Minutes of the 338th Session of the Governing Body

The 338th Session of the Governing Body, which was originally scheduled from 12 to 26 March, did not take place in view of the restrictions to meetings and travel in place since early March as a result of the coronavirus pandemic.

The Governing Body delegated to its Officers the authority to make decisions, in consultation with the tripartite Screening Group, on several items, or made decisions by correspondence. Consideration of all other items on the agenda is deferred to future sessions of the Governing Body.

With the subsequent reinforcement of travel and meeting restrictions in most countries and having due regard to the need to protect the health and well-being of people, the Governing Body decided, through a vote by correspondence, to defer the 109th Session of the International Labour Conference (originally scheduled from 25 May to 5 June) to June 2021, and to cancel the associated 338bis and 339th Sessions of the Governing Body scheduled for 25 May and 6 June 2020, respectively.

This document contains official communications, ballot results and the minutes of the meetings of the Officers of the Governing Body with the Screening Group in relation to the agenda of the 338th Session of the Governing Body.

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Consequences of not holding the 338th Session of the Governing Body in March 2020 and subsequent developments

Due to the rapidly evolving situation caused by the COVID-19 crisis, subsequently declared a pandemic by the World Health Organization, it was decided not to hold the 338th Session of the Governing Body originally scheduled for 12–26 March 2020. The sequence of events leading to this decision and the steps taken thereafter are outlined below.

1. In response to the escalating crisis caused by the Covid-19 outbreak, the Swiss Federal Council decided at an extraordinary session on 28 February 2020 to ban large-scale events until 15 March 2020 at the earliest (the ban was later reinforced and extended until 19 April 2020).

2. On 3 March 2020, the members of the Governing Body were informed by the Director-General that, on his recommendation and after having consulted the Employer and Worker Vice-Chairpersons and Government group representatives, the Chairperson of the Governing Body had decided, in accordance with paragraph 3.2.3 of the Standing Orders of the Governing Body, that the 338th Session of the Governing Body would no longer take place on those dates.

3. The decision followed a careful risk assessment by the Office together with the competent local authorities, undertaken in conformity with the decision of 28 February of the Swiss Federal Council. It took into particular account the tripartite nature of the Governing Body, which required employer and worker members with no representation in Switzerland to travel from their countries to participate in the Governing Body meetings held in Geneva.

4. The Governing Body members were assured that arrangements would be put in place to ensure that items that would have been discussed at the March session would be incorporated into the agenda of the sessions of the Governing Body to take place later in the year so that the activities of the Organization could be carried forward effectively. The arrangements under consideration would involve:

   • delegation of authority to the Officers of the Governing Body to take urgent decisions deemed uncontroversial;

   • decisions to be taken by the resumed Governing Body session already scheduled for 25 May 2020 in the framework of the 109th Session of the International Labour Conference;

   • further matters to be considered by the 339th Session of the Governing Body foreseen for June immediately after the Conference.

This information was also communicated to all member States through a note verbale sent on the same day to all their Permanent Missions.

5. On 5 March 2020, the Officers of the Governing Body and the members of the tripartite Screening Group received a set of proposals from the Office on the course of action on how and when to deal with items that had been placed on the agenda of the 338th Session. It included the classification of items as either needing immediate decision or incorporation into future sessions:
eight items were identified as potentially non-controversial and requiring urgent decision through a delegation of authority to the Officers by the Governing Body;

three items relating to actions that the Governing Body had to recommend to the Conference were proposed for deferral to what would have been the resumed 338th Session on 25 May;

seven items were identified as requiring action at the 339th Session (6 June) as these were related to activities requiring action prior to the 340th Session (October–November 2020); and

all other items were to be postponed to future sessions, including the 340th Session (October–November 2020).

6. A schedule of successive joint meetings of the Officers and the Screening Group to discuss the following stages was also put forward:

(a) A first meeting to provide their views on the items identified as urgent and for which a delegation of authority to the Officers could be sought from the Governing Body. Subsequent to that, all members of the Governing Body would be consulted by email correspondence if they would agree to delegate their authority on each of the items proposed.

(b) A second meeting to make decisions on items for which a delegation of authority had been granted by the Governing Body.

(c) A third meeting to determine the agenda of the May, June and November sessions for which the Office had prepared proposals before the decision was taken to call off the March Session.

7. At the first joint meeting of the Officers of the Governing Body and Screening Group which took place on 13 March, members expressed their views on which items a delegation of authority would be requested. Agreement was reached to seek delegation of authority on seven of the eight items. These were:

- Arrangements for the 109th Session of the Conference (GB.338/INS/2/2)
- Dates of the 17th Asia and the Pacific Regional Meeting (GB.338/INS/15/2)
- Composition, agenda and programme of standing bodies and meetings (GB.338/INS/17(Rev.1))
- Sectoral meetings held in 2019 and proposals for 2020–21 (GB.338/POL/3)
- Delegation of authority under article 18 of the Standing Orders of the International Labour Conference (GB.338/PFA/2)
- Composition of the Administrative Tribunal of the ILO (GB.338/PFA/11/2)
- Comprehensive review of the Conference Standing Orders (GB.338/LILS/1)

8. No agreement was reached, however, on whether to seek delegation of authority on GB.338/INS/15/1 (Update on the status of ratification of the 1986 Instrument for the Amendment of the Constitution of the ILO and follow-up to paragraph 3 of the Resolution on the ILO Centenary Declaration for the Future of Work) on the understanding that pending
agreement on the composition and terms of reference of a working group to examine the matter, informal tripartite consultations would be organized with a view to reporting on progress to the 340th Session of the Governing Body in October–November.

9. Reservations were expressed by some groups on the proposed handling of items GB.338/INS/2/2 and GB.338/POL/3. Compromise was reached on many aspects, and it was understood that:

- In respect of item GB.338/INS/2/2, the delegation of authority included not only decision-making on the decision point in document GB.338/INS/2/2, but also for the guidance that members of the Screening Group might provide on other aspects of the preparations for the 109th Session of the International Labour Conference.

- In respect of item GB.338/POL/3, while the delegated authority relating to matters covered in subparagraph 11(a) of the draft decision could be exercised by the Officers in consultation with the Screening Group, delegated authority in respect of issues covered in subparagraphs 11(b), (c) and (d) of the draft decision would be exercised only if the Governing Body did not hold a session in May or June 2020.

10. The group was also consulted on the modalities of the consultation by correspondence with the Governing Body members. It was proposed that in accordance with usual Governing Body practice, the Chairperson of the Governing Body would assess the responses received to determine if consensus had been reached. If the Chairperson considered that there had been no consensus in respect of any of the seven items, a count of the responses would be undertaken to determine if there had been a simple majority of regular members in support of each proposed delegation of authority. The absence of a response by Wednesday 18 March would be deemed to constitute support for the proposed delegations of authority.

11. On 15 March, the email correspondence to all Governing Body members was sent requesting delegation of their authority on the seven aforementioned items (see Appendix I).

12. In a message sent on 19 March 2020, the Vice-Chairpersons of the Governing Body and the members of the Screening Group were informed by the Office, at the Chairperson’s request, of his assessment of the responses received from Governing Body members. At 6 p.m. on Wednesday, 18 March 2020, 51 responses were expressly in favour of the delegation of authority in respect of all aforementioned seven items; six responses were against the delegation of authority in respect of one or more items while supporting the delegation of authority in respect of all other items; one response was against the delegation of authority in respect of all seven items; and 64 members had not responded, the absence of a response being deemed to constitute support for the proposed delegation of authority (included in Appendix I).

13. While this was not a unanimous decision, a very large majority of express or implied support had been received overall, in particular from regular members of the Governing Body in respect of all seven items; the Chairperson therefore considered that the Governing Body had agreed to delegate its authority in respect of all items.

Minutes of the meeting of the Officers of the Governing Body and the members of the tripartite Screening Group of Friday, 20 March 2020

14. The Officers of the Governing Body and the members of the tripartite Screening Group met through videoconference on Friday, 20 March 2020 to make decisions, under the authority
delegated to them by the Governing Body, on the items on the agenda of the 338th Session of the Governing Body requiring urgent action. An update on the status of the 109th Session of the International Labour Conference was also provided by the Office.

15. The Chairperson of the Governing Body, H.E. Mr Litjobo (Government, Lesotho), chaired the meeting. Participants included the Employer Vice-Chairperson, Mr M. Mdwa (South Africa), the Worker Vice-Chairperson, Ms C. Passchier (Netherlands), the Chairperson of the Government group, Mr A. Essah (Nigeria), the Vice-Chairperson of the Government group, Mr N. Dytz (Brazil), and the following Regional Coordinators:

Africa: Ms F. Abdulkadir (Ethiopia)

Asia and Pacific: Mr R. Behzad (Iran)

Latin America and the Caribbean (GRULAC): Ms L. Silva (Uruguay)

Eastern Europe: Ms M. Nojszewska-Dochev (Poland)

Western Europe: Mr P. Rochford (Ireland)

Industrialized Market Economy Countries (IMEC): Ms J. Kruger (Canada)

Employers’ group Secretariat: Mr R. Suarez and Ms M.P. Anzorreguy

Workers’ group Secretariat: Ms R. Gonzalez and Ms M. Llanos

16. The Chairperson recalled that a very large majority of member States had agreed on the delegation of authority on the seven items from the agenda of the 338th Session of the Governing Body that required urgent action; the main purpose of the joint meeting of the Officers and the tripartite Screening Group was to make decisions on those items. Two of those items were contingent on the decision on whether it would be possible to hold the International Labour Conference and the Governing Body sessions in May and June 2020. He therefore proposed considering those two items at the end of the meeting, together with information from the Office on the prospect of holding the Conference and Governing Body sessions in May and June 2020. The Screening Group would then be in a better position to discuss when and how to deal with the remaining agenda items.

17. The Worker and Employer Vice-Chairpersons expressed their shared view that the current exceptional situation meant taking on unusual responsibilities. They were fully aware of the problems and challenges that arose, especially for government representatives. It was important to build mutual trust in decision-making, in the knowledge that everyone was working towards the same objective. The Workers and the Employers were committed to listening to and taking seriously the concerns of governments, and acting on the basis of consensus where possible, taking the concerns of all on board. They stated, however, that the Officers might have to take decisions where consensus could not be reached.

18. The Chairperson of the Government group said that the bulk of the discussion for the Governments would be from the standpoint of the regional coordinators. While they did not have major differences, harmonization of diverse national standpoints would be a challenge and required flexibility in accommodating different positions. He called for patience in allowing each regional coordinator to air the particular views of each regional group at this crucial time.

19. The representative of the Africa group noted that while under normal circumstances her group would have made a statement on the agenda items, it had agreed to delegate authority for decisions and had no objection or specific comments to most of the draft decisions.
20. The representative of the Asia and Pacific group (ASPAG) shared the sense of collective responsibility referred to by the Employer and Worker Vice-Chairpersons, as well as the call for flexibility from the Chairperson of the Government group.

21. The representative of the group of Latin American and Caribbean countries (GRULAC), highlighting her group’s willingness to be flexible in view of the extraordinary circumstances, emphasized that the delegation of authority must be used on an exceptional basis and applied restrictively. Consultations must be continued. Mutual trust was essential, as well as the need to be practical and transparent.

22. The representatives of the group of industrialized market economy countries (IMEC), the Eastern European Group, and the Western European Group also emphasized the need for mutual understanding and working collectively, constructively and in solidarity in all actions taken. It was important to give strategic direction to the Office and to enable it to remain operational in the coming months.

23. The Vice-Chairperson of the Government group highlighted the need to maintain a positive dialogue and work towards achieving good results for all ILO member States.

I. Decisions under delegated authority on items on the agenda of the 338th Session of the Governing Body

**Dates of the 17th Asia and Pacific Regional Meeting**

(GB.338/INS/15/2)

24. The Employer and Worker Vice-Chairpersons and the representatives of the Africa group, ASPAG, GRULAC, IMEC, the Eastern European group, the Western European and the Vice-Chairperson of the Government group expressed support for the proposals and draft decision contained in document GB.338/INS/15/2.

25. The Deputy Director-General for Management and Reform, in response to a question raised by the representative of ASPAG concerning a discrepancy between the dates proposed in documents GB.338/INS/15/2 and GB.338/INS/17, confirmed that the correction had been made, as reflected in the documents online.

Decision

26. The Governing Body, through delegation of authority, approved that the 17th Asia and the Pacific Regional Meeting be held from Tuesday 6 to Friday 9 April 2021.

(GB.338/INS/15/2, paragraph 4)

**Composition, agenda and programme of standing bodies and meetings**

(GB.338/INS/17(Rev.1))

27. The Chairperson said that document GB.338/INS/17(Rev.1) had two parts: the first on the list of observers to be invited to the International Labour Conference and other official meetings; and the second on the proposed programme of official meetings in 2020 and 2021. The programme would have to be reviewed depending on whether it would be possible to hold some of the meetings on the scheduled dates. For example, as it was evident that the
sectoral meeting on the future of work in the automotive industry could not take place in early May 2020, it would have to be rescheduled and included in the programme of meetings for the second half of 2020.

28. The Vice-Chairperson of the Government group proposed that the community of Portuguese-speaking countries be included in the list for invitation to the 17th Asia and Pacific Regional Meeting.

29. The Employer Vice-Chairperson, the Worker Vice-Chairperson, the Chairperson of the Government group and the representatives of ASPAG, GRULAC, IMEC, the Eastern European group and the Western European group, expressed support for the draft decision.

30. In response to a query from the representative of GRULAC on whether a new date had been established for the meeting on the automotive industry, the Deputy Director-General for Management and Reform said that it was hoped to reschedule the meeting in the second half of 2020. However, under the uncertain circumstances no date had been set.

Decision

31. The Governing Body, through delegation of authority:

(a) authorized the Director-General to issue an invitation to the Government of the Kingdom of Bhutan to send an observer delegation to the 109th Session of the International Labour Conference, as well as to the organizations requesting to be represented at the Conference listed in the appendix of document GB.338/INS/17(Rev.1), it being understood that it will be for the Conference to consider their requests to participate in the work of the committees dealing with the agenda items in which they have stated a special interest, and to inform the organizations concerned that they may nominate one person only for each of the agenda items in respect of which their interest has been recognized;

(b) endorsed the proposals made in relation to the invitation of intergovernmental and international non-governmental organizations as observers to the other official meetings listed in the appendix:

- the Technical Meeting on the Future of Work in the Education Sector;
- the Technical Meeting on the Future of Work in Aquaculture in the Context of the Rural Economy; and
- the 17th Asia and the Pacific Regional Meeting, with the addition of the Community of Portuguese-speaking Countries (CPLP) to the list of organizations to be invited; and

(c) took note of the programme of meetings, as approved by the Officers of the Governing Body, including the postponement of the Technical meeting on the future of work in the automotive industry to the second half of 2020, as well as of possible further changes to the programme of meetings.

(GB.338/INS/17(Rev.1), paragraph 9, as amended by the Governing Body)
Delegation of authority under article 18 of the Standing Orders of the International Labour Conference (GB.338/PFA/2)

32. The Officers of the Governing Body and the members of the Screening Group expressed support for the draft decision.

Decision

33. The Governing Body, through delegation of authority, decided to delegate to its Officers, for the period of the 109th Session (May–June 2020) of the Conference, the authority to carry out its responsibilities under article 18 of the Conference Standing Orders in relation to proposals involving expenditure in the 77th financial period ending 31 December 2021.

(GB.338/PFA/2, paragraph 3)

Comprehensive review of the Standing Orders of the Conference: Progress report (GB.338/LILS/1)

34. The Employer Vice-Chairperson, the Chairperson of the Government group and the representatives of the Africa group and ASPAG expressed support for the draft decision.

35. The Worker Vice-Chairperson noted that a number of consultations had been held, progress had been made, and that the first consolidated text of amendments had been presented for consideration by the Governing Body. More time was needed on the understanding that nothing could be considered as agreed until the entire package of amendments would be agreed by consensus. She supported the draft decision but noted that in view of the current situation, the timing of the proposed consultations might need to be adapted.

36. The representative of GRULAC said that her group supported the draft decision but, in view of comments received from its members, would like to continue consultations. She concurred with the Worker Vice-Chairperson with regard to the timing of the proposed consultations.

37. The Vice-Chairperson of the Government group and the representatives of IMEC, the Eastern European group and the Western European group expressed support for the draft decision and concurred with the concern that it was not foreseeable that two rounds of tripartite consultations would be held by the end of June 2020.

38. In response to that concern, the Deputy Director-General for Management and Reform indicated that the two rounds of consultations would be convened at the earliest possible date, bearing in mind that the Governing Body had until March 2021 to consider the amendments if these were to be submitted to the Conference in June 2021.

Decision

39. The Governing Body, through delegation of authority, took note of the progress report on the consultations concerning the comprehensive review of the Standing Orders of the Conference, and requested the Office to organize at least two rounds
of tripartite consultations as soon as possible and to prepare a draft consolidated text of amendments for its consideration at a future session.

(GB.338/LILS/1, paragraph 9, as amended by the Governing Body)

Matters relating to the Administrative Tribunal of the ILO: Composition of the Tribunal

(GB.338/PFA/11/2)

40. The Employer Vice-Chairperson, the Worker Vice-Chairperson, the Chairperson and Vice-Chairperson of the Government group, and the representatives of the Africa group, ASPAG, GRULAC, IMEC, the Eastern European group and the Western European group expressed support for the draft decision.

41. Responding to a question from the Worker Vice-Chairperson on how the renewal of Mr Kreins’ term of office might be affected by the possible cancellation of the 109th Session of the International Labour Conference, the Deputy Director-General indicated that, in the event that no International Labour Conference was held in 2020, Mr Kreins’ mandate could be considered for renewal by the Conference only in 2021. The decision taken at this meeting would be carried over automatically to the next Conference. As a result, Mr Kreins would not sit on the Administrative Tribunal in the intervening period, and the Tribunal would have to operate with one member less.

42. The Worker Vice-Chairperson requested the Office to explore ways that would enable the Tribunal to continue its important work in those circumstances, as a situation in which the Administrative Tribunal would be deprived from Mr Kreins contributions during a whole year should be avoided.

43. The representative of IMEC said that she would like the Office to produce a paper on that and other potential implications of cancelling the 109th Session of the International Labour Conference.

44. The Deputy Director-General for Management and Reform said that, should the Office recommend the cancellation of the 109th International Labour Conference, it would provide advice on the implications for all items on the Conference agenda, including an analysis of available options for that particular item.

Decision

45. The Governing Body, through delegation of authority, decided to propose to the International Labour Conference the renewal of the term of office of Mr Kreins (Belgium) for three years and the adoption of the following draft resolution:

The General Conference of the International Labour Organization,

Decides, in accordance with article III of the Statute of the Administrative Tribunal of the International Labour Organization, to renew the appointment of Mr Kreins (Belgium) as a judge of the Tribunal for a term of three years.

(GB.338/PFA/11/2, paragraph 4)
Sectoral meetings held in 2019 and proposals for 2020–21
(GB.338/POL/3)

46. *The Chairperson* recalled that the Screening Group was only called upon to consider the draft decision in paragraph 11(a). All other paragraphs would be dealt with at a later stage.

47. *The Employer Vice-Chairperson, the Worker Vice-Chairperson, the Chairperson of the Government group and the representatives of the Africa group ASPAG, GRULAC, IMEC, the Eastern European group and the Western European group,* expressed support for paragraph 11(a) of the draft decision.

48. The Employer Vice-Chairperson advanced his group’s support for paragraphs 11(b) and (c).

49. The *representatives of ASPAG, IMEC,* as well as of *the Eastern European and Western European groups* reiterated their previously stated position in support of paragraphs 11(a) and (b), but wished to defer comments on paragraphs 11(c) and (d) until the next meeting of the Screening Group.

50. *The representative of GRULAC* also restated her group’s preference to reserve comments in respect of paragraphs 11(b), (c), and for (d) for the subsequent meeting.

51. The Vice-Chairperson of the Government group cited the understanding reached at the last meeting of the Screening Group, in which delegated authority in respect of issues covered in subparagraphs 11(b), (c) and (d) of the draft decision would be exercised only if the Governing Body did not hold a session in May or June 2020.

52. *The Chairperson* concluded that further discussion of the two remaining Governing Body agenda items should be deferred to a future meeting of the Screening Group, once the decision on whether the Conference and the May and June sessions of the Governing Body would take place was known.

Decision

53. *The Governing Body, through delegation of authority, approved the publication and dissemination by the Office of the guidelines on the promotion of decent work and road safety in the transport sector and of the summary record of the proceedings of the Meeting of Experts to Adopt Guidelines on the Promotion of Decent Work and Road Safety in the Transport Sector, which was held in Geneva from 23 to 27 September 2019, and deferred to a later stage consideration of other items included in the draft decision of document GB.338/POL/3.*

(GB.338/POL/3, paragraph 11, as amended by the Governing Body)

II. Update on the status of the 109th Session of the International Labour Conference

54. At the invitation of *the Chairperson,* and further to the urgent request from the Regional Coordinators for clarity on the status of the 109th Session of the International Labour Conference, *the Deputy Director-General for Management and Reform* said that it was highly probable that the 109th Session of the International Labour Conference, 2020 would have to be cancelled. While a recommendation in this regard, which would be put to the Governing Body for a vote, was yet to be confirmed pending consultation with the Swiss authorities and the Officers of the Governing Body, the Office would prepare a paper on the
implications of that recommendation for presentation to the Officers and Screening Group in the forthcoming days. The paper would include comments on suggestions received regarding the possibility of a postponed or reduced Conference, the consequences regarding individual items that were to come before the Conference, the repercussions of the cancellation on the Conference Committee on the Application of Standards and the Governing Body elections, and the ways those issues might be addressed in 2021.

55. In response to the request from the Chairperson of the Government group to convene the forthcoming Screening Group meeting earlier than foreseen in the following week, the Deputy Director-General for Management and Reform said that, as the paper necessitated detailed information, it would not be feasible to do so. He intended the paper to be ready on Tuesday, 24 March, and the Screening Group meeting to be held the following Thursday, 26 or Friday, 27 March.

56. The representatives of the Africa group, ASPAG, IMEC and the Eastern European group expressed their support for the Office’s pragmatic approach to a difficult issue. They looked forward to further information in order to report back to their groups.

57. The representative of GRULAC requested further clarification on the procedures leading up to the vote on the cancellation of the Conference, and as to whether all Governing Body members would be entitled to vote.

58. In response to the representative of the Western European group’s request for the social partners’ views on a scaled-down Conference held later in the year, which members of his group had expressed interest in exploring, the Worker Vice-Chairperson said that she did not support the idea of a postponed or reduced Conference. It was important to determine the action the Organization could take in a tripartite and democratic manner. Holding a Conference with delegations composed of only four persons each would be highly problematic for her group. It was also difficult to conceive of a Conference with fewer items on its agenda. She proposed further discussion of that matter following the issuance of the paper on the implications of a possible cancellation of the Conference.

59. The Employer Vice-Chairperson said that a scaled-down Conference was not feasible or practical, and supported the views of the Worker Vice-Chairperson.

60. The Vice-Chairperson of the Government group, noting the significance of a decision to cancel the Conference, said that it was important to cooperate closely and constructively to identify a sound solution.

61. The Deputy Director-General for Management and Reform said that while reference could be made in the paper to the potential for a reduced Conference, it must be borne in mind that a Conference of any format would still need to be held in accordance with the Constitution, which stipulated minimum delegations of four persons for each Member State entitled to be accompanied by advisers thereby bringing the number of participants to at least 2,000.