



International
Labour
Organization

The Effective Employers' Organization

A series of “hand-on” guides to building and managing effective employers' organizations



Guide One Governance

Governance in Employers' Organizations

Designing and implementing sound governance practices



Produced for the Bureau for Employers' Activities of the International Labour Organization
by faculty members of the University of Geneva International Organizations MBA



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ILO

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Section One

How to use this guide

Designing, and implementing sound governance practices is the first guide in a series that make up **The Effective Employers' Organization** package. The series as a whole is designed to help executives, directors and managers in employers' organizations to build and run their organizations more strategically and more effectively. It is aimed primarily at those setting up, building and managing national level employers' organizations in less developed countries and economies in transition. It will, however, provide a wealth of advice for regional and sectoral organizations that exist to represent the interests of employers, and it will be of interest to national level employers' organizations in developed countries. This will be

the case particularly where organizations are considering or undertaking a strategic review of the way they currently operate.

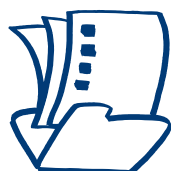
Designing, and implementing sound governance practices is a step by step approach to ensuring sound governance principles and practices in employers' organizations. It contains practical advice and tools that will help the leaders of well established employers' organizations to review their approach to governance or to help newer organizations build appropriate governance structures and processes from the outset. The tools are of three types:

Checklists



Checklists are designed to help review where your organization is currently placed, to identify deficiencies in governance and to plan ways to design and implement better structures and processes;

Best practices



Best practices provide examples of how other organizations have tackled the problems you face; and

Key quotes



Key quotes from respected writers illustrate the most important points; you can use them in your own talks and written materials.

This guide in **The Effective Employers' Organization** package has been written in response to the increasingly frequent questions on the subjects of employers' organization and member governance. It presents in readable format, the basic principles that are essential for the development and maintenance of sound governance practice in employers' organizations.

Sound governance in an employers' organization is generally achieved through:

- The establishment of democratic structures and procedures for decision making;
- The existence of adequate checks and balances on decision makers;
- Transparency in decision making, implementation and member communication;
- Elimination of inappropriate and undue influence on decisions.

The guide considers each of these issues in sections three and four under the headings “Institutions of governance” and “Tools of governance”. Section three considers the form and functions of a Member Assembly; the composition and responsibilities of the Board; and the appointment and responsibilities of the Chief Executive and the organization’s management. Section four examines employers’ organization rules, the use of committees and project groups and transparency and communication.

Section five of the guide offers a “compilation checklist” that combines in one place the subject specific checklists found at the end of most sections. In this form, the checklist becomes an extremely useful organizational review tool. The checklist can be used at the end of the governance guide in order to facilitate action planning, or it can be used at the outset as a benchmark measure of where your organization stands in terms of governance.

Towards the end of the guide is a short overview of the academic literature on governance – “what the business gurus say”. This section describes in one place, and in an academic context, the analytical framework used in this guide. It is a “stand-alone” section that provides the reader with a basic academic underpinning of the subject of governance and points the way to the further reading suggested in section seven.

The “further reading and links on governance and employers’ organizations” identifies general ideas for further reading or assistance and suggests additional sources specifically associated with employers’ organizations and governance. There are relatively few specific materials available, and many of them have been developed by the Bureau for Employers’ Activities of the International Labour Organization.

Finally, section eight of the guide sets out a “model” or “sample” constitution for an employers’ organization. The sample constitution will be useful to those approaching the drafting process from scratch, to those revising an existing and outdated constitution or those undertaking a desk review of current constitutional arrangements to check that they cover the major issues effectively.

The establishment of sound rules in key areas is an essential starting point on the road to sound governance, but it is not the whole story. The daily practice of good governance relies upon the attitudes and behaviours of the many individuals who make up the membership, the Board, the management and staff of employers’ organizations.

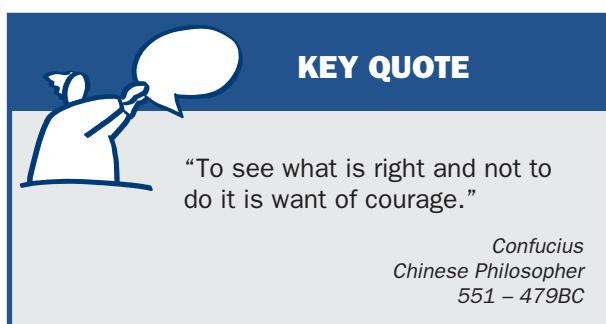
The scope of this guide is deliberately limited to the specific subject of governance in employers’ organizations. It draws a clear distinction between the management of an employers’ organization and the conduct of sound governance. Plainly both good management and sound governance are essential partners in the building of successful and sustainable employers’ organizations. Strategic management of an employers’ organization, including setting priorities and goals and ensuring proper execution of action plans are important issues in themselves, and are addressed in guide number two in **The Effective Employers’ Organization** series.

All the guides in the series are designed to be multi-purpose tools. Although this guide on governance should prove to be a relatively straightforward and interesting read, working through it from cover to cover is not the only, or always the best, way to maximize its value. Often organizations will have particular interests within the overall field of governance. For example the composition and responsibilities of the Board may be an issue for one organization whilst the appointment of a new Chief Executive will be a pressing consideration for another. Most employers’ organizations will benefit from using the checklists as audit tools to help identify the strengths and weaknesses of their current governance systems.

Finally, this is a short guide to a complex issue. It does not claim to be either exhaustive or to contain original ideas. The guide has drawn heavily and unashamedly on earlier materials on the subject of governance generally. It pays particular attention to work carried out with employers’ organizations specifically, and it draws on the experience of the authors in observing what does and does not work in day to day practice. Every attempt is made in the text and in the suggestions for further reading to acknowledge the wide variety of sources used.

Section Two

Employers' organizations and governance



In recent years, it has become painfully clear that good governance is a major issue for companies around the world. Successive corporate scandals resulting from ineffective checks and balances on executive behaviour have destroyed the reputation of individual companies and seriously damaged public confidence in business as a whole.

Employers' organizations differ from private sector companies in many ways. Nonetheless, many of the principles of governance that should be found in individual companies should also be present in the organizations that represent them. This is not least the case because employers' organizations are often called upon to represent business interests in the debate on governance and ethics. From a more practical point of view, without good systems of governance, employers' organizations run the risk of failing to achieve their most basic objective – representing the best interests of their members.

Put simply, good governance strengthens the ability of employers' organizations to represent their members' interests credibly and well, and impacts positively on their ability to grow and develop.

Importance and purpose of good governance

Sound governance is the foundation upon which any organization is built. This is true for governments, companies, trade unions, and employers' organizations.

Having sound governance indicates that an organization has the necessary institutions and tools to ensure credibility, integrity and authority in forming rules, making decisions, and developing programmes and policies reflecting members' views and needs. It is primarily through sound governance that an employers' organization maintains the trust of its members and enhances its reputation and influence with those it interacts with.

A failure of good governance in an employers' organization can not only damage the reputation and reduce the effectiveness of the organization itself, but can impact negatively on the reputation of those it seeks to represent. Sound governance is an essential element in ensuring that the organization works in the genuine interests of its membership.

A focus on ensuring sound governance is not simply an issue for employers' organizations in developed economies in the wake of recent corporate scandals. Employers' organizations have an important role to play in emerging and transition market economies. In economies in the midst of reform and transition, it is essential that employers' organizations provide examples of sound governance practice. Governments and trade unions require credible and transparent partner organizations, which represent the genuine interests of the employer community.

Finally, national and international donors seeking to invest in the further development of employers' organizations need to be assured that they are legitimate, transparent and rule-based institutions.

Definition of terms

The terminology relating to employers' organizations and their constituent parts can vary from country to country and industry to industry. For purposes of consistency this guide uses the terms below:

- An *employers' organization* is a voluntary, membership-based group of companies or employers' associations.
- The most important decision making organ of the employers' organization is the *Member Assembly*. It is often called the General Assembly, Annual General Meeting or simply the General Meeting.
- The member-elected top governing body of an employers' organization is referred to as the *Board*. Other terms often used include: executive committee, management committee, or the council. This Board is chaired by the *President* of the organization.
- The senior manager appointed by the Board is the *Chief Executive*. Other terms include: Secretary General, Director General, Executive Director, Chief Executive Officer (CEO), General Manager and simply, director or manager.

While this guide uses certain terms, it does not imply that any one term is preferable to another: the underlying principles of governance are of central importance, but the nature of titles and labels is largely a question of preference or custom.

The regulatory framework

In most countries, and in order to act with legal authority, employers' organizations are required to register under a specific organizational form designed for not-for-profit membership organizations. Although the regulations differ country by country, they generally contain provisions designed to protect the rights and interests of members and third parties. To that extent, they provide a binding general governance framework upon which sound internal practices and procedures can be built.

Certain national governance standards that affect businesses around the world are worthy of mention. Principal among these is the United States Sarbanes-Oxley Act (2002), which specifically addresses governance issues related to accounting and oversight in the wake of the Enron-type scandals of the early 2000s.

In addition there are non-binding international guidelines on governance in business that relate to public stock companies, often called *corporate governance guidelines*. Guidelines of this nature include the new OECD Principles of Corporate Governance (2004), and, to a lesser extent, the OECD Guidelines for Multinational Enterprises. There are a number of national and international organizations that exist purely to promote sound governance standards in business.

Whilst none of these governance standards apply to an employers' organization specifically, they do create a new environment of increased expectations in private sector governance. They are useful starting points for those wishing to research governance further, and they have been used in the preparation of these guidelines.

The International Labour Organization has several Conventions that, while not specifically outlining the governance of an employers' organization, do set down some fundamental principles that relate to their governance (see Box 1), such as the principle of voluntary participation in an employers' organization. There are few guidelines related to the governance of an employers' organization despite their key role as the voice of business.

Employers' organizations and their members

An employers' organization represents the common interest of groups of individual companies, or regional or sector based employers' organizations. It works to establish and maintain an operating environment in which businesses can succeed and prosper. This involves advocacy and dialogue with government concerning matters of importance to its membership; it often entails social dialogue with trade unions. Some employers' organizations serve their members (individual companies) by engaging in collective bargaining on their behalf with trade unions.

BOX 1

ILO CONVENTIONS RELATED TO EMPLOYERS' ORGANIZATION GOVERNANCE

- Convention No. 87 on Freedom of Association and Protection of the Right to Organize (1948)
 - Article 2: *...Employers ...shall have the right to establish and ...to join organizations of their own choosing without previous authorization.*
 - Article 3: *...Employers' Organizations shall have the right to draw up their constitutions and rules, to elect their representatives in full freedom, to organize their administration and activities and to formulate their programmes.*
 - Article 4: *...Employers' Organizations shall not be liable to be dissolved or suspended by administrative authority.*
- Convention No. 144 on Tripartite Consultations to Promote the Implementation of the ILS (1976)
 - Article 3: *The representatives of employers... shall be freely chosen by their representative organizations, where such organizations exist.*

Beyond representing its members nationally, an employers' organization may also represent member interests at the international/regional level (for example in the European Union: UNICE), and in various international organizations like the OECD (the Business and Industry Advisory Committee to the OECD – BIAC) and at the ILO (International Organization of Employers – IOE).

Employers' organizations increasingly provide additional services and member benefits. An employers' organization may serve its members by keeping them informed of relevant industry events, macro-economic trends, government regulations, and social developments. Employers' organizations also frequently provide a range of other member services like training, consultancy or legal representation and advice.


Membership criteria

The specific eligibility requirements for membership in an employers' organization can vary from country to country and industry to industry. However, the constitution should explain clearly who may, and who may not, join the organization. Typically, eligibility for membership is restricted to those

persons, companies, or other organizations that are employers of labour and are engaged in the commercial production or manufacture of goods or commodities, or the commercial provision of services. In certain countries, the national level employers' organization comprises regional or sectoral employers' organizations that operate similar membership regulation. Other persons or organizations that do not meet these descriptions may also be admitted to membership as "associate" or "affiliate" members if the organization in question sees fit. Trade unions and government are typically not eligible for membership in an employers' organization. Under all circumstance membership must be strictly voluntary. As set out in ILO Conventions No. 87 and No. 98, voluntary membership is a fundamental, internationally accepted principle of forming an employers' organization. Additionally, in accord with both ILO and UN Conventions against discrimination, membership in an employers' organization should not be based on racial, gender, religious or ethnic status.

Section Three

Institutions of governance – the Member Assembly; the Board; the Chief Executive and management



KEY QUOTE

“Comradeship and trust will emerge naturally when discipline and high standards are enforced.”

*Tao Zhu Gong
Assistant to the Emperor of Yu
c500BC*

The Member Assembly

The members of an employers’ organization should be the ultimate beneficiaries of the organization’s activities as well as the ultimate authority in its governance. The authority and legitimacy of Board members and management stem directly from the support of the members. The credibility of the employers’ organization is based on its being truly representative of member interests. Members are usually represented through a Member Assembly, which acts as a key institution of governance.

Formation of the Member Assembly

Exactly how members participate in the governance of the organization can vary depending on the size (number of members) and complexity (number of industries and geographical regions) of the organization and should be clearly established in the constitution. In a small or medium-sized employers’ organization, each member company can submit a representative to the Member Assembly, which in turn elects or approves Board members and approves other Board decisions.

In larger and more complex employers’ organizations, there may be a need for indirect or layered representation. If layering is appropriate, employers’ organizations should take measures to

ensure that their organization represents all members, and all geographical and industrial sectors that are constituents of the organization.

Clearly, larger employers should have a prominent voice in employers’ organization matters, but not to the point of excluding the proper participation of other members.

The rules of the employers’ organization should clearly indicate measures to provide a fair and balanced representation of all members. This may include, for example, a target or percentage allocation on the number of representatives from firms of a particular size, from a particular region, or from a particular industry, commensurate with the percentage of members that match that profile.

The principle is very clear: within the limitations of size and complexity members should have as much direct say in decision making as possible.

Functions of the Member Assembly

Employers’ organization members have several rights and responsibilities. Members have the right to appoint the Board and to dismiss individual Board members. Members should also have the right to nominate their own candidates for Board membership or other work in the organization (e.g. for special committee work).

In order to establish these rights, the rules of any employers’ organization should clearly indicate the process by which the Member Assembly elects or approves the Board. Equally important, the rules should indicate the procedure by which the Member Assembly may vote for the removal of individual members of the Board. There should be clear and objective procedures detailing the percentage of votes required for a quorum and the percentage of votes required for passing a measure.

Other important duties of the Member Assembly typically include approval of the budget and amendments to the constitution.

Payment of dues

Employers' organizations rely on fees or dues from members to support their daily operations. The rules of the organization should clearly establish the mechanism by which membership fees are determined, including the mechanism for periodic changes in the fee structure and any extra charges for individual members requiring special services.

It is clear that non-payment of dues is grounds for cancelling membership. The rules of the employers' organization should address the issue of non-payment of membership dues, clearly outlining the procedure for notifying members that they are in arrears, and the procedure for expelling non-paying members from the organization. The rules should also indicate the status of membership rights for any member in arrears; for example, members in arrears may lose voting rights in the Member Assembly, the right to services, the right to have representatives holding office, or the right to participate in industrial relations activities undertaken by the organization.

Frequently employers' organizations have a class of membership that pay dues on a different scale of contributions; these could be, for example, "affiliate" members. Such cases should be clearly outlined in the constitution, along with details of the rights of reduced-rate members. Frequently, for example, affiliate members do not enjoy voting rights or the right to hold office (service-only members).

Other responsibilities

Members have a responsibility to actively participate in their organization. The best governance structures in the world cannot compensate for the lack of member participation. There is little an employers' organization can do to force its members to participate, but it can adopt measures to actively encourage member participation. Excellent, and creative, management of member communication is the most effective means of improving understanding of the role and priorities of the organization and of maximizing member participation in its affairs.

In order for an employers' organization to conduct its affairs effectively it may also be necessary to collect certain data from its members, e.g. data relating to the remuneration and terms and conditions of employment of members' employees, or information about sales trends. Furthermore, when a member company is in direct negotiation with labour representatives of its firm, it may be necessary to consult with the employers' organization if such negotiations could affect industrial relations at other member companies. Therefore, it is an integral responsibility of membership to share some specific information with the management of the employers' organization.

The rules of the employers' organization should clearly indicate which data should be shared, under what conditions, and the safeguards to be taken to ensure confidentiality.

Joining and leaving the organization

The rules of an employers' organization should set out clear and objective membership criteria. If a company meets those criteria, agrees to be bound by the rules and objectives of the employers' organization, and is willing to pay the membership fees, then that company should be entitled to membership. As noted above, international standards (e.g. ILO Conventions Nos. 87 & 98) require all membership to be of a voluntary nature: a company must freely choose whether or not to join an employers' organization. Employers' organizations themselves should promote the principles of voluntary membership and independence of action where practical or legal obstacles to their application exist.

Equally, membership criteria should not be based on racial, gender, religious or ethnic discrimination.

Companies may freely choose to leave an employers' organization at any time. The Member Assembly may decide to cancel the membership of any company that fails to maintain the membership criteria (e.g. fails to pay member fees). The employers' organization may decide not to refund fees for a member that withdraws from membership; this and other conditions surrounding the leaving of the organization should be clearly presented in the employers' organization rules.




THE MEMBER ASSEMBLY CHECKLIST

- ☐ The rules clearly indicate measures designed to provide a fair and balanced representation of all members of the employers' organization in the Member Assembly.
- ☐ The rules clearly indicate who may and who may not be a member of the employers' organization.
- ☐ The rules clearly indicate the process by which the Member Assembly elects or approves the Board of Directors.
- ☐ The rules clearly indicate the process by which the Member Assembly may remove members of the Board.
- ☐ The rules clearly establish the mechanism by which membership fees are determined.
- ☐ The rules clearly address the issue of non-payment of membership dues, including the procedure for expelling non-paying members and the status of membership rights for any member in arrears.
- ☐ The rules clearly indicate other member responsibilities, for instance the type of information members are expected to share with the employers' organization.
- ☐ The rules clearly define objective membership criteria.
- ☐ The rules clearly indicate that membership is voluntary.

The Board – composition and responsibilities

The Board has a crucial role in ensuring both the good governance of the organization and its long-term sustainability.



KEY QUOTE

“Society’s demands for moral authority and character increase as the importance of the position increases.”

John Adams
Second President of the US
1735-1826

The Board serves members by overseeing management activities; facilitating the decisions of members; maintaining open communication channels with and between members and management; and ensuring the observance of constitutional processes within the employers' organization.

Composition and structure

The Board should be made up of executives who are considered by the members to be generally representative of the membership of the organization. The Board may be structured in such a way as to reserve seats for particular industries or regions, or other subgroups within its membership. The reservation of seats for individual companies should, however, be restricted to a defined minority of seats. The organization rules should establish clear measures to prevent the Board from being dominated by any particular group, industry, region or faction e.g. by larger members to the exclusion of the interests of the other members.

The rules of some employers' organizations also foresee the possibility of co-opting additional Board members (with limited rights) in order to strengthen

the competence and expertise of the Board in certain respects e.g. strategic planning or marketing.

The size of the Board can vary according to the organization; a large organization will tend to need a larger Board; likewise a smaller organization can function well with a smaller Board. In absolute numbers, Board size generally ranges from six to 24 members. While there is no correct size for a Board, it is advisable to keep Board size to the minimum necessary for adequate representation of members. This will keep decision making relatively simple. Employers' organizations with larger Boards often delegate authority to committees on certain matters.

Eligibility of potential nominees

Where there is direct company membership, the Board should be composed of actively serving senior managers in member companies. It is preferable that all Board members be the President/CEO/managing director of the firm they represent, but whether this should be a minimum qualification may be decided by each organization depending on its circumstances. Where membership is via regional or sectoral bodies, equivalent controls on seniority should apply.

In order to avoid conflicts of interest and to safeguard the independence of the Board, certain occupations should make a person ineligible for membership of the Board. A currently serving member of Parliament, for example, should be prohibited from serving on the Board of an employers' organization. In some cases, an organization may reserve certain seats on the Board for specific companies, or types of companies, in which case the eligibility of potential nominees must correspond to the seat in question.

It is important that employers' organization rules clearly document the eligibility criteria (qualifications, incompatibilities) of members of the Board.

Election of Board members

The organization rules should clearly indicate the process by which Board members are nominated and elected. There are multiple ways of doing this that are more or less equally adequate, and an employers' organization should choose the method that best suits its circumstances. Board members

may, for example, be proposed by individual members or a special committee set up for this purpose and elected by the Member Assembly. Whatever the procedure, the principle of governance to be maintained is that the means of nominating and electing members of the Board should be transparent and open. Nomination and election should not take place behind closed doors by a single person (e.g. the President) or a group.

The rules of the organization should normally limit the number of consecutive terms of office that a Board member may stand for election.

Termination of office

In extraordinary circumstances, members may wish to end the term of office of individual members of the Board, or the entire Board. This could result from broad dissatisfaction of the members with the entire Board or with an individual Board member.

The employers' organization rules should clearly establish a mechanism by which members or their representatives can remove individuals on the Board, or the entire Board. Typically this should involve a majority vote of the Member Assembly at a regularly scheduled meeting, or a special meeting called for this purpose. Just as management is ultimately answerable to the Board, so must the Board be ultimately answerable to the general membership.

Responsibilities of the Board

The Board is responsible for maintaining the basic direction of the employers' organization. This responsibility manifests itself in several specific functions, including:

- Approving the annual business plan and budget prior to its recommendation to the Member Assembly;
- Reviewing the performance and termination of office of the Chief Executive and appointment of a new Chief Executive as required;
- Electing the President of the Board (and a Deputy President);
- Setting strategic direction for the organization (as opposed to day to day business);
- Making changes to the constitution of the employers' organization prior to recommending such changes to the Member Assembly;

- Approving new members, prior to making recommendations to the Member Assembly, and other housekeeping issues;
- Appointing the external auditors and receiving the external audit report.

Through these functions, the Board plays a key role in the governance of the organization by providing a check and balance system which prevents management from running the organization without any safeguards or constraints. The Board must, however, resist the temptation to “micro-manage” the organization. All these functions should be clearly documented in the rules of the organization and are further discussed below.

Business plan and budget

The Board should be responsible for recommending that the Member Assembly approve the business plan and budget of the organization as presented to it by management. This process should occur annually. The business plan should clearly indicate the priorities and objectives of the organization for the upcoming year. The budget should indicate the forecasted revenues and expenses. The Board should make alterations to the business plan where they feel it does not adequately reflect the priorities and objectives of the organization and the interests of members.

Performance review

Another key oversight role is the review of management performance and the appointment/termination of the Chief Executive of the organization. In practice this function typically centres on a review of the performance of the Chief Executive in implementing the decisions of the Board and the Member Assembly. The setting of the remuneration of the Chief Executive is also a focus of the review. In the case of a vacancy for the position, the Board should be responsible for selecting and approving a qualified candidate. In cases of poor performance or serious misconduct on the part of the Chief Executive, the Board should have the responsibility and authority to terminate the employment. All the procedures for these functions should be documented in detail in the rules of the organization. The competence of the Board to terminate the employment of the Chief Executive is an important feature in the governance of an employers’ organization. Without this feature, poor management could continue unchecked to the detriment of the organization and its members.

Election of the President

In addition to its oversight role, the Board has functions related to its own operation, in particular the election of a President. The Board is responsible for electing a qualified candidate to be President of the Board. The role of the President is detailed below, but here it is important to note that the employers’ organization rules should have clear procedures on how the Board elects its President e.g. by majority vote of the Board members.

Setting strategic direction

The Board should take decisions, as circumstances warrant, concerning the overall long-term direction of the organization. Such major decisions might include, for example, the merger of the organization with another business association, or the redefining/restructuring of the organization in response to changes in industry or other major shifts in the working environment. The organization’s rules should indicate clearly what types of decision come under the authority of the Board and to what extent approval of decisions by the Member Assembly is required.

The Board should not be involved in the daily management of the organization and a clear distinction should be made between the types of decision that fall under the responsibility of the Board, and those that are the responsibility of management. In practice, decisions made by the Board should pertain to the development of basic policy positions and to long term or fundamental shifts in the operation and direction of the organization.

Changes to the constitution

A separate category of fundamental decision making that should be assigned to the Board concerns changes to the constitution of the employers’ organization. Constitutions must be flexible documents that grow and change with the organization as it develops. Every constitution should contain a clear procedure by which it can be amended or changed. While any member should be able to put forward an amendment to the constitution, the responsibility for recommending change and outlining the available options will normally be given to the Board. Any change should require ratification by the Member Assembly.

Admission of new members

A further area of responsibility for the Board concerns admitting new members to the organization. As explained above, the admission of new members should be based on clear and objective criteria. The Board's role in this process should be largely confined to ensuring that the applicants for membership actually meet the defined criteria. Boards should not be given sole discretion for admitting members: this procedure lends itself to abuse and can potentially lead the organization into conflicts of competition. Rather the Board should approve the admittance of new members based on the defined criteria, subject to acceptance by the Member Assembly.

Housekeeping issues

The employers' organization rules may assign other responsibilities to the Board concerning such housekeeping issues as the authority to open bank accounts in the name of the organization. These are relatively minor issues and they can remain minor issues by being clearly documented in the rules; failure to assign authority for some of these matters can lead to confusion which in turn can lead to conflicts that needlessly become major issues.

Appointment of external auditors

Finally, the Board should be responsible for the appointment of external auditors, at least annually, to review the finances of the organization (see also section four below).

The role of the President of the Board

The role of the President is to lead and manage the Board, seeking to uphold the principles and goals of the organization through the most efficient use of the Board's time and energies. In practical terms, the President is required to manage periodic Board meetings, approving the agenda and ensuring that constitutional formalities are observed. The President is also often expected to chair the periodic (usually annual) meeting of the Member Assembly. In addition the President can be expected to perform "diplomatic" functions, such as holding meetings with government dignitaries and attending other events (e.g. press conferences or other important activities of the organization).

The rules of an employers' organization must clearly establish the process by which the President is to be elected. Typically the President is already serving on the Board, but this does not have to be the case.

The organization rules should include a role description for the President, outlining the duties and authority of the office. The rules should pay special attention to differentiating the role of President from the role of Chief Executive. Clearly documenting the duties and authority of the President (and later the Chief Executive) will avoid confusion and conflict within the organization. Since the Board will be responsible for reviewing the performance of the Chief Executive, it is important to clearly establish the role of the President in this review process. In practice, the President of the Board typically takes the lead in reviewing the Chief Executive's performance on an annual basis and (together with the treasurer) approving the Chief Executive's remuneration.

The role description should also indicate some basic qualifications for the position of President. A minimum requirement might be that the candidate is the senior manager of a current member company or organization. An employers' organization with a special industry or geographical focus may have other minimum requirements for its President.

Related to the job description is a clear indication in the rules of the term of office and term limits. In practice it is common for a President to serve from 1 to 3 year terms. There is no universal correct term length. Term limits may also vary according to the tradition of the particular organization, though some limit to re-election and the number of consecutive terms should be indicated in the rules.

The President of the Board must also observe the principle of impartiality when carrying out duties for the organization. This relates to separating the role of President from the role of senior manager in a member company. The President should never use the position to promote his or her firm, or to restrict the voice of member companies which are competitors. In this regard the President should not only be fair, but also always maintain the appearance of fairness, in all activities related to the organization.

Communication between Board and members

A key responsibility of the Board is to maintain and facilitate communication with the members of the employers' organization. While management has to keep members informed of day to day business issues, the Board should keep members informed of the results of periodic meetings of the Board, including any debates taking place within those meetings. Furthermore, it is the Board's responsibility to produce an annual report to members detailing the activities of the organization.

While in practice the production of this report may largely be delegated to the management of the organization, the Board has a unique responsibility to guarantee the accuracy of management reporting.

Since the Board plays a facilitating role between members and management, it is especially important that the Board pay attention to proper communication. The exact duties of the Board in this regard should be detailed in the rules of the organization.



THE BOARD CHECKLIST


- ☐ The employers' organization rules establish clear measures to prevent the Board from being dominated by larger members or regional/sectoral groups to the exclusion of the interests of other members.
- ☐ The employers' organization rules, as appropriate, establish a specific number of seats for the Board (not so many as to lose direction/control).
- ☐ The rules clearly document the eligibility criteria for Board members and describe the function of the Board.
- ☐ The rules clearly indicate the process by which Board members are nominated and elected.
- ☐ The procedure for electing members of the Board is transparent and open to the entire body of member companies, or their representatives. The nomination and appointment do not take place behind closed doors by a single person or group (e.g. the President or Chief Executive).
- ☐ The rules define criteria that disqualify certain categories of people from Board membership e.g. currently serving members of government.
- ☐ The rules clearly establish a mechanism by which members may remove individual members of the Board or the entire Board.
- ☐ The rules clearly document the responsibilities of the Board. These responsibilities include the approval of the business plan and budget and the review of the performance of the Chief Executive.
- ☐ The rules give the Board authority to appoint or remove the Chief Executive.
- ☐ The rules establish clear procedures for the nomination and election of the President of the Board.
- ☐ The rules detail the types, or categories, of decision that come under the remit of the Board, and draw a clear distinction between decisions that are the responsibility of the Board and decisions that are the responsibility of the Chief Executive.



THE BOARD CHECKLIST (cont.)

- ☐ The constitution contains within itself a procedure by which the constitution can be amended or changed, involving final approval by the Member Assembly.
- ☐ The rules establish clear objective criteria for the Board's decision on admitting new members to the organization, involving final approval by the Member Assembly.
- ☐ The rules assign clear authority to the Board for miscellaneous housekeeping issues, such as opening bank accounts in the name of the organization.
- ☐ The rules provide a role description for the President of the Board including the basic qualifications for the job as well as detailed reference to the President's responsibility to review the performance of the Chief Executive.
- ☐ The rules establish the term of office for the President (and the Board members), and limit the number of consecutive terms that can be served by the same person(s).
- ☐ The rules clearly establish the *principle of impartiality* as this applies to the President's activities on behalf of the EO. The EO does not serve as a platform for the President to promote his or her company to the detriment or exclusion of other member companies.
- ☐ The rules assign specific reporting responsibilities to the Board, including the appointment of an external auditor to review the finances of the employers' organization.

The Chief Executive and management – appointment and responsibilities



KEY QUOTE

“Management is doing things right; leadership is doing the right things.”

Peter Drucker
Author and Management Guru

As is the case throughout the guide, standard or generic titles are used to describe particular functions. In this case, the title Chief Executive describes the senior manager appointed by the Board. Other terms synonymous with this include Director General, Secretary General, Executive Director or CEO.

The Chief Executive of the organization has a central position in its daily management, but also has important governance responsibilities. The Chief Executive is typically the highest level of full time management in the employers' organization (Board members usually meet periodically), and therefore the Chief Executive's adherence to good principles of governance is crucial for the organization.

Role and responsibilities of the Chief Executive

The primary role of the Chief Executive is the day to day management of the employers' organization and its staff, and the implementation of long term strategies and action plans. The performance of the Chief Executive in this regard will largely dictate the overall success of the organization in its activities. This guide, however, will restrict itself to the responsibilities of the Chief Executive concerning matters of governance.

In the area of governance, the Chief Executive is responsible for the general administration of the organization; this means ensuring that legal requirements and the employers' organization own rules are observed. The Chief Executive must promote formal meetings related to governance matters (such as meetings of the Board or the Member Assembly), and facilitate good communication between management and the Board and management and the membership. More specific governance responsibilities are noted below.

The Chief Executive of an employers' organization typically has responsibility for hiring and managing the staff of the organization. This staff may include a treasurer or finance director, as well as other senior managers such as specialists in industrial relations, labour law, HRD, marketing, public relations, etc. While the employers' organization rules should normally leave the Chief Executive with decision making authority over the filling of management positions, the remuneration for senior positions may be subject to Board or Presidential approval. It is important that the Chief Executive be able to choose his or her own management team and that this management team see the Chief Executive as their principal employer.

As noted in the section on Boards above, it is also important that the organization's rules clearly distinguish between the responsibilities and authority of the President of the Board and those of the Chief Executive. Normally, the Chief Executive should have, within the budget, complete authority over the day to day management of the organization and any staffing issues, including the remuneration of "non-senior" staff. The authority of the President should be limited to such matters as, for example, removing the Chief Executive for poor performance or serious misconduct. This provides a sufficient check on the Chief Executive's powers, without undermining the authority of the position and the ability to manage the day to day affairs of the organization.

The Chief Executive's formal authority in governance matters is not limited to staffing and management issues. Many of the Board decisions, for example on a merger of the organization with another business association, will often stem from the recommendations of the Chief Executive. Additionally, while the Board has the authority to approve the annual business plan and budget, it is typically the Chief Executive who produces these items for the Board's approval. The rules of the employers' organization should clearly explain all

the governance responsibilities of the Chief Executive and they should be reflected in the job description for the position.

Eligibility of potential candidates

Unlike Board members, there is no need for the Chief Executive of an employers' organization to be a senior manager in a member company. Indeed since the position of Chief Executive is often full time, it is impossible to hold another job. In a small organization this may be possible, and the exact eligibility of candidates for Chief Executive will need to vary from organization to organization.

Where the position of Chief Executive is not full time, particular attention must be given to avoiding potential conflicts of interest. In such a case, the job description of the Chief Executive should clearly indicate the separation of duties between the organization and the outside position. This should include proportion of time spent on employers' organization functions, the confidentiality of organizational information, other roles that may be accepted by the Chief Executive and the proportion of remuneration that may come from other employment (more on this in the section on remuneration below).

Generally the position of Chief Executive should be available to whoever the members of the employers' organization, through their Board, find most appropriate to manage the affairs of the organization. From a good governance point of view, it would only be necessary to preclude, in line with national law and practice, any candidates with poor records in the area of governance matters, such as any "unspent" criminal or civil penalties for corporate malpractice.

Appointment of the Chief Executive

The appointment of the Chief Executive is a function of the Board and/or the President of the Board. In practice the Board may use a committee or a professional recruitment agency to search for eligible candidates. The authority to appoint the Chief Executive should, however, remain with the Board or President. Since the Chief Executive plays an influential role in the day to day affairs of the organization, it is good practice to have a well-documented appointment procedure to avoid any potential confusion or conflicts.

Termination of engagement

While the rules of the employers' organization should provide the Chief Executive with sole authority over the staff of the organization, there should nevertheless be a grievance procedure concerning the Chief Executive. If staff members have grievances about other staff members, then these should be settled at the level of the Chief Executive with no interference by the Board or President. If, however, staff members have grievances about the Chief Executive, then these should be addressed to the President or other designated member of the Board. Minor grievances can be noted during the annual performance review

of the Chief Executive, while major grievances can be addressed more immediately. If circumstances warrant, the President, with the Board's approval, should have the authority to terminate the employment of the Chief Executive. The exact procedure for this step should be documented in the contract of employment of the Chief Executive. Clear documentation not only allows the organization to react quickly in the event of serious misconduct or poor performance on the part of the Chief Executive; it can also preclude any wrongful dismissal litigation on the part of the Chief Executive, or challenges to the Board's authority in this matter.



CHIEF EXECUTIVE AND MANAGEMENT CHECKLIST

- ☐ The Chief Executive is responsible for the general administration of the organization, and ensures that constitutional requirements are observed.
- ☐ The employers' organization rules provide the Chief Executive with full responsibility for hiring and managing the staff necessary to the day to day operation of the organization.
- ☐ The rules clearly distinguish between the responsibilities and authority of the President of the Board and those of the Chief Executive. The Chief Executive has authority over the daily management of the organization. The President has the authority to terminate the employment of the Chief Executive in cases of serious misconduct and poor performance.
- ☐ The Chief Executive is responsible for matters related to governance such as the preparation of a budget, even though decisions on these matters remain with the Board. The rules detail the responsibilities of the Chief Executive in a job description.
- ☐ In line with national law and practice, the rules preclude any candidate for Chief Executive who has a record of criminal or civil liability for corporate malpractice.
- ☐ The appointment of a Chief Executive is a function of the Board and/or the President of the Board. The process of selecting and appointing a Chief Executive is well documented.
- ☐ The rules provide a grievance procedure for staff relating to the Chief Executive. These grievances are reported to the President or a designated other Board member.
- ☐ The exact procedure for terminating the employment of the Chief Executive is documented in the contract of employment of the Chief Executive.
- ☐ The remuneration of the Chief Executive is set by the President with the Board's approval.
- ☐ Outside activities and remuneration of the Chief Executive, other than that from the employers' organization, must be approved by the Board and must not present a conflict of interest for the Chief Executive.

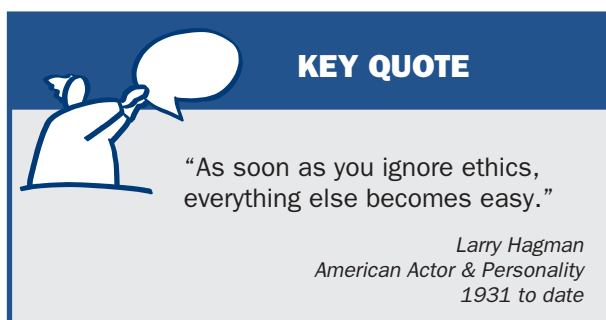
Remuneration and benefits

The remuneration and benefits of the Chief Executive should be set by the President, with the Board's approval. In practice the President may form a special committee to review the matter and decide upon appropriate compensation. Final authority in the matter, however, should rest with the Board.

The job description of the Chief Executive should also include limits, or an approval procedure, for other remuneration received for work done outside the role as Chief Executive of the organization. This is most likely to be applicable to a small employers' organization where the position of Chief Executive is not full time. Even for large organizations, however, the Chief Executive may be in a position to receive remuneration from other parties for consultancies or other services. There is nothing in principle wrong with engagement in outside activities, so long as the Board of the organization sets specific limits or approval mechanisms for such engagement, whether remunerated or not. The Board may, for example establish a mechanism whereby all external work approved by the President or the Board is allowable. In any case, the underlying principle of governance to be addressed is the avoidance of conflict of interest on the part of the Chief Executive.

Section Four

Tools of governance – rules; committees and project groups; transparency and communication



Employers’ organization rules

Throughout the guide and checklists, mention has been made of employers’ organization rules, that is the constitution or statutes, by-laws and codes of conduct or behaviour. These documents lay out the powers held by various individuals and groups, and the manner in which important decisions must be made. Section eight of the guide contains a sample employers’ organization constitution for your reference.

It is clear that the governance rules of an employers’ organization have to be in line with the law and practice of the country which is the legal environment for their operation. While the organization rules provide a sound basis for governance of the organization, it is even more important that they are applied in a spirit of member orientation. It is necessary to have appropriate procedures to promote and, if need be, enforce the rules. The rules should, as far as possible, be clear and simple. Overregulation should be avoided.

Rule-making bodies can be all of the above mentioned institutions, that is, the Member Assembly, the Board and the Chief Executive.

The core document is the employers’ organization constitution, often called the statutes, that sets out the fundamental structure and rules of the organization. The constitution lays down the most

fundamental operating principles and should only be changed by a majority (and typically by more than a two-thirds majority) of the Member Assembly.

Other forms of employers’ organization rules include by-laws, codes of practice and codes of behaviour. These rules are generally subject to more frequent amendment and tend to deal with issues of detail. These documents can normally be changed by decision of the Board.

It is recommended that where specific details are not necessary, the constitution should stick to fundamental issues of principle and procedure. This will ensure sound governance in the context of a more flexible constitution that does not require regular revision. An inflexible and bureaucratic constitution may in fact engender a culture of disrespect for what is the key instrument of sound governance.

Subjects normally considered to be within the scope of the constitution are;

- The name and aims of the organization;
- Definitions, rights and responsibilities of members;
- The operation of the Member Assembly;
- Board membership, tasks and duties and decision making procedures;
- The preparation and presentation of accounts;
- The appointment of an independent auditor;
- The process of amending the constitution;
- Merger and or dissolution of the organization.

Details of the questions above, as well as the many other issues that need to be documented for the effective running of the organization should be included, as appropriate, in by-laws, codes of conduct or codes of good practice.

Codes of conduct could, for instance, guide the conduct of Board members.



RULES CHECKLIST

- ☐ A system of employers' organization (EO) rules, consisting of a constitution/statutes, by-laws and, as need be, codes of conduct is in place.
- ☐ EO rules are in line with the national legal framework.
- ☐ EO rules define clear competences and provide for adequate controls.
- ☐ The EO constitution contains basic provisions on the name and purpose of the EO, rights and responsibilities of members, as well as the functioning of its organs.
- ☐ By-laws contain more detailed regulation on procedures, sub-organs and special issues. There may be codes for the conduct of EO organs and members.

Committees

It is common practice in employers' organizations to have several standing committees to which projects/issues are referred as necessary. Especially in a large organization, there may be a substantial network of standing committees and sub-committees. Increasingly, many employers' organizations also make use of time-limited committees with specific goals; once the goals are achieved or the time limit expires, the committee disbands.

Since the Board only meets periodically throughout the year to make key decisions, much of the background and detail work of the Board is done through committees and project groups. The present section will look at this important functional area of employers' organizations with respect to the governance implications of committee and project group work.

It is important to clearly define the role of a committee within the governance structure of an employers' organization, in order to avoid confusion and/or conflicts between the Board, management, and the various committees that may exist within the organization.

The general function of committees

Committees primarily exist to serve the Board in carrying out its responsibilities. This concerns, first of all, the development of policy positions/decisions on issues of relevance to the organization. Committees are a means to make full use of the experience and expertise of members in

preparing such decisions/positions, to settle possible divergences of opinion at a very early stage and thus make the policy positions/decisions more adequately reflect members' views.

The Board has several other formal responsibilities that require substantial support in terms of research and analysis. These responsibilities include strategic issues such as the merger of the organization with another business association, or issues of remuneration, succession and audit.

Committees or project groups may also be set up to support management functions where special expertise is required (e.g. addressing technological issues facing the industry) or in-depth member participation is required.

In any case, it should be clear that committees are support structures meant to facilitate decisions by the Board/management, not to take decisions themselves.

Key committees

Apart from committees for the development of policy positions, common committees found in many employers' organizations include those for remuneration and auditing. Given the importance of these committees, it is recommended that their functions, authority and composition be detailed in the rules of the employers' organization.


The remuneration committee

The remuneration committee helps to define the appropriate level of remuneration and benefits for senior figures in the organization and to agree remuneration policy for the organization as a whole. Normally the committee will concern itself with the remuneration of the Chief Executive. However in cases where Board members or the President are paid for their services, this will also fall within the remuneration committee remit.

Concerning the remuneration of the Chief Executive, the committee should report directly to the Board or President. Concerning any remuneration paid to the Board, the committee may be established under different scenarios: under one scenario the committee contains no members of the Board and is authorized to determine the appropriate level of remuneration for Board members. Another possible scenario has the committee reporting to the Board, but only setting the remuneration for all future Board members, such that an outgoing Board and President set the remuneration for an incoming Board and President. In some organizations, the recommendations of the remuneration committee may be approved by a vote of the Member Assembly at an annual meeting.

In any event, the general principle is that those directly receiving the remuneration decided by the committee should not be in a position of authority over the committee.

The audit committee



KEY QUOTE

“Earnings can be as pliable as putty when a charlatan heads the company reporting them.”

Warren Buffett
US Investment entrepreneur
on the ENRON and
associated corporate scandals
1931 to date

One of the single most important responsibilities of the Board is ensuring that the income and expenses of the EO are properly accounted for. In practice this requires the Board to establish an auditing committee whose responsibility is to appoint an external accountant/auditor to review the financial records of the organization. The auditor should report directly to the audit

committee or the President of the Board. It is not recommended to have the auditors or the audit committee reporting to the Chief Executive or any other member of management. Although in practice the auditors will be working with managers, especially the treasurer, it is important that the auditors report to the Board.

Appointment

Committees may in practice be appointed by the Board, the President of the Board, or the Chief Executive, depending on their nature and function. The rules of an employers' organization should clearly indicate the types of committee that can be appointed by the Board and the Chief Executive. Generally, the right to appoint certain types of committee should correspond to the formal responsibilities of the Board and the Chief Executive. The Board should appoint committees related to its areas of responsibility, such as the development of policy positions, remuneration, and auditing. The Chief Executive will appoint committees related to projects on the daily management of the organization. In either case, the appointment of the committee should include a clear job description of the committee members and a clear description of the expected kind of output.

In smaller organizations, it might be advantageous for the rules to mandate the use of time-limited committees that automatically dissolve on a certain date, or on the accomplishment of a specific task, whichever comes first. This avoids the creation of numerous and perhaps unnecessary standing committees.

Dissolution

Dissolving a committee should be the responsibility of the authority that created it, so that Board committees are dissolved by the Board, and management committees by the management. It should be clear that management has no authority over a Board committee and the Board has no authority over a management committee. A clear separation of authority helps to keep the roles of the Board and the management separate. This avoids a Board that interferes in the day to day operation of the organization, and a management that interferes with the organization's basic governance and long term strategic direction.

Accountability

In order to avoid committees accruing too much power or authority and disrupting the governance of the organization, it is important that the rules of the employers' organization clearly establish the authority of the Board or management in relation to their respective committees. In all cases committees must remain answerable to the Board

or management. Boards and management should be careful about delegating too much decision making authority to committees. Additionally, a summary of the work of all committees, including those set up by management, should be periodically and transparently reported to the Board. This periodic reporting allows the Board to ensure that each committee is operating within the framework of the rules.



COMMITTEE CHECKLIST

- ☐ The rules clearly indicate the exact functions, authority and composition of key committees such as policy development, remuneration and auditing.
- ☐ Those directly receiving the remuneration decided by the remuneration committee are not in a position of authority over the committee.
- ☐ The audit committee reports to the Board or President, and not to the Chief Executive.
- ☐ The rules clearly indicate the types of committee that can be appointed by the Board and the Chief Executive. The authority to appoint certain types of committee corresponds to the formal responsibilities of the Board and the Chief Executive.
- ☐ The appointment of committees includes a clear job description of the committee members and a clear output.
- ☐ Committees can be dissolved by the authority (Board or management) that created them. It is clear that management has no authority over a Board appointed committee and the Board has no authority over a management appointed committee.
- ☐ The rules clearly establish the authority of the Board or management in relation to their committees. The committees are always accountable to the authority that created them.
- ☐ A summary of the work of each committee within the organization is presented periodically (at least annually) to the Board.

Transparency and communication

Transparency and member communication are crucially important for an employers' organization. Such an organization serves an important function as a trusted advocate for its members. Malpractice in the performance of its operations undermines the interests of its members and casts a negative image over them. In order to maintain the trust of members and others with which it relates, and to ensure the proper governance and functioning of the organization itself, concrete steps should be taken to promote transparency and to ensure timely and accurate communication with members, with other organizations and with the general public.

As noted in the sections on Board responsibilities and committees above, external auditors should be commissioned by the Board, at least annually, to review the finances of the organization. This review should ensure that all income and expenses are properly accounted for.

The rules of the employers' organization should establish the criteria for external auditors. They should be appropriately qualified and be members of a reputable firm with no direct connection to the management of the organization.

Preferably the auditors should not be members of the organization, though in some cases this may be unavoidable.

The auditors should be directly appointed by the Member Assembly, the Board, or a special audit committee appointed by the Board for that purpose. The auditors should report to the Board or its audit committee.

The external auditors have a responsibility to examine the finances of the organization and certify that the records kept by management accurately reflect its income, expenses and other financial circumstances. The exact role of the auditors can be briefly described in the rules of the employers' organization.

Avoiding corruption and conflict of interest

Avoiding corruption and conflict of interest is crucial to sound governance in any organization. The rules of an employers' organization can take active measures to preclude malpractice in its operations. The rules may require the Board to draft a code of conduct for the organization, which would be used to guide management behaviour, and to evaluate their performance.

Another way to avoid corruption and conflict of interest is to develop internal checks and balances. Many of the recommendations in this guide are based on the need to develop a balance of authority and oversight between the various core institutions of governance in an employers' organization. General principles, such as the "four eye" principle (which requires an activity such as approving invoices for payment and signing cheques, to have the approval of at least two people) can be basic but effective means of building checks and balances into an organization.

Especially large employers' organizations may also consider including an internal audit function, which is responsible for ensuring the accuracy of internal reporting and compliance with management rules. The internal audit function can report directly to the Chief Executive, with the authority to report to the Board in cases involving serious misconduct associated with the Chief Executive or any other staff. The internal auditors should seek to uncover and rectify any lapses in proper accounting or procedure before such lapses are uncovered by external auditors or third party investigators (e.g. government authorities).

Given the core function of an employers' organization, it is important that it retains independence from other social partners and the government. Therefore, it is considered good practice to avoid giving or receiving contributions from political parties. Especially in light of recent international efforts against the bribery of public officials (e.g. the 1997 OECD Convention and the 2004 UN Convention), an employers' organization should avoid any political contributions that may appear to be intended to improperly influence candidates for, or holders of, public office.

While an employers' organization should decline any contributions from political parties, it is acceptable and normal for it to receive funds from an authorized public official as part of an authorized and clearly documented commercial contract.

Another form of conflict of interest can arise when Board members or top managers become unduly influenced by parties external to the organization or vested interest groups within it. This can occur, for example, when external parties or internal special interests seek to curry favour with Board members or management through a valuable offer. The offer can consist of promises of future employment, elaborate gifts, additional income or benefits. Board or management capture can also occur where Board members or management have informal ties to particular groups, internal or external, which interfere with their responsibilities and obligations to the organization as a whole.

The potential problem of capture can be especially pronounced in an employers' organization with a minority of large firms that may seek to unduly influence its policy. Even within an organization of relatively similar sized firms, there is the possibility that a specific industry may try to unduly influence particular policy positions of the organization, to the detriment of other members.

To avoid such dangers, the Board of the employers' organization should clearly establish limits on gift giving and receiving, and the record of Board members and management on this matter should be periodically reviewed by the President. Informal ties that lead to conflicts of interest should be controlled by the existing checks and balances within the organization: the President should oversee the Chief Executive, the Board should oversee the President, and the Member Assembly must oversee the Board. Establishing clear guidelines at the earliest possible moment, however, can do much to avoid any potential conflicts in the future.

Communication

An employers' organization sits in the middle of a large interconnected web of organizations. Its most immediate stakeholders are its members who rely on it to conduct advocacy and social dialogue in their name. Beyond these immediate stakeholders, an employers' organization has a relationship with government and inter-governmental agencies, trade unions and the general public. It is important that for each of these groups the organization maintains appropriate communications. At a basic level, these obligations to communicate should be explained in the rules of the employers' organization. Communication with certain organizations can be assigned to specific representatives of the organization, such as the Chief Executive, and inserted into the job description of those representatives. It should be noted that advances in communication technology, principally internet related communications, provide the opportunity for employers' organizations to offer increased transparency to their members and other organizations and groups.

The principal stakeholders of any employers' organization are the members. One of the most significant institutions for communication with members is the Member Assembly. The Member Assembly is central to the governance of the organization because it provides the opportunity to communicate with members, as well as the opportunity for members to communicate with the Board and management. It is at the Member Assembly that members or their representatives have the opportunity to voice any formal concerns they may have about the organization and its management.

As internet facilitates continuous communication with members, and feedback from members, the role of the Member Assembly may change over time. Nonetheless, the rules of the employers' organization must clearly allow for two-way communication between the members and the Board and management. The purpose of the employers' organization is to serve the members; ensuring that their voice is heard is a central underlying principle of good governance.



TRANSPARENCY & COMMUNICATION CHECKLIST

- ☐ External auditors are commissioned by the Board at least annually to review the finances of the organization.
- ☐ The auditors report to the Board.
- ☐ The rules of the employers' organization establish the criteria for external auditors and, if need be, describe their exact role or function.
- ☐ The rules require the Board to draft a code of ethics that applies to all Board members and management.
- ☐ A code of ethics (or similar) specifies the acceptable limits of gift giving and receiving for members of the Board and management.
- ☐ The President periodically reviews the performance of the Chief Executive to ensure that the Chief Executive is not being unduly influenced (or "captured") by an external party or an internal special interest.
- ☐ The rules oblige the management and the Board to maintain regular communication with the membership.
- ☐ The rules clearly provide mechanisms for two-way communication between the members of the organization and the Board and management.

Section Five

The sound governance checklist

The compilation checklist

This section of the guide consists of a compilation of the checklists that appeared at the end of sections two to four.

The compilation checklist is perhaps most useful as a tool to audit existing arrangements so as to identify areas where improvements can be made. It will also indicate how to make improvements. You can use the compilation in two ways.

First, having read through the guide, you might like to measure how your own organization shapes up with respect to sound governance. If you marked up the checklists as you read through the guide, you can now check how you fared overall. Second, you can use the compilation checklist as a questionnaire for senior managers in your organization to help them assess your current approach to sound governance.



THE MEMBER ASSEMBLY CHECKLIST

- ☐ The rules clearly indicate measures designed to provide a fair and balanced representation of all members of the employers' organization in the Member Assembly.
- ☐ The rules clearly indicate who may and who may not be a member of the employers' organization.
- ☐ The rules clearly indicate the process by which the Member Assembly elects or approves the Board of Directors.
- ☐ The rules clearly indicate the process by which the Member Assembly may remove members of the Board.
- ☐ The rules clearly establish the mechanism by which membership fees are determined.
- ☐ The rules clearly address the issue of non-payment of membership dues, including the procedure for expelling non-paying members and the status of membership rights for any member in arrears.
- ☐ The rules clearly indicate other member responsibilities, for instance the type of information members are expected to share with the employers' organization.
- ☐ The rules clearly define objective membership criteria.
- ☐ The rules clearly indicate that membership is voluntary.



THE BOARD CHECKLIST

- ☐ The employers' organization rules establish clear measures to prevent the Board from being dominated by larger members or regional/sectoral groups to the exclusion of the interests of other members.
- ☐ The employers' organization rules, as appropriate, establish a specific number of seats for the Board (not so many as to lose direction/control).
- ☐ The rules clearly document the eligibility criteria for Board members and describe the function of the Board.
- ☐ The rules clearly indicate the process by which Board members are nominated and elected.
- ☐ The procedure for electing members of the Board is transparent and open to the entire body of member companies, or their representatives. The nomination and appointment do not take place behind closed doors by a single person or group (e.g. the President or Chief Executive).
- ☐ The rules define criteria that disqualify certain categories of people from Board membership e.g. currently serving members of government.
- ☐ The rules clearly establish a mechanism by which members may remove individual members of the Board or the entire Board.
- ☐ The rules clearly document the responsibilities of the Board. These responsibilities include the approval of the business plan and budget and the review of the performance of the Chief Executive.
- ☐ The rules give the Board authority to appoint or remove the Chief Executive.
- ☐ The rules establish clear procedures for the nomination and election of the President of the Board.
- ☐ The rules detail the types, or categories, of decision that come under the remit of the Board, and draw a clear distinction between decisions that are the responsibility of the Board and decisions that are the responsibility of the Chief Executive.
- ☐ The constitution contains within itself a procedure by which the constitution can be amended or changed, involving final approval by the Member Assembly.
- ☐ The rules establish clear objective criteria for the Board's decision on admitting new members to the organization, involving final approval by the Member Assembly.
- ☐ The rules assign clear authority to the Board for miscellaneous housekeeping issues, such as opening bank accounts in the name of the organization.
- ☐ The rules provide a role description for the President of the Board including the basic qualifications for the job as well as detailed reference to the President's responsibility to review the performance of the Chief Executive.
- ☐ The rules establish the term of office for the President (and the Board members), and limit the number of consecutive terms that can be served by the same person(s).



THE BOARD CHECKLIST (cont.)

- ☐ The rules clearly establish the *principle of impartiality* as this applies to the President's activities on behalf of the EO. The EO does not serve as a platform for the President to promote his or her company to the detriment or exclusion of other member companies.
- ☐ The rules assign specific reporting responsibilities to the Board, including the appointment of an external auditor to review the finances of the employers' organization.



CHIEF EXECUTIVE AND MANAGEMENT CHECKLIST

- ☐ The Chief Executive is responsible for the general administration of the organization, and ensures that constitutional requirements are observed.
- ☐ The employers' organization rules provide the Chief Executive with full responsibility for hiring and managing the staff necessary to the day to day operation of the organization.
- ☐ The rules clearly distinguish between the responsibilities and authority of the President of the Board and those of the Chief Executive. The Chief Executive has authority over the daily management of the organization. The President has the authority to terminate the employment of the Chief Executive in cases of serious misconduct and poor performance.
- ☐ The Chief Executive is responsible for matters related to governance such as the preparation of a budget, even though decisions on these matters remain with the Board. The rules detail the responsibilities of the Chief Executive in a job description.
- ☐ In line with national law and practice, the rules preclude any candidate for Chief Executive who has a record of criminal or civil liability for corporate malpractice.
- ☐ The appointment of a Chief Executive is a function of the Board and/or the President of the Board. The process of selecting and appointing a Chief Executive is well documented.
- ☐ The rules provide a grievance procedure for staff relating to the Chief Executive. These grievances are reported to the President or a designated other Board member.
- ☐ The exact procedure for terminating the employment of the Chief Executive is documented in the contract of employment of the Chief Executive.
- ☐ The remuneration of the Chief Executive is set by the President with the Board's approval.
- ☐ Outside activities and remuneration of the Chief Executive, other than that from the employers' organization, must be approved by the Board and must not present a conflict of interest for the Chief Executive.



RULES CHECKLIST

- ☐ A system of employers' organization (EO) rules, consisting of a constitution/statutes, by-laws and, as need be, codes of conduct is in place.
- ☐ EO rules are in line with the national legal framework.
- ☐ EO rules define clear competences and provide for adequate controls.
- ☐ The EO constitution contains basic provisions on the name and purpose of the EO, rights and responsibilities of members, as well as the functioning of its organs.
- ☐ By-laws contain more detailed regulation on procedures, sub-organs and special issues. There may be codes for the conduct of EO organs and members.



COMMITTEE CHECKLIST

- ☐ The rules clearly indicate the exact functions, authority and composition of key committees such as policy development, remuneration and auditing.
- ☐ Those directly receiving the remuneration decided by the remuneration committee are not in a position of authority over the committee.
- ☐ The audit committee reports to the Board or President, and not to the Chief Executive.
- ☐ The rules clearly indicate the types of committee that can be appointed by the Board and the Chief Executive. The authority to appoint certain types of committee corresponds to the formal responsibilities of the Board and the Chief Executive.
- ☐ The appointment of committees includes a clear job description of the committee members and a clear output.
- ☐ Committees can be dissolved by the authority (Board or management) that created them. It is clear that Management has no authority over a Board appointed committee and the Board has no authority over a Management appointed committee.
- ☐ The rules clearly establish the authority of the Board or management in relation to their committees. The committees are always accountable to the authority that created them.
- ☐ A summary of the work of each committee within the organization is presented periodically (at least annually) to the Board.



TRANSPARENCY & COMMUNICATION CHECKLIST

- ☐ External auditors are commissioned by the Board at least annually to review the finances of the organization.
- ☐ The auditors report to the Board.
- ☐ The rules of the employers' organization establish the criteria for external auditors and, if need be, describe their exact role or function.
- ☐ The rules require the Board to draft a code of ethics that applies to all Board members and management.
- ☐ A code of ethics (or similar) specifies the acceptable limits of gift giving and receiving for members of the Board and management.
- ☐ The President periodically reviews the performance of the Chief Executive to ensure that the Chief Executive is not being unduly influenced (or "captured") by an external party or an internal special interest.
- ☐ The rules oblige the management and the Board to maintain regular communications with the membership.
- ☐ The rules clearly provide mechanisms for two-way communication between the members of the organization and the Board and management.

Section Six

What the business gurus say

There is very little academic literature relating to governance in employers' organizations, or in other organizations that represent business in its dealings with governments, trade unions and NGOs. However, as companies are organizations of owners/investors, while employers' organizations are organizations of members, corporate governance rules and best practices can also be relevant to them. This section will therefore review some of the current and historical trends on corporate governance.

Corporate governance is typically perceived in the academic literature as dealing with what the OECD *Principles of Corporate Governance* defines as "problems that result from the separation of ownership and control". In the employers' organization this manifests itself in distance between the management or the Board of the organization and the body of members. From this perspective, corporate governance would focus on: the internal structure and rules of the Board of directors; the creation of independent audit committees; rules for disclosure of information to shareholders and creditors; and control of management. Hence the governance guide focuses primarily on management and Board structures and responsibilities, organizational statutes and rules, auditing and member communication. Corporate governance today, however, is generally perceived to encompass a wider set of relationships between a company's management, its Board, its shareholders and its stakeholders. Employers' organizations which often represent business in policy discussions on governance regulations need to grasp these issues even if they are not directly relevant to their own organization's structure.

Much of the recent corporate governance debate has been dominated by the wave of corporate scandals of Enron, WorldCom, Tyco International and the like, which did a lot to undermine investor confidence and prompted regulators to take tougher stands on corporate misconduct. It is true that these scandals were on a colossal scale. When Enron collapsed on December 2, 2001 the Dow Jones Index lost 2,000 points and \$60 billion was wiped off the value of US stocks. This said, corporate governance is an interdisciplinary subject of interest to historians, economists and lawyers, and it dates back much longer than Enron.

As Robert E. Wright points out, in the eighteenth and nineteenth centuries, Americans and Britons looked askance at most forms of government regulation of business. In 1889, for instance, a railroad investor by the name of John Locke argued that while "governmental regulation sounds well" it was not a good idea to give power over private businesses to "a bare majority of unexpert and unconscientious politicians." Conversely, nineteenth-century investment gurus regularly extolled the importance of good corporate governance. For example, Robert Ward, in his 1865 *Notes on Joint-Stock Companies*, described the characteristics of a good investment. The issuing company, he argued, should have "a good scheme, brought before the public at a seasonable time...enough capital...and it must be managed well." Ward urged investors not to be lulled into complacency due to the size or previous success of a company.

Many argue that the systemic problems at companies such as Enron, WorldCom, and Tyco International arose because of an imbalance of power in favour of top management in corporate organizations. This can be traced back to the 1960s and 1970s when classical economists, led by Nobel Prize laureate Milton Friedman, argued that the purpose of business is to earn maximum profit – almost regardless of how it went about doing it – as long as it stayed within the parameters of the law. In the wake of real and alleged corporate scandals, it is not surprising to find that Friedman's notions have been replaced by a complex web of laws and regulations and initiatives (including voluntary codes) that shape the way business is governed.

Voluntary codes are usually traced back to the 1992 "**Cadbury Code**", the unofficial name for the pioneering Code of Best Practice on corporate governance, which became the model for corporate governance reform in Europe, Commonwealth countries and elsewhere.

The Cadbury Code was a response to a series of scandals and corporate failures among UK listed companies in the early 1990s. It aimed to help prevent similar scandals and to rebuild the trust of the public and investors by prodding companies to improve their governance practices. The codes that have followed in its wake around the world embody similar goals.

The stated objective of the Cadbury Committee, was “to help raise the standards of corporate governance and the level of confidence in financial reporting and auditing by setting out clearly what it sees as the respective responsibilities of those involved and what it believes is expected of them.”

The Cadbury Code of Best Practices had 19 recommendations in the nature of guidelines relating to the Board of directors, non-executive directors and executive directors, as well as on reporting and control. Whilst the recommendations themselves were not mandatory, the companies listed on the London Stock Exchange were required to clearly state in their accounts whether or not the code had been followed. The companies who did not comply were required to explain the reasons for that decision. Indeed, this mandatory disclosure principle, a practice known as “comply or explain”, has made corporate governance practices much more transparent and forced companies to think about them carefully, since any departure from the code must be publicly justified.

Corporate governance codes have proliferated in the 13 years since the Cadbury Code of Best Practice came into effect in the United Kingdom. In the past five years alone, new codes have emerged in every G-7 country except Japan, and today more than 50 countries have their own. The codes vary in scope and detail, but most tackle five fundamental issues:

- fairness to all shareholders;
- clear accountability by the Board and management;
- transparency;
- responsibility for the interests of minority shareholders and other stakeholders; and
- adherence to the letter and spirit of the law.

Today, perhaps the leading international initiative is the **OECD Principles of Corporate Governance**, which set out a framework for good practice which has been agreed by the governments of all 30 countries that are members of the OECD. The OECD principles are designed to assist governments and regulatory bodies in OECD countries and elsewhere in drawing up and

enforcing effective rules, regulations and codes of corporate governance. In parallel, they provide guidance for stock exchanges, investors, companies and others that have a role in developing good corporate governance. Since the original OECD *Principles* were issued in 1999 (and updated in 2004), they have become a generally accepted standard in this area. They have been embraced by the World Bank in its work and endorsed by the Financial Stability Forum as one of its twelve key standards for financial stability.

The *OECD Principles of Corporate Governance* cover six main areas. They call on governments to have in place an effective institutional and legal framework to support good corporate governance practices (Chapter I). They call for a corporate governance framework that protects and facilitates the exercise of shareholders’ rights (Chapter II). They also support the equal treatment of all shareholders, including minority and foreign shareholders (Chapter III). They recognize the importance of stakeholders in corporate governance (Chapter IV), and consider timely, accurate and transparent disclosure mechanisms (Chapter V). Finally, they deal with Board structures, responsibilities and procedures (Chapter VI).

Despite an apparent lack of teeth, codes undoubtedly improve corporate governance. They focus attention and often influence broader policy debates about the regulation of business. They help educate companies, often by collecting and clarifying best practices. And codes drafted by powerful institutional investors have had a direct impact on corporate governance by stating what these investors expect from the companies in which they invest.

However, while voluntary initiatives will probably continue to play a big role in the governance of business, one cannot deny that legally binding national regulation often has the greatest impact. While it is not possible here to provide a comprehensive review of all the regulatory frameworks in all countries, it may be of interest to highlight the Sarbanes-Oxley Act, which is the leading regulation today.

Passed by the U.S. Congress and signed into law in July 2002, the **Sarbanes-Oxley Act (SOX)** represents a sweeping reform for publicly-held companies. At its core, Sarbanes-Oxley is about establishing consistent financial and corporate governance processes to ensure corporate integrity and accountability.

It was designed to protect investors by improving the accuracy and reliability of company financial disclosures. Consequently, the SOX imposed major changes in corporate governance, financial reporting and auditing practices, while creating new financial oversight functions. Regardless of levels of security, the failure to implement best practice in every aspect of governance would result in non-compliance.

While it is true that the SOX targets all large U.S. public companies, it also impacts small and mid-sized businesses, including those that are privately owned. For instance, smaller companies are affected by the law's provisions regarding document retention, criminal fraud and the Employee Retirement Income Security Act (ERISA). Furthermore, the SOX requirements will concern any private company seeking venture capital funding, applying for commercial loans, planning an IPO (initial public offering), anticipating acquisition and/or doing business with a public company.

Although not required by law, smaller companies could benefit substantially from the implementation of SOX best practices. Following a best practice

template such as the one below suggested by Amadeus International Inc. can help navigate the maze of possible solutions. While this example focuses on the SOX and thus the U.S., the concepts can be modified and applied by large companies around the world according to their own regulatory environment.

Today students look back in wonder at the 1920's when business leaders of the day questioned the need for regulations governing the publication of annual reports and accounts. It is generally agreed that both "hard" and "soft" legal reporting requirements for company activities, including corporate governance, are here to stay.

Whilst none of the governance standards discussed in this section directly applies to an employers' organization, they do create a new environment of increased expectations in private sector governance, which are useful starting points for those wishing to research governance further. If you want to know more about the ideas presented above or research other writers, the references below will act as a guide.

AMADEUS INTERNATIONAL 6 STEPS TO SOX BEST PRACTICE

1. **View SOX compliance as a strategic initiative** – not a "one-off" compliance project. SOX regulations involve multiple business units and require a comprehensive approach to ensure compliance. Current best practice is to address SOX as an integrated project.
2. **Become familiar with SOX regulations.** The first step in understanding the regulations is to familiarize yourself with requirements beyond general marketing hype. It is important to understand what each of the sections says to apply them to your organization. It is recommended best practice to leverage the skills of compliance experts both internally and externally to accelerate your learning curve.
3. **Develop a SOX roadmap for compliance.** Prior to deployment of any new technology, it is important to conduct a risk assessment to determine your organization's maturity level with respect to SOX. Some controls may already be in place facilitated through existing technology, processes, and procedures. It is best practice to develop a SOX roadmap for compliance.
4. **Establish an electronic records management system.** Electronic records management is essential to ensure SOX compliance. It is recommended best practice to establish an effective records management and retention program to ensure the authenticity and integrity of all corporate records.
5. **Assess the ability of your company's existing technology systems to support SOX policies and processes.** Most of the technology required for SOX exists within your organization. However, there are some technologies such as electronic records management and compliance process control that could help accelerate and fulfil requirements stipulated by the rule. It is good practice to assess the existing technology and begin filling in technology gaps as appropriate to your goals.
6. **Establish effective training programs.** It is recommended best practice to implement ongoing training and competency management to ensure all relevant staff are informed about SOX process and reporting requirements and technology.

Section Seven

Further reading and links on governance and employers' organizations

Business books and articles on governance

Bhide, A., (1994) "Deficient Governance", *Harvard Business Review*, November-December 1994, pp.129-139

Blair, M.M, (1995) "Rethinking Assumptions Behind Corporate Governance", *Challenge*, Volume 38, pp 12

Brancato, C.K., and Plath, C.A., (2003), *Corporate governance best practises: a blueprint for the post-Enron era*. New York, Conference Board Inc.

Cadbury, A., (2002), *Corporate governance and chairmanship: a personal view*, Oxford University Press

Coombes, P., and Wong, S.C.Y. (2004), "Why codes of governance work", *McKinsey Quarterly*, Issue 2

Davies, A. (1999). *A strategic approach to corporate governance*. London: Gower Publishing Limited.

Economist Intelligence Unit (2005) *The importance of corporate responsibility –*
http://graphics.eiu.com/files/ad_pdfs/eiuOracle_CorporateResponsibility_WP.pdf

Gugler, K., (ed.), (2001). *Corporate Governance and Economic Performance*. Oxford: Oxford University Press,

Hertner, P., (1998), "Corporate Governance and Multinational Enterprise in Historical Perspective", in: *Comparative Corporate Governance – The State of the Art and Emerging Research* 41 (Klaus J. Hopt et al. eds., Oxford University Press)

Kearns, K.P., (1996), *Managing for accountability : preserving the public trust in public and nonprofit organizations*. San Francisco, CA : Jossey-Bass Inc.

Kim, H.J., (2001), "Taking International Soft Law Seriously: Its Implications for Global Convergence in Corporate Governance", *Journal of Korean Law*

Lagace, M, (2004) "Enron's Lessons for Managers", *Harvard Business School Working Knowledge*

Monks, R. A. & Minow, N., (2001) *Corporate Governance* (2nd ed.), Blackwell Business

Organization for Economic Co-operation and Development. (2004). *OECD Principles of Corporate Governance*. Paris: OECD.

Organization for Economic Co-operation and Development. (2004), "The OECD Principles of Corporate Governance explained", *OECD Observer*, August, pp.1-8

Pavlicevic, B., (1998) *Good Governance: Challenge to Non-Profit Boards*. Johannesburg: The Liberty Life Foundation.

Radin, T.J, (2004). "The effectiveness of global codes of conduct: role models that make sense", *Business and Society Review*, 109 (4), pp 415-447.

Spear, R., (2004), "Governance in Democratic Member-Based Organizations", *Annals of Public and Cooperative Economics* 7

The Committee on the Financial Aspects of Corporate Governance; Gee and Co. Ltd., (1992) *The financial aspects of corporate governance* (Cadbury code)

Tipgos, M.A., and Keefe, T.J. (2004), "A Comprehensive Structure of Corporate Governance in Post-Enron Corporate America", *CPA Journal*

World Business Council for Sustainable Development. (2004). *Issue Management Tool: Strategic challenges for business in the use of codes, standards and frameworks*, WBCSD

World Bank & OECD, (1999) *Corporate Governance: A Framework for Implementation*
Overview available at <http://www.worldbank.org/privatesector/cg/docs/overview.pdf>

Wright, R.E. (Ed) (2004) *History of Corporate Governance: The Importance of Stakeholder Activism*, Pickering & Chatto Publishers, London.

Governance books and guides related to employers' (and similar) organizations

Boleat, M.	<i>Good Practice in Trade Association Governance</i> (London, Plaza)
De Silva	<i>Employers' organizations in Asia in the 21st century</i> (Geneva: ILO Bureau for Employers' Activities, 1996)
De Silva	<i>Managing an employers' organization and its changing role</i> (Geneva: ILO Bureau for Employers' Activities, 1992)
Gonzalez Marroquin	<i>Guide to management of entrepreneurial organizations</i> (San Jose, Costa Rica: ILO Bureau for Employers' Activities, 1997)
Parker	<i>Designing and developing more effective organizations</i> (Geneva: ILO Bureau for Employers' Activities, 2001)
Standaert, J.M.	<i>Governance of Employers' Organizations – practical guidelines</i> (Budapest: ILO Bureau for Employers' Activities, 2004)
Strohmeyer, Pilgrim, Luetticken, Meier, Waesch and Arias	<i>Building the capacity of business membership organizations</i> (Washington: World Bank Small and Medium Enterprise Department) n.d.

Useful organizations and websites

The Bureau for Employers' Activities at the International Labour Organization (ACTEMP)

www.ilo.org/actemp

ACTEMP – The ILO Bureau for Employers' Activities maintains close contacts with employers' organizations in all the member states of the ILO. The Bureau operates from ILO headquarters in Geneva and through a network of employers' organization specialists in the ILO's technical teams around the world. Its tasks are to make the resources of the ILO available to employers' organizations, and to keep the ILO constantly aware of their views, concerns and priorities. It promotes international cooperation amongst employers' organizations, and runs a programme of activities around the world.

The Bureau is available, through national employers' organizations, as a gateway through which employers can gain access to some of the best information available on human resources development, industrial relations and a host of other employment and labour market-related subjects.

The Bureau also runs a programme of technical cooperation which provides development assistance to employers' organizations in developing countries and countries in transition to a market economy. This work is mostly done through projects financed by the overseas development assistance funds of donor countries.

The ACTEMP website contains links to the national employers' organization in every member country of the ILO.

The International Organization of Employers (IOE)

www.ioe-emp.org

Since its creation in 1920 the International Organization of Employers (IOE) has been recognized as the only organization at the international level that represents the interests of business in the labour and social policy fields. Today, it consists of 139 national employer organizations from 134 countries all over the world.

The mission of the IOE is to promote and defend the interests of employers in international fora, particularly in the International Labour Organization (ILO), and to this end it works to ensure that international labour and social policy promotes the

viability of enterprises and creates an environment favourable to enterprise development and job creation. At the same time it acts as the Secretariat to the Employers' Group at the ILO International Labour Conference, the ILO Governing Body and all other ILO-related meetings.

In order to ensure that the voice of business is heard at the international and national level, the IOE is actively engaged in the creation and capacity building of representative organizations of employers, particularly in the developing world and in countries in transition to a market economy.

The Center for International Private Enterprise (CIPE)

www.cipe.org

The Center for International Private Enterprise (CIPE) provides a wealth of materials on capacity development in business associations.

Whatcom Council of Nonprofits (WCN)

www.wcnwebsite.org/practices/board

Site devoted to building organizational relationships and capacity in order to strengthen nonprofit sector organizations.

International Corporate Governance Network (ICGN)

www.icgn.org/index.php

European Corporate Governance Institute (ECGI)

www.ecgi.org

The ECGI is an international scientific non-profit association. It provides a forum for debate and dialogue between academics, legislators and practitioners, focusing on major corporate governance issues and thereby promoting best practice.

The World Bank

www.worldbank.org/Themes/CorporateGovernance

Database on governance and governance links.

Section Eight

A sample employers' organization constitution

Throughout the text the role of the employers' organization constitution is referred to. The Constitution lays down all the important rules and regulations relating to governance of the organization. There is no single format for an employers' organization constitution, and indeed the prescribed form may vary according to the national law under which the organization is established. The following pages present a comprehensive model that will help those setting up a constitution from scratch, those revising an existing and outdated constitution or simply undertaking a desk review of current constitutional arrangements to check that they cover the major issues required effectively.

It should be noted that the provisions of the sample constitution do not respond exactly to all the points made in the body of this guide. An employers' organization needs to tailor its constitution to its own particular circumstances, which means that no single model text can serve all organizations. The sample provided here is intended to be used for study rather than replication.



BEST PRACTICES

CONSTITUTION AND RULES OF THE EMPLOYERS AND MANUFACTURERS ASSOCIATION XYZ INCORPORATED

The following shall be the Rules of the Employers and Manufacturers Association XYZ Incorporated. These Rules, which are adopted from 01 April 1989 repeal all former Rules of the ABC Employers Association Inc.

1. NAME

The name of the Association shall be the Employers and Manufacturers Association XYZ Inc. It will represent itself to members under the XYZ brand without a geographic qualifier when working cooperatively with other regional associations.

2. REGISTERED OFFICE

The registered office of the Association shall be situated in XYZ-Town or at such other place as the Council shall determine.

3. OBJECTS

The objects for which the Association is established are:

- (a) To provide an organization to assist all enterprises in the fields of employment relations and related matters, manufacturing, business enhancement and economic development.
- (b) To represent and promote the interests of employers in all matters relating to employment and to endeavour to improve relations between employers and employees.
- (c) To assist, advise, represent and provide services to employers and to coordinate the actions of employers in all matters affecting employment relations.
- (d) To represent and promote the interests of manufacturers and to assist, advise, represent and provide services to manufacturers on matters relating to manufacturing.
- (e) To promote, advance and strengthen the organization of employers, manufacturers and business and to develop a common approach among employers, employers' organizations, manufacturers and business in all matters affecting employment relations, manufacturing and business.
- (f) To ensure that the broader and national interests of employers, manufacturers and business are adequately promoted and represented, and to advance and promote the objects of the national representative organizations of employers and/or manufacturers.

- (g) To educate public opinion and promote understanding of employers', manufacturers' and business points of view.
- (h) To offer the widest range of services to members relevant to all aspects of employment relations, operating efficiency and any other associated needs.
- (i) To provide to members quality services suited to their intended purpose.
- (j) To enhance the economic and employment environment in which members operate, to facilitate their growth and general well-being.
- (k) To do all such acts and things as are or may be incidental to the attainment of all or any of the objects for which the Association is established.
- (l) To do all such other acts as the Council of the Association deems appropriate.

4. **DEFINITIONS**

4.1 In these Rules, unless the context otherwise requires, the following expressions shall have the following meanings:

- **"Advisory Group"** means any Advisory Group formed pursuant to these Rules to represent a sectoral interest within the Association.
- **"Annual General Meeting"** means an Annual General Meeting of the Association held in accordance with Rule 7.1.
- **"Board of Management Member"** means a member of the Board of Management constituted in accordance with Rule 9.
- **"Board of Management"** means the Board of Management of the Association constituted in accordance with Rule 9.
- **"Branch Committee"** means the Committee elected in accordance with Rule 6.3 to oversee the operation of the Branch.
- **"Branch Member"** means a General Member who trades in the geographical area covered by the Branch.
- **"Branch"** means a Branch of the Association established in accordance with Rule 6.1.
- **"Chief Executive"** means the Chief Executive Officer of the Association appointed in accordance with Rule 13.1.
- **"Council Member"** means a member of the Council constituted in accordance with Rule 8.1.
- **"Council"** means the governing body of the Association constituted in accordance with Rule 8.
- **"General Meeting"** means both an Annual General Meeting and a Special General Meeting.
- **"General Member"** means a member of the Association who meets the criteria set out in Rule 5.1.
- **"Group Member"** means a member of the Association who meets the criteria set out in Rule 5.5.
- **"Immediate Past President"** means the President who held such office immediately prior to the current holder of such office in accordance with Rule 8.3(b).
- **"Life Member"** means a member of the Association who meets the criteria set out in Rule 5.4 and shall also mean the life members of the ABC Employers Association Inc. and the ABC Manufacturers Association Inc. at the date of the first annual general meeting of the XYZ Employers and Manufacturers Association Inc.
- **"Manufacturer"** and **"Manufacturing"** means and includes any employer engaged in the commercial production and making of goods and products from raw materials by machine and industrial process.
- **"Member"** means General Member, Group Member and Life Member.
- **"National Representative Organization"** means the organization(s) established to collectively represent the national interests of employers and/or manufacturers.
- **"Old Rules"** means the Rules of the ABC Employers Association Inc.
- **"President"** means the President of the Association elected in accordance with Rule 8.3.
- **"Register of Members"** means the register of members of the Association to be kept in accordance with Rule 14.3.
- **"Representative of member"** means a director, or employee of a General Member.
- **"Special General Meeting"** means a General Meeting of the Association held in accordance with Rule 7.2.
- **"The Association"** means the Employers and Manufacturers Association XYZ Inc.
- **"Vice President"** means the Vice President of the Association appointed in accordance with Rule 8.1.
- **"ABC Manufacturers Association Inc."** means the Association as constituted pursuant to the Incorporated Societies Act 1927 and known as the ABC Manufacturers Association Inc.
- **"ABC Employers Association Inc."** means the Association as constituted pursuant to the Incorporated Societies Act 1927 under the name ABC Employers Association Inc.

5. **MEMBERSHIP**

5.1 **General Membership:**

- (a) General Membership is open to any organization being an employer, business proprietor or manufacturer.
- (b) An applicant shall be admitted as a General Member who:
 - (i) Has completed a written application to the Association providing such information as the Council may require;
 - (ii) Agrees to conform with the Rules of the Association;
 - (iii) Agrees to pay the annual subscription and any entrance fee as determined under Rule 5.6 and other charges incurred for services or products.
- (c) Each General Member shall be liable for the fees, and all subscriptions and special subscriptions as may be determined in Rule 5.6.
- (d) In each year on a date determined by the Council, each General Member shall provide to the Association such information as the Council may decide is necessary for the calculation of subscriptions due.
- (e) Where a General Member fails to provide the information necessary to calculate their subscription the subscription shall be assessed using the information provided by that General Member in a previous year.
- (f) All members of the ABC Manufacturers Association Inc. at the date on which these Rules are adopted are deemed, from the date of adoption of the Rules, to be General Members and entitled to participate in all of the activities of the Association, including the first Annual General Meeting held pursuant to Rule 7.1, as if they had been admitted to membership of the Association pursuant to Rule 5.1.

5.2 **Resignations:**

- (a) Any member who wishes to withdraw from membership of the Association shall deliver to the Chief Executive a written notice of resignation signed personally or by a duly authorized agent.
- (b) No resignation shall be effective until the resigning member has paid all annual subscriptions, fees, special subscriptions and any other charges due.

- (c) Any member who has failed to pay all subscriptions or levies due within 12 months after the date on which the same became due shall be deemed to be unfinancial and membership may be terminated by resolution of the Council.
- (d) Resigning or defaulting members shall have no interest in or claim whatsoever upon the funds of the Association.

5.3 **Limitation of Liability:**

General Members, Life Members and Group Members are not partners and are therefore not in any way jointly or severally liable for each other notwithstanding any Rules or Regulations.

5.4 **Life Membership:**

- (a) Life Membership may be conferred on any individual person in recognition of special services and contributions to the Association.
- (b) Life members shall be recommended by the Council and such members shall be elected at any General Meeting of the Association.
- (c) Such conferment shall be made by a vote of not less than three-fourths of the members present at any General Meeting of the Association.
- (d) There shall be no more than two Life Membership conferments in any one year.
- (e) Life members shall be entitled to all the privileges of the Association (including the right to vote at any meeting in the election of officers) or in any other matter but shall not be liable for any subscriptions.

5.5 **Group Membership:**

- (a) Group Membership may be granted to trade and professional associations or other groups of employers/manufacturers where such an arrangement is deemed by the Council to be of mutual benefit to the Association and the Group.
- (b) Group Membership shall entitle the Group to receive advice and information pertinent to their members.
- (c) The conditions, subscriptions and fees for each Group Membership shall be set annually by the Council taking into account the type of organization, and their membership composition and the level of services to be provided.
- (d) Group Membership does not entitle the Group's individual members to have access to the Association's services other than in accordance with the Group arrangement.

5.6 Subscriptions, Fees and Other Charges:

- (a) The Council shall by resolution determine any entrance fees and annual subscriptions to be paid by each General Member or Group Member. All annual subscriptions shall be due and payable on the first day of the financial year or such other date as may be determined by the Council.
- (b) The Association may at any time make a call upon its members for a special subscription to meet any special financial needs of the Association. The resolution approving such a call shall be passed by a three-fourths majority vote of the members present at a Special General Meeting. The total amount of the special subscription payable by each member shall not in any one financial year exceed the amount payable by such member as the annual subscription for the same year.
- (c) Where a member has branches or subsidiary companies which require to be serviced through another member of the National Representative Organization, the Council may arrange for such services to be provided and may collect from the member subscriptions and fees on behalf of other National Representative Organization members.
- (d) The Council may delegate to the Chief Executive the authority to determine subscriptions, and fees or charges for services and products not covered by annual subscriptions.

5.7 Arrears of Subscriptions, Fees and Charges:

- (a) Failure to pay any subscription or fee or other charges within three months of the due date may result in the Association suspending all services to the member concerned, including the right to vote at any General Meeting. Such suspension shall not release the member from liability of any fees, subscriptions or special subscriptions and other charges due. If payments due to the Association are made before the end of the financial year the suspension shall be lifted and the services resumed following the date of payment.
- (b) The Council may authorize legal action to recover any amount due to the Association which remains unpaid for three months from the date the payment was due or the charge incurred.

6. BRANCHES

- 6.1 The Council may establish a Branch in any city or town or designated geographical area if in the opinion of the Council there is sufficient community of interest amongst General Members to provide for the effective operation of such a Branch.

- 6.2 The Council shall provide the Branch with by-laws and regulations defining the role, operation and geographical area of the Branch.

- 6.3 The Branch shall from its members elect a committee in accordance with the by-laws of the Branch.

- 6.4 Each Branch shall be entitled to elect one representative to the Council.

- 6.5 The Council may dissolve the operation of any Branch if the Council considers that:

- (a) The effective operation of the Branch has diminished; or
- (b) The Branch has been engaging in activities detrimental to the Association; or
- (c) It is desirable in the interest of the Association.

Prior to the dissolution of any Branch, 28 days' notice shall be given to all Branch members.

7. GENERAL MEETINGS**7.1 Annual General Meeting:**

- (a) Subject to Rule 7.1(d) the Annual General Meeting shall be held within six months after the end of each financial year. The Annual General Meeting shall be held at such time and place as shall be determined by the Council.
- (b) The business of the Annual General Meeting other than the first Annual General Meeting held pursuant to Rule 7.1(d) shall be to consider the Annual Report and Financial Statements, to elect the incoming Council, to appoint an auditor for the ensuing year and to conduct such other special business as shall be specified by the Council in the notice calling the Annual General Meeting.
- (c) The Annual General Meeting shall elect up to 19 Council members.
- (d) The first Annual General Meeting pursuant to these Rules shall be held on the date on which the ABC Employers Association Inc. resolves at its Annual General Meeting called pursuant to Rule 18 of the Old Rules to repeal the Old Rules and adopt these Rules.
- (e) The business of the first Annual General Meeting held pursuant to Rule 7.1(d) shall be to elect the incoming Council duly appointed until the next Annual General Meeting.

- (f) Sufficient notice of the first Annual General Meeting shall have been given if the notice requirements of the Rules of the ABC Employers Association Inc. have been complied with, provided that there shall be no notice requirements for the members of the ABC Manufacturers Association Inc. deemed General Members of the Association pursuant to Rule 5.1(f).

7.2 **Special General Meeting:**

- (a) All General meetings other than the Annual General Meeting shall be known as Special General Meetings.
- (b) The Chief Executive, or, in the case of default, the President, shall have the power to convene a Special General Meeting in the following situations:
 - (i) Where the Council thinks it necessary to discuss any matter of interest to the Association; or
 - (ii) At the written requisition of any one hundred (100) General Members of the Association.
- (c) If the Chief Executive or the President fails or neglects to convene the requisitioned meeting within a 28 day period after receiving notice of requisition, one hundred (100) General Members may convene such meeting and all costs of such meeting shall be paid from the funds of the Association.

7.3 **Notices:**

- (a) With the exception of a special General Meeting convened by requisition under Rule 7.2(c), at least 14 days' written notice of every Annual General Meeting and Special General Meeting shall be given to all members, specifying the time, place and business of the meeting.
- (b) Every notice required to be given to members shall be deemed to be duly delivered if posted in a prepaid letter addressed to such members at their postal address or sent successfully by e-mail to their e-mail address as recorded in the database of Members.

7.4 **Quorum:**

Thirty (30) members represented in person at any General Meeting of the Association shall constitute a quorum.

7.5 **Voting Rights:**

- (a) Each General Member and Life Member shall be entitled to vote at all General Meetings if present.
- (b) On a show of hands each General Member and Life Member represented shall be entitled to one vote each.
- (c) Where voting is by ballot:
 - (i) Each General Member shall be entitled to one vote;
 - (ii) Each Life Member shall be entitled to one vote.
- (d) At all General Meetings, voting shall be determined by a majority of the members present by a show of hands unless a majority of members present at the meeting demand a ballot.
- (e) No proxies shall be permitted.
- (f) Any General Member three months or more in arrears in payment of the annual subscription at the date of notice of any General Meeting shall be disqualified from voting or taking part in the General Meeting.
- (g) Only one representative of a General Member may vote at any General Meeting.

8. **COUNCIL**¹

8.1 **Membership of the Council:**

- (a) The Council shall consist of not less than ten (10) or more than nineteen (19) elected General Members or Life Members of the Association plus branch representatives elected in accordance with Rule 6.4.
- (b) The President and two (2) Vice Presidents shall be elected by the Council.
- (c) The immediate Past President shall be an ex officio member of the Council.
- (d) The Chief Executive shall be entitled to attend meetings of the Council.
- (e) The Council shall have the power to co-opt individuals to membership of the Council as it considers appropriate.

¹ The functions of the Council may be carried out by the Board, as described in section three.

8.2 Election:

- (a) Every candidate for election to the Council shall be a representative of a General Member or Life Member nominated in writing by at least two (2) General Members. No representative of a General Member shall stand for election until that General Member has paid all subscriptions and fees due to the Association.
- (b) Nominations for election to the Council shall be lodged with the Chief Executive no later than seven (7) days before the day of the Annual General Meeting.
- (c) Nominations for the Council shall be on the prescribed form and shall include the full name of the candidate, the General Member the nominee represents, the industry in which the nominee is engaged, and the designation of the nominee within the organization or business.
- (d) Council Members shall be elected by show of hands unless a majority of members present at the meeting demand a ballot.
- (e) Each Council Member shall hold office for a term of one year, commencing from the date of the Annual General Meeting at which they were elected.
- (f) Each Council Member shall be deemed to retire at the date of the next Annual General Meeting. Any retiring Council members shall be eligible for re-election and if re-elected will begin a new term of office.

8.3 President:

- (a) A President shall be elected by the members of the Council and shall hold office for one year and shall be eligible for re-election.
- (b) The President on retiring from office shall occupy the office of Immediate Past President for one year provided that the General Member they represent remains a General Member of the Association.
- (c) The President shall:
 - (i) Preside at all General Meetings, Council Meetings and other Association meetings when present;
 - (ii) Sign minutes of the meetings;
 - (iii) Generally conduct the meetings;
 - (iv) In the case of an equality of votes, have a casting vote.

- (d) In the absence of the President, a Vice President shall possess and may exercise in all respects the power of the President. In the event that the President and both Vice Presidents are absent, a chairperson shall be chosen from the Council members present who shall while so acting exercise all the powers of the President.

8.4 Vacancy:

- (a) Where a Council Member resigns or dies or a Council position becomes otherwise vacant during a Member's term, a casual vacancy shall be deemed to have arisen. Unless advised otherwise a letter of resignation from a council member will take effect 30 days after the date of the letter.
- (b) Any Council Member shall be deemed to have resigned from the Council without further notice where that Council Member;
 - (i) Ceases to be a representative of the General Member he or she represents or;
 - (ii) Is a representative of a General member who has resigned or has been suspended under Rule 16.3, or expelled from the Association or;
 - (iii) Fails to attend three consecutive Council meetings without having leave of absence or reason considered adequate by the Council.
- (c) The Council may, having regard to the geographical distribution of membership and representation of any occupations, trades, or sections of such occupations or trades comprised within the Association, appoint a representative of a General Member to fill the vacancy for the remainder of the unexpired term.

8.5 Quorum:

The quorum for a Council meeting shall be greater than 50% of the current membership of the Council as at the date of each meeting.

8.6 Powers of the Council:

The Council shall have the power to manage and control the Association and to perform the functions conferred by these Rules including the power to:

- (a) Determine the policies of the Association;
- (b) Establish and disestablish branches under Rule 6;
- (c) Control the funds of the Association for the furtherance of objects set out in Rule 3;

- (d) Invest money in real or personal property, invest or borrow money by way of mortgages, debentures or otherwise on the security of any property of the Association;
- (e) Receive, consider, accept or decline applications for General Membership in accordance with Rule 5.1(b) or Group Membership in accordance with Rule 5.5.
- (f) Discipline members under Rule 16;
- (g) Form subsidiary limited liability companies, partnerships or joint ventures, wholly or partly owned by the Association to carry out such activities which the Council considers would best be conducted by separate entities;
- (h) At its discretion offer special service arrangements to individuals or groups of employers, manufacturers or businesses including overseas businesses.
- (i) Set up or dissolve a Special Committee or delegate or withdraw delegation of any of its functions to a Special Committee, in accordance with Rule 12.
- (j) Join or cease membership of a National Representative Organization under Rule 15 on a three-fourths majority vote of the Council.
- (k) Appoint members of the Association to any Advisory Group according to the Rules governing membership of that Advisory Group.

The Council may carry out, transact or perform such other acts, matters or things as may be necessary or expedient in the opinion of the Council to advance the interests or policies of the Association, provided that in no circumstances shall any of the funds or assets of the Association be distributed to any member or members.

9. **BOARD OF MANAGEMENT**

- (a) The Council shall appoint a Board of Management comprising the President, Vice Presidents, Chief Executive and four other members of the Council.
- (b) The Council shall delegate such of its powers relating to budgetary, financial and administrative matters including the appointment of the Chief Executive as it may consider appropriate to the Board of Management.
- (c) The Board of Management shall have the power to co-opt individuals to membership of the Board as it considers appropriate.
- (d) Four (4) Board of Management members (excluding the Chief Executive) shall form a quorum, provided always that they include the President, or a Vice President.

10. **ADVISORY GROUPS**

- (a) The Association may, at any General Meeting by a three-fourths majority vote by the members represented, establish Advisory Groups. In deciding to establish an Advisory Group the Association will state:
 - (i) the objects for which such a Group is established, and
 - (ii) the membership of the Advisory Group.
- (b) Any Advisory Group established under this Rule shall comply with the Rules and Objects of the Association.
- (c) If the Association votes to establish an Advisory Group under this Rule, the Rules shall be deemed to be amended pursuant to Rule 18 to provide for the establishment of the Advisory Group, such amendment to include the objects and membership of the Group.
- (d) Any Advisory Group established under these Rules (including the Manufacturing Action Group established pursuant to Rule 11) may by a three-fourths majority vote of the Advisory Group decide that the Advisory Group is wound up, and the Association shall be bound by such a decision of the Advisory Group, and the Rules of the Association shall be amended accordingly.
- (e) Every advisory group established under these Rules (including the Manufacturing Action Group established pursuant to Rule 11) shall in consultation with the Council, draw up an Advisory Group Strategy which shall contain the policy framework under which the Advisory Group shall operate.

The Advisory Group Strategy shall be consistent with the policy of the Association determined by the Council pursuant to Rule 8.6(a).

11. **MANUFACTURING ACTION GROUP**

- 11.1 Within the Association there shall be a Manufacturing Action Group which shall:
 - (a) be an Advisory Group for the purposes of these Rules, and
 - (b) be formed for the purpose of representing the interests of manufacturers who are members of the Association.
- 11.2 The Manufacturing Action Group shall comprise:
 - (a) those members of the Council who are manufacturers, ("Council manufacturers"); and

- (b) such other members of the Association who are manufacturers and who have been nominated by Council manufacturers and appointed to the Manufacturers Action Group by a majority decision of the Council; and
- (c) the President, Vice Presidents and the Chief Executive of the Association.

11.3 The President, Vice Presidents and the Chief Executive of the Association are members of the Manufacturing Action Group in an ex officio capacity.

11.4 The objects of the Manufacturing Action Group shall be:

- (a) to promote, aid, foster, encourage, develop and protect local and national manufacturing industries;
- (b) to develop policy and initiate appropriate activities on all issues of specific interest to the manufacturing sector;
- (c) to represent the manufacturing sector on issues of specific interest for manufacturing, providing an identity and public voice;
- (d) to do all such other things as may appear necessary or desirable or incidental or conducive to the attainment of all the above objects or any of them.

11.5 In pursuing the objects in Rule 11.4, the Manufacturing Action Group shall ensure that it complies with the Rules and Objects of the Association.

11.6 The Manufacturing Action Group may, subject to these Rules, regulate its own procedure.

12. SPECIAL COMMITTEES

- (a) Special Committees may be set up and dissolved by the Council, for the purpose of investigating, and/or taking action on any matters relating to the objects or business of the Association.
- (b) The Council may appoint Special Committees to deal with any matters relating to the objects of the Association.
- (c) The President, Vice Presidents and the Chief Executive Officer shall be entitled to sit as ex officio members on such Special Committees.
- (d) Special Committees may not incur expenditure without prior approval of the Council.

13. CHIEF EXECUTIVE OFFICER

- (a) The Council shall on the recommendation of the Management Board appoint a Chief Executive Officer with such designation and on such salary and conditions of service as may be determined from time to time.
- (b) The Chief Executive shall also act as Secretary and Treasurer to the Association and shall be responsible to the Council in all respects.
- (c) The Chief Executive shall appoint such other staff as may be required for the efficient conduct of the affairs of the Association.

14. MANAGEMENT

14.1 Finances:

- (a) The financial year of the Association shall be determined from time to time by the Council.
- (b) All sums paid by way of annual subscriptions, fees or other charges or otherwise, shall be received by the Chief Executive who shall place the sum forthwith in such bank as may be from time to time nominated by the Council. Account titles shall include the words the "Employers and Manufacturers Association XYZ Inc". Such funds are to be absolutely at the disposal of the Council to further the objects of the Association or meet the contractual obligations for which the funds were provided.
- (c) The Council shall empower the Chief Executive or such other person as may be authorized by the Council to draw and execute cheques on the said accounts or sums payable by the Association and authorized to be paid, but such cheques shall be signed or endorsed in such manner as the Council shall from time to time direct.
- (d) The financial and related records of the Association shall be kept by the Chief Executive under the supervision of the Council.
- (e) Once each year the accounts of the Association shall be audited by the Auditor of the Association who shall be appointed from year to year at the Annual General Meeting of the Association. Any member of the Institute of Chartered Accountants in public practice who is not a member of the Council shall be eligible for appointment as Auditor. Should the position of Auditor become vacant during the year by reason of death, resignation or otherwise the vacancy shall be filled by the Council and the Auditor so appointed shall hold office for the balance of the term of the Auditor whose place has been filled. The Auditor shall be paid such fees as may be negotiated with them by the Council.

14.2 Seal:

- (a) There shall be a seal of the Association which shall contain the words "The Common Seal of the Employers and Manufacturers Association XYZ Incorporated".
- (b) The seal of the Association shall be in the custody of the Chief Executive and shall be affixed to all necessary documents in the presence of at least one member of the Board of Management and the Chief Executive, or alternatively by two members of the Board of Management.
- (c) The seal may be altered or renewed at any General Meeting of the Association by a vote of not less than three-fourths of the members present.
- (d) The Chief Executive shall maintain a register recording the use of the seal and shall report the use of the seal to meetings of the Board of Management.

14.3 Database of Members:

The Association shall keep a database of Members showing their names and last known postal and/or e-mail addresses and shall keep such database up to date.

15. NATIONAL REPRESENTATIVE ORGANIZATIONS

- 15.1 The Association shall hold full membership of the National Representative Organization of Employers subject to Rule 8.6(j).
- 15.2 The Association shall hold full membership of the National Representative Organization of Manufacturers subject to Rule 8.6(j).

16. DISCIPLINARY POWERS

- 16.1 The Council shall have the power to discipline any of the Members of the Association.
- 16.2 The disciplinary powers shall be exercisable in the case of any Member who;
 - (a) Has contravened any Rule, regulation or by-law of the Association;
 - (b) Has brought discredit or disrepute to the Association;
 - (c) Is guilty of conduct unbecoming to a Member of the Association;
 - (d) Is engaged in a business activity which may lead to a conflict of interest with the objects of the Association.

16.3 Disciplinary Penalties:

The penalties or order which may be imposed pursuant to Rule 16 are:

- (a) Reprimand;
- (b) Interim suspension order pending the hearing of any charges;
- (c) Suspension;
- (d) Expulsion.

16.4 Disciplinary Procedure:

- (a) The Council shall give the Member not less than twenty-eight (28) days notice of the hearing of any complaint or complaints against the Member under Rule 16.2.
- (b) The Member may answer the complaint or complaints either in writing or in appearance before the Council. If the Member wishes to appear to answer they shall, not less than three days before the hearing, give written notice of their intention to do so together with brief details of the matters at issue.
- (c) The Council shall conduct the hearing informally but so as to give each party fair opportunity to be heard.
- (d) The Council shall not be bound by any rules of evidence.
- (e) The decision of the Council shall be carried by a vote of a majority of the Council present and the vote thereon shall be final in all respects.

16.5 Interim Suspension:

The Council may, before or during any hearing of a complaint, make an order for interim suspension when the Council is of the opinion that the complaint is sufficiently serious for that order to be made or is otherwise in the interests of the Association or its members.

16.6 Suspension:

- (a) Upon the imposition of a penalty of suspension under Rule 16.3(b) and (c), the Member (while remaining on the Register of Members), shall not be entitled to exercise any of the rights and privileges of membership during the period of suspension except those contained in Rule 19.
- (b) Upon the expiry of the period of suspension the Member shall revert to and be entitled to exercise any rights and privileges of membership.

16.7 Expulsion:

- (a) Upon expulsion the Member shall pay any monies, subscriptions and other charges due to the Association.
- (b) Upon expulsion a Member shall be removed from the Register of Members and shall not be entitled to exercise any rights or privileges of membership including those in Rule 19.
- (c) Any Member expelled may re-apply for membership after the expiry of twelve (12) months from the date on which the expulsion became effective. The Council may grant or refuse the application and upon such terms and conditions as it shall think fit.

17. RULES OF THE ASSOCIATION

Every Member shall be entitled to a copy of the Rules of the Association.

18. AMENDMENT OF RULES

The Rules of the Association may be revised, repealed or amended at any General Meeting by a three-fourths majority vote by the Members represented.

19. INTERPRETATION OF RULES

If any doubt shall arise as to the correct interpretation of these Rules, the decision of the Council shall be final and conclusive provided such decision is recorded in the Minute Book of the Association.

20. LIQUIDATION OR DISSOLUTION

- 20.1 The Association may be put into liquidation by resolutions passed by a three-fourths majority of the members attending General Meetings called pursuant to Section 31 of the Incorporated Societies Act 1927.
- 20.2 The vote shall be by ballot.
- 20.3 If at any time the Association shall be put into liquidation or dissolved by the Registrar of Incorporated Societies, the person or persons appointed as liquidator shall hold the net proceeds arising from the sale and realization of the property of the Association after payment of the debts, liabilities and engagements of the Association and of the Council and all costs, charges and expenses connected with such realization, liquidation, or dissolution upon trust to dispose of the same among current Members in such shares as the Member's subscription relates to the total subscription income in the previous financial year to that in which the disposition occurs.

Such distribution to Members shall be subject to the deduction from each individual Member's share of any debt due to the Association for any unpaid charges or subscriptions.

The Effective Employers' Organization

Guide One Governance

Guide Two Strategy

Guide Three Advocacy

Guide Four Revenue Building

The **Effective Employers' Organization** package is designed to help executives, directors and managers in employers' organizations to build and run their organizations more strategically and more effectively.

It is aimed primarily at those setting up, building and managing national level employers' organizations in less developed countries and economies in transition.

It will however provide a wealth of advice for regional and sectoral organizations that exist to represent the interests of employers, and to national level employers' organizations in developed countries. This will be the case particularly where organizations are considering or undertaking a strategic review of the way they currently operate.



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