

- (d) *deferred further consideration on setting up a commission of inquiry until its 326th Session (March 2016), in light of the information referred to in paragraphs (a), (b) and (c) above.*

(GB.325/INS/10(Rev.), paragraph 10.)

## Financial implications

(GB.325/INS/10(Add.))

### Decision

225. *The Governing Body decided that the cost, estimated at US\$25,550, of the high-level visit to Qatar that it had decided to arrange be financed from savings that might arise under Part I of the budget or, failing that, through the use of the provision for unforeseen expenditure, Part II. Should this subsequently prove impossible, the Director-General would propose alternative methods of financing at a later stage in the biennium.*

(GB.325/INS/10(Add.), paragraph 4.)

## Eleventh item on the agenda

### Review of the implementation of ILO–ISO agreements

(GB.325/INS/11)

226. *A representative of the Director-General (Deputy Director-General, Policy) updated the Governing Body on developments since submission of the document relating to consultation of the ILO by the leaders of the Project Committee of the International Organization for Standardization (ISO) during the process of editing of the ISO draft standard. In the past, additional divergences from the principles of international labour standards had arisen and the editing committee's consultation with the ILO had been requested by the Project Committee, which had adopted a proposal from Japan's standard-setting body. The process was currently under way and, if successful, could help to further narrow differences left to resolve. However, continued participation of the ILO would be needed to resolve some remaining ILO issues based on basic principles of international labour standards. She further noted that, in accordance with Governing Body decisions and guidance, the Office had so far declined the requests of national standard-setting organizations to become engaged in other new ISO standard-setting drafting processes. The Office would be in a position to provide the Governing Body with a full menu of options for collaboration between the ILO and the ISO after completion of the pilot on ISO 45001 sometime in 2016.*

227. *The Employer spokesperson noted that the ILO had objected in 2007 to the development of an ISO occupational safety and health management standard but the ISO had decided to pursue that field of activity in 2013, and the Governing Body had approved an agreement between the ILO and the ISO that same year. The Office's main aim was to ensure that ISO standards respected and did not conflict with relevant international labour standards. A fundamental principle of ISO work was that it did not reflect compliance with legal requirements; having international labour standards referred to in the ISO requirement was not the purpose. The Agreement between the ILO and the ISO authorized by the Governing*

Body stipulated that ISO standards should use labour standards as a source of reference with respect to ILO issues in case of conflict. But the ISO had its own rules and the Agreement did not require priority to be given to international standards in the event of a conflict. The ISO had agreed to avoid conflict with ILO standards when developing the text of the standard, while following the ISO's principle of consensus. The work of the Office was to provide technical input; the Employers agreed that the Office's role was to provide guidance on ILO issues and to promote international labour standards. In that regard, the Employers commended the Office on progress made in aligning the text of the ISO standard with international labour standards during the previous ISO meeting. His group also welcomed the fact that the ISO would edit the draft international standard in consultation with the Office in order to avoid conflict.

- 228.** The Employers also noted that the Office had expressed regret that a number of important comments had not been accorded priority consideration. However, in their view, if some Office comments had not been accorded priority consideration, that did not constitute a breach of the Agreement, which mainly enabled the ILO to influence the content of the standard. The issue was the ISO principle of consensus, as other stakeholders had legitimacy in the process. As an observer, ILO influence was moderated by that of national experts, who sought to ensure that their country standards were reflected. Overall, the lack of priority was not of great concern; it would not be damaging to international labour standards, as they had to be respected and implemented if ratified by member States.
- 229.** Some Employers had questioned the usefulness of extending the pilot implementation, but would support it. They did not support Office engagement in the possible development of new ISO work on competency requirements for the auditing and certification of the occupational safety and health management system. The Employers' group supported the draft decision.
- 230.** *The Worker spokesperson* reiterated that the ILO must remain the sole standard-setting organization for the world of work and continue to adopt standards: no privately set standards should replace international labour standards developed by tripartite constituents. Her group had difficulty in supporting the proposal to extend the pilot implementation of the Agreement and for the Governing Body to review the Agreement in November 2016 given that the ILO–ISO Memorandum of Understanding was not working. The ISO could not give effect to the stated objectives of that document without making changes to its established processes, and seemed neither prepared nor under any pressure to do so; moreover, the document did not propose any measures that the ISO should take. Such measures could include establishing a joint oversight body empowered to change draft ISO standards to bring them into line with international labour standards, and requiring that national delegations have legitimate Workers' and Employers' representatives where standards involved social issues or international labour standards. Indeed, the desirability of tripartite representation – particularly representatives from labour organizations – had been specifically accepted in the new work item proposal for ISO 45001.
- 231.** Instead of renewing the pilot implementation, the Governing Body should authorize the Director-General to initiate negotiations for a new agreement, and recommend that he take a more proactive approach. The role of ISO standards in global governance should be publicly debated by the ILO and other UN organizations. Flaws in ISO processes (participation and decision-making) should be discussed and addressed in international forums. The ILO should forcefully comment on all new work item proposals where the resulting standard could undermine international labour standards. It should also consider actively opposing such proposals during the balloting process, possibly by approaching governments in countries with a formal relationship with the national standards body concerned.

232. More specifically, her group was concerned at the decision to defer discussion of the interpretation or modification of the Agreement until the draft of ISO 45001 was complete. The fact that the ISO and the ILO held different views on the precedence of international standards could have a negative impact on the substance of ISO 45001, and should be addressed urgently.
233. With respect to ISO 45001, the text of the draft international standard concerning worker participation was likely to be satisfactory. However, progress on that issue could be resisted by ISO national standards bodies during the balloting stage, and subsequent setbacks were possible. Moreover, a number of important comments from the ILO remained to be addressed. Therefore, the Workers did not support the wording in the draft decision that the Governing Body should note “progress in recent collaboration” between the ILO and the ISO, and did not share that positive assessment of the situation. Although the document rightly focused on Office efforts to influence the draft standard, the instrumental role of participating trade unionists in securing improvements to the text should not be underestimated.
234. She noted that it was important for the Office to consult its constituents before sending its high-level comments on the draft international standard to the ISO for circulation to its members, and requested further details about the substance of the consultations with the ILO under way in the editing process on avoiding conflicts with international labour standards, the options available and when the discussions were expected to finish, so that a report could be provided to the Governing Body.
235. Noting the reference to auditing and certification of ISO occupational safety and health management systems, she recalled that the Workers’ group was opposed to private certification of occupational safety and health policies, which should remain in the public sphere.
236. The Workers’ group proposed a revised draft decision to emphasize their concerns, while accepting the proposal to extend the pilot and report back to the Governing Body thereafter.
237. *Speaking on behalf of the Africa group*, a Government representative of Sudan concurred that the position taken by the ISO was inconsistent with the language of the 2013 Agreement. The group appreciated the efforts of the Project Committee on the development of ISO 45001 and agreed that aligning it with relevant international labour standards would be beneficial to firms. It would be advisable to enhance coordination between national ministries of labour, the ILO and the local ILO office. She encouraged the ILO to continue to participate in the Post Publication Organization’s Strategic Advisory Group and, in relation to the ISO 45001, to circulate its comments at the Draft International Standard stage. The group supported the Workers’ amendment to the draft decision.
238. *Speaking on behalf of GRULAC*, a Government representative of Mexico welcomed the positive results of the Office’s efforts to make the ISO aware of inconsistencies between ISO 45001 and ILO standards and encouraged it to continue to do so. The presence of the Office in the process was indispensable to achieving alignment. His group was concerned that occupational safety and health training and protective equipment at no cost to workers had received insufficient attention. He encouraged the Office to keep abreast of any new ISO standards related to the world of work and to assess the need to establish further cooperation with the ISO when the time came. His group supported the draft decision, as amended by the Workers’ group, subject to the deletion of the word “exclusively” in subparagraph (a).
239. *Speaking on behalf of IMEC*, a Government representative of Norway was pleased to learn that, as a result of the ILO’s sustained efforts, measurable progress had been made to avoid conflicts with international labour standards in the text of ISO 45001. Given that some

challenges remained, it would be worthwhile to extend the pilot implementation of the 2013 Agreement in order to give the ILO enough time to participate effectively in the completion of ISO 45001 and review it in November 2016. The 2013 Agreement had been authorized on the condition that ISO standards would be consistent with international labour standards. IMEC therefore supported the draft decision and the Workers' amendment.

- 240.** *A Government representative of Italy*, also speaking on behalf of Spain, had additional concerns from a national point of view about some elements of the first draft of ISO 45001. First, the process of worker participation and consultation had been written into a new paragraph that had not yet been discussed and the final version of the ISO standard needed to ensure consistency of that process with international labour standards. Second, there was no requirement for enterprises to provide training, and evaluating and ensuring the necessary level of competence was left to the management to determine. Third, their proposals for an explicit statement that both training and personal protective equipment must be provided at no cost to workers had been rejected and they would strongly submit that proposal again. Fourth, they would insist on a statement to require that the occupational health and safety management system must apply to all processes within a company despite ISO rules on the high-level structure text (the "base text" used for an ISO management system standard) which allowed the possibility to adopt a management system for only some of the processes in the organization. Fifth, the definition of "ill health" had to be adjusted in order to be consistent with that contained in international labour standards and EU directives. All those key issues must be addressed to ensure that ISO 45001 was truly compliant with international labour standards in accordance with the 2013 Agreement.
- 241.** *A Government representative of Kenya* stressed that ISO standards and indeed any other instruments concerning the labour market and interaction between workers and employers or tripartite engagements should be referenced through the ILO, even more so when those matters fell squarely within the mandate of the ILO. Actors in the labour market, including firms and labour inspectorates, could draw a double dividend from coherence between ISO standards and ratified Conventions. Conflicts between standards relating to a particular group of workplaces or sector and confusion that ISO standards were an alternative to international labour standards must be avoided. His Government supported further consultations until a final standard was reached. He endorsed the draft decision.
- 242.** *A Government representative of India* had persistently expressed concern at any sort of parallel body of labour standards particularly from a private body like the ISO. She noted that the ILO, despite its sincere efforts, had achieved only limited success through its collaboration with the ISO. She wished to know what mechanism was available under the 2013 Agreement to ensure that ISO standards which were not in line with international labour standards would not be adopted. Since the ILO was the supreme body for setting international labour standards and the world's guide on matters concerning the welfare of workers, private compliance initiatives that diverged from ILO standards must be discouraged. The pilot scheme should be restricted to the agreed initiatives.
- 243.** *A Government representative of Japan* emphasized the importance of continued dialogue with the ISO in order to avoid contradictory international standards. He supported the proposed amendment.
- 244.** *A representative of the Director-General* (Deputy Director-General, Policy) said that the Office would continue to take into account the diverging views on the issue under consideration. In reply to specific suggestions and questions, she noted that the ILO did not have the capability to comment on all new work items proposed by the ISO, but it was attempting to develop a screening mechanism to identify items of particular relevance in order to determine whether the Office might consider becoming involved, subject to the guidance of the Governing Body. In addition, the ILO retained the right under the 2013

Agreement to oppose the final draft of ISO 45001 if it was inconsistent with international labour standards. It had devised a process for circulating its views and suggestions to the bodies which would vote on that standard. The final decision on what would happen in the event of inconsistency would be made by the affiliated bodies of the ISO. At that point it would be important for all members of the Governing Body to inform their national standard-setting organizations of their views on the final draft of ISO 45001 and the importance of ISO standards being in line with international labour standards. The Office had been consulting with constituents on the draft text of ISO 45001 and was committed to continuing to do so. It would be too soon to take a final decision on the draft standard in January, since the process would likely still be under way. The active support which the Office had received from worker and employer participants in the ISO process, and from governments engaged in consultations with national standards bodies on specific issues of consistency with international labour standards, was invaluable.

245. *The Employer spokesperson* said that the Employers could support the Workers' amendment, despite not fully agreeing with the argument behind it.

### **Decision**

246. *Noting the progress and remaining challenges in recent collaboration and the developments relating to the high-level contacts, the Governing Body decided:*

- (a) *to authorize the Director-General to continue the pilot implementation of the 2013 Agreement between the International Labour Organization and the International Organization for Standardization for the ILO's effective participation in the completion of ISO 45001, including for the circulation of an Office opinion annexed to the ballot materials of ISO 45001;*
- (b) *to decide, no later than its 328th Session (November 2016), on the basis of an analysis conducted by the Office, whether to continue or revise the 2013 Agreement, negotiate a new agreement, or take other necessary action in recognition of the ILO's mandate.*

(GB.325/INS/11, paragraph 14, as amended.)

## **Twelfth item on the agenda**

### **Report of the Committee on Freedom of Association**

#### **376th Report of the Committee on Freedom of Association**

(GB.325/INS/12)

247. *The Chairperson of the Committee on Freedom of Association* said that the Committee had noted 159 pending cases, of which 33 had been examined on their merits. The Committee had issued urgent appeals to the governments involved in Cases Nos 2723 (Fiji), 3095 (Tunisia) and 3104 (Algeria), but had not yet received complete observations from them, despite the time that had elapsed since the submission of complaints. Those governments should transmit their observations as a matter of urgency. The Committee had been obliged to examine Cases Nos 3067 (Democratic Republic of the Congo),