders. Nothing in the current GB Standing Orders forbids the chairperson to give the floor to a government after the concluding remarks of the vice-chairs. The chair should only make it clear that there is no reply to the orator who uses the right to reply.</i> |
| 3. GB should revert to meeting from 10 a.m. to 1 p.m. and 3 p.m. to 6 p.m. | This may be difficult because of the need for group meetings, including different Government groups. |
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B. GRULAC:

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| 1. Speaking time should be limited, for the interventions by countries, groups and the social partners, which could be from three to five minutes. The time should be strictly monitored by the respective chair. | – |
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C. Africa group:

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| 1. Efficient time management and the length of interventions continue to be a subject of concern. ILO might wish to adopt practices followed by other UN organizations which seem to have yielded results. | Examples of successful practices elsewhere need to be identified and examined. |
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D. Nigeria:

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| 1. Speaking time should be limited to a maximum of five minutes (with flexibility in particular for social partners when they have detailed inputs to put forward). | – |
| 2. Time should be allocated in advance for each committee (or agenda item) so that members will work towards that time. Once that time is up, the meeting is up. | Guidance is possible but a rigid rule might be counterproductive. |
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IV. Time management and administration of meetings

Proposals:

Office comments:

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3. Eliminating work completely on Sundays and limit it on Saturdays. During weekdays comfortable time (example: from 9 a.m. to 6 p.m.) so that members can be effective and have clear minds in their contributions.
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GB or its committees do not meet on Saturday or Sunday.

E. Workers:

1. (*Comment vis-à-vis proposals to limit speeches to three or five minutes*): in general, Workers and Employers speak once on each agenda item, while Governments have global, regional and individual country statements. Time might also be allocated equally to all three groups.
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F. Employers:

1. GB sessions should start on time.
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G. Others:

1. Chairpersons need to exercise more control on time management (*web forum*).
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