

Governing Body

335th Session, Geneva, 14–28 March 2019

GB.335/LILS/1

Legal Issues and International Labour Standards Section
Legal Issues Segment

LILS

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FIRST ITEM ON THE AGENDA

Follow-up to the discussion on the protection of Employers' and Workers' delegates to the International Labour Conference and Regional Meetings and members of the Governing Body in relation to the authorities of a State of which they are a national or a representative

Purpose of the document

The purpose of this document is to resubmit to the Governing Body the draft Conference resolution amending Annex I of the 1947 Convention on the Privileges and Immunities of the Specialized Agencies following the Governing Body's decision to defer the decision on its approval to its 335th Session (March 2019). The Governing Body is invited to approve the draft resolution in the appendix for submission to the next session of the International Labour Conference (see the draft decision in paragraph 3).

Relevant strategic objective: All.

Policy implications: Effective and efficient governance of the Organization.

Legal implications: Possible referral to the International Labour Conference of a draft resolution amending Annex I of the Convention on the Privileges and Immunities of the Specialized Agencies.

Financial implications: None.

Follow-up action required: Submit the draft resolution to the Conference for possible adoption.

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Related documents: GB.334/LILS/1; GB.334/PV; GB.325/LILS/1; GB.325/PV; GB.326/LILS/1; GB.326/PV; GB.328/LILS/1; GB.328/PV; GB.332/LILS/1; GB.332/PV.

Background

1. This agenda item has been examined by the Governing Body at five sessions since November 2015. At its 334th Session (October–November 2018), the Governing Body examined the draft resolution concerning the revision of Annex I to the Convention on the Privileges and Immunities of the Specialized Agencies (1947) along with detailed information on the purpose and anticipated effect of the resolution. Taking into account the information provided in document [GB.334/LILS/1](#) and the views expressed in the ensuing discussion, the Governing Body deferred the adoption of the draft decision set forth in paragraph 9 of the document to its 335th Session (March 2019).¹
2. In accordance with this decision, the draft resolution contained in Appendix I of document GB.334/LILS/1 and reproduced in the appendix, is resubmitted, without any changes, to the Governing Body for approval.

Draft decision

3. *The Governing Body approved the draft resolution in the appendix of document GB.335/LILS/1 for submission to the next session of the International Labour Conference.*

¹ [GB.334/LILS/PV](#), para. 29.

Appendix

Draft resolution concerning the revision of Annex I to the Convention on the Privileges and Immunities of the Specialized Agencies (1947)

The General Conference of the International Labour Organization, meeting in its 108th Session, June 2019,

Noting that, in accordance with article 40 of the Constitution of the Organisation, delegates to the Conference and members of the Governing Body shall enjoy such privileges and immunities as are necessary for the independent exercise of their functions in connection with the Organization;

Recalling the resolution concerning freedom of speech of non-governmental delegates to ILO meetings adopted by the International Labour Conference at its 54th Session (1970), which emphasized the fundamental importance to the ILO and to the performance of the work of the ILO that Employers' and Workers' delegates to the Conference and members of the Governing Body may freely express their views, the views of their groups, and the views of their organizations, on questions within the competence of the International Labour Organization, and may freely keep members of their organizations in their countries informed of the views so expressed,

Reaffirming the importance it attaches to the application of article 40 of the Constitution of the International Labour Organisation in such manner that the right of Employers' and Workers' delegates to the Conference and members of the Governing Body to express themselves freely on questions within the competence of the International Labour Organization is completely safeguarded;

Decides to revise Annex I to the Convention on the Privileges and Immunities of the Specialized Agencies by inserting in the said annex as new paragraph 1bis the following provisions:

“1bis. (i) Notwithstanding section 17 of Article V, Employers' and Workers' delegates and advisers to the International Labour Conference or to regional conferences convened under article 38 of the Constitution of the International Labour Organisation, and Employer and Worker members and deputy members of the Governing Body and their substitutes, shall enjoy, in relation to the authorities of a State of which they are nationals or of which they are or have been representatives:

- (a) immunity from legal process both during and subsequent to the discharge of their duties in respect of words spoken or written and acts performed in their official capacity at meetings of the International Labour Conference, regional conferences or the Governing Body or of any of their committees subcommittees or other bodies;
- (b) immunity from personal arrest or detention while exercising their functions at a meeting of the International Labour Conference, a regional conference or the Governing Body and during their journeys to or from the place of meeting, except when they are found in the act of committing an offence; and
- (c) exemption from any restrictions on their free movement in connection with their attendance to the meeting concerned.

(ii) Privileges and immunities under this paragraph are accorded not for the personal benefit of the individuals themselves, but in order to safeguard the independent exercise of their functions in connection with the International Labour Organisation. Consequently, the Organisation shall have the right and the duty to waive, through the International Labour Conference or the Governing Body as the case may be, the immunity of any Employer or

Worker representative in any case where in its opinion the immunity would impede the course of justice, and it can be waived without prejudice to the purpose for which the immunity is accorded.”

Requests the Director-General to transmit to the Secretary-General of the United Nations the revised Annex I in accordance with section 38 of the Convention;

Invites Members, parties to the Convention, to notify to the Secretary-General their acceptance of this revised annex in accordance with Article XI, section 47(1), and pending such notification to apply, to the extent possible, its provisions as modified;

Invites Members not parties to the Convention to accede thereto, and pending such accession to apply, to the extent possible, the provisions of the Convention and of the Annex, as modified, in their territories.