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Institutional Section

INS

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THIRTEENTH ITEM ON THE AGENDA

Review of the implementation of the ILO–ISO agreements

Purpose of the document

As decided by the Governing Body at its 325th Session, this document reports on further developments in the pilot implementation of the Agreement between the International Labour Organization and the International Organization for Standardization (ISO), which was authorized by the Governing Body and signed in 2013. As a result of unrelated delays, definitive results of the pilot remain pending, and the Governing Body is invited: to renew its last decision on the matter that the Office continue its effective participation in the completion of ISO 45001; to postpone the final Office report on the pilot, and any further decision on the Agreement, to the earliest Governing Body session after final disposition of ISO 45001; and to request the Office to submit a document for information on any significant developments to its 329th Session (March 2017). In the event that ISO 45001 is published prior to the Governing Body review of the matter, the Governing Body is further invited to authorize its Officers to provide guidance to the Office on the position to be taken in relation to the publication of ISO 45001 (see the draft decision in paragraph 15).

Relevant strategic objective: Cross-cutting.

Policy implications: None at the moment.

Legal implications: None at the moment.

Financial implications: None at the moment.

Follow-up action required: See paragraph 15.

Author unit: Office of the Deputy Director-General for Policy (DDG/P).

Related documents: GB.325/INS/11; GB.323/INS/11/2 and GB.323/INS/11/2 (Add.); GB.323/PV, paras 188–199; GB.320/INS/14/4; GB.320/PV; GB.317/INS/13/7; GB.316/INS/15/7 (Rev.); GB.316/PV(&Corr.); GB.310/PV; GB.309/PV; GB.298/15/5; GB.298/PV; GB.319/INS/INF/1.

1. At its 325th Session (October 2015), the Governing Body, noting the progress and remaining challenges in recent collaboration based on the 2013 Agreement between the International Labour Organization (ILO) and the International Organization for Standardization (ISO) and the developments relating to the high-level contacts, decided: (a) to authorize the Director-General to continue the pilot implementation of the 2013 Agreement between the ILO and the ISO for the ILO's effective participation in the completion of ISO 45001, including for the circulation of an Office opinion annexed to the ballot materials of ISO 45001; and (b) to decide, no later than its 328th Session, on the basis of an analysis conducted by the Office, whether to continue or revise the 2013 Agreement, negotiate a new agreement, or take other necessary action in recognition of the ILO's mandate.
2. The Governing Body had previously extended the pilot implementation of the Agreement for the time necessary for the effective participation of the Office in the development of ISO 45001 on occupational health and safety management systems (OHS–MS), and up to one year, prior to a review of the Agreement. The pilot collaboration had raised concerns about the cost-effectiveness of the ILO's participation as well as uncertainty as to whether the final version of ISO 45001 would respect and support the provisions of international labour standards (ILS).
3. It is recalled that the Governing Body had authorized the 2013 Agreement on condition that, as provided under the terms of paragraph 4 thereof, "ISO standards ... should respect and support the provisions of ILS [international labour standards], including by using ILS as the source of reference with respect to ILO issues in case of conflict", and that the ISO would consult with, and ensure the ILO's effective participation in the development of international standards as set out in paragraphs 5 and 6. As reported during the course of the earlier pilot implementation, the ISO had expressed the view that under the terms of the Agreement the ISO should ensure the systematic consideration of ILS in the process of standardization, but that ISO standards are not required to defer to ILS in case of conflict. The ILO continues to maintain that this position is not consistent with the language of the Agreement, which specifies "using ILS as *the* source of reference with respect to ILO issues in case of conflict" (emphasis added).
4. As reported at the Governing Body's last review of this matter, while some progress has been made towards consistency with ILO standards by specific ISO members engaged in the drafting process, high-level contacts between the two organizations have left pending systematic issues about treatment of ILO issues in the drafting context as well as the need for a practical method to identify new ISO standardization activities that may be relevant to the ILO.

Developments in relation to occupational safety and health management systems

5. Since the most recent report by the Office to the Governing Body in November 2015, the ISO Project Committee (ISO/PC 283) responsible for the development of the new ISO standard on OHS–MS (ISO 45001) has held a vote among ISO members on whether to accept the Draft International Standard (ISO/DIS 45001) as the final version of the standard.
6. As authorized by the Governing Body at its 325th Session (November 2015), and after consultation with the constituents, the Office submitted high-level comments on behalf of the ILO to the ISO Central Secretariat (ISO/CS), which were duly circulated as part of the voting process to all ISO voting members. The high-level comments focused on how the Draft International Standard (DIS) related to relevant provisions of ILS and related ILO action, as provided under paragraph 6(d) of the 2013 Agreement. The ILO's comments

explained the extent to which provisions in the draft standard were consistent or conflicted with core ILO principles and key provisions of occupational safety and health, ILS and other instruments on such issues as worker participation and consultation, compliance with legally binding requirements, and provision of training and personal protective equipment at no cost to workers.

7. The results of the ISO vote rejected the DIS as the final version of the ISO standard and the ISO launched a revision process based on nearly 3,000 comments on the DIS that were submitted by ISO members and consultative organizations during the voting period.
8. In order to resolve the many comments on the draft, the ISO held a plenary meeting of its Project Committee (PC 283) in Toronto in June 2016, a follow-up task group meeting in Denmark in late September 2016, and a number of electronic conferences. As authorized by the Governing Body, the Office participated in these meetings on behalf of the ILO. Since the aim of resolving all the comments has not yet been achieved, the ISO has called another meeting of the Project Committee's Working Group from 30 October to 5 November 2016 in Lithuania. A meeting of the full Project Committee is likely to be called by early 2017 with the aim of resolving all comments on the DIS. It is expected that a revised version of the text (DIS-2) will thereafter be submitted for an ISO member-wide vote for final publication of the standard. The revised projected timelines for publication of ISO 45001 extend to June 2017 if the DIS-2 is accepted, and to November 2017 if a further version – Final Draft International Standard (FDIS) – is required.
9. The drafting process during the Toronto plenary meeting raised a number of fundamental issues involving worker participation for which the Office provided input on behalf of the ILO as authorized by the Governing Body. A number of decisions taken at the meeting on ILO issues brought measured positive outcomes, avoiding direct conflict with ILS. It was decided that the requirements in the standard will retain the terms “worker” and “legal requirements and other requirements” (instead of proposals like “persons working for the organization” and “compliance requirements”, respectively). It was also decided that the text will require the organization to make “arrangements providing workers the ability to remove themselves from work situations that they believe present an imminent and serious danger to their life or health and protecting them from undue consequences for doing so”. In further decisions, notes set out with the text requirements will now state that “it is recognized that the provision of training at no cost to workers and the provision of training during working hours, where possible, can remove significant barriers to worker participation”, and that personal protective equipment is provided at no cost to workers. In a decision affecting all references to “participation” in the standard, a note to the definition of “participation” will provide that “worker participation includes engaging safety and health committees and worker representatives, where they exist”.
10. On other relevant ILO issues, in particular the extent of participation of different categories of workers in the occupational safety and health management system, the text continues to evolve due to the fluid structure of the ISO drafting process.
11. As a result of these developments, the ISO timeline for drafting ISO 45001 is running later than expected. As previously reported, a longer time frame had been envisioned if a large number of comments were received during the ballot on the DIS. In particular, since many comments raised points of a significant technical nature, the process to reach final disposition of the text, including resolving all comments and voting on whether to publish the text as an ISO standard, could continue beyond March 2017. If the revised version of ISO 45001 is accepted by vote, the ISO will proceed to prepare and translate the standard for publication within the projected timelines reported above.

12. As noted in the November 2015 report to the Governing Body, ISO standardization is proceeding on other potentially relevant subjects, without the participation of the ILO, in view of the Governing Body's decision to limit the piloting of the 2013 Agreement to the development of the proposed ISO 45001.

Conclusions and observations

13. In conclusion, the aim of the pilot implementation of the 2013 Agreement as it relates to ISO 45001, while progressing, is yet to be achieved, and the ISO timeline is running later than expected. It is advisable to continue the ongoing measured participation of the ILO, without financial implications, in order to provide the inputs necessary to avoid conflict between the standard and the provisions of relevant ILS and, if need be, to explain any inconsistencies that remain in the final published standard.
14. In the light of the above, it would appear most expedient for the Governing Body to renew its 325th Session decision in principle by extending the Office participation up to, if necessary, the completion of the ISO 45001 drafting process, and for the Office to provide an analysis of the pilot to assist the Governing Body in taking a definitive decision on the 2013 Agreement at its earliest session after final disposition of ISO 45001 once the results of the final vote on the proposed standard are known. If these results are not known in time for the 329th Session (March 2017), the Governing Body may wish to have before it a document for information at its 329th Session to be kept abreast of any significant developments. In the event that the ISO publishes ISO 45001 prior to the Governing Body's review of the Agreement, the Governing Body may also wish to authorize its Officers to provide guidance to the Office on the position to be taken in relation to the publication of ISO 45001.

Draft decision

15. *The Governing Body decides:*

- (a) *to extend again the pilot implementation of the 2013 Agreement between the International Labour Organization and the International Organization for Standardization strictly for the time necessary for the ILO's effective participation in the completion of ISO 45001;*
- (b) *to decide, at its earliest possible session after final disposition of ISO 45001, on the basis of an analysis conducted by the Office, whether to continue or revise the 2013 Agreement, negotiate a new agreement, or take other necessary action in recognition of the ILO's mandate, and for that purpose to request the Office:*
 - (i) *to inform the Officers of the Governing Body of the date of final disposition of ISO 45001 when it is known;*
 - (ii) *to submit a document for information to its 329th Session on any significant developments relating to the matter, if the review of the Agreement is delayed beyond its 329th Session (March 2017); and*
- (c) *in the event that the ISO publishes ISO 45001 prior to the Governing Body's review of the Agreement, to authorize its Officers to provide guidance to the Office on the position to be taken in relation to the publication of ISO 45001.*