



Governing Body

350th Session, Geneva, 4–14 March 2024

Institutional Section

INS

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Eighth item on the agenda

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 International Labour Organization, with reference to the decision by the Governing Body at its 347th Session (March 2023) on the tripartite working group on the full, equal and democratic participation in the ILO's tripartite governance

Purpose of the document

This document provides an overview of the work of the tripartite working group on the full, equal and democratic participation in the ILO's tripartite governance (TWGD) and the adoption of its final report by the Governing Body at its 347th Session (March 2023). It also provides 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") and recent action taken to promote its ratification by the required number of Members of chief industrial importance and hence its entry into force. The Governing Body is expected to provide guidance on next steps and to discuss any other aspects of the process of democratization of the ILO's governance organs beyond the scope of the 1986 Amendment (see the draft decision in paragraph 19).

Relevant strategic objective: All.

Main relevant outcome: Enabling outcome B: Effective and efficient governance of the Organization.

Policy implications: None.

Legal implications: None.

Financial implications: None.

Follow-up action required: Depending on the guidance of the Governing Body.

Author unit: Office of the Legal Adviser (JUR).

Related documents: [GB.349/INS/INF/3](#); [GB.347/INS/6](#); [GB.347/PV\(Rev.\)](#); [GB.344/INS/9](#); [GB.344/PV](#); [GB.343/INS/4](#); [GB.343/PV](#); [GB.341/INS/9](#); [GB.341/PV](#); [GB.340/INS/18/1](#); [GB.340/PV](#); [GB.337/INS/12/1\(Rev.1\)](#); [GB.337/PV](#).

► Introduction

1. In the course of the preparation of the agenda of the 350th Session (March 2024) of the Governing Body, different groups made proposals for adding new agenda items on two closely interrelated matters, namely the democratization process of the ILO's governance organs and the review of selected aspects of the functioning of the Governing Body.
2. Following discussions at the tripartite Screening Group and a series of consultations among the Officers of the Governing Body, it was decided that two new agenda items would be included in the agenda of the 350th Session, one focusing on the ongoing efforts for the entry into force of the [Instrument for the Amendment of the Constitution of the International Labour Organisation, 1986](#) ("the 1986 Amendment") and the broader discussion of democratization of the ILO's governance structure, and the other on the identification of areas where the rules and practices of the Governing Body might need to be clarified or amended, as appropriate.¹ More concretely, with respect to the former item, the intention is to request guidance from the Governing Body on the way forward and on the form and time frame of any follow-up action.
3. This document was prepared in response to the request for an agenda item which would provide the opportunity, on the one hand, to take stock of the progress made thus far with respect to the ratification and entry into force of the 1986 Amendment and, on the other, to bring to the fore and debate additional challenges and avenues for advancing the goal of democratization of the ILO's governance structure and processes.

► The tripartite working group on the full, equal and democratic participation in the ILO's tripartite governance

4. In the light of the call of the International Labour Conference at its 108th Session (2019) to "definitively democratize" the functioning and composition of the governing bodies of the ILO,² the Governing Body, at its 337th Session (October–November 2019), decided to establish the tripartite working group on the full, equal and democratic participation in the ILO's tripartite governance (TWGD) to serve as a platform for focused dialogue and for developing further proposals based on the mandate below, in the spirit of the [ILO Centenary Declaration for the Future of Work](#).³
5. The TWGD was mandated to discuss, develop and present proposals to the Governing Body on the full, equal and democratic participation of the ILO's constituents in the Organization's tripartite governance by ensuring a fair representation of all regions and establishing the

¹ The other new agenda item is covered in GB.350/INS/9.

² [Resolution on the ILO Centenary Declaration for the Future of Work](#), para. 3.

³ GB.337/PV, para. 449, and GB.337/INS/12/1(Rev.1).

principle of equality among Member States.⁴ The TWGD held seven meetings and submitted three progress reports⁵ and, in March 2023, a final report⁶ to the Governing Body.

6. The TWGD's discussions focused primarily on the promotion of the ratification of the 1986 Amendment, the possible removal of obstacles to ratification and the necessary preparations for the effective implementation of the 1986 Amendment once it enters into force, which include consequential amendments to the relevant standing orders and the adoption or revision of regional protocols on the process for the distribution of seats for the purposes of Governing Body elections.⁷ The TWGD also discussed the role and functioning of the tripartite Screening Group and the Officers of the Governing Body with a view to rebalancing regional representation and rendering the coordination among governments more effective and influential.⁸ Furthermore, the TWGD received an oral presentation by the Government group Chairperson concerning the group's deliberations related to democratization beyond the 1986 Amendment, namely the strengthening of the Government group's voice in the ILO's tripartite structure, and the promotion of regional balance, transparency and inclusiveness in forums.⁹
7. With a total of 16 ratifications received since the adoption of the ILO Centenary Declaration for the Future of Work in 2019, significant progress has been made towards the entry into force of the 1986 Amendment. Only three more ratifications from among eight Members of chief industrial importance (Brazil, China, France, Germany, Japan, the 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. The TWGD's [resolution on the principle of equality among ILO Member States and fair representation of all regions in the ILO's tripartite governance](#), adopted by the International Labour Conference at its 109th Session (2021), sought to remove obstacles to ratification by declaring that the notion of "socialist" States of Eastern Europe referred to in article 7(3)(b)(i) of the 1986 Amendment is obsolete; called upon Member States, and in particular the Members of chief industrial importance, which have not yet ratified the 1986 Amendment to examine ratification as a matter of priority; and invited the Chairperson of the Governing Body to include in their annual report to the Conference a section on this topic.
9. In its final report, the TWGD reaffirmed that the entry into force of the 1986 Amendment was and should remain the priority in order to definitively democratize the functioning and composition of the governing bodies of the ILO, as stated in the resolution on the Centenary Declaration and called upon Member States, and in particular the Members of chief industrial importance that had not yet ratified the 1986 Amendment, to examine ratification as a matter of priority. The report noted that many Government members had expressed frustration about the fact that, in the absence of willingness from Members of chief industrial importance to accept the 1986 Amendment, the increasing number of ratifications from other Member States could not produce any practical effect. It further noted that there was a general sense among

⁴ [GB.340/PV](#), para. 345, and [GB.340/INS/18/1](#).

⁵ [GB.341/INS/9](#) and [GB.341/PV](#), paras 269–285; [GB.343/INS/4](#) and [GB.343/PV](#), paras 161–179; and [GB.344/INS/9](#) and [GB.344/PV](#), paras 317–335.

⁶ [GB.347/INS/6](#) and [GB.347/PV\(Rev.\)](#), paras 347–364. All documents related to the TWGD's work are available on a [dedicated webpage](#).

⁷ TWGD, [Fourth meeting, Summary record of proceedings](#).

⁸ TWGD, [Sixth meeting, Summary record of proceedings](#).

⁹ TWGD, [Seventh meeting, Summary record of proceedings](#).

TWGD members that the eight Members of chief industrial importance should take due account of the collective will of the 125 Member States that had already accepted the constitutional amendment and reconsider their position accordingly. Moreover, the TWGD expressed the hope that the Director-General would bring fresh ideas and invited him to approach the Members of chief industrial importance at the appropriate level. A call was also made to the employers' and workers' organizations from those Members of chief industrial importance that had not yet ratified the 1986 Amendment to join the efforts to promote its ratification through tripartite discussions within their respective countries.¹⁰

10. At the 347th Session (March 2023) of the Governing Body, the Co-Chairpersons of the TWGD stated that the desire to institute democratic governance in the Organization had become more urgent than ever before. Although only three further ratifications from the Members of chief industrial importance were needed for the 1986 Amendment to enter into force, none had made an immediate commitment to ratify. However, further engagement and dialogue could provide a stable, democratic space for the fair representation of all regions and establish the principle of equality among all Member States. A meeting had been planned at the European level to discuss the regional protocol, and other regions could consider doing the same.¹¹
11. During the discussion, the Employers' group, given that the way forward consisted of dialogue that considered the diversity of interests and aimed to reach a common understanding, proposed that the Director-General engage with the governments of the Members of chief industrial importance to obtain further clarification on the obstacles to the ratification of the 1986 Amendment. The Workers' group, frustrated that a small number of countries continued to impede the entry into force of the 1986 Amendment, urged the Director-General to provide new ideas and find new ways of persuading reluctant countries to ratify the Agreement and said that it would ask workers' organizations to step up their promotional efforts to convince the governments concerned to ratify.¹²
12. One group (the Africa group) urged all constituents to ratify the 1986 Amendment to prioritize the democratization of the ILO's tripartite governance and enable the Organization to realize its founding principle of promoting a more equal and sustainable world of work, and supported the proposal that Government group and regional group meetings could be used to engage in discussions with the Members of chief industrial importance.¹³ Other groups (the Asia and Pacific group and the Arab group), while considering that the entry into force of the 1986 Amendment would constitute a historic milestone, even if it would not realize the ultimate democratization of the Organization, encouraged the Office to prepare a plan on the way forward, which could include the bilateral engagement of governments who had yet to ratify, or special sessions involving regional offices.¹⁴ Another group (the Association of Southeast Asian Nations) said that, even if the 1986 Amendment entered into force, much work was needed to further promote democratization within the Organization.¹⁵ Lastly, a cross-regional group (the group of industrialized market economy countries) stated that it was committed to ensuring full, equal and democratic participation in the ILO's tripartite

¹⁰ GB.347/INS/6, paras 18 and 19.

¹¹ GB.347/PV(Rev.), paras 348 and 349.

¹² GB.347/PV(Rev.), paras 351 and 352.

¹³ GB.347/PV(Rev.), para. 350.

¹⁴ GB.347/PV(Rev.), paras 353 and 355.

¹⁵ GB.347/PV(Rev.), para. 356.

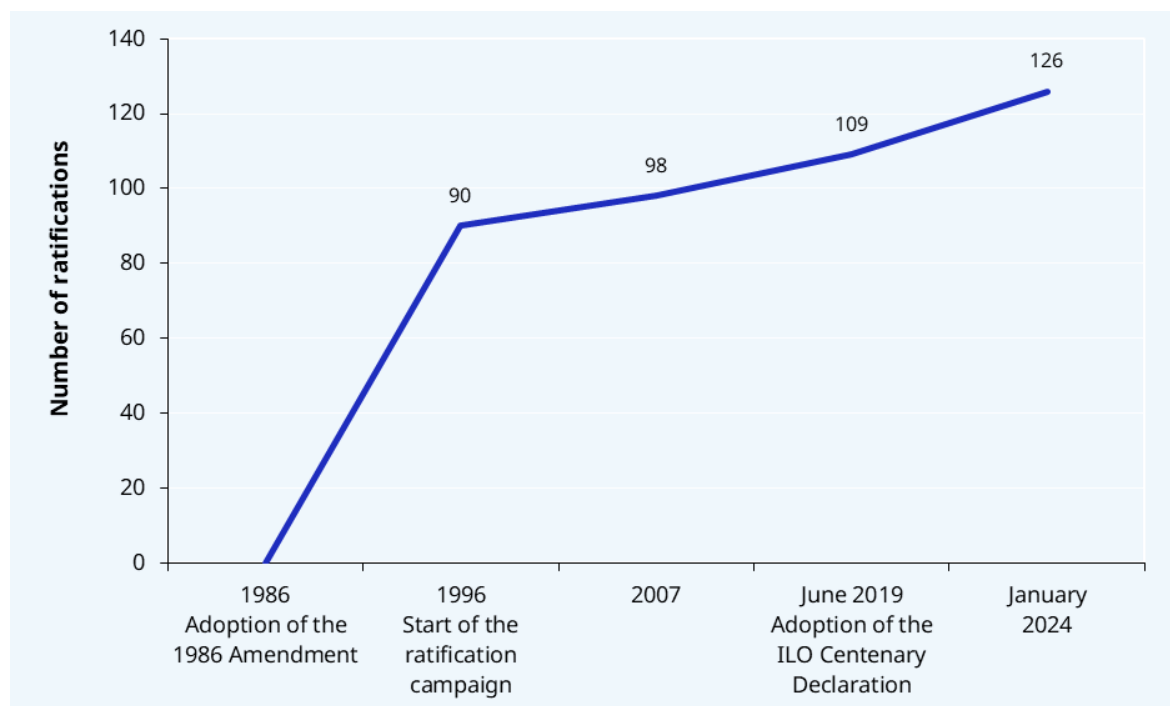
governance and would continue to support ongoing efforts to ensure inclusive, transparent and effective consultations and decision-making processes to definitively democratize ILO governance.¹⁶

13. The Governing Body took note of the final report of the TWGD and welcomed the significant progress made in the ratification of the 1986 Amendment since its establishment. It urged the eight Members of chief industrial importance which have not yet ratified the 1986 Amendment to consider favourably such ratification in the shortest possible time and requested the Director-General to take all necessary initiatives aimed at bringing the 1986 Amendment into effect and to keep the Governing Body updated in subsequent November and March sessions until the 1986 Amendment enters into force.¹⁷

► Update on the status of ratification of the Instrument for the Amendment of the Constitution of the International Labour Organisation, 1986

14. At its 349th Session (October–November 2023), the Office continued to provide updated information on the status of ratification of the 1986 Amendment.¹⁸ Since information was last provided, one new ratification (Azerbaijan) has been registered. As at 30 January 2024, the 1986 Amendment had been ratified by 126 Member States, that is, more than two thirds, or 67 per cent, of ILO Member States, including two from Members of chief industrial importance (India and Italy) (see figure 1).

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



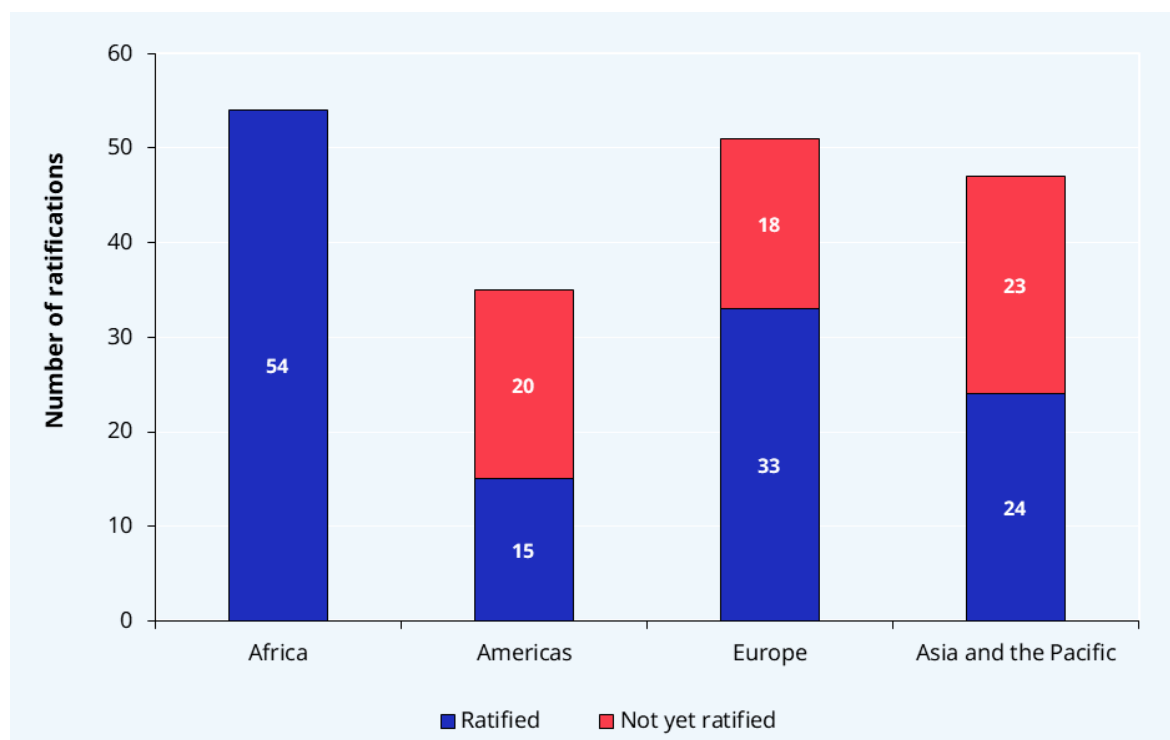
¹⁶ GB.347/PV(Rev.), para. 354.

¹⁷ GB.347/PV(Rev.), para. 364.

¹⁸ GB.349/INS/INF/3.

15. Africa continues to be the only region where all Member States have ratified the 1986 Amendment (see figure 2). The ratification rate in the other three regions 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 51 per cent in Asia and the Pacific (24 ratifications among 47 Member States).

► **Figure 2. Number of ratifications per region**



16. In response to the Director-General's letter of 8 November 2022,¹⁹ the Office received in March 2023 a letter from the Minister of Labour of Germany who informed the Director-General of his Government's availability, without relying solely on the entry into force of the 1986 Amendment, to work with all stakeholders in order to eliminate existing democratic deficits quickly and directly without giving rise to uncertainties about the composition of the Governing Body.
17. On 17 January 2024, the Director-General sent a new formal communication to the foreign ministers and labour ministers of the eight Members of chief industrial importance (Brazil, China, France, Germany, Japan, the Russian Federation, the United Kingdom of Great Britain and Northern Ireland and the United States of America) which have not yet ratified the 1986 Amendment. In his letter, the Director-General stated that the entry into force of the 1986 Amendment had become increasingly urgent and appealed for support for its ratification to ensure that the views of the vast majority of ILO Member States which have ratified the 1986 Amendment were respected and put into effect. He expressed his profound hope that the principle of respect for democratic process would result in the ratification of the 1986 Amendment. In view of his report to the current session of the Governing Body, the Director-General stressed the importance of receiving timely responses to his letter. At the

¹⁹ GB.347/INS/6, Appendix.

time of preparing this document, no responses had been received to the Director-General's letter.

18. The Office understands that a number of constituents are supportive of raising other concerns or presenting additional proposals aimed at pursuing the process of democratization of the ILO's governance organs, independent of the processes related to the 1986 Amendment. This could include the representation of regional groups on other governance mechanisms such as Governing Body committees. The Office is prepared to undertake further analysis, as may be needed, to inform continued consideration of this matter, taking into account the specific guidance, time frame and priorities set during the current Governing Body session.

► Draft decision

19. **The Governing Body is requested to provide guidance on the possible way forward and on the form and time frame of any follow-up action.**