

Report VII(1)

▶ **Abrogation of four
international labour
Conventions**

Seventh item on the agenda

International Labour Office, Geneva

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▶ Contents

	Page
Introduction	7
Status of the international labour Conventions proposed for abrogation	9
Underground Work (Women) Convention, 1935 (No. 45).....	9
Safety Provisions (Building) Convention, 1937 (No. 62).....	9
Convention concerning Statistics of Wages and Hours of Work, 1938 (No. 63)	10
Labour Inspectorates (Non-Metropolitan Territories) Convention, 1947 (No. 85).....	10
Questionnaire	11

► Introduction

1. At its 343rd Session (November 2021), the Governing Body of the International Labour Office decided to place on the agenda of the 112th Session (2024) of the International Labour Conference an item on the abrogation of four Conventions: the Underground Work (Women) Convention, 1935 (No. 45), the Safety Provisions (Building) Convention, 1937 (No. 62), the Convention concerning Statistics of Wages and Hours of Work, 1938 (No. 63), and the Labour Inspectorates (Non-Metropolitan Territories) Convention, 1947 (No. 85).¹
2. The Governing Body based its decision on the recommendations formulated by the Standards Review Mechanism Tripartite Working Group (SRM TWG)² at its fourth meeting, which was held from 17 to 21 September 2018.³
3. Pursuant to article 19, paragraph 9, of the Constitution of the International Labour Organization, the Conference is empowered, by a majority of two thirds of the votes cast by the delegates present and acting on a proposal of the Governing Body, to abrogate a Convention in force if it appears that the Convention has lost its purpose or that it no longer makes a useful contribution to attaining the objectives of the Organization. The examination of the proposed abrogation of Conventions is an important component of the Standards Review Mechanism process, which is aimed at ensuring that the Organization has a robust and up-to-date body of international labour standards. This will be the fifth time that the International Labour Conference will be called on to decide on the possible abrogation of international labour Conventions. Article 52 of the Standing Orders of the Conference sets out the procedure to be followed in the event of the abrogation or withdrawal of Conventions and Recommendations.
4. Should the Conference decide to abrogate the above-referenced instruments, they would be removed from the ILO's body of standards and, as a result, Members that have ratified and are still bound by the Conventions concerned will no longer be obliged to submit reports under article 22 of the ILO Constitution and they may no longer be subject to representations (article 24) or complaints (article 26) for alleged non-observance. For their part, the ILO supervisory bodies will not be required to examine the implementation of these instruments and the Office will take the necessary steps to ensure that abrogated instruments are no longer reproduced in any collection of international labour standards or referred to in new instruments, codes of conduct or similar documents.⁴
5. In accordance with article 52(1) of the Standing Orders of the Conference, when an item on abrogation is placed on the agenda of the Conference, the Office shall communicate to the governments, so as to reach them not less than 18 months before the opening of the session of the Conference at which the item is to be discussed, a short report and questionnaire requesting them to indicate within a period of

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

² The SRM TWG was established by the Governing Body at its 323rd Session (March 2015) to contribute to "the overall objective of the Standards Review Mechanism to ensure that the ILO has a clear, robust and up-to-date body of international labour standards that respond to the changing patterns of the world of work for the purpose of the protection of workers and taking into account the needs of sustainable enterprises." Pursuant to paragraph 9 of its terms of reference, the SRM TWG is mandated to "review the international labour standards with a view to making recommendations to the Governing Body on: (a) the status of the standards examined, including up-to-date standards, standards in need of revision, outdated standards, and possible other classifications; (b) the identification of gaps in coverage, including those requiring new standards; (c) practical and time-bound follow-up action, as appropriate". Additional information is available on the SRM TWG [web page](#).

³ See ILO, *The Standards Initiative: Report of the fourth meeting of the Standards Review Mechanism Tripartite Working Group*, GB.334/LILS/3, 2018; and ILO, *Agenda of the International Labour Conference*, GB.334/INS/2/1, 2018, para. 22 and Appendix II. It is recalled that, at its 334th Session (October–November 2018), the Governing Body had decided to place the item on the abrogation of the four Conventions on the agenda of the 113th Session of the Conference, which was initially scheduled for 2024. Due to the COVID-19 pandemic, the 113th Session will now take place in 2025. At its 343rd Session (November 2021), the Governing Body decided to maintain the discussion in 2024 and therefore placed the item on the agenda of the 112th Session.

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

12 months their position, and the reasons for their position, on the subject of the proposed abrogation, along with the relevant information. In this respect, the governments are requested to consult the most representative organizations of employers and workers before finalizing their replies. On the basis of the replies received, the Office shall prepare a report containing a final proposal and shall make it available to governments four months before the session of the Conference at which the item is to be discussed.

As the Governing Body has placed this item on the agenda of the 112th Session (2024) of the Conference, governments are requested, after having duly consulted the most representative organizations of employers and workers, to transmit their replies to the questionnaire below so that they reach the Office **no later than 30 November 2023**.

This report, including the questionnaire, is available on the [ILO website](#). Governments are encouraged, where possible, to complete the questionnaire in electronic format and to submit their replies electronically to the Office of the Legal Adviser (jur@ilo.org).

► Status of the international labour Conventions proposed for abrogation

Underground Work (Women) Convention, 1935 (No. 45)

6. Convention No. 45 was adopted in 1935. It prohibits the employment of women on underground work in mines, with certain exemptions.
7. Convention No. 45 has been ratified by 98 Member States. Thirty of those Member States have subsequently denounced it. To date, 68 States remain bound by this Convention, which is inconsistent with the fundamental principles of equality and non-discrimination at work. It is also not in line with the current regulatory approach to occupational safety and health. The Safety and Health in Mines Convention, 1995 (No. 176), was developed in the light of the gap in standards protecting workers in the mining sector and shifted the emphasis from a specific category of mineworkers to the protection of all mineworkers. It focuses on the assessment and management of risks and provides for preventive and protective measures for mineworkers, irrespective of gender, whether employed in surface or underground mines. Convention No. 176 is consistent with the modern regulatory approach to occupational safety and health adopted by the Occupational Safety and Health Convention, 1981 (No. 155), and the Promotional Framework for Occupational Safety and Health Convention, 2006 (No. 187), which have recently been recognized as fundamental Conventions within the meaning of the ILO Declaration on Fundamental Principles and Rights at Work (1998), as amended in 2022.⁵ At its fourth meeting, in 2018, the SRM TWG recommended that Convention No. 45 be classified as “outdated” and proposed its abrogation.⁶

Safety Provisions (Building) Convention, 1937 (No. 62)

8. Convention No. 62 was adopted in 1937 to establish safety provisions in the building industry and is limited largely to scaffolding and hoisting appliances. It has been revised by the Safety and Health in Construction Convention, 1988 (No. 167).
9. Convention No. 62 has been ratified by 30 Member States and has been denounced by 11 of them as a result of their ratification of Convention No. 167. It has been closed to further ratifications since January 1991, when Convention No. 167 came into force. The latter addresses the interlinked needs of building and civil engineering in the construction industry, applying more modern provisions to construction as a whole and reflecting considerable changes in the nature and scale of operations in the construction industry. Its approach is largely consistent with the modern regulatory approach to occupational safety and health adopted by the two fundamental Conventions Nos 155 and 187. At its fourth meeting, in 2018, the SRM TWG recommended that the classification of Convention No. 62 as an outdated instrument be confirmed and proposed its abrogation.⁷

⁵ ILO, [Resolution on the inclusion of a safe and healthy working environment in the ILO's framework of fundamental principles and rights at work](#), International Labour Conference, 110th Session, 2022.

⁶ For more details, see ILO, [Technical Note 1.1: Instruments concerning occupational safety and health in mining](#), fourth meeting of the SRM TWG, 2018.

⁷ At its 268th Session (March 1997), the Governing Body classified Convention No. 62 as outdated and invited States Parties to ratify Convention No. 167. The SRM TWG first examined Convention No. 62 at its second meeting, in 2016, and requested follow-up by the Office with the Member States bound by it, encouraging them to ratify Convention No. 167, which would result in the automatic denunciation of Convention No. 62. Convention No. 62 was examined again by the SRM TWG at its fourth meeting, in 2018, in the light of this follow-up. For more details, see ILO, [Technical Note 1.2: Instruments concerning occupational safety and health in construction](#), fourth meeting of the SRM TWG, 2018.

Convention concerning Statistics of Wages and Hours of Work, 1938 (No. 63)

10. Convention No. 63 was adopted in 1938. It provides a basic set of regular statistics on wages and hours of work for a number of purposes and requires ratifying States to compile, publish and communicate statistics relating to wages and hours of work in the mining, manufacturing and agriculture sectors. It has been revised by the Labour Statistics Convention, 1985 (No. 160).
11. Convention No. 63 has been ratified by 34 Member States and has been denounced by 20 of them as a result of their ratification of Convention No. 160. It has been closed to further ratifications since 1988 when Convention No. 160 came into force. It no longer corresponds to the current regulatory approach to labour statistics. Convention No. 160 revises and expands Convention No. 63 to take account of modern needs for an integrated system of labour statistics. It is notably flexible in application, ensuring the consistent collection and compilation of comprehensive basic labour statistics. At its fourth meeting, in 2018, the SRM TWG recommended that the classification of Convention No. 63 as an outdated instrument be confirmed and proposed its abrogation.⁸

Labour Inspectorates (Non-Metropolitan Territories) Convention, 1947 (No. 85)

12. Convention No. 85 was adopted in 1947. It seeks to ensure the application of minimum labour inspection standards to non-metropolitan territories until such time as they can be bound by the more comprehensive Labour Inspection Convention, 1947 (No. 81).
13. Convention No. 85 has been ratified by 11 Member States and has been denounced by 1 Member State. It is currently applicable to four non-metropolitan territories. Its deviation from the ILO principle of universality because of non-metropolitan territories' level of economic and social development is inconsistent with the long-standing regulatory approach to international labour standards, which includes built-in flexibility mechanisms in universally applicable standards. In addition, its substantive provisions are largely repeated in Convention No. 81 and in the Labour Inspection (Agriculture) Convention, 1969 (No. 129), which are universal in scope, flexible and set out more comprehensive requirements in relation to labour inspection. Both Conventions are recognized as most significant from the viewpoint of governance. At its fourth meeting, in 2018, the SRM TWG recommended that Convention No. 85 be classified as "outdated" and proposed its abrogation.⁹

⁸ At its 268th Session (March 1997), the Governing Body classified Convention No. 63 as outdated and invited States Parties to ratify Convention No. 160. The SRM TWG first examined Convention No. 63 at its second meeting, in 2016, and requested follow-up by the Office with the Member States bound by it, encouraging them to ratify Convention No. 160, which would result in the automatic denunciation of Convention No. 63. Convention No. 63 was examined again by the SRM TWG at its fourth meeting, in 2018, in the light of this follow-up. For more details, see ILO, [Technical Note 3.1: Instruments concerning labour statistics](#), fourth meeting of the SRM TWG, 2018.

⁹ For more details, see ILO, [Technical Note 2.1: Instrument concerning labour inspectorates in non-metropolitan territories](#), fourth meeting of the SRM TWG, 2018.

▶ Questionnaire

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

Yes **No**

If you replied “no” to the above question, please indicate which of the above-listed Conventions in your view has not lost its purpose or still makes a useful contribution to attaining the objectives of the Organization and the reasons therefor.

Report has been sent to the following labour market organisations:

The Confederation of Finnish Industries (EK)

The Central Organization of Finnish Trade Unions (SAK)

The Finnish Confederation of Professionals (STTK)

The Confederation of Unions for Professional and Managerial Staff in Finland (Akava)

The Commission for Local Authority Employers (KT)

The Office for the Government as Employer (VTML)

The Federation of Finnish enterprises (SY)

Statements of the labour market organisations:

The Confederation of Finnish Industries (EK)

We support the abrogation of the conventions mentioned in the report. There are no legitimate grounds for remaining in force legislation or international conventions that are no longer up-to-date or applicable. There are no grounds for the validity of the conventions proposed to be abrogated from a national or international perspective either.

SAK, STTK and Akava

SAK, Akava and STTK state that the Conventions Nos. 45, 62, 63 and 85 can be abrogated as proposed.