

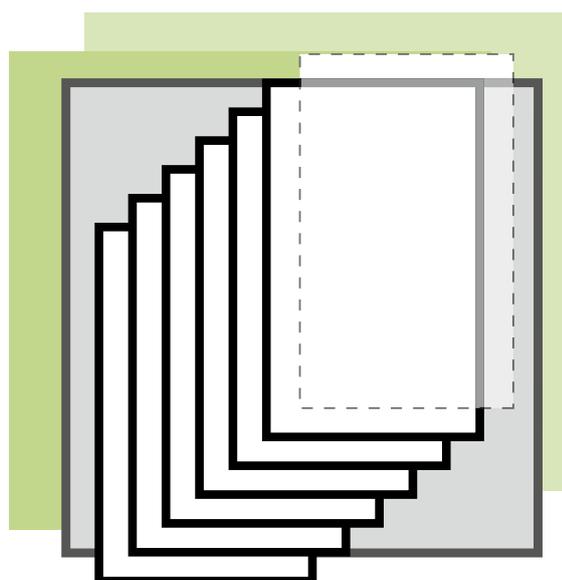


International
Labour
Organization



Report VII B(1)

Withdrawal of one international labour Convention



**International
Labour
Conference**

109th Session, 2021

ATTENTION

This report contains a questionnaire which, in accordance with Article 45bis(2) of the Standing Orders of the International Labour Conference, calls for a reply from Governments, after consultation with the most representative organizations of employers and workers. **The replies to the questionnaire will form the basis of the background report for the ILC discussion. They must reach the Office no later than 30 November 2020.**

International Labour Conference, 109th Session, 2021

Report VII B(1)

Withdrawal of one international labour Convention

Seventh item on the agenda

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Introduction

At its 337th Session (October–November 2019) the Governing Body of the International Labour Office decided to place on the agenda of the 110th Session (2021) of the International Labour Conference the question of the withdrawal of one Convention: the Fee-Charging Employment Agencies Convention, 1933 (No. 34).¹

The decision of the Governing Body was based on the recommendations of the Standards Review Mechanism Tripartite Working Group (SRM TWG)² formulated at its fifth meeting which was held from 23 to 27 September 2019.³ This will be the second time that the International Labour Conference will be called upon to decide on the possible withdrawal of an international labour Convention which is no longer in force as the number of its effective ratifications has fallen to one.⁴

Should the Conference decide to withdraw the Convention, it would be removed from the ILO's body of standards and will no longer be reproduced in the official compendium of ILO Conventions and Recommendations. All that would remain would be its full title and number; there would also be a reference to the session and year of the Conference at which the decision of withdrawal was taken.

In accordance with article 45bis(2) of the Standing Orders of the International Labour Conference, when an item on withdrawal of Conventions is placed on the agenda of the Conference, the Office must communicate to the governments of all member States not later than 18 months before the opening of the session of the Conference at which the item is to be discussed, a short report and questionnaire requesting them to indicate within a period of 12 months their position on the subject of said withdrawal. In this respect, the governments are requested to consult the most representative organizations of employers and workers before finalizing their replies. On the basis of the replies received, the Office shall draw up a report containing a final proposal which shall be distributed to governments four months before the opening of the session of the Conference at which the item is to be discussed.

¹ [GB.337/INS/2\(Add.1\)](#).

² The SRM TWG was established by the Governing Body at its 323rd Session (March 2015) to contribute to “the overall objective of the Standards Review Mechanism to ensure that the ILO has a clear, robust and up-to-date body of international labour standards that respond to the changing patterns of the world of work for the purpose of the protection of workers and taking into account the needs of sustainable enterprises.” Pursuant to paragraph 9 of its Terms of Reference, the SRM TWG is mandated to “review the international labour standards with a view to making recommendations to the Governing Body on: (a) the status of the standards examined, including up-to-date standards, standards in need of revision, outdated standards, and possible other classifications; (b) the identification of gaps in coverage, including those requiring new standards; (c) practical and time-bound follow-up action, as appropriate.” Additional information is available on the SRM TWG [web page](#).

³ [GB.337/LILS/1](#).

⁴ At its 106th Session (2017), the Conference decided to [withdraw the Protection against Accidents \(Dockers\) Convention, 1929 \(No. 28\)](#).

As the Governing Body has placed this item on the agenda of the 110th Session (2021) of the International Labour Conference, governments are requested, after having duly consulted the most representative organizations of employers and workers, to transmit their replies to the questionnaire below so that they reach the Office no later than 30 November 2020.

This report and the questionnaire are available on the ILO website. Governments are encouraged, where possible, to complete the questionnaire in electronic format and to submit their replies electronically to the following email address: jur@ilo.org.

Status of Convention No. 34

1. Following its examination by the Working Party on Policy regarding the Revision of Standards in 1996 (known as the Cartier Working Party), Convention No 34 was “shelved” by the Governing Body with immediate effect as it was found to no longer correspond to current needs and to have become obsolete.⁵ The SRM TWG acknowledged its classification as outdated. A summary on the current status of this Convention is provided below.

Fee-Charging Employment Agencies Convention, 1933 (No. 34)

2. This Convention was adopted by the Conference on 29 June 1933. It was revised in 1949 by the Fee-Charging Employment Agencies Convention (Revised), 1949 (No. 96). Convention No. 96 was itself revised by the Private Employment Agencies Convention, 1997 (No. 181) and the Private Employment Agencies Recommendation, 1997 (No. 188).

3. Since the entry into force of Convention No. 96 on 18 July 1951, Convention No. 34 has been closed to ratification. After having been ratified by 11 member States, it was subsequently denounced by ten of them. Nine of those denunciations were the result of the ratification of Conventions Nos 96 and 181. In 1996, the Governing Body shelved Convention No. 34 with immediate effect, considering that it no longer corresponded to current needs and had become obsolete. As from 2008, Convention No. 34 has only one ratification (Chile) and is, therefore, no longer in force.

4. Convention No. 34 aimed at regulating intermediaries procuring employment for workers or supplying workers for employers. The regulatory approach in this area has evolved over time in response to continuously changing labour market conditions. In 1933, at the time that Convention No. 34 was adopted, the regulatory approach favoured the abolition of fee-charging employment agencies conducted with a view to profit and the regulation of those employment agencies not conducted with a view to profit. This approach evolved, by 1949, into the dual regulatory policy set out in Convention No. 96, which revised Convention No. 34. Member States that ratify Convention No. 96 may choose to accept the optional Part II, which is largely similar to the approach of Convention No. 34, providing for the progressive abolition of employment agencies with a view to profit, conditional on the establishment of public employment services, and the regulation of other employment agencies. Alternatively, ratifying States may accept the optional Part III, which provides for the regulation of fee-charging employment agencies, including those conducted with a view to profit. A further evolution in the regulatory approach, responding to emerging private employment agencies, led to the single regulatory policy set out in Convention No. 181. The approach in Convention No. 181 builds on Part III of Convention No. 96, recognizing the role of private employment agencies in a well-functioning labour market, providing protection for workers using their

⁵ [GB.265/8/2](#), para. 24.

services, and promoting cooperation between public employment services and private employment agencies.⁶

⁶ SRM TWG/2016/Technical Note 1.1 – Outdated instruments concerning employment policy and promotion, and SRM TWG/2019/Technical Note 3 – Instruments concerning private employment agencies.

Questionnaire

In accordance with article 45bis(2) of the Standing Orders of the International Labour Conference, governments are invited to consult the most representative organizations of employers and workers before finalizing their replies to this questionnaire. Replies should reach the Office by 30 November 2020. Respondents are encouraged, where possible, to complete the questionnaire in electronic format and to submit their replies electronically to the following email address: jur@ilo.org.

Fee-Charging Employment Agencies Convention, 1933 (No. 34)

Do you consider that Convention No. 34 should be withdrawn?

Yes No

If you replied “no” to the question above, please indicate the reasons why you consider that Convention No. 34 has not lost its purpose or still makes a useful contribution to attaining the objectives of the Organization.
