



## EIGHTEENTH ITEM ON THE AGENDA

**Matters relating to the Administrative  
Tribunal of the ILO****Statute of the Tribunal**

1. At previous sessions, the Governing Body considered a number of proposals to amend the Statute of the ILO Administrative Tribunal (the Statute).<sup>1</sup> The last time these were reviewed as a whole, the Governing Body deferred its decision, largely due to the differing views on the question of access to the Tribunal by staff unions and associations.<sup>2</sup> While most of the proposals related to that question, one of the proposals addressed the discrete issue of oral proceedings in article V of the Statute. This document addresses only the article V proposal.<sup>3</sup>
2. Article V currently reads: “The Tribunal shall decide in each case whether the oral proceedings before it or any part of them shall be public or in camera.” As previously reported,<sup>4</sup> the Tribunal has suggested that article V of the Statute be amended in order to clarify that it is within the Tribunal’s competence to decide, within its discretion, whether to hold oral proceedings. Upon examination of the views of the organizations that have accepted the jurisdiction of the Tribunal, it appears that in general the organizations had no objection in principle to such an amendment.<sup>5</sup>
3. Some of the organizations also expressed the view that, as a practical matter, oral proceedings could cause delay and increase costs. In practice, the Tribunal has held only a few oral proceedings since rendering its first judgment in 1947. In most instances, the

<sup>1</sup> GB.294/PFA/18/1 and GB.294/8/2(Rev.), paras 53–58 (Nov. 2005); GB.292/PFA/20/2 and GB.292/9/2(Rev.), paras 59–63 (Mar. 2005). See also GB.289/PFA/20/2 and GB.289/10/2(& Corr.), paras 92–97 (Mar. 2004).

<sup>2</sup> GB.294/PV, para. 215 (Nov. 2005).

<sup>3</sup> See GB.294/PFA/18/1, Appendices I and II.

<sup>4</sup> GB.292/PFA/20/2, para. 4.

<sup>5</sup> See discussion of consultations with the organizations in Governing Body documents at note 1.

Tribunal deems that the written submissions and evidence before it are already adequate.<sup>6</sup> In addition, the written record presented to the Tribunal regularly reflects that the staff member concerned has already received an oral hearing in the internal administrative process before the matter is brought to the Tribunal. Clarifying that oral proceedings are in the hands of the Tribunal to decide could better ensure that their use did not result in lengthier time frames or additional costs.

4. To achieve clarity, a sentence could be added before the existing one so that the revised article would read in full: “The Tribunal, at its discretion, may hold oral proceedings. The Tribunal shall decide in each case whether the oral proceedings before it or any part of them shall be public or in camera.”
5. ***Accordingly, the Committee may wish to recommend to the Governing Body that it approve the draft resolution concerning an amendment to article V of the Statute of the Administrative Tribunal of the International Labour Organization, to be duly submitted for decision by the International Labour Conference at its 97th Session (May–June 2008).***

Geneva, 6 February 2008.

*Point for decision:* Paragraph 5.

<sup>6</sup> See, for example, Judgment No. 781, consid. 3.

## Appendix

### **Draft resolution concerning amendment to article V of the Statute of the Administrative Tribunal of the International Labour Organization**

The General Conference of the International Labour Organization,

Aware of the value of clarifying, in article V of the Statute of the Administrative Tribunal of the International Labour Organization (“Statute”), that the Tribunal is competent to decide whether to hold an oral hearing,

Noting that the Governing Body of the International Labour Organization has approved the text of a draft amendment to article V of the Statute;

*Adopts* the amendment to article V of the Statute of the Administrative Tribunal of the International Labour Organization, as follows:

- Insert the following sentence at the beginning of article V: “The Tribunal, at its discretion, may hold oral proceedings.”