

**FOR INFORMATION**

FOURTH ITEM ON THE AGENDA

Other legal issues**Resolutions in the International Labour Conference**

1. At the 296th Session (June 2006) of the Governing Body, in the discussion of questions arising out of the 95th Session of the International Labour Conference,¹ a document was requested regarding the main features of the procedures that apply to resolutions at the Conference.²
2. **Resolutions and their follow-up.** Resolutions adopted by the International Labour Conference represent decisions by the Organization to take certain action or to provide guidance on a given subject. While some resolutions require action,³ most have advisory effect. International Labour Conference resolutions may also have value as formal expressions of the will or opinion of member States on a given subject. Some are intended as a response to practical situations and specific needs while others may accompany conclusions following general tripartite discussions within a technical committee of the Conference.⁴
3. The procedure for receiving and considering resolutions is governed by the Standing Orders of the Conference. Since resolutions are distinct in nature from Conventions and Recommendations, resolutions are not subject to the provisions of article 14(2) of the Constitution relating to technical preparation and consultation that apply prior to the

¹ See International Labour Conference, 95th Session (Geneva, May-June 2006), *Provisional Record* No. 23, pp. 23/2 to 23/14, and *Provisional Record* No. 20, paras. 285, 306 and 327.

² It is recalled that at the outset of that session, the Conference had decided to suspend the application of article 17(3) of its Standing Orders to the extent that it refers to a Resolutions Committee, as well as suspending the application of paras. 4 to 10 of the same article. ILC, 95th Session, *Provisional Record* No. 6, p. 4.

³ For example, a resolution restoring the right of a member State to vote at the Conference has immediate effect.

⁴ See ILO: *Manual for drafting ILO instruments* (ILO, 2006), Appendix I, Summary description, Other ILO instruments, para. 3(b). The Manual is available online at <http://www.ilo.org/public/english/bureau/leg>.

adoption of a Convention or Recommendation. However, specific provisions apply in relation to resolutions that propose new activities or involve expenditures.⁵

4. While the reporting requirements laid down in articles 19 and 22 of the ILO Constitution are not applicable to resolutions adopted by the Conference, the Conference may request that reporting on implementation of the resolution be made.⁶ In general, the Governing Body examines a document relating to the effect to be given to resolutions adopted by the most recent session of the Conference, accompanied by the texts.⁷

5. **Types of resolutions.** As reflected in the different procedures applicable under the Standing Orders, resolutions at the Conference are of two main types: (a) those relating to an item placed on the agenda of the Conference as that item was determined by the Conference or the Governing Body;⁸ and (b) those relating to matters not included in the agenda of that session of the Conference. The second type may not be moved at a session of the Conference preceding the beginning of a biennial financial period, unless the resolution would be receivable under article 17, paragraph 2, of the Standing Orders, as further described below.⁹

(a) *A resolution relating to an item on the agenda* may be considered by the plenary of the Conference in any of these ways:

- (i) submission by a delegate upon two days' advance notice, in accordance with article 15, paragraph 4, of the Standing Orders;
- (ii) submission, by a committee established to consider and report on any matter, of a resolution that had been adopted by it in accordance with the procedure set out in article 63 of the Standing Orders. This submission to plenary is normally done immediately following adoption of the report of the committee.

(b) *A resolution relating to matters not included in the agenda* may be considered either through:

- (i) submission of a proposed resolution at least 15 days before the opening of the Conference at a session coinciding with the beginning of a biennial financial period, after which the resolution may be referred to the relevant Committee established to consider and report on any matter;¹⁰ or
- (ii) submission of a proposed resolution under the procedure set out in article 17, paragraph 2, of the Standing Orders. Under this provision, the President may, with the approval of the three Vice-Presidents, permit consideration of an otherwise non-receivable resolution on a matter that is not on the agenda of the Conference if the resolution relates either to urgent matters (popularly called "emergency resolutions") or to matters of an entirely formal nature.

6. **Consideration of resolutions.** Various procedural requirements govern the submission (who may do so, advance notice, etc.) and the possible deliberation of resolutions in the

⁵ See ILC Standing Orders, articles 17bis, 17ter and 18 for details.

⁶ See Constitution, articles 14, 19 and 22, and legal advice provided to the Committee, reported in *Provisional Record* No. 20/43, para. 285.

⁷ See GB.297/3 and GB.297/3/1 (Nov. 2006); GB.291/3 (Nov. 2004).

⁸ The procedure for the Governing Body to place an item on the agenda for purposes of standard-setting is set out in article 5.1 of its own Standing Orders.

⁹ ILC Standing Orders, article 17(1)(1) and article 17(2).

¹⁰ *ibid*, articles 8, 15(5) and 17(1)(1) and 3.

plenary and in committees. On the question of whether a resolution “relates to an item on the agenda” or not, legal advice provided upon request to the Conference or to a committee may draw attention to – among other appropriate considerations – the applicable provisions of the Standing Orders of the Conference; relevant precedents, if any; the terms employed in the designation of the item placed on the agenda of the Conference by it or by the Governing Body; and the wording used in the proposed resolution, including its purpose.¹¹ The Standing Orders do not specify the criteria for determining whether a resolution is “related to an item on the agenda”.

7. A resolution relating to the agenda item for which a committee was established by the Conference may be referred to that committee for consideration. In addition, a resolution may be proposed by a member of the committee during one of its sittings, in accordance with article 63 of the Standing Orders. This committee either implicitly (by addressing the proposed resolution directly) or explicitly (by voting on whether or not the committee should discuss it, a question which may be addressed under various procedural rules) decides whether or not the resolution is one relating to the agenda item in respect of which the committee was established. This decision is then confirmed by the Conference when it adopts the draft resolution submitted by the committee.
8. In all cases, before consideration of a resolution can begin in a committee or in the plenary, the resolution must be seconded if it has not been submitted by more than one delegate. It should be recalled that various motions as to procedure may be moved in relation to resolutions under article 15, paragraph 2, or article 63, paragraph 2(2), as applicable, of the Standing Orders of the Conference.
9. **Advance notice.** For resolutions proposed in the context of a committee, the time limits are set down in article 63, paragraph 4, of the Standing Orders:

Resolutions and amendments must be handed in to the secretariat of the committee before 5 p.m. to enable the resolution or amendment to be discussed at a meeting to be held on the following morning, [or] before 11 a.m. to enable the resolution or amendment to be discussed at the meeting to be held in the afternoon of the same day.

10. In practice, when establishing their plan of work, committees set somewhat different, and often earlier, time limits that are in the spirit of providing advance notice of what delegates have indicated they intend to submit to the committee. Such timetables are normally worked out in advance by the officers of the committee.
11. For the plenary, article 15, paragraph 4, of the Standing Orders provides that a resolution relating to an item on the agenda shall be handed to the secretariat of the Conference at least two days previous to being moved, and circulated not later than the day following its receipt.

¹¹ While not complete, the main elements of the legal advice provided at the 95th Session of the Conference in relation to resolutions are reflected in ILC, *Provisional Record* No. 20, para. 327, and No. 23, p. 13. The item placed on the agenda of the Conference in this context was “occupational safety and health”; see Resolution to place on the agenda of the next ordinary session of the Conference an item entitled “Occupational safety and health,” adopted on 15 June 2005, ILC, 93rd Session (2005), *Record of Proceedings*, resolutions adopted by the Conference, p. 12. As noted in the report of the Committee on Occupational Safety and Health, the item was placed on the agenda for purposes of a second discussion with a view to a Convention and a Recommendation. Standard-setting committees have in the past adopted draft resolutions in addition to draft instruments.

12. Adoption of a resolution. Wherever it is politically feasible as well as legally possible,¹² the Conference and its committees work to achieve a tripartite consensus, and this consensus is then reflected as the decision. In case of a vote, a resolution requires a simple majority for adoption, unless otherwise provided by the Standing Orders of the Conference or the ILO Constitution. In committees, resolutions on which a vote is taken are subject to the provisions of articles 63 to 66 of the Standing Orders; in plenary, the rules on voting set out in article 19 of the Standing Orders would apply. Once adopted by the Conference, a resolution constitutes a decision taken by the International Labour Conference.

Geneva, 20 October 2006.

Submitted for information.

¹² The Constitution and Standing Orders require a record vote of each delegate on specified matters.