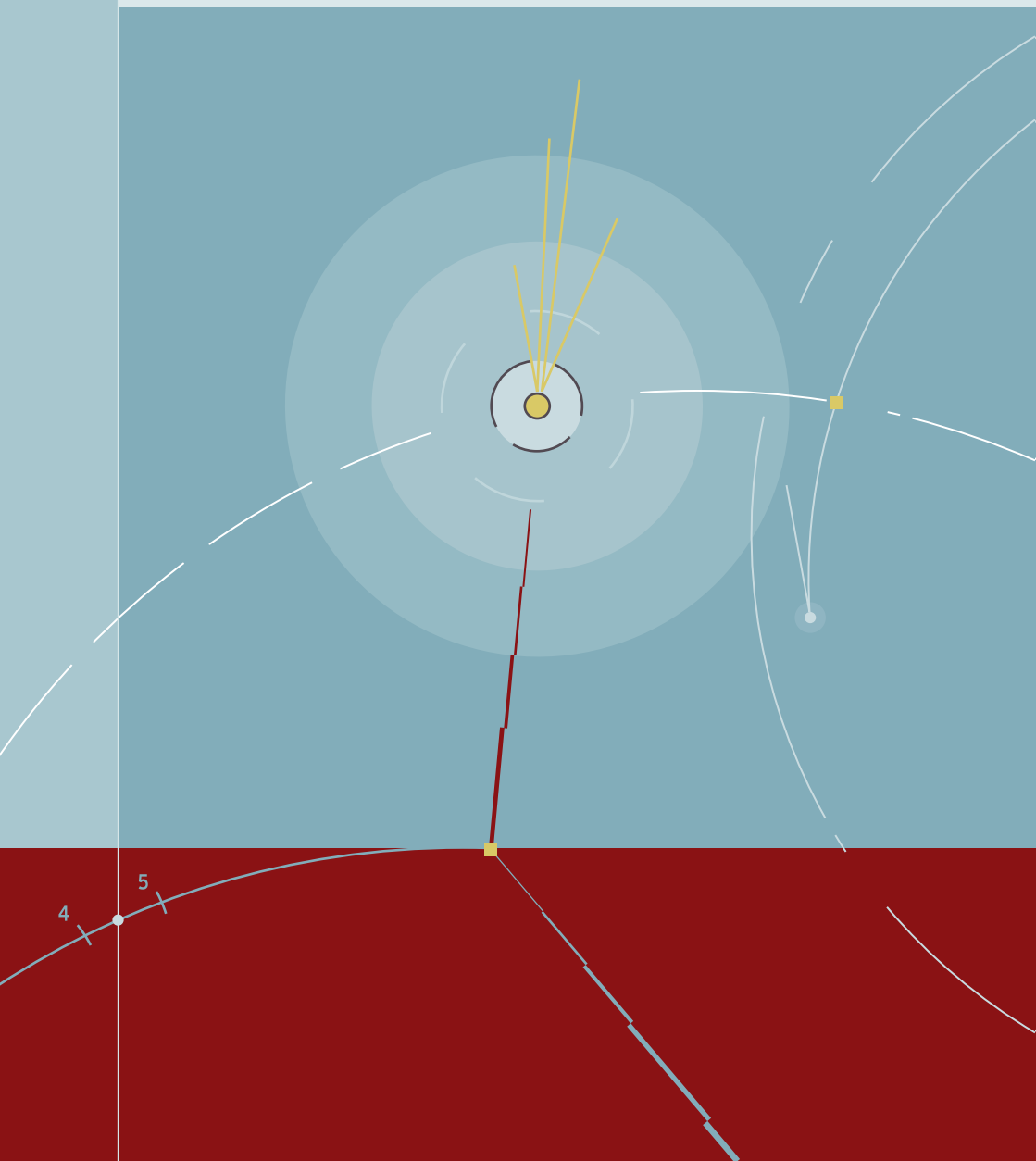


RESOLVING PROBLEMS AT WORK

A user's guide to ILO conflict prevention and resolution procedures



International
Labour
Office



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Foreword

Nobody ever wishes for problems at work. In a perfect world, our workplace would be harmonious and peaceful, with everyone working to their full potential and feeling fulfilled in their careers. However, as with any setting which brings people together, problems can arise. The procedures for preventing and resolving workplace problems which exist within the ILO have been jointly developed by the Administration and the Staff Union in recognition of this reality. Far from ignoring that such problems may exist, we acknowledge that problems are a natural result of human interaction and that solutions can be found to them. The procedures described in this guide, offer both informal and formal means to find solutions at the earliest possible stage, and with the least amount of anxiety for all involved.

Working within an international multicultural organization like the ILO presents a unique set of challenges for staff and management. The procedures for conflict pre-

vention and resolution in the ILO are unique in the UN System as they have been negotiated through a process of social dialogue between the Staff Union and the Administration. They continue to be jointly overseen through the Joint Negotiating Committee as a means of ensuring that they remain fair, transparent, efficient, and open to all staff wishing to make use of them.

We would like to sincerely thank Mr. Sterling Smith, who authored the guide, as well as Ms. Maria-Luz Vega Ruiz, Ms. Asha Singh-Williams and Ms. Anna Torriente who were instrumental in bringing this project to fruition.

This guide is intended to provide a user-friendly overview of both the informal and formal conflict prevention and resolution procedures in the ILO. We encourage all staff to use this guide to build their own understanding of how problems are resolved in the Office. Both the Administration and the Staff Union remain available to answer any questions that staff may have.

Patricia O'Donovan
Co-Chairperson
Joint Negotiating Committee
Executive Director
Management and Administration

Christopher Land-Kazlauskas
Co-Chairperson
Joint Negotiating Committee
Chairperson
ILO Staff Union

January 2008

Introduction

This guide has been produced to help officials understand and use the procedures that exist for resolving problems that may arise in the workplace. It is not designed to replace the Staff Regulations, collective agreements or other relevant documents that should be consulted if you wish to know more details about these procedures.

This guide is intended for use by all officials at headquarters and in external offices. The formal procedures do not apply to interns or external collaborators. Nevertheless, interns and

external collaborators are encouraged to avail themselves of the informal procedures to resolve any workplace problems that they may encounter.

The special fast-track procedures for sexual harassment apply to all ILO staff. Moreover, the sexual harassment procedures also cover interns and external collaborators as well as job applicants.

All of these procedures have been adopted to assist officials in resolving workplace problems and you should not be reluctant to use them. They exist for your benefit.

Key facts: the collective agreement on conflict prevention and resolution

This agreement between the International Labour Office and the ILO Staff Union was concluded in 2004. The purpose of the agreement is “to establish fair, transparent, efficient and effective procedures for the prevention and resolution of workplace conflicts and grievances. These procedures are based on recognition of, and respect for, the rights and responsibilities of all officials working in a multicultural environment.”

The agreement replaced two earlier collective agreements. The conflict prevention and resolution procedures set down in this collective agreement form part of the Staff Regulations.

Why have procedures?

Procedures exist to allow problems to be dealt with in a fair, consistent and speedy manner. It is standard practice to have such procedures in any organization.

What is a workplace problem?

A workplace problem is a concern or complaint that you may have related to any aspect of your work. Other terms used are “grievance”, “conflict” and “dispute”. The word “problem” implies a wider scope of application and also that many issues may be inter-personal in nature and can be resolved without using formal procedures.

Problems could concern your manager, your co-workers, staff you supervise or manage or the ‘Office’ in a more general sense.

- You might have a problem with your manager. This could be about your workload (too much or too little), too much interference with your work, lack of communication, not enough support, bullying or cultural misunderstandings that arise in a multicultural organization.

- You might have difficulties with your co-workers. They might make comments behind your back, criticise your work, exclude you from discussions or harass you.
- You might have problems with staff that you supervise or manage. They may not respect your role as supervisor or they may undermine your authority as manager.
- You might feel that the Office has not treated you fairly or properly, by incorrect application of the Staff Regulations or in some other way.

Defining the problem

Whatever the issue may be, you need to try to define the problem before it can be resolved. Analysing the problem may be difficult, as subjective feelings may affect the perception of the issues. Try to identify both the root cause of the problem and the parties involved.

Help is available to define the problem, using any of the options under the informal procedures explained later.

Do not keep problems to yourself. It is natural to feel uncomfortable or reluctant about

discussing a negative workplace situation with a third party. However, the longer problems are left unresolved, the greater the possibility of a negative impact on your work, on your colleagues and on your own well-being.

Dealing with problems in the workplace

You should aim to resolve problems informally with your line manager and/or the colleagues affected by the problem, as appropriate. This has advantages for all concerned, particularly where there might be a close working relationship between the colleagues or the manager and the official concerned. It also allows for problems to be resolved quickly and at the level at which they have arisen.

If a problem cannot be settled by discussion with the line manager or through dialogue with colleagues, you should try to resolve the matter through the informal procedures.

Only if you feel that the informal procedures have not been able to resolve your problem or that the problem is not appropriate for resolution through the informal procedures, should you use the formal procedures.

Formal or informal?

The ILO procedures provide three possible ways of resolving your problem informally.

The Office and the Staff Union both agree that it is much better to use the informal conflict resolution procedures before filing a grievance through the formal procedures. The informal procedures are faster, easy to access, more flexible, apply to all types of problems, have no time limits, no records are kept and all discussions are conducted on a strictly confidential basis.

Using the formal procedures at an early stage may lead to the escalation of a minor conflict transforming a smaller problem into a situation where people's positions become entrenched and professional relationships deteriorate to a point where colleagues are no longer able to work together.

Whether you decide to initiate the informal or formal procedures, you are free to discontinue or withdraw from the procedures at any point for any reason.

Informal options

You can get support and advice from:

- A third party
- A facilitator
- The Mediator

A third party

You can ask the Human Resources Development Department (HRD), a higher-level chief, the Staff Union, any

official or former official to help you in resolving your workplace problem. You should explain to the third party that you would like their help and advice and provide information to them about the problem as you see it. A third-party can provide help in many ways. Solutions can often emerge simply by talking over a problem in a confidential and supportive environment. It also helps to get an additional perspective from someone who is not directly involved in the workplace problem.

A facilitator

There is a pool of trained facilitators at headquarters and in the regions. The list of facilitators can be obtained from the Mediator's Office and is also available on the intranet.

There is no restriction on which facilitator you can approach. You can choose a facilitator in any department in headquarters or in any duty station (although if you choose somebody in another duty station this may mean that the process will take longer).

The facilitator's job is to listen and to jointly explore options to resolve the problem. One of these options may be to facilitate dialogue between the people affected by the problem. They do not pass judgement or

take sides. Facilitators will not make any recommendations or take any other actions.

It is again stressed that discussions with a facilitator and facilitated dialogues between parties are strictly confidential and no records are maintained.

The Mediator

The Office has a full-time Mediator. You can ask the Mediator to assist you with any workplace problem. The Mediator is completely independent and, like the facilitators, works on a strictly neutral and confidential basis. The Mediator listens and explores with the staff member different options for the resolution of the problem. If requested, the Mediator will facilitate a dialogue with the relevant party or parties through which a resolution satisfactory to all can be agreed.

The Mediator is available for continued support even after a specific problem has been resolved. The Mediator may also refer you to relevant support services, where appropriate (e.g. the Health Services Unit, the Staff Welfare Office).

The Mediator has no decision-making powers. All the proceedings of the Mediator are strictly confidential and no records are kept.

Key facts: Office of the Mediator

While the Office of the Mediator is administratively under HRD, it is completely independent in the exercise of its functions. At the time of appointment, the Mediator cannot be an ILO official. The Mediator is appointed for a two year term which may be renewed once (i.e. a maximum term of four years).

The Mediator does not have decision-making powers, but makes suggestions and recommendations, as appropriate, to resolve problems. The Mediator does not act as an advocate for either party.

Mediation is an informal process. No records of discussions or documents are kept and all aspects of the process remain strictly confidential.

An important aspect of the Mediator's role is to provide a confidential ear, to help to identify and clarify problems and facilitate a rapid resolution.

The Mediator prepares an annual report for the Joint Negotiating Committee which is published on the Mediator's website.

The Mediator is also responsible for coordinating and training the network of facilitators.

Which informal procedure?

Using a facilitator, the Mediator or any other third party are NOT different stages in the informal procedures. You do not have to use one before the other. If you feel that, for example, a third-party is not able to help you, you can ask a facilitator or the Mediator.

Remember!

Informal procedures are completely confidential and no records are kept. They are not a mechanism to prevent you using the formal procedures.

They are designed to help you resolve problems quickly and without creating more conflict. They were agreed between the Office and the Staff Union for your benefit.

Using the formal procedures

We have stressed that the informal procedures provided for in the collective agreement between the Office and the Staff Union are there to help you resolve workplace problems quickly and in strict confidence.

If you have tried these sources of assistance and still feel that

your problem has not been settled to your satisfaction, you may decide to use the formal procedures.

The first stage in the formal procedures is a review by HRD. You must formally contact HRD (can be done by letter or e-mail) within 6 months after the problem has arisen and request HRD to examine your grievance. You may be assisted in this stage of the process by a Staff Union representative or any official with knowledge of the grievance procedures. HRD should make a decision within three months.

If the official and HRD agree, an extension for an additional three months may be agreed to enable an informal resolution to be reached.

How does HRD carry out a review?

HRD will consider relevant documents and other evidence. It may conduct an interview with you (and your representative if you have one), other persons affected by the problem and other third parties, as appropriate. This step in the formal procedures is intended to provide the Office with an opportunity to examine the facts and explore the possibility of an informal solution, if appropriate. If an informal solution cannot be found or an informal solution to the grievance is not appropriate,

HRD will proceed to reach a decision on the matter.

Joint Advisory Appeals Board (JAAB)

If the official is not satisfied with the decision taken by HRD, the official can make an appeal to the Joint Advisory Appeals Board (JAAB). The official can also appeal to the JAAB if HRD has not issued its decision within the time limit.

Please note that you cannot make an appeal to the JAAB until the process of review by HRD has been completed or until the time limit for the review by HRD has been exhausted.

A standard form should be used for lodging an appeal with the JAAB. Copies are available from the JAAB Secretariat.

You must appeal to the JAAB within one month following HRD's decision or the expiry of the time limit for HRD to reach a decision.

The JAAB is not a judicial body like the ILO Administrative Tribunal. It is an industrial relations forum, which examines the facts of individual claims. It prepares a report for the Director-General which normally includes a recommendation.

A JAAB panel will be formed to consider your appeal. Each panel consists of an external chairperson and two serving ILO officials. All are nominated by

the Joint Negotiating Committee. HRD and the official who has submitted the appeal may comment on the composition of the JAAB panel if they feel that handling the appeal may give rise to a conflict of interest for a member of the panel.

In the event that the JAAB decides to hold an oral hearing, you may appoint a representative. This can be a former or current official of the Office, or of the United Nations, or of any UN specialised agency. If you are a member of the Staff Union, you may also ask someone from the Staff Union to represent you. External legal representation is not allowed in proceedings before the JAAB.

The JAAB panel will first of all consider whether your appeal falls within its terms of reference. It will also consider if your application is clearly without any merit. If the panel finds that the appeal is not within its terms of reference or is clearly without merit, it will recommend that the grievance

be dismissed.

The next step is that the JAAB panel will decide on how it will deal with the case. It may decide that an examination of the relevant documents already provided to it is sufficient. On the other hand, the JAAB panel may decide that it needs to have a discussion with you, seek additional documents, interview any other person, or conduct an oral hearing. The JAAB proceedings are confidential.

When the JAAB has completed its review, it will submit a report to the Director-General. This is normally within three months of receipt of the final written submissions made to the JAAB or of the oral hearing. The report is advisory only and the JAAB recommendations are not binding on the Director-General.

The Director-General may take further advice before reaching a final decision. This will normally be within two months. You will receive a copy of the JAAB report when you receive the decision of the Director-General.

Key facts: exceptions to the formal procedures

A number of types of grievances are covered by their own special procedures. While you can always make use of the informal procedures described in this guide, a formal grievance can only be referred to the JAAB after the special procedures have been followed.

Special procedures apply to grievances related to:

- compensation claims under Annex II of the Staff Regulations,
- review of performance appraisals,
- appeals in respect of selection and recruitment,
- disciplinary cases,
- job grading,
- termination for unsatisfactory services,
- termination on reduction of staff,
- withholding of increment,
- transfer to a lower grade.

The final stage:

ILO Administrative Tribunal

If you are not satisfied with the decision of the Director-General, you may appeal to the ILO Administrative Tribunal (ILOAT).

Appeals to the ILOAT are more complicated and more time-consuming than the ILO's internal procedures. To appeal to the ILOAT, you may need legal advice which is outside the scope of this guide. Further

information on the role and procedures of the ILOAT can be found on its website.

Sexual harassment – special fast-track procedures

A special fast track procedure applies in the case of complaints of sexual harassment. This is to ensure rapid and effective investigation of such complaints in the strictest confidence.

Key facts: sexual harassment claims

In recognition of the fact that sexual harassment claims need to be dealt with speedily and effectively, the collective agreement provides for a special fast-track procedure for such claims.

The special fast track procedure is available to all staff, interns, external collaborators and job applicants.

Sexual harassment is defined as any unwanted conduct of a sexual nature in a workplace or in connection with work that, in the reasonable perception of the person concerned, is used as a basis for a decision which affects that person's employment or professional situation, or creates an intimidating, hostile or humiliating work environment for that person.

You should not feel embarrassed or intimidated about raising a sexual harassment claim. The ILO management and Staff Union are committed to ensuring a safe and healthy work environment free of sexual harassment.

If you are not sure if your problem falls within the above definition of sexual harassment, you can use any of the options under the informal procedures to discuss and clarify the nature of the problem in the strictest confidence.

Sexual harassment can occur between a superior and a subordinate or between co-workers.

In the case of sexual harassment, the procedure is open to officials as well as to job applicants and any other individuals with a contractual relationship with the Office, such as interns and external collaborators.

You can use any of the options under the informal procedures described in this guide. That includes third-party assistance,

one of the trained facilitators or the Mediator. Informal procedures may provide a faster resolution of the problem.

Even though the Office has a fast-track procedure for sexual harassment, this could still take several months.

Using the formal procedures, a complaint should be made to HRD within six months of the incident. HRD should reply within one month, indicating what measures it intends to take. If HRD fails to comply

with this time limit, or if the person who has made the complaint disagrees with the response, then the matter can be referred for investigation. HRD itself can also recommend that the complaint be investigated.

The Director-General has appointed a pool of trained ILO sexual harassment investigators on the recommendation of the Joint Negotiating Committee. The investigator or investigators that have been appointed to investigate the matter shall conduct any inquiry necessary to establish the facts of the case and draw up a report comprising:

- a summary of the allegations;
- the investigative measures undertaken; and
- the findings and suggestions, where appropriate.

The investigator(s) shall submit a report within three months to the Director-General, who then shall make a final decision on the case within two months.

Frequently Asked Questions (FAQs)

Q: When can I use the conflict resolution procedures?

A: You can use the informal procedures at any time. Certain time limits apply to the use of the formal procedures. You must make a formal complaint within six months of the incident/event. Clearly in the case of an ongoing problem, there is no single “incident” or “event”, but you will need to establish a reference date.

Q: Why should I use the informal procedures? If I have a genuine cause for complaint then it should be dealt with seriously by using the formal procedures.

A: Your own view of your case is inevitably subjective, and it is always a good idea to get somebody from outside the immediate situation to look at the issues with a fresh pair of eyes. Once you begin to use the formal procedures, people’s positions can become entrenched and may take several months to resolve. Also, working relationships may deteriorate during this time and be more difficult to preserve after a formal grievance is filed. Use of the informal procedures minimizes the risk of this occurring.

The informal procedures are in no way intended to imply that a problem is not serious. It may help to prevent a minor problem escalating. It may also help to resolve a major problem more quickly.

Q: My problem is not with my line manager, but with my co-workers. Can I use the grievance procedures?

A: If the problem involves one or more of your colleagues, use of the informal procedures is by far the best way to resolve it. A facilitator or the Mediator can help to improve difficult work relationships. As with all other cases, however, if you feel that the informal procedures have not worked, then you can always use the formal procedures.

Q: I'm not sure that my problem is covered by the formal procedures. What should I do?

A: The informal procedures will help you to determine whether your problem comes under the formal procedures. This could mean talking to HRD, a facilitator, the Staff Union, the Mediator or another third party. Your problem may benefit from the involvement of the Health Services Unit, the Staff Welfare Office, SHIF or some other unit in the Office.

Q: My problem is one of bullying and mobbing rather than sexual harassment. Should I use the special “fast-track” procedure or the conflict resolution procedures?

A: The informal procedures provide a very useful mechanism to clarify the precise nature of the problem, particularly when the problem is inter-personal. If the problem does not fall within the definition of sexual harassment, it should be dealt with under the formal conflict resolution procedures rather than the special fast-track procedures for sexual harassment.

Q: My problem is quite sensitive, and I do not want my colleagues to know about it. How can I make sure the problem is kept confidential?

A: Colleagues in HRD, the facilitators and the Mediator all have training and

expertise in handling sensitive problems and they are bound to fully respect confidentiality.

Q: I am concerned that if I use the formal procedures, I will be victimised. What should I do?

A: The Office safeguards the right of staff members to use the formal procedures without fear of any negative consequences. You may invoke the informal and formal procedures without fear of victimisation.

Q: I have made a formal request to HRD for a review. But now the problem has been solved. What should I do?

A: You can withdraw an appeal in the formal process at any time for any reason.

Q: My line manager is a powerful personality and very persuasive. His/her version of the situation will seem more convincing to people outside. How can I get my point of view across?

A: You may need skilled help to assist you in clarifying the situation and in resolving the problem with those involved. This is exactly where the facilitators or the Mediator can help and advise you.

Q: How should I decide whether to use a third-party, a facilitator or approach the Mediator?

A: You can approach any of these people informally. There is no formal mechanism. You may telephone, use e-mail, or approach them in person if you are in the same duty station. If they feel that another colleague is better placed to help you, then they will refer you to the appropriate person.

Q: What is the role of the Staff Union in the conflict resolution procedures?

A: The Staff Union provides general advice and guidance in relation to the relevant rules and the procedures. It can also provide representation to members of the Staff Union, if requested. Any person, regardless of their contractual status, can ask the Staff Union for advice whether or not she/he is a member of the Staff Union.

Q: My contract is financed by a technical cooperation project. Are there any restrictions on me using these procedures?

A: There are no restrictions on technical cooperation staff using the procedures. You can use both the informal and formal procedures.

Q: What is the role of the Ethics Officer and is there a link with these procedures?

A: The role of the Ethics Officer is to provide guidance and training to staff on issues concerning ethical standards and outside activities as well as the protection of whistleblowers. Some workplace problems may have an ethical dimension. Again, you can consult the Ethics Officer on a strictly confidential basis and receive guidance on the appropriate procedures to follow.

List of useful contacts

Administrative Tribunal (ILOAT),
International Labour Office,
4, route des Morillons,
1211 Geneva 22 – Switzerland.
Email: trib@ilo.org
Tel: +41 22 799 87 26/28
Fax: + 41 22 799 87 37
<http://www.ilo.org/public/english/tribunal/>

Ethics Officer,
International Labour Office,
4, route des Morillons,
1211 Geneva 22 – Switzerland.
Email: ethics@ilo.org
Tel: + 41 22 799 65 55
<http://www.ilo.org/public/english/ethics/index.htm>

Facilitators
Up to date list can be found at:
<http://www.ilo.org/public/english/mediate/index.htm>

Health Services Unit,
International Labour Office,
4, route des Morillons,
1211 Geneva 22 - Switzerland.
Email: medical@ilo.org
Tel: + 41 22 799 71 34
Fax: + 41 22 799 85 58
<http://www.ilo.org/public/english/pers/med>

Human Resources Development
Department (HRD),
International Labour Office,
4, route des Morillons,
1211 Geneva 22 – Switzerland.
Email: hrd@ilo.org
Tel: + 41 22 799 7223

Fax: + 41 22 799 69 83
www.ilo.org/public/english/pers

Joint Advisory Appeals Board (JAAB),
International Labour Office,
4, route des Morillons,
1211 Geneva 22 – Switzerland.
Email: jaab@ilo.org
Tel: + 41 22 799 81 29
Fax: + 41 22 799 74 51

Mediator's Office,
International Labour Office,
4, route des Morillons,
1211 Geneva 22 – Switzerland.
Email: mediator@ilo.org
Tel: +41 (0) 22 799 72 70
Fax: +41 (0) 22 799 65 52
<http://www.ilo.org/public/english/mediate/index.htm>

Staff Union,
International Labour Office,
4, route des Morillons,
1211 Geneva 22 – Switzerland.
Email: syndicat@ilo.org
Tel: +41 22 799 79 58
Fax: +41 22 799 82 71
<http://www.ilo.org/public/english/staffun/index.htm>

Staff Welfare Office,
Human Resources Development
Department,
International Labour Office,
4, route des Morillons,
1211 Geneva 22 - Switzerland.
Email: SERVICE-SOCIAL@ilo.org
Tel: + 41 22 799 71 44
Fax: + 41 22 799 61 02.

