



FIRST ITEM ON THE AGENDA

Possible improvements in the standards-related activities of the ILO: Proposals regarding submission to the competent authorities and the representation procedure

1. At its 288th Session (November 2003), the Governing Body considered a paper¹ that described, on the one hand, the constitutional provisions relating to the procedures for examining the action taken to give effect to instruments adopted by the Conference which have not been ratified (article 19) and the application of ratified Conventions (articles 24 and 26) and, on the other, practices adopted by the Governing Body on the basis of those provisions. The paper identified points which might and should be improved to ensure that these procedures and their follow-up function more smoothly, and contained proposals to that effect. In the light of the debate which took place in the Committee on Legal Issues and International Labour Standards, the Governing Body requested the Office to prepare a document that took into account all the opinions expressed during the debate and to propose concrete amendments, placing emphasis on the consensus that was reached.² That is the purpose of this document.
2. During the aforementioned debate, a consensus emerged with a view to considering possible amendments in two of the areas that were dealt with: the implementation of the obligation to submit standards adopted by the Conference to competent authorities (I) and the representation procedure with regard to the application of a Convention (II).

I. Implementation of the obligation of submission to competent authorities

3. During the discussions on the obligation of submission to competent authorities, a broad consensus was reached in favour of a revision of the *Memorandum concerning the*

¹ Document GB.288/LILS/1.

² Document GB.288/10/1 (paras. 2-31).

obligation to submit Conventions and Recommendations to the competent authorities (the Memorandum).

4. The Memorandum is a document that the Director-General sends to the governments of member States when communicating, with a view to submission to competent authorities, the texts of new instruments adopted by the Conference. It aims to help governments to discharge their obligations under article 19 of the Constitution and to facilitate the transmission by governments of the information requested along uniform lines.
5. An initial version of the Memorandum, adopted by the Governing Body in 1954 following a request by the Conference, was revised in 1958. The current version is the result of another revision undertaken by the Governing Body in 1980 to take into account subsequent developments. That is also the aim of the revision proposed here, given that a period of more than 20 years has elapsed once again since it was last revised.
6. The Memorandum comprises three parts: first, an introduction that reproduces the relevant provisions of the Constitution and contains information on the nature and use of the Memorandum; second, the body of the Memorandum, which draws upon extracts from reports by the Committee of Experts on the Application of Conventions and Recommendations and the Conference Committee on the Application of Conventions and Recommendations; and, third, a questionnaire for Members to use to provide the Director-General with the information requested on the measures taken to fulfil their obligation of submission to competent authorities. As is specified in its introduction, the Memorandum does not impose new obligations on member States in addition to those provided for in the ILO Constitution but is designed to draw their attention to comments of the Committee of Experts and of the Conference Committee on the Application of Conventions and Recommendations concerning the measures that appear necessary or desirable in order for Members to be able to discharge their obligations.
7. A draft text for the revised Memorandum is contained in Annex I. It consists essentially of updating the extracts from reports by the Committee of Experts on the Application of Conventions and Recommendations. In particular, it takes account of the following developments:
 - (a) the increased importance attached by the Committee of Experts to informing parliamentary assemblies;
 - (b) the effects of obligations under the Tripartite Consultation (International Labour Standards) Convention, 1976 (No. 144), given its high rate of ratification (110 to date) (a new Part VII has been added in this regard);
 - (c) the adoption by the Conference of Protocols beginning in 1982 although, as a legal matter, Protocols are Conventions, it seems helpful to mention them specifically given their peculiarities (see paragraph 9(b) below).
8. The developments mentioned in paragraph 7(b) and (c) also necessitate amendments to the questionnaire.
9. A new Part I on the aims and objectives of submission has been added. It notes, in particular, that the obligation of submission aims to promote the ratification of Conventions adopted by the Conference. The Committee of Experts has regularly recalled,

including recently,³ that the obligation to present instruments that are adopted to parliamentary bodies in no way infringes the freedom of the competent bodies of the State to decide whether or not to ratify a Convention. Submission should enable a decision to be made as to the ratification (or non-ratification) of the Convention, with a full understanding of the issue, as implied in article 19, paragraph 5(d) of the Constitution, which provides that: “if the Member obtains the consent of the authority or authorities within whose competence the matter lies, it will communicate the formal ratification of the Convention to the Director-General [...]”. When ratification is being contemplated, submission favours the implementation of the ratification procedure, notably in the following ways:

- (a) Although, under article 19, the competent authority is the parliamentary body, the other authorities involved in the ratification procedure may be informed as early as possible of the Member’s intention to propose ratification, in particular the authority empowered to ratify Conventions, which is usually the Head of State.
- (b) When the obligation of submission concerns a Protocol, there is reason to take into account the peculiarities of that kind of instrument: because a Protocol necessarily relates to an existing Convention, it can only be ratified at the same time as or after the Convention to which it relates. Consequently, when a Member submits to the competent authorities a Protocol to a Convention that it has not ratified, it would make sense for the submission to also include the text of the Convention to which the Protocol relates. This would not constitute resubmission of the Convention – which would mean the addition of a new obligation not provided for in the Constitution – but simply a clarification regarding the form of the submission of a Protocol.

10. *The Committee may wish to recommend to the Governing Body that it approve the revised Memorandum in Annex I, as amended, if applicable, by the Committee.*

II. The representation procedure

11. It is recalled that the representation procedure is determined by the *Standing Orders concerning the procedure for the examination of representations under articles 24 and 25 of the Constitution of the International Labour Organization*, adopted by the Governing Body in 1932 and revised most recently in 1980. Those Standing Orders are reproduced in Annex II, with the proposed amendments indicated.
12. During the discussions at the last session of the Governing Body, a consensus was reached on three points that might possibly lead to amendments to the representation procedure:
 - As regards the conditions for the receivability of representations, the notion of “industrial association” must be as clear as that used by the Committee on Freedom of Association.
 - As regards the possible “prescription” of certain matters which form the basis of a representation, the Governing Body might adopt a position similar to that of the Committee on Freedom of Association.

³ See, for example, *Report of the Committee of Experts on the Application of Conventions and Recommendations*, International Labour Conference, 92nd Session, Geneva, 2004, Report III (Part 1A), para. 86.

- As regards the problems concerning the repetitive nature of some representations, the Governing Body might postpone its examination of such representations until the Committee of Experts, which is responsible for the follow-up to the implementation of the decisions adopted by the Governing Body, has been able to examine the situation.

13. Furthermore, it is proposed that we take the opportunity to correct a terminological error in article 5, paragraph 1, of the French version of the Standing Orders.

A. **Receivability: The notion of an “industrial association”**

14. Under the terms of article 24 of the Constitution, a representation may be made “to the International Labour Office by an industrial association of employers or of workers”. Furthermore, the Standing Orders concerning the procedure for the examination of representations provide that, as a condition of receivability, the representation “must emanate from an industrial association of employers or workers”. However, neither the Constitution nor the Standing Orders include a definition or other clarification of the term “industrial association”.

15. Unlike the preparatory work of the Constitution, the preparatory work of the Standing Orders does give some guidance. An explanatory note by the Office accompanying the Proposed Standing Orders submitted to the Standing Orders Committee at the 56th Session (1932) of the Governing Body, includes, in particular, the following passages:

[...] The right to make a representation to the International Labour Office [...] is granted without restriction to any industrial association of employers or workers. [...]

No conditions are laid down as regards the size or the nationality of that association. It must, therefore, be concluded that the representation may be made by any industrial association whatever may be the number of its members or in whatever country it may be established. The industrial association may be an entirely local organization or a national or international organization. [...]

It is [...] obvious that the widest possible discretion should be left to the Governing Body in determining the actual character of the industrial association which makes the representation. The criteria to be applied in this connection by the Governing Body should [...] be those which have up to the present guided the general policy of the Organization and not those laid down by the national legislation of the States.⁴

16. In 1937, when the issue of the representing organization’s character as an industrial association first arose – in connection with a representation submitted by the Labour Party of Mauritius – the Governing Body added some clarifications:

[...] The Governing Body [has] the duty of examining objectively whether, in fact, the association making the representation is “an industrial association of workers”, within the meaning of the Constitution and the Standing Orders. [...] It is the duty of the Governing Body to determine in each case, independently of the terminology employed and of the name that may have been imposed on the association by circumstances or selected by it, whether the association from which the representation emanates is in fact an “industrial association of employers or workers” on the natural meaning of the words. In particular, when considering whether a body is an industrial association, the Governing Body cannot be bound by any national definition of the term “industrial association”. When an international Convention

⁴ Proposed Standing Orders concerning the application of articles 409, 410, 411, §§4 and 5, of the Treaty of Peace, International Labour Office, Standing Orders Committee (meeting of 15 October 1931).

uses a term so general as “industrial association” for designating a class of persons who may initiate an international procedure or to whom such a procedure applies, there is no ground for holding that this term may be interpreted for the purposes of the Convention otherwise than according to the meaning naturally belonging to it. Above all, it cannot be interpreted with reference to a particular State, according to the legislative or customary terminology of that State. [...]

[...] On the other hand, although the Governing Body, when deciding whether a body making a representation is or is not an industrial association, enjoys full discretion within the limits of the Constitution, and is not bound by the legislative or customary terminology of the State concerned, it must nevertheless, before it decides a representation to be “receivable”, be convinced that the association making it is, in fact, an “industrial association”.⁵

- 17.** The concept of an industrial association to which the Committee on Freedom of Association refers also has no strict definition. The relevant passages of the *Rules of procedure for the examination of complaints in violation of freedom of association* read as follows:

Receivability of complaints

34. *Complaints lodged with the ILO [...] must come either from organizations of workers or employers or from governments. Allegations are receivable only if they are submitted by a national organization directly interested in the matter, by international organizations of employers or workers having consultative status with the ILO, or other international organizations of employers or workers where the allegations relate to matters directly affecting their affiliated organizations. Such complaints may be presented whether or not the country concerned has ratified the freedom of association Conventions. The Committee has full freedom to decide whether an organization may be deemed to be an employers’ or workers’ organization, within the meaning of the ILO Constitution, and it does not consider itself bound by any national definition of the term. Furthermore, it does not consider as irreceivable complaints emanating from trade union organizations in exile or from organizations which have been dissolved.*

– *Receivability as regards the complainant organization*

35. *At its first meeting in January 1952 (First Report, General observations, paragraph 28), the Committee adopted the principle that it has full freedom to decide whether an organization may be deemed to be an employers’ or workers’ organization within the meaning of the ILO Constitution, and it does not consider itself bound by any national definition of the term.*

36. *The Committee has not regarded any complaint as being irreceivable simply because the Government in question had dissolved, or proposed to dissolve the organization on behalf of which the complaint was made, or because the person or persons making the complaint had taken refuge abroad.*

37. *The fact that a trade union has not deposited its by-laws, as may be required by national laws, is not sufficient to make its complaint irreceivable, since the principles of freedom of association provide precisely that the workers shall be able, without previous authorization, to establish organizations of their own choosing.*

38. *The fact that an organization has not been officially recognized does not justify the rejection of allegations when it is clear from the complaints that this organization has at least a de facto existence.*

39. *In cases in which the Committee is called upon to examine complaints presented by an organization concerning which no precise information is available, the Director-General is authorized to request the organization to furnish information on the size of its membership, its*

⁵ *Representation submitted by Dr. J. M. Curé on behalf of the Labour Party of the Island of Mauritius concerning the application of certain international labour Conventions in the Island, Report of the Committee of the Governing Body (adopted by the Governing Body at its 79th Session), ILO, Official Bulletin, Vol. XXII (1937), pp. 68-69, paras. 6-7.*

statutes, its national or international affiliations and, in general, any other information calculated, in any examination of the receivability of the complaint, to lead to a better appreciation of the precise nature of the complainant organization.

*40. The Committee will only take cognizance of complaints presented by persons who, through fear of reprisals, request that their names or the origin of the complaints should not be disclosed, if the Director-General, after examining the complaint in question, informs the Committee that it contains allegations of some degree of gravity which have not previously been examined by the Committee. The Committee can then decide what action, if any, should be taken with regard to such complaints.*⁶

- 18.** Some of the principles adopted by the Committee on Freedom of Association take direct inspiration from the principles developed by the Governing Body with respect to the representation against Mauritius cited in paragraph 16. Comparison of the two texts shows, however, that the principles of the Committee on Freedom of Association are more developed and that they include more specific elements of a definition than those of the Governing Body, although they are for the most part elements of negative definition, i.e. criteria that cannot be used to justify denial of the character of industrial association.
- 19.** The main difference between the two sets of principles is the restriction, in the principles of the Committee on Freedom of Association, of the number of national associations empowered to submit a complaint to those who can justify locus standi: national associations directly interested in the matter, international organizations of employers or of workers having consultative status with the ILO or other international associations of employers or of workers when the allegations relate to matters that directly affect those international organizations' affiliated associations.
- 20.** It does not, however, seem possible to introduce locus standi as understood by the Committee on Freedom of Association as a condition for the receivability of representations. Since such a condition is not provided for in the Constitution and would not be compatible with the principles developed by the Governing Body, cited in paragraphs 15 and 16, this would amount to adding an extra condition for receivability that does not stem from the notion of industrial association understood in the sense of the natural meaning of those words.⁷ A condition of that kind would restrict access to the right granted by the Constitution to any industrial association to have recourse to the representations procedure, regardless of its size or of the country in which it is based.
- 21.** On the other hand, there does not seem to be anything to prevent the Governing Body, when deciding on the follow-up to a receivable representation, from taking into account whether the association making the representation has a direct interest in the situation that is the subject of the representation. Indeed, as it is recalled in the 1932 note by the Office, cited in paragraph 15, "the terms [of the Constitution] themselves concerning the *discretion* which the Governing Body may exercise in communicating the representation to the Government against which it is made, or the *right* to publish the representation [...] show how great a measure of freedom is allowed to the Governing Body in taking its decision". The Governing Body could thus consider that, in the event that the association

⁶ Paras. 34-40 of the Procedures of the Fact-Finding and Conciliation Commission and the Committee on Freedom of Association for the examination of complaints alleging violations of freedom of association (*Digest of decisions and principles of the Freedom of Association Committee*, 4th edition, 1996, Annex I).

⁷ This is undoubtedly the reason why, in the procedure for the examination of complaints of violations of freedom of association, direct interest does not appear under the title "Receivability as regards the complainant organization" but in the preceding paragraph.

making the representation clearly had no relation with the matters on which it was based, there were no grounds for continuing with the procedure.

22. Given the above, no amendment to the Standing Orders appears necessary with respect to the concept of an industrial association. On the other hand, it would be possible to summarize the principles developed by the Governing Body and the above considerations in an introductory note to the Standing Orders.
23. A draft introductory note to the Standing Orders is contained in Annex III.

B. Prescription

24. The Committee considered that, as regards the possible “prescription” of certain matters which occurred a long time ago forming the basis of a representation, the Governing Body might adopt a position similar to that of the Committee on Freedom of Association. The principle adopted by that body is as follows:

*The Committee considers that, while no formal rules fixing any particular period of prescription are embodied in the procedure for the examination of complaints, it may be difficult – if not impossible – for a Government to reply in detail to allegations regarding matters which occurred a long time ago.*⁸

25. Articles 24 and 25 of the Constitution do not provide for prescription. It is therefore not conceivable to introduce a compulsory prescription period into the Standing Orders without first amending the Constitution. That being the case, the possible prescription of certain matters is not a question of receivability, but a preliminary question that arises during examination of the substance of a representation. Given the freedom accorded to the Governing Body when it considers the follow-up to take to a representation, nothing seems to prevent it from deciding not to take into account certain matters that it considers too distant in time for the Government concerned to reasonably be able to answer.
26. For these reasons, no amendment is proposed to the Standing Orders with regard to the matter of possible prescription. The option open to the Governing Body of applying the same principle as the Committee on Freedom of Association is however mentioned in the draft introductory note to the Standing Orders, contained in Annex III.

C. Repetitive nature

27. Successive representations based on the same matters or the same allegations can be considered to be of a repetitive nature. When the Governing Body has made its decision on the first representation based on those matters or allegations, the follow-up on the implementation of the Governing Body’s decisions is assured, in the framework of the regular system of supervision, by the Committee of Experts on the Application of Conventions and Recommendations. Consequently, with respect to any new representation on the same subject which might be made before the Committee of Experts has had the opportunity to examine the measures adopted by the Government concerned, it would be desirable to postpone the establishment of a tripartite commission charged with examining the representation pending the report of the Committee of Experts.

⁸ Procedures of the Fact-Finding and Conciliation Commission and the Committee on Freedom of Association for the examination of complaints alleging violations of freedom of association (*Digest of decisions and principles of the Freedom of Association Committee*, 4th edition, 1996, Annex I, para. 67).

28. In order to allow for that postponement, it is proposed to amend article 3 of the Standing Orders, by introducing a new paragraph 3 (see Annex II).

D. Correction of terminology in the French version of the Standing Orders

29. Lastly, an amendment is proposed to article 5, paragraph 1, of the Standing Orders, which applies to the French version only: the word “*représentation*” should be replaced with “*réclamation*”. This is simply a matter of correcting a translation error that was overlooked in the proposed revised Standing Orders submitted to the Governing Body in 1980, in order to bring the text back into line with the terminology of the Constitution (English: *representation*; French: *réclamation*).

30. *The Committee may wish to recommend to the Governing Body:*

(a) to adopt the proposed amendments to the Standing Orders concerning the procedure for the examination of representations under articles 24 and 25 of the ILO Constitution contained in Annex II;

(b) to approve the introductory note to the aforementioned Standing Orders contained in Annex III, as amended, if applicable, by the Committee.

Geneva, 11 October 2004.

Points for decision: Paragraph 10;
Paragraph 30.

Annex I

[Text proposed to be added is underlined and text proposed for deletion is ~~struck through~~.]

INTERNATIONAL LABOUR OFFICE
Geneva, [year]

**MEMORANDUM CONCERNING THE OBLIGATION
TO SUBMIT CONVENTIONS AND RECOMMENDATIONS
TO THE COMPETENT AUTHORITIES**

Article 19 of the Constitution of the International Labour Organisation

Paragraphs 5, 6 and 7 of article 19 of the Constitution of the International Labour Organisation, concerning the obligation to submit to the competent authorities the Conventions and Recommendations adopted by the Conference, are as follows:

“5. In the case of a Convention –

- (a) the Convention will be communicated to all Members for ratification;
- (b) each of the Members undertakes that it will, within the period of one year at most from the closing of the session of the Conference, or if it is impossible owing to exceptional circumstances to do so within the period of one year, then at the earliest practicable moment and in no case later than 18 months from the closing of the session of the Conference, bring the Convention before the authority or authorities within whose competence the matter lies, for the enactment of legislation or other action;
- (c) Members shall inform the Director-General of the International Labour Office of the measures taken in accordance with this article to bring the Convention before the said competent authority or authorities, with particulars of the authority or authorities regarded as competent, and of the action taken by them;

.....
6. In the case of a Recommendation –

- (a) the Recommendation will be communicated to all Members for their consideration with a view to effect being given to it by national legislation or otherwise;
- (b) each of the Members undertakes that it will, within a period of one year at most from the closing of the session of the Conference, or if it is impossible owing to exceptional circumstances to do so within the period of one year, then at the earliest practicable moment and in no case later than 18 months after the closing of the Conference, bring the Recommendation before the authority or authorities within whose competence the matter lies for the enactment of legislation or other action;
- (c) the Members shall inform the Director-General of the International Labour Office of the measures taken in accordance with this article to bring the Recommendation before the said competent authority or authorities, with particulars of the authority or authorities regarded as competent, and of the action taken by them;

.....
7. In the case of a federal State, the following provisions shall apply:

- (a) in respect of Conventions and Recommendations which the federal Government regards as appropriate under its constitutional system for federal action, the obligations of the federal State shall be the same as those of Members which are not federal States;
- (b) in respect of Conventions and Recommendations which the federal Government regards as appropriate under its constitutional system, in whole or in part, for action by the constituent states, provinces, or cantons rather than for federal action, the federal Government shall –

- (i) make, in accordance with its Constitution and the constitutions of the states, provinces or cantons concerned, effective arrangements for the reference of such Conventions and Recommendations not later than 18 months from the closing of the session of the Conference to the appropriate federal, state, provincial or cantonal authorities for the enactment of legislation or other action;
- (ii) arrange, subject to the concurrence of the state, provincial or cantonal governments concerned, for periodical consultations between the federal and the state, provincial or cantonal authorities with a view to promoting within the federal State coordinated action to give effect to the provisions of such Conventions and Recommendations;
- (iii) inform the Director-General of the International Labour Office of the measures taken in accordance with this article to bring such Conventions and Recommendations before the appropriate federal, state, provincial or cantonal authorities with particulars of the authorities regarded as appropriate and of the action taken by them;”

.....

In response to a request made by the Conference at its 36th Session (1953) and without prejudice to the authority of the International Court of Justice under article 37 of the ILO Constitution, the Governing Body of the International Labour Office established this memorandum in 1954, more particularly in order to assist Governments in carrying out their constitutional obligations in this field and to facilitate the communication along uniform lines of the information requested.

Following suggestions made by the Conference Committee on the Application of Conventions and Recommendations, the Governing Body amplified the text of the memorandum in 1958, and revised it in 1980 in order to take into account subsequent developments.

The memorandum does not impose new obligations on member States in addition to those provided for in the ILO Constitution, but is designed to draw their attention to comments of the Committee of Experts on the Application of Conventions and Recommendations and of the Conference Committee on the Application of Conventions and Recommendations concerning measures that appear necessary or desirable in the matter. It also contains a questionnaire with a view to obtaining information on the measures taken.

Members are requested to take into account, as far as possible and in the interest of the implementation of Conventions and Recommendations, the points given below and to supply information in reply to the questions listed at the end of this memorandum.

If the Committee of Experts or the Conference Committee on the Application of Conventions and Recommendations has requested additional information or has made an observation on the measures taken to submit Conventions and Recommendations to the competent authorities, please supply the information asked for or indicate the action taken by your government to settle the points in question in accordance with the requirements of the ILO Constitution.

I. AIMS AND OBJECTIVES OF SUBMISSION

- (a) The main aim of submission is to promote measures at the domestic level for the implementation of Conventions and Recommendations. Furthermore, in the case of Conventions, the procedure also aims to promote ratification.¹
- (b) In general, the aim of submission is to encourage a rapid and responsible decision by each member State on instruments adopted by the Conference.²
- (c) The obligation of submission is a fundamental element of the standards system of the ILO and compliance with this obligation should not create problems in a democracy. The

¹ See International Labour Conference (ILC), 64th Session (1978), Report III (Part 4A), General Report, para. 115.

² See ILC, 87th Session (1999), Report III (Part 1A), General Report, para. 221.

principal objective was, and still is, that the instruments adopted by the Conference are brought to the knowledge of the public through their submission to a parliamentary body.³

- (d) The obligation of submission reinforces the relations between the Organization and the competent authorities and stimulates the ratification of Conventions and tripartite dialogue at the national level.⁴

I. II. NATURE OF THE COMPETENT AUTHORITY

- (a) “The competent authority is the authority which, under the Constitution of each State, has power to legislate or to take other action in order to implement Conventions and Recommendations.”⁵
- (b) “The competent national authority should normally be the legislature.”⁶
- ~~(c) “Even when a legislative assembly exists, the executive or another body may be invested with power to legislate on certain subjects under constitutional provisions, or may exercise such powers by virtue of a general or special derogation granted by parliament. Sometimes the body concerned is itself a subordinate body of parliament. In such cases it would be desirable that Conventions and Recommendations should also be submitted to the legislative assembly itself in order to achieve the second objective of submission, that of informing and mobilising public opinion. Discussion in a deliberative assembly—or at least information of the assembly—can constitute an important factor in the complete examination of a question and in a possible improvement of measures taken at the national level; in the case of Conventions it might result in a decision to ratify.”~~
- (c) Even in cases where, under the terms of the Constitution of the Member, legislative power is held by the executive, it is in conformity with the spirit of the provisions of article 19 of the Constitution of the ILO and of practice to arrange for the examination of the instruments adopted by the Conference by a deliberative body, where one exists. Discussion in a deliberative assembly, or at least information of the assembly, can constitute an important factor in the complete examination of a question and in a possible improvement of the measures taken at the national level to give effect to the instruments adopted by the Conference.⁷ With respect to Conventions, it could possibly lead to a decision as to their ratification.⁸
- (d) In the absence of a parliamentary body, informing a consultative body makes it possible to carry out a full examination of the issues addressed by the Conference. This process ensures that the instruments are widely disseminated among the public, which is one of the purposes of the obligation of submission.⁹
- ~~(e)~~ (e) “In the case of instruments not requiring action in the form of legislation, it would be desirable – to ensure that the purpose of submission, which is also to bring Conventions and

³ See ILC, 89th Session (2001), Report III (Part 1A), General Report, para. 221.

⁴ See ILC, 92nd Session (2004), Report III (Part 1A), General Report, para. 85.

⁵ See ILC, 46th Session (1962), *Record of Proceedings*, Third Part, Appendix VI (*Report of the Committee on the Application of Conventions and Recommendations*, para. 39).

⁶ See ILC, 64th Session (1978), Report III (Part IVA), para. 122; ILC, 29th Session (1946), Report II(1): *Constitutional questions*, Part 1 (Reports of the Conference delegation on constitutional questions, Report II (Part 1), International Labour Conference, 29th Session, Montreal, 1946, para. 43).

⁷ See ILC, 88th Session (2000), Report III (Part 1A), General Report, para. 114.

⁸ See ILC, 64th Session (1978), Report III (Part IV), General Report, para. 124.

⁹ See ILC, 92nd Session (2004), Report III (Part 1A), General Report, para. 87.

Recommendations to the knowledge of the public, is fully met – to submit these instruments also to the parliamentary body.”¹⁰

H. III. EXTENT OF THE OBLIGATION TO SUBMIT

- (a) Article 19 lays down the obligation to place before the competent authorities *all* instruments adopted by the Conference without exception and without distinction between Conventions, including Protocols, and Recommendations.¹¹
- ~~(b) “On the other hand, the obligation of Governments to submit the instruments to the competent authorities does not imply any obligation to propose the ratification or application of the instrument in question. Governments have complete freedom as to the nature of the proposals to be made when submitting Conventions and Recommendations to the competent authorities.”~~
- (b) The obligation to submit is not completed until the instruments adopted by the Conference have been submitted to parliament and a decision has been taken by the competent authorities with respect to them.¹²
- (c) On the other hand, Governments have complete freedom as to the nature of the proposals to be made when submitting the instruments and on the effect that they consider it appropriate to give to the instruments adopted by the Conference. The obligation to submit the instruments does not imply any obligation to propose the ratification of Conventions and Protocols, or to accept the Recommendations.¹³

III. IV. FORM OF SUBMISSION

- (a) Since article 19 of the Constitution is clearly aimed at obtaining a decision from the competent authorities, the submission of Conventions and Recommendations to these authorities should always be accompanied or followed by a statement or proposals setting out the Government’s views as to the action to be taken on the instruments.¹⁴
- (b) The essential points to bear in mind are: (a) that, at the time of or subsequent to the submission of Conventions and Recommendations to the legislative authorities, Governments should either indicate what measures might be taken to give effect to these instruments or propose that no action should be taken or that a decision should be postponed; and (b) that there should be an opportunity to take up the matter for debate within the legislature.¹⁵

IV. V. TIME-LIMITS

- (a) In order that the competent national authorities may be kept up to date on the standards adopted at the international level which may require action by each State to give effect to

¹⁰ See ILC, 57th Session (1972), Report III (Part IV), General Report, para. 137.

¹¹ See ILC, 64th Session (1978), Report III (Part 1A), para. 129; ILC, 87th Session (1999), Report III (Part 1A), General Report, para. 214.

¹² See ILC, 89th Session (2001), Report III (Part 1A), General Report, para. 225.

¹³ See ILC, 88th Session (2000), Report III (Part 1A), General Report, para. 120.

¹⁴ See ILC, 40th Session (1957), *Record of Proceedings*, Appendix VI, para. 45.

¹⁵ See ILC, 42nd Session (1958), Report III (Part IV), para. 43.

them at the national level, submission should be made as early as possible and in any case within the time-limits set by article 19 of the ILO Constitution.¹⁶

- (b) In virtue of the formal provisions of article 19, the submission of Conference decisions to the competent authorities must be effected within one year or, in exceptional circumstances, not longer than 18 months from the close of the session of the Conference. This provision applies not only to non-federal but also to federal States; in the case of the latter, the period of 18 months is applicable only in respect of Conventions and Recommendations which the federal Government considers to be appropriate for action by the constituent states, provinces or cantons. In order that it may be possible to ascertain that States Members have respected the prescribed time-limits, the Committee considers that it would be advisable for the date on which the decisions of the Conference have been submitted to the competent authorities to be indicated in the communication to the Director-General.¹⁷

V. VI. OBLIGATIONS OF FEDERAL STATES

As regards federal States, the Committee wishes to point out that under article 19 of the Constitution, paragraph 7(b)(i), whenever action by the constituent states, provinces or cantons is considered “appropriate”, the Government must make effective arrangements for the reference of Conventions and Recommendations adopted by the Conference to the “appropriate authorities” of the constituent states, provinces or cantons for the enactment of legislation or other action.¹⁸

VII. TRIPARTITE CONSULTATIONS

- (a) For those States which have already ratified the Tripartite Consultation (International Labour Standards) Convention, 1976 (No. 144), effective consultations have to be held on the proposals made to parliaments when submitting the instruments adopted by the Conference (Article 5, paragraph 1(b), of Convention No. 144).¹⁹
- (b) It is on the nature of the proposals that the representative organizations must be consulted beforehand.²⁰
- (c) The effectiveness of consultations presupposes that the representatives of employers and of workers have at their disposal sufficiently in advance all the elements necessary for them to reach their opinions before the Government finalizes its definitive decision.²¹
- (d) Depending on the country, the representative organizations may be requested to make known their point of view on the action to be taken with regard to new instruments independently, with the texts simply being transmitted to them for an opinion or they may be requested to examine a draft proposal, either by means of an exchange of written communications or in the competent advisory body. The Government is not bound to communicate to the competent authority the opinions which have been expressed to it. However, this practice is followed in some countries, particularly where consultation leads to the adoption of a formal opinion by the competent advisory body.²²

¹⁶ See ILC, 87th Session (1999), Report III (Part 1A), General Report, para. 221.

¹⁷ See ILC, 36th Session (1953), Report III (Part IV), para. 46(d).

¹⁸ See ILC, 36th Session (1953), Report III (Part IV), para. 46(e).

¹⁹ See ILC, 92nd Session (2004), Report III (Part 1A), General Report, para. 89.

²⁰ See ILC, 88th Session (2000), Report III (Part 1B: *Tripartite consultation*), para. 85.

²¹ See ILC, 88th Session (2000), Report III (Part 1A), General Report, para. 115.

²² See ILC, 88th Session (2000), Report III (Part 1B: *Tripartite consultation*), para. 86.

~~VI.~~ VIII. COMMUNICATION TO THE REPRESENTATIVE ORGANIZATIONS

- (a) Under article 23, paragraph 2, of the Constitution, the information communicated to the Director-General on submission to the competent authorities must be sent also to the representative employers' and workers' organizations.²³
- (b) This provision is designed to enable industrial associations to formulate their own observations on the action that has been taken or is to be taken with regard to the instruments in question.²⁴

²³ See ILC, 36th Session (1953), Report III (Part IV), General Report, para. 46(f).

²⁴ See ILC, 89th Session (2001), Report III (Part 1A), General Report, para. 223.

QUESTIONNAIRE**Unitary States**

- I. (a) Please indicate what authority or authorities are competent in the matter as regards each one of the instruments (Conventions, including Protocols, or and Recommendations) on which information is requested.
- (b) Please indicate what is the legislative body according to the Constitution or basic law of your country.
- II. (a) Please indicate the date on which the ~~Conventions and Recommendations~~ instruments were submitted to the competent authorities for the enactment of legislation or other action.
- (b) Please indicate whether, at the time of submitting the ~~Conventions and Recommendations~~ instruments to the legislative body, the Government tabled any proposals in the said body, on the measures which might be taken for the enactment of legislation or other action.
- (c) Please attach duplicate copies, if possible, or supply information on the substance of the document or documents by means of which the ~~Conventions and Recommendations~~ instruments were submitted, and of any proposals which may have been made.
- III. If the Member has ratified the Tripartite Consultation (International Labour Standards) Convention, 1976 (No. 144), please indicate whether prior tripartite consultations took place and, if applicable, the nature of those consultations.
- ~~III-IV.~~ If the competent authority or authorities have taken a decision on the ~~Conventions and Recommendations~~ instruments which were submitted to them, please indicate the contents of the said decision.
- ~~IV-V.~~ If it has not been possible to submit the ~~Conventions and Recommendations~~ instruments, please indicate the exceptional circumstances which prevented the Government from submitting the said ~~Conventions and Recommendations~~ instruments to the competent authorities within the prescribed date limits.
- ~~V-VI.~~ Please indicate the representative organizations of employers and workers to which the information submitted to the Director-General has been communicated.
- Please state whether you have received from the organizations of employers or workers concerned any observations concerning the effect given or to be given, to the instrument (or instruments) to which this information relates.

Federal States

- ~~VI-VII.~~ Please indicate – with regard to each one of the ~~Conventions and Recommendations~~ instruments on which information is requested – whether the federal Government regards them as appropriate under its constitutional system for federal action or whether, on the other hand, it regards them as appropriate in whole or in part for action by the constituent states, provinces or cantons.
- ~~VII-VIII.~~ In the former case (federal action) please supply the information requested under “Unitary States” in paragraphs I to V.
- ~~VIII-IX.~~ In the latter case (action in whole or in part by the constituent states, provinces or cantons) please indicate what measures have been adopted with a view to submitting each one of the ~~Conventions and Recommendations~~ instruments on which information is requested to the appropriate federal, state, provincial or cantonal authorities for the enactment of legislation or other action, and supply the relevant

information on the authorities considered as appropriate and the measures taken by them.

X. If the Member has ratified the Tripartite Consultation (International Labour Standards) Convention, 1976 (No. 144), please indicate whether prior tripartite consultations took place and, if applicable, the nature of those consultations.

X-XI. Please indicate the representative organizations of employers and workers to which the information submitted to the Director-General has been communicated.

Please state whether you have received from the organizations of employers or workers concerned any observations concerning the effect given, or to be given, to the instrument (or instruments) to which this information relates.

Annex II

[Text proposed to be added is underlined and the text proposed for deletion is ~~struck through~~.]

Standing Orders concerning the procedure for the examination of representations under articles 24 and 25 of the Constitution of the International Labour Organisation

General provision

Article 1

When a representation is made to the International Labour Office under article 24 of the Constitution of the Organisation, the Director-General shall acknowledge its receipt and inform the Government against which the representation is made.

Receivability of the representation

Article 2

1. The Director-General shall immediately bring the representation before the Officers of the Governing Body.
2. The receivability of a representation is subject to the following conditions:
 - (a) it must be communicated to the International Labour Office in writing;
 - (b) it must emanate from an industrial association of employers or workers;
 - (c) it must make specific reference to article 24 of the Constitution of the Organisation;
 - (d) it must concern a Member of the Organisation;
 - (e) it must refer to a Convention to which the Member against which it is made is a party; and
 - (f) it must indicate in what respect it is alleged that the Member against which it is made has failed to secure the effective observance within its jurisdiction of the said Convention.
3. The Officers shall report to the Governing Body on the receivability of the representation.
4. In reaching a decision concerning receivability on the basis of the report of its Officers, the Governing Body shall not enter into a discussion of the substance of the representation.

Reference to a committee

Article 3

1. If the Governing Body decides, on the basis of the report of its Officers, that a representation is receivable, it shall set up a committee for the examination thereof, composed of members of the Governing Body chosen in equal numbers from the Government, Employers' and Workers' groups. No representative or national of the State against which the representation has been made and no person occupying an official position in the association of employers or workers which has made the representation may be a member of this committee.
2. Notwithstanding the provisions of paragraph 1 of this article, if a representation which the Governing Body decides is receivable relates to a Convention dealing with trade union rights, it may be referred to the Committee on Freedom of Association for examination in accordance with articles 24 and 25 of the Constitution.
3. Notwithstanding the provisions of paragraph 1 of this article, if a representation which the Governing Body decides is receivable relates to facts and allegations similar to those which have

been the subject of an earlier representation, the appointment of the committee charged with examining the new representation may be postponed pending the examination by the Committee of Experts on the Application of Conventions and Recommendations of the follow-up given to the recommendations previously adopted by the Governing Body.

- ~~3.4.~~ The meetings of the committee appointed by the Governing Body pursuant to paragraph 1 of this article shall be held in private and all the steps in the procedure before the committee shall be confidential.

Examination of the representation by the committee

Article 4

1. During its examination of the representation, the committee may:
 - (a) request the association which has made the representation to furnish further information within the time fixed by the committee;
 - (b) communicate the representation to the Government against which it is made without inviting that Government to make any statement in reply;
 - (c) communicate the representation (including all further information furnished by the association which has made the representation) to the Government against which it is made and invite the latter to make a statement on the subject within the time fixed by the committee;
 - (d) upon receipt of a statement from the Government concerned, request the latter to furnish further information within the time fixed by the committee;
 - (e) invite a representative of the association which has made the representation to appear before the committee to furnish further information orally.
2. The committee may prolong any time limit fixed under the provisions of paragraph 1 of the article, in particular at the request of the association or Government concerned.

Article 5

1. If the committee invites the Government concerned to make a statement on the subject of the representation or to furnish further information, the Government may:
 - (a) communicate such statement or information in writing;
 - (b) request the committee to hear a representative of the Government;
 - (c) request that a representative of the Director-General visit its country to obtain, through direct contacts with the competent authorities and organizations, information on the subject of the representation, for presentation to the committee.

Article 6

When the committee has completed its examination of the representation as regards substance, it shall present a report to the Governing Body in which it shall describe the steps taken by it to examine the representation, present its conclusions on the issues raised therein and formulate its recommendations as to the decisions to be taken by the Governing Body.

Consideration of the representation by the Governing Body

Article 7

1. When the Governing Body considers the reports of its Officers on the issue of receivability and of the committee on the issues of substance, the Government concerned, if not already represented on the Governing Body, shall be invited to send a representative to take part in its proceedings while

the matter is under consideration. Adequate notice of the date on which the matter will be considered shall be given to the Government.

2. Such a representative shall have the right to speak under the same conditions as a member of the Governing Body, but shall not have the right to vote.
3. The meetings of the Governing Body at which questions relating to a representation are considered shall be held in private.

Article 8

If the Governing Body decides to publish the representation and the statement, if any, made in reply to it, it shall decide the form and date of publication. Such publication shall close the procedure under articles 24 and 25 of the Constitution.

Article 9

The International Labour Office shall notify the decisions of the Governing Body to the Government concerned and to the association which made the representation.

Article 10

When a representation within the meaning of article 24 of the Constitution of the Organization is communicated to the Governing Body, the latter may, at any time in accordance with paragraph 4 of article 26 of the Constitution, adopt, against the Government against which the representation is made and concerning the Convention the effective observance of which is contested, the procedure of complaint provided for in article 26 and the following articles.

Representations against non-members

Article 11

In the case of a representation against a State which is no longer a Member of the Organisation, in respect of a Convention to which it remains party, the procedure provided for in these Standing Orders shall apply in virtue of article 1, paragraph 5, of the Constitution.

Annex III

Standing Orders concerning the procedure for the examination of representations under articles 24 and 25 of the Constitution of the International Labour Organization

Introductory note

1. The Standing Orders concerning the procedure for the examination of representations were adopted by the Governing Body at its 56th Session (January 1932) and amended on some points of form at its 212th Session (February-March 1980).
2. In adopting further amendments at its [291st Session (November 2004)], the Governing Body decided to precede the Standing Orders with this introductory note, which summarizes the various stages of the procedure while indicating the options open to the Governing Body at the various stages of the procedure in accordance with the Standing Orders and with the guidance that emerges from the preparatory work of the Standing Orders and the decisions and practice of the Governing Body.
3. The Standing Orders comprise six titles, the first five of which correspond to the main stages of the procedure, namely: (i) receipt by the Director-General; (ii) examination of receivability of the representation; (iii) decision on referral to a committee; (iv) examination of the representation by the committee; and (v) examination by the Governing Body. The sixth title of the Standing Orders concerns the application of the procedure in the specific instance of a representation against a non-member State of the Organization.

General provision

4. Article 1 of the Standing Orders concerns the receipt of representations by the Director-General of the ILO, who informs the Government against which the representation is made.

Receivability of the representation

5. Examining receivability means determining whether the prior conditions that have to be satisfied before the Governing Body can proceed to examine the merits of the representation and formulate recommendations have been met.
6. The examination of receivability is, in the first instance, entrusted to the Officers of the Governing Body, to whom the Director-General transmits all the representations that are received. The Officers of the Governing Body make a proposal with respect to receivability, which is communicated to the Governing Body; the Governing Body then decides whether it deems the representation receivable. Although the Standing Orders specify that the Governing Body must not, at this stage, enter into a discussion of the merits of the representation, the conclusions of its Officers regarding receivability may be the subject of discussions.
7. Pursuant to article 7, paragraph 1, of the Standing Orders, the Office invites the Government concerned to send a representative to take part in these deliberations if that Government is not a member of the Governing Body.
8. The conditions of receivability for representations are set out in article 2, paragraph 2, of the Standing Orders. Four of the conditions simply relate to the form of submission (paragraph 2(a), (c), (d) and (e)), while the remaining two conditions may require examination of the representation in greater depth: these relate to the industrial character of the association that is making the representation, on the one hand (paragraph 2(b)), and, on the other hand, the indication of in what respect the State concerned is alleged to have failed to secure the effective observance of the Convention to which the representation relates (paragraph 2(f)).

The representation must emanate from an industrial association of employers or workers (article 2, paragraph 2(b) of the Standing Orders)

9. The following principles may guide the Governing Body in its application of this provision:

- The right to make a representation to the International Labour Office is granted without restriction to any industrial association of employers or workers. No conditions are laid down in the Constitution as regards the size or nationality of that association. The representation may be made by any industrial association whatever may be the number of its members or in whatever country it may be established. The industrial association may be an entirely local organization or a national or international organization.¹
- The widest possible discretion should be left to the Governing Body in determining the actual character of the industrial association which makes the representation. The criteria to be applied in this connection by the Governing Body should be those which have up to the present guided the general policy of the Organization and not those laid down by the national legislation of States.²
- The Governing Body has the duty of examining objectively whether, in fact, the association making the representation is “an industrial association of workers”, within the meaning of the Constitution and the Standing Orders. It is the duty of the Governing Body to determine in each case, independently of the terminology employed and of the name that may have been imposed upon the association by circumstances or selected by it, whether the association from which the representation emanates is in fact an “industrial association of employers or workers” in the natural meaning of the words. In particular, when considering whether a body is an industrial association, the Governing Body cannot be bound by any national definition of the term “industrial association”.³

10. Moreover, the Governing Body might apply *mutatis mutandis* the principles developed by the Committee on Freedom of Association on receivability as regards a complainant organization that is alleging violations of freedom of association. Those principles are formulated as follows:

At its first meeting in January 1952 (First Report, General observations, paragraph 28), the Committee adopted the principle that it has full freedom to decide whether an organization may be deemed to be an employers' or workers' organization within the meaning of the ILO Constitution, and it does not consider itself bound by any national definition of the term.

The Committee has not regarded any complaint as being irreceivable simply because the Government in question had dissolved, or proposed to dissolve the organization on behalf of which the complaint was made, or because the person or persons making the complaint had taken refuge abroad.

The fact that a trade union has not deposited its by-laws, as may be required by national laws, is not sufficient to make its complaint irreceivable since the principles of freedom of association provide precisely that the workers shall be able, without previous authorisation, to establish organizations of their own choosing.

The fact that an organization has not been officially recognized does not justify the rejection of allegations when it is clear from the complaints that this organization has at least a de facto existence.

¹ See *Proposed Standing Orders concerning the application of articles 409, 410, 411, §§4 and 5, of the Treaty of Peace*, explanatory note of the International Labour Office submitted to the Standing Orders Committee of the Governing Body at its 56th Session (1932).

² *ibid.*

³ See *representation submitted by Dr. J.M. Curé on behalf of the Labour Party of the Island of Mauritius concerning the application of certain international labour Conventions in the Island*, Report of the Committee of the Governing Body (adopted by the Governing Body at its 79th Session), ILO, *Official Bulletin*, Vol. XXII (1937), pp. 71-72, paras. 6-7.

In cases in which the Committee is called upon to examine complaints presented by an organization concerning which no precise information is available, the Director-General is authorized to request the organization to furnish information on the size of its membership, its statutes, its national or international affiliations and, in general, any other information calculated, in any examination of the receivability of the complaint, to lead to a better appreciation of the precise nature of the complainant organization.

The Committee will only take cognizance of complaints presented by persons who, through fear of reprisals, request that their names or the origin of the complaints should not be disclosed, if the Director-General, after examining the complaint in question, informs the Committee that it contains allegations of some degree of gravity which have not previously been examined by the Committee. The Committee can then decide what action, if any, should be taken with regard to such complaints.⁴

The representation must indicate in what respect it is alleged that the Member against which it is made has failed to secure the effective observance within its jurisdiction of the said Convention (article 2, paragraph 2(f), of the Standing Orders)

11. In examining this condition of receivability, particular importance is attached to article 2, paragraph 4, of the Standing Orders, which provides that in reaching a decision concerning receivability on the basis of the report of its Officers, the Governing Body shall not enter into a discussion of the substance of the representation. It is important however that the representation be sufficiently precise for the Officers of the Governing Body to be able to legitimately substantiate their proposal to the Governing Body.

Reference to a committee

12. If the Governing Body deems, on the basis of the report of its Officers, that a representation is receivable, it shall usually set up a tripartite committee to examine the representation (article 3, paragraph 1). However, depending on the content of the representation, the Governing Body has, under certain conditions, other options:
 - (a) if the representation relates to a Convention dealing with trade union rights, the Governing Body may decide to refer it to the Committee on Freedom of Association for examination in accordance with articles 24 and 25 of the Constitution (article 3, paragraph 2);
 - (b) if the representation relates to matters and allegations similar to those which have been the subject of a previous representation, the Governing Body may decide to postpone the appointment of the committee to examine the new representation until the Committee of Experts on the Application of Conventions and Recommendations has been able to examine the follow-up to the recommendations that were adopted by the Governing Body in relation to the previous representation (article 3, paragraph 3).
13. It is the practice for the report of the Officers of the Governing Body concerning the receivability of the recommendation to also include a recommendation concerning reference to a committee. It is for the Governing Body to appoint the members who make up the tripartite committee, taking into account the conditions established in article 3, paragraph 1.

Examination of the representation by the committee

14. Under article 6, the tripartite committee charged with examining a representation must present its conclusions on the issues raised in the representation and formulate its recommendations as to the decisions to be taken by the Governing Body. The committee examines the merits of the allegation made by the author of the representation, that the Member concerned has failed to secure effective

⁴ See paras. 35-40 of the Procedures of the Fact-Finding and Conciliation Commission and the Committee on Freedom of Association for the examination of complaints alleging violations of freedom of association (*Digest of Decisions and principles of the Freedom of Association Committee*, 4th edition, 1996, Annex I).

observance of the Convention or Conventions ratified by the Member and indicated in the representation.

15. The powers of the tripartite committee during its examination of the representation are laid down in article 4. Article 5 concerns the rights of the Government concerned if the committee invites it to make a statement on the subject of the representation.
16. Moreover, the committee may apply, *mutatis mutandis*, two principles developed by the Committee on Freedom of Association:
 - (a) In establishing the matters on which the representation is based, the committee may consider that, while no formal period of prescription has been fixed for the examination of representations, it may be very difficult – if not impossible – for a Government to reply in detail regarding matters which occurred a long time ago.⁵
 - (b) In formulating its recommendations as to the decision to be taken by the Governing Body, the committee may take into account the interest that the association making the representation has in taking action with regard to the situation motivating the representation. Such interest exists if the representation emanates from a national association directly interested in the matter, from international workers' or employers' associations having consultative status with the ILO, or from other international workers' or employers' associations when the representation concerns matters directly affecting their affiliated organizations.⁶

Consideration of the representation by the Governing Body

17. On the basis of the report of the tripartite committee, the Governing Body considers the issues of substance raised by the representation and what follow-up to undertake. Article 7 determines the modalities for the participation of the Government concerned in the deliberations.
18. The Standing Orders recall and determine two options provided for in the Constitution that are open to the Governing Body if it decides that a representation is substantiated, it being understood that the Governing Body remains free to take or not to take these measures:
 - (a) Under the conditions laid down in article 25 of the Constitution, the Governing Body may publish the representation received and, if applicable, the statement made by the Government concerned; in the event that it so decides, the Governing Body also decides the form and date of publication.
 - (b) The Governing Body may, at any time, in accordance with article 26, paragraph 4, of the Constitution, adopt, against the Government concerned and with regard to the Convention the effective observance of which is contested, the procedure of complaint provided for in article 26 and the following articles (article 10 of the Standing Orders).
19. Furthermore, the Governing Body may decide to refer issues concerning any follow-up to the recommendations adopted by the Governing Body to be undertaken by the Government concerned to the Committee of Experts on the Application of Conventions and Recommendations. That Committee shall examine the measures taken by the Government to give effect to the provisions of the Conventions to which it is a party and with respect to which recommendations had been adopted by the Governing Body.

Representations against non-members

20. Article 11 of the Standing Orders stipulates that a representation against a State which is no longer a Member of the Organization may also be examined in accordance with the Standing Orders, in virtue of article 1, paragraph 5, of the Constitution, which provides that the withdrawal of a Member of the Organization shall not affect the continued validity of obligations arising under or relating to Conventions that it had ratified.

⁵ *ibid.*, para. 67.

⁶ *ibid.*, para. 34.