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Re: Report of the International Labour Organization ILO for a Convention supplemented by a Recommendation concerning protection against biological hazards in the working environment

The Confederation of Finnish Industries EK welcomes the opportunity to comment on the matter. We value the aim of a high standard of occupational safety and health. We emphasise that protection against biological hazards as a phenomenon is not limited to the working environment only. In keeping with our earlier position, we continue to hold that from the viewpoint of occupational safety and health, it is not necessary to draft a Convention concerning protection against biological hazards in the working environment. EK does not support the adoption of a Convention in the manner or of the scope proposed in the report.

We find that the report on which comments are now requested shows that it is neither possible nor justified to regulate this particular theme at the level of Convention. We hold that Finland should adopt a critical stance towards the report. The circumstances and needs relating to biological hazards and protection against them differ widely from one country to another. The ILO should employ instruments that cater for these differing needs and circumstances.

The report on which comments are now requested is, in our view, far too detailed, and also ambiguous in places. The ILO should strive to create a global minimum standard of protection. The regulatory instruments employed by the ILO should be general in nature so as to make them applicable to differing circumstances in different countries, and also enforceable.

Throughout these negotiations, employers have raised clear-cut and reasoned points of view to provide a basis for further refinement of the texts. In our opinion, these have been ignored and the substance of the report has instead evolved in a direction that allows for even greater interpretation and presents even greater problems. The document should set out principles and objectives clearly while allowing each country the opportunity to determine the manners in which these are implemented, taking into account the country's existing regulation. We furthermore emphasise that Finland already has in place effective legislation concerning protection against biological hazards that takes into account the diverse aspects of the matter.

The document now put forward is far too detailed to be practical, resulting in ambiguity and lack of clarity. It would be important to draft an instrument that would be equally possible to implement in developed and developing countries and small and larger businesses alike. In our opinion, the document now at hand fails to meet these criteria.

We find the considerable expansion of the definition of biological hazards when compared to the original wording to be particularly problematic. The definition is now less clear, as is the case with the extent of the report's scope of application as well. The definition of biological hazards must be evidence-based, clear and consistent. The different sources of exposure must moreover be clearly differentiated. Whether exposure occurs in the workplace or as a result of an external factor such as a pandemic is of justified relevance. The sources of exposure must be differentiated because the employer's liability and the measures required in the workplace differ in different circumstances.

As concerns the rights and obligations created by the document, these should be expressed at the level of principle only, in a manner equivalent with that in existing ILO instruments. This draft Convention delves considerably deeper into minutiae than is customary for ILO Conventions. It is important to strike a balance between level of detail and clarity of regulation. In our view, the current documents fails to do so.

Topics outside the mandate and the theme of the Convention have been introduced into the text of the Convention. Such topics include income protection and themes relating to general wellbeing. This adds no value to the instrument while distracting from its main concern. An operating model such as the one proposed would moreover hinder compromise in negotiations on the main concern. The unnecessary additions now introduced into the text change the substance of the instrument from what was agreed in committee. We do not consider this justified, nor do we believe it will take negotiations on the topic further.

As a part of the EU, Finland must ensure that any eventual ILO regulation can be reconciled with the EU's existing regulation of occupational safety and health. In our view, the report on which comments are now requested contains problems in this regard, too. Finland should pay particular attention to this aspect of the matter. In our opinion, Finland should not endorse the Convention as it is proposed in the report.

Respectfully,

Confederation of Finnish Industries EK
Working life

[signed]
Ilkka Oksala
Director

