



International
Labour
Organization

► ILC.112/Report VII(2)

► Abrogation of four international labour Conventions

International Labour Conference
112th Session, 2024

Report VII(2)

► Abrogation of four international labour Conventions

Seventh item on the agenda



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ISBN 978-92-2-039760-2 (print)
ISBN 978-92-2-039761-9 (web PDF)
ISSN 0074-6681

Also available in:

Arabic: ISBN 978-92-2-039764-0 (print), ISBN 978-92-2-039765-7 (web PDF);
Chinese: ISBN 978-92-2-039766-4 (print), ISBN 978-92-2-039767-1 (web PDF);
French: ISBN 978-92-2-039762-6 (print), ISBN 978-92-2-039763-3 (web PDF);
German: ISBN 978-92-2-039768-8 (print), ISBN 978-92-2-039771-8 (web PDF);
Russian: ISBN 978-92-2-039769-5 (print), ISBN 978-92-2-039770-1 (web PDF);
Spanish: ISBN 978-92-2-039772-5 (print), ISBN 978-92-2-039773-2 (web PDF).

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► Introduction

1. At its 343rd Session (November 2021), the Governing Body of the International Labour Office decided to place on the agenda of the 112th Session (2024) of the International Labour Conference an item on the abrogation of four Conventions: the Underground Work (Women) Convention, 1935 (No. 45), the Safety Provisions (Building) Convention, 1937 (No. 62), the Convention concerning Statistics of Wages and Hours of Work, 1938 (No. 63), and the Labour Inspectorates (Non-Metropolitan Territories) Convention, 1947 (No. 85).¹
2. The Governing Body based its decision on the recommendations made by the Standards Review Mechanism Tripartite Working Group (SRM TWG)² at its fourth meeting, which was held from 17 to 21 September 2018.³
3. Pursuant to article 19(9) of the ILO Constitution, the Conference may act on a proposal by the Governing Body and decide, by a two-thirds majority, to abrogate a Convention in force if it appears that the Convention has lost its purpose or that it no longer makes a useful contribution to attaining the objectives of the Organization. The capacity to propose the abrogation of Conventions is an important tool of the Standards Review Mechanism process, which is aimed at ensuring that the Organization has a robust and up-to-date body of international labour standards. This will be the fifth time that the International Labour Conference will be called upon to decide on the possible abrogation of international labour Conventions.
4. If the Conference decides to abrogate the above-mentioned instruments, they will be removed from the ILO's body of standards. As a result, Members that have ratified and are still bound by the Conventions concerned will no longer be obliged to submit reports under article 22 of the Constitution and they will no longer be subject to representations (article 24) or complaints (article 26) concerning alleged non-observance. The ILO supervisory bodies will not be required to examine the implementation of these instruments and the Office will take the necessary steps to ensure that the abrogated instruments are no longer reproduced in any collection of

¹ ILO, *Agenda of future sessions of the International Labour Conference*, GB.343/INS/2(Rev.1), 2021, para. 19; and ILO, *Minutes of the 343rd Session of the Governing Body of the International Labour Office*, GB.343/PV, 2021, para. 62(c).

² The SRM TWG was established by the Governing Body at its 323rd Session (March 2015) and is mandated under its terms of reference 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 "shall 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 ILO, *The Standards Initiative: Report of the fourth meeting of the Standards Review Mechanism Tripartite Working Group*, GB.334/LILS/3, 2018; and ILO, *Agenda of the International Labour Conference*, GB.334/INS/2/1, 2018, para. 22 and Appendix II. At its 334th Session (October 2018), the Governing Body decided to place the item on the abrogation of the four Conventions on the agenda of the 113th Session of the Conference, which was due to be held in 2024. However, as a result of the COVID-19 pandemic, the 113th Session will now take place in 2025. At its 343rd Session (November 2021), the Governing Body decided to maintain the discussion for 2024 and has therefore placed the item on the agenda of the 112th Session.

international labour standards or referred to in new instruments, codes of conduct or similar documents.⁴

5. Pursuant to article 52(1) of the Standing Orders of the International Labour Conference, when an item on abrogation is placed on the agenda of the Conference, the Office shall communicate to the governments, so as to reach them not less 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, and the reasons for their position, on the subject of the proposed abrogation, along with the relevant information. Accordingly, Report VII(1) was sent to Member States, who were invited to communicate their replies to the Office by 30 November 2023. Report VII(1) summarized the reasons put forward by the Governing Body in proposing that the above-mentioned instruments be abrogated.⁵
6. As of 31 January 2024, the Office had received replies from the governments of the following 77 Member States: Algeria, Armenia, Argentina, Australia, Austria, Azerbaijan, Bahrain, Belgium, Belize, Bosnia and Herzegovina, Brazil, Bulgaria, Burkina Faso, Burundi, Canada, Chad, Colombia, Costa Rica, Côte d'Ivoire, Croatia, Cuba, Cyprus, Czechia, Denmark, Ecuador, Egypt, Estonia, Finland, France, Germany, Greece, Guatemala, Hungary, India, Indonesia, Iraq, Ireland, Israel, Italy, Japan, Jordan, Kyrgyzstan, Latvia, Lithuania, Malaysia, Maldives, Mauritania, Mauritius, Mexico, Montenegro, Netherlands, New Zealand, Norway, Pakistan, Peru, Philippines, Poland, Portugal, United Kingdom of Great Britain and Northern Ireland, Republic of Korea, Saudi Arabia, Serbia, Seychelles, Solomon Islands, South Africa, Slovakia, Slovenia, Spain, Sri Lanka, Suriname, Sweden, Switzerland, Thailand, Togo, Trinidad and Tobago, Türkiye, Uruguay.
7. In Report VII(1), the Office drew the attention of governments to article 52(1) of the Standing Orders of the Conference, under which "[the] questionnaire shall request governments to consult the most representative organizations of employers and workers before finalizing their replies".
8. The governments of the following 55 Member States confirmed that employers' and workers' organizations had been consulted or involved in drawing up the replies: Algeria, Argentina, Austria, Australia, Azerbaijan, Bahrain, Belgium, Belize, Bosnia and Herzegovina, Bulgaria, Burundi, Canada, Chad, Colombia, Costa Rica, Croatia, Cyprus, Czechia, Denmark, Egypt, Estonia, Finland, France, Germany, Greece, Guatemala, Indonesia, Iraq, Ireland, Italy, Japan, Jordan, Latvia, Lithuania, Mexico, Montenegro, Netherlands, New Zealand, Norway, Pakistan, Peru, Philippines, Poland, Portugal, Serbia, Seychelles, Slovakia, Slovenia, Spain, Suriname, Sweden, Switzerland, Thailand, Trinidad and Tobago, Uruguay. In addition, the governments of the following three Member States indicated that at the time of submitting their replies they had not yet received input from all social partners: Bahrain, Latvia, Uruguay.
9. The present report has been prepared on the basis of the replies received.

⁴ More detailed information on the significance, effects and procedure of abrogation can be found in ILO, *Update on the status of ratification of the 1986 and 1997 Instruments for the Amendment of the Constitution of the International Labour Organisation*, GB.325/LILS/INF/1, 2015; and ILO, *The Standards Initiative: Report of the fifth meeting of the Standards Review Mechanism Tripartite Working Group*, GB.337/LILS/1, Appendix, Annex II.

⁵ ILC.112/VII(1).

► Summary of replies received and commentaries

- 10.** This section lists the government replies to the following question, which was asked with respect to each of the Conventions Nos 45, 62, 63 and 85, and provides the explanation accompanying the only negative answer, which was received from one workers' organization.

Do you consider that the above-referenced Convention should be abrogated?

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

Total number of replies: 77

Yes: 77 – Algeria, Argentina, Armenia, Australia, Austria, Azerbaijan, Bahrain, Belize, Belgium, Bosnia and Herzegovina, Brazil, Bulgaria, Burkina Faso, Burundi, Canada, Chad, Colombia, Costa Rica, Côte d'Ivoire, Croatia, Cuba, Cyprus, Czechia, Denmark, Ecuador, Egypt, Estonia, Finland, France, Germany, Greece, Guatemala, Hungary, India, Indonesia, Iraq, Ireland, Israel, Italy, Japan, Jordan, Kyrgyzstan, Latvia, Lithuania, Malaysia, Maldives, Mauritania, Mauritius, Mexico, Montenegro, Netherlands, New Zealand, Norway, Pakistan, Peru, Philippines, Poland, Portugal, United Kingdom of Great Britain and Northern Ireland, Republic of Korea, Saudi Arabia, Serbia, Seychelles, Slovakia, Slovenia, Solomon Islands, South Africa, Spain, Sri Lanka, Suriname, Sweden, Switzerland, Thailand, Togo, Trinidad and Tobago, Türkiye, Uruguay.

No: None

Comments

Greece

Greek General Confederation of Labour (GSEE)

The GSEE is against the proposed abrogation since the national regulatory framework remains imperfect as regards the implementation of the required legislative measures to ensure compliance with international minimum standards such as those applicable to women's employment in dangerous work or occupational safety and health (OSH) in construction. In particular, with respect to the proposed abrogation of Convention No. 45, GSEE recalls its position expressed since 2007 and considers that apart from the ratification of the OSH Framework Convention No. 187, no substantive measures have been taken for the effective application of that Convention. As a result, the GSEE cannot support the view of the Ministry of Labour according to which the provisions of Convention No. 45 are not consistent with the OSH regulatory approach of Convention No. 187. With respect to the proposed abrogation of Convention No. 85, the GSEE recalls the non-compliance by Greece with Convention No. 81 following the separation of the Labour Inspectorate from the Ministry of Labour and the establishment of an independent authority without the institutional participation of the social partners.

Spain

Galician Inter-Union Confederation (CIG)

The CIG is against the abrogation of Convention No. 62. In its view, Convention No. 62 has not lost its purpose and continues to make a useful contribution to the achievement of the Organization's objectives. It is a standard that gives substantial protection to workers in the building industry working

at height. Although its purpose is partly the same as that of the more recent Safety and Health in Construction Convention, 1988 (No. 167), it is regrettable that the latter has not been ratified. Consequently, Convention No. 62 remains a valuable legal instrument for the protection of construction workers' health and safety in high-risk situations, such as when working on scaffolding and with lifting equipment.

Office commentary

Except for one workers' organizations which opposed the abrogation of Convention No. 45 and one workers' organization which opposed that of Convention No. 62, respondents unanimously supported the abrogation of Conventions Nos 45, 62, 63 and 85, as they see no value in maintaining these standards. Abrogating these texts would therefore contribute to ensuring that the ILO has a clear, robust and up-to-date body of international labour standards.

► Proposed decisions

Pursuant to article 52(2) of the Standing Orders of the Conference, this report is presented to the Conference for consideration. The Conference is also invited to consider and to adopt the following proposals:

1. The General Conference of the International Labour Organization,

Having been convened in Geneva by the Governing Body of the International Labour Office, and having met at its 112th Session on ... June 2024, and

Following consideration of the proposal for the abrogation of four international labour Conventions,

decides this ... June 2024 to abrogate the Underground Work (Women) Convention, 1935 (No. 45).

The Director-General of the International Labour Office shall notify all Members of the International Labour Organization, as well as the Secretary-General of the United Nations, of this decision to abrogate the instrument.

The English, French and Spanish versions of the text of this decision are equally authoritative.

2. The General Conference of the International Labour Organization,

Having been convened in Geneva by the Governing Body of the International Labour Office, and having met at its 112th Session on ... June 2024, and

Following consideration of the proposal for the abrogation of four international labour Conventions,

decides this ... June 2024 to abrogate the Safety Provisions (Building) Convention, 1937 (No. 62).

The Director-General of the International Labour Office shall notify all Members of the International Labour Organization, as well as the Secretary-General of the United Nations, of this decision to abrogate the instrument.

The English, French and Spanish versions of the text of this decision are equally authoritative.

3. The General Conference of the International Labour Organization,

Having been convened in Geneva by the Governing Body of the International Labour Office, and having met at its 112th Session on ... June 2024, and

Following consideration of the proposal for the abrogation of four international labour Conventions,

decides this ... June 2024 to abrogate the Convention concerning Statistics of Wages and Hours of Work, 1938 (No. 63).

The Director-General of the International Labour Office shall notify all Members of the International Labour Organization, as well as the Secretary-General of the United Nations, of this decision to abrogate the instrument.

The English, French and Spanish versions of the text of this decision are equally authoritative.

4. The General Conference of the International Labour Organization,

Having been convened in Geneva by the Governing Body of the International Labour Office, and having met at its 112th Session on ... June 2024, and

Following consideration of the proposal for the abrogation of four international labour Conventions,

decides this ... June 2024 to abrogate the Labour Inspectorates (Non-Metropolitan Territories) Convention, 1947 (No. 85).

The Director-General of the International Labour Office shall notify all Members of the International Labour Organization, as well as the Secretary-General of the United Nations, of this decision to abrogate the instrument.

The English, French and Spanish versions of the text of this decision are equally authoritative.