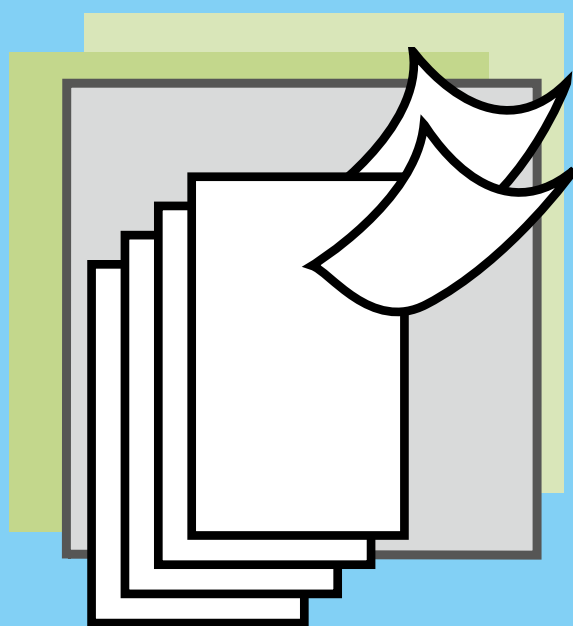




International
Labour
Office
Geneva

Report VII (2)

Abrogation of four and withdrawal of two international labour Conventions



**International
Labour
Conference**

106th Session, 2017

International Labour Conference, 106th Session, 2017

Report VII(2)

Abrogation of four and withdrawal of two international labour Conventions

Seventh item on the agenda

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LIST OF ABBREVIATIONS

Employers' and workers' organizations

Argentina	CGT RA	General Labour Confederation of the Argentine Republic
Belgium	CNT	National Labour Council
Brazil	UGT (Brazil)	General Union of Workers
	CNPL	National Confederation of the Liberal Professions
	Sincomerciários	Union of Trade Employees of Jundiaí and region
Colombia	CGT	General Confederation of Labour
	CUT	Single Confederation of Workers of Colombia
Costa Rica	UCCAEP	Costa Rican Union of Chambers and Associations of Private Enterprise
Dominican Republic	CASC	Autonomous Confederation of Class Unions
	CNUS	National Confederation of Trade Union Unity
	CNTD	National Confederation of Dominican Workers
France	CGT-FO	General Confederation of Labour – Workers' Force
Honduras	COHEP	Private Enterprise Council of Honduras
Japan	JTUC-RENGO	Japanese Trade Union Confederation
Mexico	CONCAMIN	Confederation of Industrial Chambers of the United States of Mexico
Republic of Moldova	CNSM	National Trade Union Confederation of Moldova
Peru	CATP	Autonomous Confederation of Peruvian Workers
Poland	NSZZ	Independent and Self-Governing Trade Union Solidarność
Portugal	UGT (Portugal)	General Union of Workers
Russian Federation	FNPR	Federation of Independent Trade Unions of Russia
	RSPP	Russian Union of Industrialists and Entrepreneurs

Other abbreviations

EU	European Union
ILO	International Labour Organization
IMO	International Maritime Organization
STSS	Ministry of Labour and Social Security of Honduras

INTRODUCTION

At its 325th Session (November 2015) the Governing Body of the International Labour Office decided to place on the agenda of the 106th Session (2017) of the International Labour Conference the question of abrogation of the following Conventions: the Night Work (Women) Convention, 1919 (No. 4); the Minimum Age (Trimmers and Stokers) Convention, 1921 (No. 15); the Protection against Accidents (Dockers) Convention, 1929 (No. 28); the Night Work (Women) Convention (Revised), 1934 (No. 41); the Minimum Age (Non-Industrial Employment) Convention (Revised), 1937 (No. 60); and the Hours of Work and Rest Periods (Road Transport) Convention, 1939 (No. 67).¹

Following the entry into force on 8 October 2015 of the 1997 Instrument for the Amendment of the Constitution of the International Labour Organisation, the Conference is now empowered, by two-thirds majority and upon recommendation by the Governing Body, to abrogate a Convention in force if it appears that it has lost its purpose or that it no longer makes a useful contribution to attaining the objectives of the Organization. The procedure for abrogation applies to Conventions which are in force. The procedure for withdrawal applies to Conventions which have never entered into force or are no longer in force due to denunciations, and to Recommendations. However, abrogation and withdrawal are subject to the same procedural guarantees foreseen in article 45bis of the Standing Orders of the International Labour Conference. The only difference is that the Conference was empowered, on the basis of its Standing Orders, to withdraw an instrument even before the entry into force of the constitutional amendment.

In accordance with article 45bis, paragraph 2, of the Standing Orders of the International Labour Conference, when an item on abrogation or withdrawal 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 the said abrogation or withdrawal. This report was sent to the ILO member States, which were invited to communicate their replies to the Office by 30 November 2016 at the latest. After recalling the procedure, as well as the relevant decisions of the Conference and the Governing Body, the report summed up the reasons put forward by the Governing Body for proposing that these Conventions should be abrogated or withdrawn.²

At the time the present report was drawn up, the Office had received replies from the following 76 member States: Austria, Azerbaijan, Bahrain, Belarus, Belgium, Bosnia and Herzegovina, Bulgaria, Burkina Faso, Burundi, Cambodia, Canada, Chile, China, Colombia, Costa Rica, Côte d'Ivoire, Croatia, Cuba, Cyprus, Czech Republic, Denmark, Dominican Republic, Ecuador, Egypt, Estonia, Finland, Germany, Guatemala, Honduras, Iceland, India, Indonesia, Iraq, Italy, Jamaica, Japan, Kazakhstan, Republic of Korea, Latvia, Lithuania, Malawi, Malta, Mauritius, Mexico, Republic of Moldova, Morocco, Myanmar, Netherlands, Norway, Oman, Panama, Peru,

¹ GB.325/PV, para. 34(b) and GB.325/INS/2(Add.).

² ILO: *Abrogation of four and withdrawal of two international labour Conventions*, Report VII(1), International Labour Conference, 106th Session, Geneva, 2017.

Philippines, Poland, Portugal, Qatar, Romania, Russian Federation, Saudi Arabia, Singapore, Slovakia, Spain, Sri Lanka, Sudan, Suriname, Sweden, Switzerland, Tajikistan, Thailand, Tunisia, Turkmenistan, Ukraine, United Arab Emirates, Uruguay, Uzbekistan, Zimbabwe.

The Office drew the attention of governments to article 45bis, paragraph 2, of the Standing Orders of the International Labour Conference, which requires that they “consult the most representative organizations of employers and workers before finalizing their replies”.

The Governments of the following 39 member States indicated that employers’ and workers’ organizations had been consulted or involved in drawing up the replies: Belarus, Bosnia and Herzegovina, Bulgaria, Burkina Faso, Burundi, Canada, Chile, China, Costa Rica, Croatia, Cuba, Cyprus, Czech Republic, Dominican Republic, Estonia, Finland, Guatemala, Honduras, Iceland, Iraq, Italy, Japan, Republic of Korea, Latvia, Malawi, Mexico, Myanmar, Netherlands, Norway, Panama, Peru, Poland, Portugal, Romania, Sweden, Switzerland, Uruguay, Uzbekistan, Zimbabwe.

In the case of the following 24 member States, the opinions of employers’ and workers’ organizations were included in the Government’s reply or communicated directly to the Office: Argentina, Brazil, Canada, Colombia, Côte d’Ivoire, Croatia, Czech Republic, Dominican Republic, France, Guatemala, Honduras, Italy, Japan, Mexico, Republic of Moldova, Netherlands, Panama, Peru, Poland, Portugal, Russian Federation, Spain, Thailand, Zimbabwe.

The present report has been drawn up on the basis of the replies received, the substance of which, together with brief commentaries, is given in the following pages.

SUMMARY OF REPLIES RECEIVED AND COMMENTARIES

This section provides a summary of the general observations made by governments and employers' and workers' organizations and of their replies to the questionnaire with regard to each of the instruments.

Following an examination of the general observations, each question is presented with the total number of replies received, and the number of affirmative, negative and other replies, with the list of the governments which gave them. The explanations accompanying the governments' replies and the observations of employers' and workers' organizations are presented alphabetically by country, in succinct form. Replies which consisted of a simple affirmative or negative response have not been reproduced, except in cases where the replies of employers' or workers' organizations diverged from those of the government. Replies which deal with several questions are given only under one question. It is noted that the questions relating to Conventions Nos 4 and 41 were addressed jointly by most respondents.

The general observations and replies to questions are followed by brief Office commentaries. The replies concerning Conventions Nos 4 and 41 are addressed jointly in one commentary.

General observations

BELGIUM

National Labour Council (CNT): While supporting the abrogation and withdrawal of the Conventions, which will not affect Belgium's national legislation, the Council notes the importance of ensuring that the abrogation will not adversely affect States that do not have adequate protective legislation.

COLOMBIA

General Confederation of Labour (CGT): The withdrawal of these Conventions raises concerns where, due to the reluctance of some States to ratify more up-to-date Conventions, they may be the only legal framework to protect workers. It is crucial to launch a campaign to promote the ratification of the up-to-date standards, also clarifying that absence of ratification does not necessarily result in the withdrawal of normative instruments, since this would reward the lack of political will of non-ratifying States.

Single Confederation of Workers of Colombia (CUT): Greater efforts should be made to promote ratification rather than abrogation. Conventions should not be abrogated merely because of the adoption of new revising standards or because of a low ratification rate, since this could be dangerous for the ILO normative system and could lead to the disappearance of standards. However, the CUT supports abrogation where the content of the instrument contravenes ILO fundamental rights or rules of jus cogens, such as in the case of the Conventions on night work for women.

COSTA RICA

The Government and the Costa Rican Union of Chambers and Associations of Private Enterprise (UCCAEP): The Conventions have ceased to make a useful contribution to the achievement of the objectives of the ILO, mainly because some of their principles have become outdated and instruments offering more up-to-date regulation already exist.

JAPAN

Japanese Trade Union Confederation (JTUC–RENGO): In favour of abrogating the Conventions, especially in view of the fact that the recommendation of the tripartite Working Party on Policy regarding the Revision of Standards to abrogate them was based on consensus. The Conventions were found to no longer serve a useful purpose because they had been replaced by more modern instruments or because they were outdated.

PERU

Autonomous Confederation of Peruvian Workers (CATP): Prior to abrogating standards, the record of member States should be examined with regard to compliance with other ILO Conventions. A stricter criterion for abrogation should be established because abrogating obsolete Conventions without States' commitment to ratify more modern Conventions would have adverse effects.

PHILIPPINES

The Government supports the abrogation and withdrawal of the Conventions which no longer reflect the current status of working conditions for night work and the transport sector, and of the employability of minors. The Government has been promoting welfare and the protection of workers in various sectors, and has adopted new programmes, agreements and policies to that effect.

PORTUGAL

General Union of Workers (UGT Portugal): It is necessary to have a procedure which, through the abrogation and withdrawal of instruments, helps to ensure that international standards are up to date, and ultimately streamlines the supervisory system. However, this should be limited to cases where eliminating an instrument is appropriate in view of the expected consequences and supported by broad consensus among ILO constituents. While several of the Conventions are manifestly outdated and in force in only few countries, it is important to examine whether their elimination will have consequences for the various countries that have ratified them. Even though their content may be profoundly outdated, these Conventions may nonetheless offer a minimum level of protection in various States.

ROMANIA

The Conventions, adopted between 1919 and 1939, no longer reflect today's realities and are obsolete in light of the relevant revised international labour standards. Romania has adopted the *acquis communautaire* and the EU standards concerning working conditions and occupational safety and health, which offer a higher level of protection than international labour standards.

RUSSIAN FEDERATION

Russian Union of Industrialists and Entrepreneurs (RSPP): The RSPP supports the abrogation of the Conventions, including those which have not been ratified by the Russian Federation.

OFFICE COMMENTARY

Most of the general observations emphasized the positive implications that the abrogation and withdrawal of the Conventions would have on maintaining the relevance of international labour standards and of the ILO's supervisory system.

One workers' organization and one government noted that the benefits of abrogating and withdrawing the Conventions include bringing the body of international labour standards more up to date. One workers' organization and one government recalled that the Conventions were obsolete in light of the relevant revised international labour standards.

Two workers' organizations and two governments observed that if the Conventions were abrogated or withdrawn, their application would no longer be subject to regular examination by the

ILO supervisory bodies or to representations (article 24 of the ILO Constitution) or complaints (article 26 of the ILO Constitution) for non-observance.

Two governments observed that the Office would cease all relevant activities, including the publication of the text of the Conventions and the official information regarding their ratification status.

One government recalled that the legal effects established between the Organization and its Members under the Conventions would be definitively eliminated.

Two workers' organizations stressed the need to promote the ratification of up-to-date Conventions.

While a number of governments and workers' organizations stated that the abrogation and withdrawal of the Conventions would not affect their respective national legislation, three constituents raised concerns that some States might not have adequate protective legislation in place and workers might thus be adversely affected by the removal of the Conventions.

The Office recalls that the abrogation or withdrawal of a Convention does not affect any national legislation that has been adopted with a view to giving effect to it, or in general prevent a State from continuing to apply the instrument if it wishes to do so. The Governing Body has taken the view that the Conventions had lost their purpose with regard to the Organization, either because they had been replaced by more modern instruments or because they no longer reflected current practices and conceptions. These observations apply to all the Conventions examined here, and will not be repeated in the Office commentaries that figure in the subsequent sections of the report.

I. The Night Work (Women) Convention, 1919 (No. 4)

1. *Do you consider that Convention No. 4 should be abrogated?*
2. *If you replied "no" to question 1, please indicate the reasons why you consider that Convention No. 4 has not lost its purpose or still makes a useful contribution to attaining the objectives of the Organization.*

Total number of replies: 76.

Affirmative: 75. Austria, Azerbaijan, Bahrain, Belarus, Belgium, Bosnia and Herzegovina, Bulgaria, Burkina Faso, Burundi, Cambodia, Canada, Chile, China, Colombia, Costa Rica, Côte d'Ivoire, Croatia, Cuba, Cyprus, Czech Republic, Denmark, Dominican Republic, Ecuador, Egypt, Estonia, Finland, Germany, Guatemala, Honduras, Iceland, India, Indonesia, Iraq, Italy, Jamaica, Japan, Kazakhstan, Republic of Korea, Latvia, Lithuania, Malawi, Malta, Mauritius, Mexico, Morocco, Myanmar, Netherlands, Norway, Oman, Panama, Peru, Philippines, Poland, Portugal, Qatar, Romania, Russian Federation, Saudi Arabia, Singapore, Slovakia, Spain, Sri Lanka, Sudan, Suriname, Sweden, Switzerland, Tajikistan, Thailand, Tunisia, Turkmenistan, Ukraine, United Arab Emirates, Uruguay, Uzbekistan, Zimbabwe.

Negative: None.

Other: 1. Republic of Moldova.

Comments

Argentina. General Labour Confederation of the Argentine Republic (CGT RA): Yes.

Brazil. General Union of Workers (UGT Brazil): Yes.

National Confederation of the Liberal Professions (CNPL): Yes. Convention No. 4 establishes a prohibition in order to protect women so that they can fulfil their role as mothers and wives. The exception

allowing night work if all of the undertaking's employees are members of the same family, indicates that the intent was not to prevent women from working, but rather to protect their reputation.

Union of Trade Employees of Jundiaí and region (Sincomerciários): Yes.

Bulgaria. Yes. The Convention does not mention the important role of tripartite consultations on night work issues, which has been addressed in Conventions Nos 89 and 171. The definition of the term "night" in the Convention is obsolete compared to the provisions of Convention No. 89, which also sets out special provisions on night work for certain countries.

France. General Confederation of Labour – Workers' Force (CGT-FO): No. While the Governing Body of the International Labour Office has called for the launch of an awareness-raising campaign to ensure that all member States currently bound by Conventions Nos 4, 41 and 89 modernize their national laws and practices in line with Convention No. 171 by 2020, in practice the opposite is true. In 1992, France removed the provision prohibiting night work for women in industry from its Labour Code. While France had undertaken to ratify Convention No. 171 at the time of its denunciation of Convention No. 89, the Convention has still not been ratified. The Office should launch, before abrogation, a new campaign to promote ratification of Convention No. 171 in order to avoid creating a legal vacuum in some States with adverse impact on night workers.

Honduras. Private Enterprise Council of Honduras (COHEP): Yes. Honduras has not ratified the Convention, which is considered discriminatory against women.

Iraq. Yes. The ILO Committee of Experts found that Convention No. 4 is of historical interest only and not in line with today's realities.

Mexico. Confederation of Industrial Chambers of the United States of Mexico (CONCAMIN): Yes. Other instruments are more up to date and in line with Mexico's legislation.

Republic of Moldova. The Government is not able to comment since it has not ratified the Convention. National Trade Union Confederation of Moldova (CNSM): Yes.

Philippines. Yes. While the Government has taken steps to promote equal employment opportunities as provided in the 1987 Constitution, it has also enacted legislation providing key guarantees related to health assessment, mandatory facilities, and transfer and compensation of night workers.

Poland. Independent and Self-Governing Trade Union Solidarność (NSZZ): Yes. The instrument no longer serves a useful purpose because it has been replaced by more modern instruments and it no longer reflects current practices and conceptions.

II. The Night Work (Women) Convention (Revised), 1934 (No. 41)

1. *Do you consider that Convention No. 41 should be abrogated?*
2. *If you replied "no" to question 1, please indicate the reasons why you consider that Convention No. 41 has not lost its purpose or still makes a useful contribution to attaining the objectives of the Organization.*

Total number of replies: 76.

Affirmative: 75. Austria, Azerbaijan, Bahrain, Belarus, Belgium, Bosnia and Herzegovina, Bulgaria, Burkina Faso, Burundi, Cambodia, Canada, Chile, China, Colombia, Costa Rica, Côte d'Ivoire, Croatia, Cuba, Cyprus, Czech Republic, Denmark, Dominican Republic, Ecuador, Egypt, Estonia, Finland, Germany, Guatemala, Honduras, Iceland, India, Indonesia, Iraq, Italy, Jamaica, Japan, Kazakhstan, Republic of Korea, Latvia, Lithuania, Malawi, Malta, Mauritius, Mexico, Morocco, Myanmar, Netherlands, Norway, Oman, Panama, Peru, Philippines, Poland, Portugal, Qatar, Romania, Russian Federation, Saudi Arabia, Singapore, Slovakia, Spain, Sri Lanka, Sudan,

Suriname, Sweden, Switzerland, Tajikistan, Thailand, Tunisia, Turkmenistan, Ukraine, United Arab Emirates, Uruguay, Uzbekistan, Zimbabwe.

Negative: None.

Other: 1. Republic of Moldova.

Comments

Argentina. CGT RA: Yes.

Brazil. UGT (Brazil): Yes.

CNPL: Yes.

Sincomerciários: No. For the purposes of this Convention, “night” signifies a period of at least 11 consecutive hours, including the interval between 10 p.m. and 5 a.m. Women, without distinction of age, shall not be employed during the night in any public or private industrial undertaking, or in any branch thereof, other than an undertaking in which only members of the same family are employed.

Bulgaria. Yes. New international labour standards provide better protection and a more comprehensive regulation of the night work of women.

France. CGT–FO: No.

Mexico. CONCAMIN: Yes. Other instruments are more up to date and in line with Mexico’s legislation.

Republic of Moldova. The Government is not able to comment since it has not ratified the Convention.
CNSM: Yes.

Poland. NSZZ: Yes. The instrument no longer serves a useful purpose because it has been replaced by more modern instruments and it no longer reflects current practices and conceptions.

Russian Federation. Federation of Independent Trade Unions of Russia (FNPR): No. Convention No. 41 has not lost its purpose. The labour legislation of the Russian Federation does not comply with certain provisions, for instance, article 96 of the Labour Code is not consistent with Articles 2 and 3 of the Convention.

OFFICE COMMENTARY

The overwhelming majority of governments and employers’ and workers’ organizations support the abrogation of both night work for women Conventions, Nos 4 and 41.

Two workers’ organizations and one employers’ organization stressed that the provisions of Convention No. 4 are discriminatory against women.

There is wide consensus that the Conventions are obsolete, as they no longer reflect current practices and conceptions, and have been replaced by modern international labour standards, which provide better protection for all night workers without distinction.

However, one workers’ organization, opposing the abrogation of both Conventions, emphasized that the up-to-date instrument on the subject, Convention No. 171, has not been widely ratified and the abrogation of these Conventions could create a legal vacuum in some States. It therefore called for the launching of a ratification campaign in favour of Convention No. 171.

Another workers’ organization, also opposing the abrogation of Convention No. 41, expressed concern with regard to national legislation which did not comply with two provisions of that Convention.

III. The Minimum Age (Trimmers and Stokers) Convention, 1921 (No. 15)

1. *Do you consider that Convention No. 15 should be abrogated?*
2. *If you replied “no” to question 1, please indicate the reasons why you consider that Convention No. 15 has not lost its purpose or still makes a useful contribution to attaining the objectives of the Organization.*

Total number of replies: 76.

Affirmative: 75. Austria, Azerbaijan, Bahrain, Belarus, Belgium, Bosnia and Herzegovina, Bulgaria, Burkina Faso, Burundi, Cambodia, Canada, Chile, China, Colombia, Costa Rica, Côte d’Ivoire, Croatia, Cuba, Cyprus, Czech Republic, Denmark, Dominican Republic, Ecuador, Egypt, Estonia, Finland, Germany, Guatemala, Honduras, Iceland, India, Indonesia, Iraq, Italy, Jamaica, Japan, Kazakhstan, Republic of Korea, Latvia, Lithuania, Malawi, Malta, Mauritius, Mexico, Morocco, Myanmar, Netherlands, Norway, Oman, Panama, Peru, Philippines, Poland, Portugal, Qatar, Romania, Russian Federation, Saudi Arabia, Singapore, Slovakia, Spain, Sri Lanka, Sudan, Suriname, Sweden, Switzerland, Tajikistan, Thailand, Tunisia, Turkmenistan, Ukraine, United Arab Emirates, Uruguay, Uzbekistan, Zimbabwe.

Negative: None.

Other: 1. Republic of Moldova.

Comments

Argentina. CGT RA: Yes.

Brazil. UGT (Brazil): Yes.

CNPL: Yes. Convention No. 138, ratified by Brazil, revised the sector-specific Conventions Nos 15 and 60. It encompasses all previous Conventions on the subject and was drafted for the purpose of gradually replacing them.

Sincomerciários: Yes. The Convention seeks to raise the minimum age for admission to employment to a level consistent with the full physical and mental development of young persons, which should be not less than the point at which compulsory schooling is completed and, at a minimum, 15 years. The Convention also establishes that persons under the age of 18 may not carry out work that, owing to its nature or to the circumstances, may be harmful to their health, safety or morals.

Bulgaria. Yes. The Convention is obsolete, Convention No. 138 being the most comprehensive and up-to-date instrument that regulates the minimum age for admission to employment in all spheres and sectors. Convention No. 15 fails to provide a level of protection equal to that under Convention No. 138.

Colombia. General Confederation of Labour (CGT): No. Several countries bound by Convention No. 15 have not yet ratified Convention No. 138. Convention No. 15 therefore continues to make a useful contribution to these countries. If abrogated, the workers in these countries would be left without an international legal framework. In light of the high rate of child labour in some of these countries, the instrument is still useful for achieving the ILO’s objective of eradicating child labour.

Single Confederation of Workers of Colombia (CUT): No. Of the eight member States for which the Convention remains in force, only six have submitted Convention No. 138 to their competent authorities, which provides, however, no guarantee for its ratification. The abrogation of Convention No. 15 would risk leaving States parties without a legal framework and it should therefore be subject to prior ratification of Convention No. 138.

France. CGT–FO: Yes. While the Convention is still in force for eight States, since the adoption of the ILO Declaration on Fundamental Principles and Rights at Work and its Follow-up in 1998, Convention No. 138 is considered as “fundamental”. The principles underlying that Convention are of universal application and all ILO member States are held accountable, even if they have not ratified the Convention.

The ILO should keep promoting the ratification of the fundamental Conventions in order to achieve strong adherence and commitment to the principles underlying these Conventions.

Honduras. COHEP: Yes. Convention No. 15 is not in line with national legislation and has not been ratified by Honduras. All seafarers working on Honduran vessels must be of legal age to obtain all the certifications required by the Directorate of Merchant Shipping.

Iraq. Yes. The Convention has been denounced by 61 member States as a result of their ratification of Convention No. 138, also ratified by Iraq.

Mexico. CONCAMIN: Yes. Other instruments are more up to date and in line with Mexico's legislation.

Republic of Moldova. The Government is not able to comment since it has not ratified the Convention.
CNSM: Yes.

Philippines. Yes. The national legislation (Republic Act No. 9231) allows children below the age of 15 to work under certain conditions and regulates the working hours for children under the age of 15 and those between 15 and 18.

Poland. NSZZ: Yes. The instrument no longer serves a useful purpose because it has been replaced by more modern instruments.

OFFICE COMMENTARY

There is a wide consensus among governments and employers' and workers' organizations in favour of abrogating the Convention. Most respondents referred to widely ratified Convention No. 138, which revised the Convention, to demonstrate that the Convention has lost its purpose. Many replies indicated that the Convention was obsolete and failed to provide an adequate level of protection for young persons.

One workers' organization noted that Convention No. 138 was among the ILO fundamental Conventions and that the relevant principle and right were binding for all ILO member States, even if they had not ratified the Convention, and consequently all should report on progress made.

One workers' organization stressed the importance of promoting the ratification of Convention No. 138.

However, two workers' organizations, opposing abrogation, stressed that the Convention was still in force for eight States that had not yet ratified Convention No. 138. These workers' organizations considered that abrogating the Convention would leave workers in certain countries where high rates of child labour still existed without any international legal framework.

IV. The Protection against Accidents (Dockers) Convention, 1929 (No. 28)

1. *Do you consider that Convention No. 28 should be withdrawn?*
2. *If you replied "no" to question 1, please indicate the reasons why you consider that Convention No. 28 has not lost its purpose or still makes a useful contribution to attaining the objectives of the Organization.*

Total number of replies: 76.

Affirmative: 74. Austria, Azerbaijan, Bahrain, Belarus, Belgium, Bosnia and Herzegovina, Bulgaria, Burkina Faso, Burundi, Cambodia, Canada, Chile, China, Colombia, Costa Rica, Côte d'Ivoire, Croatia, Cuba, Cyprus, Czech Republic, Denmark, Dominican Republic, Ecuador, Egypt, Estonia, Finland, Germany, Guatemala, Iceland, India, Indonesia, Iraq, Italy, Jamaica, Japan, Kazakhstan, Republic of Korea, Latvia, Lithuania, Malawi, Malta, Mauritius, Mexico, Morocco,

Myanmar, Netherlands, Norway, Oman, Panama, Peru, Philippines, Poland, Portugal, Qatar, Romania, Russian Federation, Saudi Arabia, Singapore, Slovakia, Spain, Sri Lanka, Sudan, Suriname, Sweden, Switzerland, Tajikistan, Thailand, Tunisia, Turkmenistan, Ukraine, United Arab Emirates, Uruguay, Uzbekistan, Zimbabwe.

Negative: 1. Honduras.

Other: 1. Republic of Moldova.

Comments

Argentina. CGT RA: Yes.

Brazil. UGT (Brazil): Yes.

CNPL: Yes. This Convention was revised by Convention No. 152, which was ratified by Brazil in 1990 and which resulted in significant changes in port facilities and national regulatory revision.

Sincomerciários: No. Workplaces should be completely safe, healthy, well-organized and equipped with all necessary inspection measures. Enterprises should provide individual protection equipment, suitable clothing, prevention and first-aid programmes and any other measures required for compliance with the Convention.

Bulgaria. Yes. The Convention is no longer in force and has been closed to new ratifications. It also fails to mention the important role of consultations with employers' and workers' organizations to guarantee safe and decent working conditions. Conventions Nos 32 and 152 provide better protection.

Colombia. CGT: No. Although in force for one member State, the Convention remains important on issues such as relief, aid and protective measures. The ratification status should not in itself be a ground for withdrawal. The withdrawal would have serious implications for the State party, which has ratified neither Convention No. 32 nor Convention No. 152.

CUT: No. The Convention has been ratified by four States, three of which have denounced it, but is still in force for one country. There is no need to abrogate the Convention, since it is closed to further ratifications.

France. CGT-FO: Yes. Convention No. 28 is no longer in force and has been revised by Conventions Nos 32 and 152.

Honduras. No. The Convention is still relevant to the extent that better protective conditions may be established for the prevention of accidents.

COHEP: Yes. Honduras has not ratified the Convention but relies on a variety of other instruments such as International Maritime Organization (IMO) Conventions and national legislation.

Iraq. Yes. Convention No. 28 is no longer in force and has been revised by Convention No. 152, ratified by Iraq.

Mexico. Yes. Since the Convention still has the effective ratification of one member State, the Convention should be subject to abrogation rather than withdrawal. In accordance with articles 11 and 45bis of the Standing Orders of the International Labour Conference, only those Conventions that are not in force may be subject to withdrawal. Under this understanding and taking into account that for both legal situations the procedure is the same and the legal implications are identical, the Government supports the proposal.

CONCAMIN: Yes. Other instruments are more up to date and in line with Mexico's legislation.

Republic of Moldova. The Government is not able to comment since it has not ratified the Convention.

CNSM: Yes.

Poland. NSZZ: Yes. The instrument no longer serves a useful purpose because it has been replaced by more modern instruments.

OFFICE COMMENTARY

The great majority of governments and employers' and workers' organizations support the withdrawal of the Convention, with the exception of three workers' organizations and one government.

There is consensus that the Convention has been revised by new standards, which provide better protection.

Two workers' organizations, not in favour of the withdrawal, were concerned over the withdrawal's consequences for the only remaining State party, which has not ratified the revising Conventions. In their view, Conventions should not be proposed for withdrawal merely because of a low ratification rate. One of these workers' organizations also suggested that it was sufficient for an outdated Convention to simply be closed to new ratifications.

One government, while supporting the removal of the instrument from the body of international labour standards, considered that the Convention should be abrogated and not withdrawn, as it remains ratified by one State. It noted, however, that the differences between abrogation and withdrawal had no particular significance in practice.

**V. The Minimum Age (Non-Industrial Employment) Convention
(Revised), 1937 (No. 60)**

1. *Do you consider that Convention No. 60 should be withdrawn?*
2. *If you replied "no" to question 1, please indicate the reasons why you consider that Convention No. 60 has not lost its purpose or still makes a useful contribution to attaining the objectives of the Organization.*

Total number of replies: 76.

Affirmative: 75. Austria, Azerbaijan, Bahrain, Belarus, Belgium, Bosnia and Herzegovina, Bulgaria, Burkina Faso, Burundi, Cambodia, Canada, Chile, China, Colombia, Costa Rica, Côte d'Ivoire, Croatia, Cuba, Cyprus, Czech Republic, Denmark, Dominican Republic, Ecuador, Egypt, Estonia, Finland, Germany, Guatemala, Honduras, Iceland, India, Indonesia, Iraq, Italy, Jamaica, Japan, Kazakhstan, Republic of Korea, Latvia, Lithuania, Malawi, Malta, Mauritius, Mexico, Morocco, Myanmar, Netherlands, Norway, Oman, Panama, Peru, Philippines, Poland, Portugal, Qatar, Romania, Russian Federation, Saudi Arabia, Singapore, Slovakia, Spain, Sri Lanka, Sudan, Suriname, Sweden, Switzerland, Tajikistan, Thailand, Tunisia, Turkmenistan, Ukraine, United Arab Emirates, Uruguay, Uzbekistan, Zimbabwe.

Negative: None.

Other: 1. Republic of Moldova.

Comments

Argentina. CGT RA: Yes.

Brazil. UGT (Brazil): Yes.

CNPL: Yes.

Sincomerciários: Yes.

Bulgaria. Yes. The Convention is no longer in force and the minimum age for admission to employment in all sectors is regulated by Convention No. 138.

Colombia. CGT: No. While no longer in force due to denunciations, Convention No. 60 is a valid instrument and potentially a source of inspiration for countries that wish to legislate on the subject. The

Convention continues to meet the ILO's objectives with respect to eradication of child labour and some countries may still find it useful to ratify the Convention.

CUT: Yes. The Convention is not in force for any member State and all States previously bound by the Convention chose to ratify Convention No. 138. The risk remains that Convention No. 60 could be ratified instead of Convention No. 138, which should be the only instrument to be ratified on the topic.

France. CGT-FO: Yes. Convention No. 60 has been revised by Convention No. 138. The Convention is no longer in force but is still open for ratification.

Honduras. COHEP: Yes. Honduras has not ratified the Convention due to its comprehensive relevant national legislation.

Iraq. Yes. Convention No. 60 is no longer in force and has been revised by Convention No. 138, ratified by Iraq.

Mexico. CONCAMIN: Yes. Other instruments are more up to date and in line with Mexico's legislation.

Republic of Moldova. The Government is not able to comment since it has not ratified the Convention.
CNSM: Yes.

Poland. NSZZ: Yes. The instrument no longer serves a useful purpose because it has been replaced by a more modern instrument.

OFFICE COMMENTARY

There is a wide consensus among constituents in favour of the withdrawal of the Convention, which is perceived as obsolete.

One workers' organization noted the risk that the Convention could still be ratified instead of the fundamental Convention No. 138.

However, one workers' organization considered that the Convention should be maintained as it could still be a source of inspiration for legislators.

VI. The Hours of Work and Rest Periods (Road Transport) Convention, 1939 (No. 67)

1. *Do you consider that Convention No. 67 should be abrogated?*
2. *If you replied "no" to question 1, please indicate the reasons why you consider that Convention No. 67 has not lost its purpose or still makes a useful contribution to attaining the objectives of the Organization.*

Total number of replies: 76.

Affirmative: 74. Austria, Azerbaijan, Bahrain, Belarus, Belgium, Bosnia and Herzegovina, Bulgaria, Burkina Faso, Burundi, Cambodia, Canada, Chile, China, Colombia, Costa Rica, Côte d'Ivoire, Croatia, Cuba, Cyprus, Czech Republic, Denmark, Dominican Republic, Ecuador, Egypt, Estonia, Finland, Germany, Guatemala, Honduras, Iceland, India, Indonesia, Iraq, Italy, Japan, Kazakhstan, Republic of Korea, Latvia, Lithuania, Malawi, Malta, Mauritius, Mexico, Morocco, Myanmar, Netherlands, Norway, Oman, Panama, Peru, Philippines, Poland, Portugal, Qatar, Romania, Russian Federation, Saudi Arabia, Singapore, Slovakia, Spain, Sri Lanka, Sudan, Suriname, Sweden, Switzerland, Tajikistan, Thailand, Tunisia, Turkmenistan, Ukraine, United Arab Emirates, Uruguay, Uzbekistan, Zimbabwe.

Negative: 1. Jamaica.

Other: 1. Republic of Moldova.

Comments

Argentina. CGT RA: Yes.

Brazil. UGT (Brazil): Yes.

CNPL: Yes. Article 24 of the 1948 Universal Declaration of Human Rights provides, differently from the relevant ILO Conventions, that there should be a “reasonable limitation of working hours” thereby allowing countries to decide how best to limit working hours in the manner that they consider reasonable.

Sincomerciários: Yes. Although Brazil has not yet ratified Convention No. 153, which establishes criteria for and legal limitations on the profession of driver, also reflected in national legislation, it supports that instrument at the international level. Excessively long working hours are harmful to truck drivers and in order to fulfil their contracts they are compelled to use unlawful means that are extremely harmful to their health and place them and other motorists at risk of potentially fatal accidents.

Bulgaria. Yes. The Convention has been revised by Convention No. 153 and is closed to new ratifications. It only remains in force for three member States.

Colombia. CGT: No. The Convention still provides guidance to the States parties which have not ratified Convention No. 153. Therefore, abrogation should be conditional on prior ratification by these countries of the more modern instrument. Otherwise, international protection would not be advancing, but rather regressing, and guarantees would be removed from those who already benefit from them.

CUT: No. As the only instrument currently in force for three States on this matter, the Convention should be maintained, closed to ratification, and a greater effort should be made to promote the ratification of revising Convention No. 153.

Dominican Republic. Autonomous Confederation of Class Unions (CASC), National Confederation of Trade Union Unity (CNUS), National Confederation of Dominican Workers (CNTD): No. The Convention is the only international instrument that contains sufficiently detailed provisions regarding working hours for road transport workers.

France. CGT–FO: Yes. The Convention is in force for three member States and is closed to new ratifications. It has been revised by Convention No. 153. CGT–FO supports the abrogation but calls for action to promote the ratification of Convention No. 153 without delay by the three States parties to Convention No. 67.

Honduras. COHEP: Yes. While Honduras has not ratified the Convention, its national legislation and collective agreements regulate all related aspects.

Iraq. Yes. Iraq has ratified Convention No. 153.

Jamaica. No. The Convention remains relevant because it provides industry-specific safety standards where the general standards on working time do not sufficiently address the specific concerns of the transport industry. The recommendations related to rest time help to determine evidence-based administrative controls to address driver fatigue.

Mexico. CONCAMIN: Yes. Other instruments are more up to date and in line with Mexico’s legislation.

Republic of Moldova. The Government is not able to comment since it has not ratified the Convention.
CNSM: Yes.

Peru. Autonomous Confederation of Peruvian Workers (CATP): No. The Convention serves as a reference, requiring member States to comply with provisions specifying hours of rest for transport workers, who can therefore make complaints or claims in internal and external jurisdictions. Considering that Peru’s national legislation is not aligned with the ratified ILO Conventions and the lack of measures to strengthen the national labour inspection system, international minimum standards are needed to protect workers’ rights. If abrogated, informal work in the sector would increase in the absence of any regulatory instrument. Abrogation should be made conditional on the States’ commitment to ratify the more up-to-date instrument.

Philippines. Yes. National initiatives involving employers' and workers' organizations and government agencies continue to improve the working conditions in the bus transport sector, including through the regulation of working hours.

Poland. NSZZ. Yes. The instrument no longer serves a useful purpose because it has been replaced by a more modern instrument.

Russian Federation. FNPR. No. The national labour legislation is not in conformity with Article 18(3) of the Convention, which requires the establishment of a standard form of individual control book of hours of work and rest periods to be issued to every person covered by the Convention.

OFFICE COMMENTARY

The vast majority of governments and employers' and workers' organizations support the abrogation of the Convention, which has been revised by Convention No. 153 and is considered to have lost its purpose.

However, one government and seven workers' organizations considered that the Convention remained relevant, including because it addressed industry-specific concerns and had not been incorporated into the domestic legislation of one member State.

Two workers' organizations stressed that the abrogation of the Convention would adversely affect the workers in the three ratifying States.

One workers' organization, while supporting the abrogation of the Convention, stressed the importance of promoting the ratification of the more modern instrument by the three member States for which the Convention was still in force.

Two workers' organizations suggested that the abrogation of Convention No. 67 should be made conditional on the prior ratification of Convention No. 153.

PROPOSED CONCLUSIONS

Pursuant to article 45bis, paragraph 3, of the Standing Orders of the International Labour Conference, the 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 at Geneva by the Governing Body of the International Labour Office, and having met in its 106th Session on 5 June 2017, and

Following consideration of the proposal for the abrogation and withdrawal of several international labour Conventions under the seventh item on the agenda of the session,

decides this ... day of June of the year two thousand and seventeen to abrogate the Night Work (Women) Convention, 1919 (No. 4).

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 and French versions of the text of this decision are equally authoritative.

2. The General Conference of the International Labour Organization,

Having been convened at Geneva by the Governing Body of the International Labour Office, and having met in its 106th Session on 5 June 2017, and

Following consideration of the proposal for the abrogation and withdrawal of several international labour Conventions under the seventh item on the agenda of the session,

decides this ... day of June of the year two thousand and seventeen to abrogate the Minimum Age (Trimmers and Stokers) Convention, 1921 (No. 15).

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 and French versions of the text of this decision are equally authoritative.

3. The General Conference of the International Labour Organization,

Having been convened at Geneva by the Governing Body of the International Labour Office, and having met in its 106th Session on 5 June 2017, and

Following consideration of the proposal for the abrogation and withdrawal of several international labour Conventions under the seventh item on the agenda of the session,

decides this ... day of June of the year two thousand and seventeen to withdraw the Protection against Accidents (Dockers) Convention, 1929 (No. 28).

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 withdraw the instrument.

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

4. The General Conference of the International Labour Organization,

Having been convened at Geneva by the Governing Body of the International Labour Office, and having met in its 106th Session on 5 June 2017, and

Following consideration of the proposal for the abrogation and withdrawal of several international labour Conventions under the seventh item on the agenda of the session,

decides this ... day of June of the year two thousand and seventeen to abrogate the Night Work (Women) Convention (Revised), 1934 (No. 41).

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 and French versions of the text of this decision are equally authoritative.

5. The General Conference of the International Labour Organization,

Having been convened at Geneva by the Governing Body of the International Labour Office, and having met in its 106th Session on 5 June 2017, and

Following consideration of the proposal for the abrogation and withdrawal of several international labour Conventions under the seventh item on the agenda of the session,

decides this ... day of June of the year two thousand and seventeen to withdraw the Minimum Age (Non-Industrial Employment) Convention (Revised), 1937 (No. 60).

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 withdraw the instrument.

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

6. The General Conference of the International Labour Organization,

Having been convened at Geneva by the Governing Body of the International Labour Office, and having met in its 106th Session on 5 June 2017, and

Following consideration of the proposal for the abrogation and withdrawal of several international labour Conventions under the seventh item on the agenda of the session,

decides this ... day of June of the year two thousand and seventeen to abrogate the Hours of Work and Rest Periods (Road Transport) Convention, 1939 (No. 67).

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 and French versions of the text of this decision are equally authoritative.

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Bureau International du Travail - Genève
International Labour Office - Geneva
Oficina Internacional del Trabajo - Ginebra
CH - 1211 Genève 22

P.P.

CH - 1211 GENÈVE 22

Poste CH SA