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TENTH ITEM ON THE AGENDA

Review of the implementation of ILO–ISO agreements

Purpose of the document

As decided by the Governing Body at its 328th Session (GB.328/INS/13, paragraph 15, as amended), this document reports on significant developments in the pilot implementation of the 2013 Agreement between the International Labour Organization (ILO) and the International Organization for Standardization (ISO) and seeks authorization to issue an ILO policy position in relation to the publication of ISO 45001 on occupational health and safety management systems (OHS-MS). It requests the Governing Body to decide, in the light of the outcome of the pilot implementation and of the ISO's ongoing activity in fields overlapping with the ILO's mandate, whether to modify or terminate the Agreement and whether to refrain from further cooperation with the ISO and, if so, under what circumstances. The Governing Body is invited to further decide whether to note with regret the ISO's decision to unilaterally terminate the 2005 ILO–ISO Memorandum of Understanding (MOU) on social responsibility and whether to authorize further ILO cooperation with the ISO in the field of social responsibility contingent on the ISO's application of the terms of the 2005 MOU. (see the draft decision in paragraph 26 and 27).

Relevant strategic objective: Cross-cutting.

Main relevant outcome/cross-cutting policy driver: Cross-cutting.

Policy implications: Decision on ILO cooperation with the ISO, including in the field of social responsibility.

Legal implications: Decision whether to modify or terminate the ILO–ISO Agreement, signed on 6 August 2013.

Financial implications: None at this moment.

Follow-up action required: See paragraphs 22 and 26.

Author unit: Office of the Deputy Director-General for Policy (DDG/P) in consultation with LABADMIN/OSH.

Related documents: GB.328/INS/13; GB.325/INS/11; GB.323/INS/11/2 and GB.323/INS/11/2(Add.); GB.323/PV, paragraphs 188–199; GB.320/INS/14/4; GB.320/PV; GB.319/INS/INF/1; GB.317/INS/13/7; GB.316/INS/15/7(Rev.); GB.316/PV(&Corr.); GB.310/PV; GB.309/PV; GB.298/15/5; GB.298/PV.

1. At its 328th Session (October 2016), the Governing Body, having reviewed the pilot collaboration under the 2013 Agreement between the International Labour Organization (ILO) and the International Organization for Standardization (ISO) (see Appendix I), decided: (a) to extend again the pilot implementation of the Agreement strictly for the time necessary for the ILO's effective participation in the completion of the ISO international Standard, ISO 45001 on occupational health and safety management systems (OHS-MS); and (b) to take a decision, at its earliest possible session after final disposition of ISO 45001, 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.¹
2. The Governing Body had previously decided to extend the pilot implementation of the 2013 Agreement for the time necessary for the ILO's effective participation in the completion of ISO 45001. It is recalled that the Governing Body had authorized conclusion of the 2013 Agreement on condition that, as provided under the terms of paragraph 4 thereof, "ISO standards ... should respect and support the provisions of ILS [international labour standards], including by using ILS as the source of reference with respect to ILO issues in case of conflict", and that the ISO would consult with, and ensure the ILO's effective participation in the development of international standards as set out in paragraphs 5 and 6 of the Agreement (2013 Agreement is set out in the Appendix I). As reported previously during the course of the pilot implementation, the ISO had expressed the view that, under the terms of the Agreement, the ISO should ensure the systematic consideration of international labour standards in the process of standardization, but that ISO standards are not required to defer to international labour standards in case of conflict. The ILO continues to maintain that this position is not consistent with the language of the Agreement, as quoted above. As reported previously, high-level contacts between the two Organizations have left pending systematic issues regarding the treatment of ILO issues in the drafting of ISO standards and the need for a practical method of identifying new ISO standardization activities that may be relevant to the ILO.

Assessment of the pilot implementation of the 2013 Agreement

A. ISO 45001 development and prospects

3. *ISO 45001 on occupational safety and health management systems*: The ILO's effective participation in the development of ISO Standard 45001 (ISO/PC 283) has ended, as detailed below. The present document assesses the results as well as the process of collaboration under the 2013 Agreement piloted in the development of ISO 45001 (now in its final stage). It also requests Governing Body guidance on another set of ISO initiatives on social responsibility, which the ILO maintains is governed by the Memorandum of Understanding between the ILO and the ISO in the field of social responsibility, concluded in 2005 (2005 ILO–ISO MOU) (see Appendix III).
4. The ISO international standard on occupational health and safety management systems, ISO 45001, received an approval vote of 88 per cent in the ballot on its second Draft International Standard (DIS-2) version, with around 1,600 comments on the draft text submitted by voters. After the ballot, at its sixth meeting held in Malaysia in late September 2017, the ISO Project Committee (PC) responsible for the drafting of ISO 45001 (ISO/PC 283) decided whether to accept or reject some of those comments that the PC's Working Group (WG) members

¹ GB.328/INS/13, para. 15, as amended.

designated as critical. Based on these decisions, it appears that, once published, ISO 45001 will provide lower standards of protection for workers on significant principles of international labour standards that are critical to preventing work-related injuries and illnesses and improving occupational safety and health performance. The future international standard sets out a leading role for the participation and consultation of workers in an occupational safety and health management system and recognizes the related role of workers' representatives. However, it unfortunately fails to require other basic occupational safety and health safeguards including that the Organization's management provides workers with the authority to remove themselves from situations of imminent and serious danger to their safety and health without fear of reprisal; that personal protective equipment necessary to protect workers from hazards be provided at no cost to them; that safety and health training for workers be provided at no cost to workers and, where possible, during working hours; and that controls provide workers with access to documented information related to the Organization's management system.

5. As a result, although the new ISO standard may increase awareness of the need for an occupational safety and health management system among organizations that would not otherwise focus on the issue, ISO 45001 will nonetheless allow for the certification of organizations that do not provide workers with such protections, unless these protections already exist under national law and practice, including collective agreements. In such situations, the standard's failure to require these protections may also undermine the progressive development of national law and practice in line with these ILO principles. Moreover, while where national law and practice already provide such protections, the ISO standard requires that the organization meet existing "legal requirements and other requirements" (including the provisions of applicable collective agreements); however, the ISO standard's failure to reflect such protections could diminish recognition of their importance.
6. *Follow-up by the ISO:* A pending ISO proposal for the establishment of a permanent technical committee (TC) on occupational health and safety management, if approved by ISO members, would replace the ad hoc ISO/PC 283. The purpose of the new TC would likely be to develop guidance for the implementation of ISO 45001, carry out possible future revisions to the standard, and produce further ISO standards in the field. An ISO guidance document on audit competencies for certification of occupational health and safety management systems is expected to be published at the same time as ISO 45001. The ISO has also launched a special web page for the rollout of ISO 45001, which will show how ISO 45001 relates to other ISO management systems (e.g. on environment, quality assurance, and risk) and other OSH–MSOSH management system guidelines. A handbook on the integrated use of management system standards, currently under preparation, is expected to combine aspects of ISO 45001 with other standards on management systems. The impact of this approach on worker participation, which plays a more important role in an OHS-MS than in other management systems, remains to be seen. In addition, upcoming changes in Annex SL, the generic ("high-level") structure applied to all ISO management systems standards, may have implications for ISO 45001.

The impact of ILO participation in the development of ISO 45001

7. Under the 2013 Agreement, the ILO participated in the ISO's development of an OHS-MS standard under ISO-defined "liaison status". During the four-year pilot implementation, the ILO actively contributed as a liaison organization in six one-week-long meetings of ISO/PC 283 and its Working Group (WG1) and in other meetings of WG1 task forces. In addition to the intensive preparation of comments on various drafts of the standard, the ILO prepared "high-level" (generalized) comments on ways to avoid conflict between the international private standard, on the one hand, and national law and practice based on the principles of

international labour standards, on the other. Under paragraph 6(d) of the 2013 Agreement, the ISO posted the ILO's comments on the respective drafts of the standard in its voting portal in order to inform voting ISO member bodies. Simultaneously, the PC's leadership submitted its views on the ILO comments.

8. Throughout the pilot implementation, the Office contacted ILO in-country constituents about key issues involving international labour standards in order to encourage and inform their discussions with ISO/PC 283 members during their country-specific "mirror committee" consultations. The Office also consulted with international representatives of employers and workers in preparation for and during the ISO meetings, and, in some cases, coordinated positions in the course of drafting comments and interventions. In some instances, such coordination included social partners on national delegations represented in the ISO/PC 283. A number of ISO national standards bodies (NSBs) represented in the ISO/PC 283 supported drafting proposals for wording consistent with the principles of international labour standards. In many instances, however, these proposals were not given the consideration that the ILO deemed necessary and appropriate. The ILO communicated its views on this matter to the ISO and to the PC's leadership respectively.
9. *Resource intensiveness:* The participation of ILO staff in the ISO/PC 283 process was resource intensive. Preparation and attendance at meetings required a shifting of resources away from some of the ILO's own work on occupational safety and health matters.
10. *Impact:* Some ISO NSBs expressed their appreciation for the ILO's role in ISO/PC 283, noting that the ILO's participation had facilitated the PC's work and even, in some instances, determined the issues and approaches now reflected in the ISO standard. The ISO/PC 283 and its WG1 drew upon the ILO's expertise in shaping the definitions of key terms such as "worker" and "workplace," and other building blocks of an occupational safety and health management system, such as multi-employer workplaces and the essential role that compliance with legal requirements plays in a beyond-compliance voluntary standard of this nature. However, unlike the ILO's sui generis status under the 2005 MOU, the ILO's participation as a liaison organization under the 2013 Agreement permitted it limited influence given that the ILO did not play a leadership role in the PC's deliberations and the ISO was not required to seek the ILO's backing before advancing to ballots on the various draft versions of the standard.

Further ILO action in the field of occupational safety and health management systems

11. Based on the results of the last ISO/PC 283 meeting, the ISO will decide whether to publish ISO 45001 forthwith or to require a vote by its members on a Final Draft International Standard (FDIS) which would delay publication by several months. In either case, in anticipation of the publication of the final text of ISO 45001, the Governing Body may wish to authorize the Director-General to issue an ILO policy position on ISO 45001 that would clarify the respective functioning of the ILO and the ISO standards relevant to occupational safety and health management systems. This could provide guidance on the relevant international labour standards and clarify that certification to ISO 45001 does not imply compliance with, or application of, the relevant international labour standards principles.
12. In furtherance of the ILO's core mandate in the field of occupational safety and health, the Office proposes to assess, in consultation with the ILO tripartite constituents at country level, the extent to which the objectives of the ILO's own *Guidelines on occupational safety and health management systems, ILO-OSH 2001* (ILO-OSH-MS Guidelines) have been achieved and what further action may be needed, in consultation with ILO tripartite constituents at country level. This will enable the Organization to turn its focus and resources more to its own OSH-MS Guidelines that are based on tripartite agreement and are consistent

with international labour standards principles. This would also clarify that the purpose of the ILO's involvement in the development of the ISO 45001 was not intended to replace the ILO-OSH-MS Guidelines with the new ISO standard.

Implications for the ILO's general relationship agreement with the ISO

13. At its 328th Session, the Governing Body decided to decide, in the light of the pilot implementation of ISO 45001 after its completion, whether to continue, modify or terminate the 2013 ILO–ISO Agreement. This evaluation should take account of the lessons of the pilot reported above.
14. The aim of the 2013 Agreement, as stated in its paragraph 5, is to avoid that ISO standards conflict with or contradict international labour standards and other ILO action, and to enhance complementarity between the ILO's mandate and the ISO's mission. Under the Agreement, as applied in the pilot, this goal was difficult to obtain.
15. First, the liaison status provided to the ILO under paragraph 6(d) of the 2013 Agreement provides for limited participation and voting. This limits the ILO's influence in both the development and the post-publication phases of ISO standards.
16. Second, although paragraph 4 of the Agreement states that “ISO standards that relate to issues within ILO's mandate (ILO issues) should respect and support the provisions of international labour standards and related ILO action, including by using international labour standards as the source of reference with respect to ILO issues in case of conflict”. The ISO has taken the position that this paragraph's wording requires only systematic consideration of international labour standards and does not require that draft wording of ISO standards defers to international labour standards in case of a conflict between them. The ILO, for its part, has maintained that the word “should” has obligatory meaning in ISO terminology and practice, and specifies the use of international labour standards as the source of reference on ILO issues in case of conflict.²
17. Third, paragraph 6(a) of the Agreement requires the ISO to “share with the ILO any proposals for new work [...] that may address ILO issues before the relevant proposals are submitted to a vote within the ISO membership”. However, the ILO has not received advance notice of proposals that may address ILO issues despite the ISO's ongoing expansion into fields relevant to the ILO's mandate, for example, human resource management, sustainable procurement, occupational safety and health management systems and sustainable marine fisheries.³ For some months and on an irregular basis, the ISO provided the ILO with lists of new standards under development, but without specifying whether any of them addressed ILO issues.
18. Overall, the pilot experience of ILO participation in ISO processes under the 2013 Agreement proved difficult when measured against its substantive aim, its procedures and the amount of resources the ILO dedicated to it.
19. The situation in which private international standardization undermines existing publicly agreed international standards transcends the ILO–ISO 2013 Agreement and could have additional consequences. For example, it is relevant to international oversight of the ISO under frameworks in which ILO members participate in other organizations such as the

² [GB.325/INS/11](#), paras 2–3.

³ [GB.325/INS/11](#), para. 12; and [GB.323/INS/11/2](#), para. 14.

World Trade Organization (WTO) under the Agreement on Technical Barriers to Trade and its annexed Code of Good Practice for the Preparation, Adoption and Application of Standards.⁴

20. In the light of the outcome of the pilot implementation of ISO 45001, the Governing Body may wish to bear in mind the ISO's increasing action in fields that overlap with the ILO's standard-setting mandate (see paragraph 15). ILO participation would draw upon the resources of the Organization without a guarantee of resulting impact toward improved ILO–ISO coordination. However, lower levels of ILO participation, limited to the submission of comments on subjects that overlap extensively with the international labour standards principles, would likely have little effect on the drafting of ISO standards while risking the perception that the ILO was, in fact, sufficiently involved.
21. *Options – Modification or termination:* In the light of the above considerations, the Governing Body may wish to decide that the provisions of the 2013 Agreement – including those whose meaning is contested by the ISO as described above – are insufficient to ensure effective coordination of the respective competencies concerned, and may wish to seek to modify or terminate the Agreement. Goals for modification could include having a different status for the ILO than liaison status, a system for ISO responsibility to identify new work potentially relevant to ILO issues; and other corrective actions. The possibility of achieving such modifications is significantly uncertain, as is the willingness of ISO/Central Secretariat (CS) to negotiate them. For the termination of the Agreement, either party may give 90 days' written notice. If the Governing Body decides to terminate, it could authorize the Director-General to issue an ILO statement of reasons in order to increase public awareness of the implications of ISO private standardization in fields relevant to the work of the Organization and to prevent confusion between ISO standards and compliance with the ILO's decent work principles.

B. ISO 26000 and other ISO activity

22. Recently, the ISO issued a ballot inviting its NSBs to vote on the establishment of a new TC for further international standardization on social responsibility, without consulting in advance with the ILO as required under both the 2005 MOU and the 2013 Agreement. At the initiative of several NSBs, the ISO has also proposed a revision to ISO 26000 on social responsibility under circumstances that favour the use of its typical approach, of a Technical or Project Committee as defined under ISO directives. This would replace the multi-stakeholder approach that allowed the ILO to play a leadership role during the development of ISO 26000 under the 2005 MOU. Owing to a very low response rate (only 30 ISO members), the ISO's Technical Management Board (ISO/TMB) has not yet taken a decision on the revision of ISO 26000; instead, it has sent a letter to all NSBs, asking those which have not yet voted to do so in order to take a decision on the question at its February 2018 meeting.
23. The Office sent the ISO a set of written comments (see Appendix II), requesting ISO members to decline the proposal to establish a new TC on social responsibility and asking the ISO/TMB to decline to revise ISO 26000. However, because the ISO had not given the ILO advance notice of the vote, those comments were not received and posted until weeks after the start of the voting period. Separately, the International Organisation of Employers (IOE) and the International Trade Union Confederation (ITUC) have issued a joint letter opposing the proposals to establish a new TC and to revise ISO 26000. Under article 5 of the 2005 MOU, the ILO requested the ISO to distribute this joint letter to all of its members

⁴ For the legal texts, see https://www.wto.org/english/docs_e/legal_e/17-tbt_e.htm.

in order to inform them of the views of the ILO's employer and worker constituents; however, the ISO rejected this request.

24. In its comments on the ISO initiatives relating to social responsibility, the Office suggested that any ILO participation in any ISO revision of ISO 26000 or in any further ISO work in the field of social responsibility should follow the provisions of the 2005 MOU on social responsibility, which accords the ILO a sui generis, not liaison, status, in ISO exercises on social responsibility. The ISO/CS replied that it believed the 2005 MOU between the ILO and the ISO to have been superseded by the 2013 Agreement. The Office then pointed out that the 2005 MOU was still being applied in the context of the ILO's role in the multi-stakeholder Post-publication Organization (PPO) for ISO 26000, and that the 2013 Agreement did not state that it superseded the 2005 MOU, nor had the ILO and the ISO discussed that possibility when drafting the Agreement. In response, on 4 October, 2017, the ISO sent the ILO a notice of termination of the 2005 MOU effective 3 January 2018, pursuant to clause 10.4 of the MOU, while continuing to maintain that the MOU had been superseded (see Appendix IV).⁵ The Office thus considers the 2005 MOU to be the applicable agreement for ILO–ISO cooperation on ISO activities in the field of social responsibility until such time as the ISO's unilateral termination of the MOU takes effect.
25. At the close of the ballot for a new TC in the field of social responsibility on 10 October 2017, the ISO announced that the proposal had been rejected (23 approvals, 13 disapprovals, 16 abstentions). The member body that had proposed the ballot (Swedish International Standards) reported that it believed a future proposal would be accepted.

Draft decision

26. *In the light of the outcome of the ILO's pilot implementation of the 2013 Agreement between the International Labour Organization (ILO) and the International Organization for Standardization (ISO), the Governing Body:*

(a) *authorizes the Director-General to issue an ILO policy position on ISO 45001 on occupational health and safety management systems in order to clarify the functioning of international labour standards and other ILO action relevant to occupational safety and health management systems and the respective roles of the ILO and the ISO in this field; and*

(b) *requests the Director-General to:*

Option 1:

- *seek to modify the 2013 ILO–ISO Agreement in order to ensure that international labour standards principles will take priority in any case of conflict in the drafting and use of ISO standards that deal with ILO issues by addressing the procedural and substantive difficulties identified through the pilot implementation of ISO 45001, including by applying the terms of the 2005 ILO–ISO Memorandum of Understanding (MOU) for standardization in the field of social responsibility; and*

⁵ GB.325/INS/11, para. 11, reporting on the ILO's participation in ISO events promoting ISO 26000 under the 2005 MOU (article 2.3).

- *refrain from further cooperation with the ISO until such time as the Governing Body approves such modified Agreement; and, in the event that the Office deems that negotiations to modify the 2013 Agreement have proved ineffective for the above purposes by 31 December 2017, to terminate the 2013 Agreement and report this outcome to the Governing Body at its 332nd Session.*

OR

Option 2:

- *terminate the 2013 ILO–ISO Agreement, refrain from further cooperation with the ISO until further notice and, after consultation with the Officers of the Governing Body, issue a public statement explaining the reasons for termination.*

27. As to ILO participation in any future ISO Technical Committee on social responsibility or revision of ISO 26000, the Governing Body:

- (a) *notes with regret the ISO’s decision to unilaterally terminate the 2005 ILO–ISO MOU for standardization in the field of social responsibility, with effect as from 3 January 2018; and***
- (b) *authorizes ILO participation in any future ISO activity in the field of social responsibility and/or revision of ISO 26000 in the event that the ISO decides to move forward on either proposal, solely and strictly on the condition that the ISO agrees to apply the terms of the 2005 ILO–ISO MOU in relation to further activity in social responsibility therein, under the same conditions that the ISO applied to the development of ISO 26000, including with regard to ILO participation in ISO leadership structures.***

Appendix I

Agreement between the International Labour Organization (ILO) and the International Organization for Standardization (ISO), signed 6 August 2013

1. The International Labour Organization (ILO), established in 1919, is a specialized agency of the United Nations that brings together representatives of governments, employers and workers to jointly develop international labour standards, policies and programmes to promote decent work for all, notably in areas relating to rights at work, employment, social dialogue, and social protection (including social security, occupational safety and health, and the working environment). The ILO adopts international labour standards in the form of international treaties referred to as Conventions and other international instruments including Recommendations (ILS) as a fundamental means of achieving its constitutional mandate. The ILO promotes their ratification and implementation in its member States through governments and employers' and workers' organizations and supervises their application, through a unique mechanism at the international level, in order to monitor the progress of member States in giving effect in law and practice, including policies and programmes.
2. ISO is an international, non-governmental organization that establishes voluntary international standards on a multitude of subjects and developed consistent with World Trade Organization principles, decisions and recommendations on international standards. ISO's mission is to develop high-quality voluntary international standards which facilitate international exchange of goods and services, support sustainable and equitable economic growth, promote innovation and protect health, safety and the environment. In cases where ISO's international standards relate to public policy, ISO's interest is to complement and not conflict with such policies, recognizing that the development of public policies, regulation, and international treaties are the role of governments or treaty organizations.
3. To date the ILO and ISO have cooperated on a case-by-case basis, such as through the Memorandum of Understanding (MoU) on social responsibility and liaison arrangements with ISO committees. This Agreement between the ILO and ISO provides the following framework for cooperation on any proposed new work in the ILO or ISO that may be of mutual interest as specified below.
4. Given the broad mandate and action of the ILO to promote social justice and decent work, and ISO's broad mission, ISO standards that relate to issues within the ILO's mandate (ILO issues) should respect and support the provisions of ILS and related ILO action, including by using ILS as the source of reference with respect to ILO issues in case of conflict.
5. The ILO and ISO will consult when either organization identifies any proposed ISO international standard or field of work within ISO relating to ILO issues in order to avoid that these conflict or contradict with ILS or other ILO action, and to enhance complementarity in the exercise of the ILO's mandate and ISO's mission.
6. The following steps will be undertaken by the ILO and ISO in the context of work within ISO relating to ILO issues:
 - (a) ISO Central Secretariat (ISO/CS) will share with the ILO any proposals for new work not within the scope of an existing committee ¹ that may address ILO issues before the relevant proposals are submitted to a vote within the ISO membership. ISO/CS will also include the ILO in its monthly dispatch of the list of new work item proposals

¹ Proposals for new fields of activity (TS/P) to be developed under a new ISO technical committee, or a single new work item proposal (NWIP) to be normally developed under a new project committee.

- (NWIPs) introduced by ISO committees. The ILO will notify ISO/CS of any proposals of concern that may address ILO issues; upon receipt, ISO/CS will share with the ILO the particular NWIPs of concern.
- (b) The ILO will have ten working days to provide ISO/CS with comments on the proposals referenced in 6(a), which may include an analysis of how relevant ILS and related ILO actions relate to the proposed ISO work.
 - (c) For work not within the scope of an existing committee, ISO/CS will annex any ILO comments to the proposal when it is submitted to a vote within the ISO membership. For NWIPs within existing technical committees, the ISO technical committee secretary will transmit the comments of the ILO upon receipt to the voting P-members of the technical committee. The TMB may at its discretion invite the ILO to the meetings of the TMB in which such proposals are discussed.
 - (d) At the ILO's request, a liaison status arrangement will be automatically afforded to the ILO under this Agreement to participate in both new and existing ISO technical and project committees (including their working groups or like structures) related to ILO issues. In addition, upon the ILO's request and timely transmission to ISO/CS, ISO/CS will annex ILO comments to either the relevant draft international standard (DIS) or the final draft international standard (FDIS) ballot materials of these committees, at ILO's choice, for submission to the ISO membership. ILO comments will only address how the DIS or FDIS relate to relevant provisions of ILS and related ILO action.
7. Reciprocally, ISO will be invited to attend, with special list observer status and in accordance with the ILO rules of procedure, relevant ILO meetings on matters of direct interest dealing with the corresponding subject, or with any new subject determined to be of mutual interest.
 8. To facilitate cooperation, the ILO and ISO/CS will exchange information and documents concerning matters of common interest.
 9. For any transmission or notification under this Agreement, the contact points are:
 - (a) For the ILO: Office of the Legal Adviser, jur@ilo.org.
 - (b) For ISO: TMB secretariat, tmb@iso.org.
 10. Nothing in this Agreement shall be construed to grant or imply the endorsement by ILO of any ISO deliverable, or by ISO of any ILO deliverable.
 11. The English version of this Agreement is the original and shall govern and prevail over any translated version.
 12. The parties shall make every effort to resolve amicably by direct informal consultations any disagreement or dispute which may arise from this Agreement.

13. This Agreement shall enter into force upon the date of the last signature by the parties and may be amended by both parties together in writing. Termination may occur at any time subject to 90 days' advance written notification of one party to the other.

For ILO:

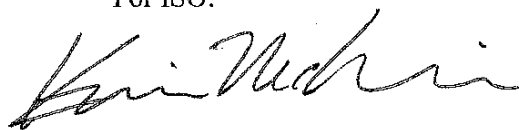


Sandra Polaski
Deputy Director-General for Policy

Date:

6 August 2013

For ISO:



Kevin McKinley
Deputy Secretary-General

Date:

6 August 2013

Appendix II

Statement of the International Labour Office on pending ISO proposals for further activity on social responsibility (SR)

The International Labour Office (ILO) directs this communication to ISO and its national standards bodies (NSBs) to recommend that they decline the proposals pending under two current ISO initiatives:

- the ISO *Proposal for a new field of technical activity in social responsibility* (“SR Proposal”) subject to a vote by 10 October 2017, and
- the *“Proposal for a limited revision to the ISO 26000 guidance standard”* submitted to the ISO Technical Management Board (ISO/TMB) for decision at its 18-24 September 2017 meeting.

The ILO’s reasons follow.

1. A broad range of existing international labour standards and policies relevant to social responsibility (SR) already balance public and private interests involving rights, employment, and social protection from local to global market operation.¹ The proposed ISO new field of technical activity in SR is likely to confuse public and private actors by introducing inconsistencies with country-level regulatory and policy frameworks that give effect to the objectives of existing SR-relevant international labour standards and policies. Moreover, the proposed additional ISO standards risk to undermine ISO 26000, which already creates a bridge between these existing international labour standards and policies and ISO technical guidance.²
2. Despite its apparent intent to exclude labour issues, the scope of activity defined by the SR Proposal includes many issues addressed in international labour standards and policies. The new field of activity in SR, as proposed, would cover all areas involved in the field of SR except those dealt with by other technical committees. The ISO 26000 chapters on Human Rights and Labour Practices address respectively: child labour, forced labour, non-discrimination in employment and occupation, freedom of association and collective bargaining; and employment and employment relationships, conditions of work, social protection, and social dialogue. Building on the ISO 26000 guidance standard, the TC/SR would “consider all types of ISO deliverables; including requirements” for certification.³ Even where issues “are close to the scope of other TCs”, the SR Proposal states that the TC/SR “will first . . . suggest a joint working group”, noting ISO/PC 283 on occupational health and safety management systems as an example. However, operating as a liaison organization in ISO/PC 283, the ILO has noted serious deficits in the draft standard’s relationship to international labour standards on occupational safety and health management.

¹See, e.g. ILO Tripartite Declaration on Multinational Enterprises and Social Policy (rev. 2017) which guides the relevant international and local stakeholders in applying the principles of these minimum decent work standards in international commercial and investment settings.

² The ILO participated in the drafting of ISO 26000 in the special multi-stakeholder working group established directly under the TMB (WGSR). ILO participated not as a liaison organization but with a status defined by the 2005 Memorandum of Understanding between the ILO and the ISO in the field of social responsibility.

³ Proposing to build such requirements would appear to contradict the decision that ISO 26000 should not be used for certification as confirmed in the surveys of NSBs in 2013 and 2017.

3. The proposed revision to ISO 26000 risks to have a broader impact than intended, including on international labour standards and policies. Although the recommended scope of the revision focuses on “recent changes in international authoritative documents”, additions or deletions to the text or annexes of ISO 26000 depend for approval and consensus on the “responsible committee”; whether a TC or a PC, only ISO bodies will participate as members and take decisions.
4. Both of the proposed SR initiatives, if accepted, are expected to follow the regular ISO committee model which does not permit effective participation of wide-ranging interests or facilitate the use of existing relevant international labour standards and policies as a basis. The SR Proposal seeks to establish a new ISO Technical Committee on Social Responsibility (TC/SR) whose work would include revising ISO 26000. If the SR Proposal fails but the revision exercise is accepted, the ISO/TMB is likely to establish an ISO Project Committee (PC) rather than the revision process with the “balanced stakeholder engagement... that characterized the development of ISO 26000:2010” as recommended by the multi-stakeholder ISO 26000 Post Publication Organization (PPO). There are grounds for serious concern that the operation of an ISO PC⁴ will not give effect to the stakeholder participation needed for a credible revision in this field of SR; this is evidenced by the recent experience of ISO/PC 283 on occupational health and safety management systems (ISO 45001) which revealed a gross disparity between trade union organizations and Government stakeholders on the one hand, and ISO-based industry actors, on the other hand.⁵ Although the TMB working group that developed ISO 26000 used a participatory multi-stakeholder expert format, ISO governance has subsequently determined that special participation models may compromise future standards supporting regulation and public policy,⁶ which would include SR standards.
5. The operating rules for ISO technical and project committees would undermine the potential value of ISO activity in the field of SR by favouring recourse to undue commercial interests in the ISO standards’ development and implementation.⁷ Under the operating rules, only NSBs can be TC or PC members, thus excluding full and equal participation of the wide range of stakeholders in fields like SR⁸ that are vital to the perceived legitimacy of the standards produced. Liaison organizations representing non-ISO stakeholders are excluded from decision-making power since only Committee members can vote in the Committee and in formal ISO voting processes on Draft versions

⁴A Project Committee operates under the same general composition and rules as a TC but is assigned a new work item not falling within the scope of an existing TC and may be disbanded after the standard is published or transformed into a technical committee. ISO/IEC, Directives, Part 1, Consolidated ISO Supplement, – Procedures specific to ISO (8th ed. 2017), Annex K (Normative).

⁵The PC has proceeded with its work despite the severe disparity in stakeholder representation and even though the New Work Item Proposal for that Committee had suggested a tripartite dimension to its participation and the PC structure was intended to “support an effective combination of stakeholder engagement”. ISO, Additional guidance from the TMB on stakeholder engagement, at 13.

⁶E.g., Principles for developing ISO and IEC Standards related to or supporting public policy initiatives, ISO/IEC, Directives Annex SO (Informative) at SO.2.

⁷Proposals for new fields of work, like the SR Proposal, list the countries where the subject of the proposal is important to their national commercial interests. ISO/IEC Directives, C.4.8.1.

⁸The seven categories listed in the SR Proposal are: industry and commerce, including SMEs, Government, Consumers, Labour, Academy and research bodies, Standards application, and Non-governmental organizations, including SMOs.

of standards.⁹ Although ISO's rules favour consensus decision-making, in Committee work this principle operates in favour of the dominant ISO Committee members over the much smaller and significantly under-represented group of non-ISO stakeholders. In addition, practical barriers deter ISO engagement of non-ISO stakeholders, including the costs and resources required to participate in ISO committee meetings held around the world, and the use of English only to review up to thousands of comments on draft text. Although the TMB has encouraged NSBs to engage stakeholders in development of standards "where there is significant public interest" and include experts from stakeholder groups in their ISO working groups,¹⁰ there is no requirement that the NSBs do so, and no provision for financial support for stakeholders in need.

6. The regular ISO model has not succeeded in using existing relevant international labour standards and policies as a basis for ISO activity. No ISO directive requires Committees to do so, even in SR-related activity where respect for workers' rights is central. The legitimacy of existing relevant international labour standards and policies derives from the equal participation of Governments and the most representative organizations of workers and employers of the 187 member States in developing and applying them.¹¹ Using these standards and policies as a basis for the ISO activity would help fulfil the tripartite-agreed objectives.
7. In conclusion, while the credibility of ISO standards on SR depends vitally on being aligned with the objectives of existing international labour standards and policies developed on a tripartite basis, there are grounds for concern that the proposed ISO initiatives on SR may diverge from the objectives of those standards and policies. The resulting negative impact on progress toward decent work and sustainable development constitutes the type of "impacts of its decisions and activities" for which organizations are expected to be socially responsible under ISO 26000:2010. The ILO therefore recommends that NSBs and the ISO/TMB decline the SR Proposal as well as the revision of ISO 26000.

Geneva, 5 September 2017

⁹For ballots on the two most mature draft versions of the standard (DIS and FDIS), ISO members are requested to consult national mirror committees that include other stakeholders and to "define one position" for voting purposes. ISO/IEC Directives, 1.1.2. Decisions on other drafts and in committee work are taken alone by NSBs with the responsibility of "ensuring that their technical standpoint is established taking account of all interests concerned at national level". ISO/IEC Directives, Part 1, Foreword, Item C.

¹⁰ ISO/TMB, Additional guidance from the TMB on stakeholder engagement, at 10. In any event, working group experts do not vote on TC or PC level decisions or in ballot votes on draft standards.

¹¹ In developing and applying ILO instruments that address SR issues, Governments share power equally with workers' and employers' organizations in tripartite processes based on procedures for verification of representativity of the stakeholders concerned. The ILO processes accommodate an open, transparent and accountable means that favours consensus decisions on documents that are translated in up to eight meeting languages to facilitate participation across a range of countries and interests.

Appendix III

MEMORANDUM OF UNDERSTANDING
BETWEEN THE INTERNATIONAL LABOUR ORGANIZATION
AND THE INTERNATIONAL ORGANIZATION FOR STANDARDIZATION
IN THE FIELD OF SOCIAL RESPONSIBILITY

Acknowledging that it is the role of governments and inter-governmental organizations, together with representative organizations of employers and workers, to set and supervise obligations and commitments, including those relating to rights at work, employment promotion, social protection, and social dialogue, which inform the field of social responsibility (“SR”);

Recognizing that the International Labour Organization (“ILO”) is the internationally-recognized, representative body competent to establish and supervise international labour standards, relating notably to rights at work, employment, social protection, and social dialogue (“international labour standards”), and has also developed instruments for the voluntary use of, *inter alia*, enterprises and other organizations, such as the Tripartite Declaration of Principles concerning Multinational Enterprises and Social Policy, and the Guidelines on Occupational Safety and Health Management Systems;

Considering that the International Organization for Standardization (“ISO”) as a non-governmental organization with a network of national standards institutes from 148 countries, has decided to develop an International Standard in the field of social responsibility;

and

Noting that it is in the interest of ILO and ISO to establish an agreement to assist in governing their consultations and cooperation in the area of social responsibility;

The ILO and the ISO (the “Parties”) *hereby agree* as follows:

Article 1
Purpose and scope

- 1.1 **Purpose:** The purpose of this Memorandum of Understanding is to establish between the Parties cooperation with a view to ensuring that any ISO International Standard in the field of SR, and any ISO activities relating thereto, are consistent with and complement the application of international labour standards world-wide, including fundamental rights at work;
- 1.2 **Proviso:** As provided below, ILO cooperation is subject to ISO decisions respecting all the provisions of Article 2, including that, in the ISO SR standards development process, any committee or enquiry draft or final draft International Standard (CD, DIS, FDIS) will not be circulated for vote and/or comment before seeking prior full and formal backing by the ILO as to all elements relating to issues involving ILO’s mandate, including but not

limited to the field of international labour standards and practices (“ILO issues”) and, in the event ILO does not provide such backing, communicating ILO’s comments to all statutory ISO members, to the D-liaison organisations in the ISO Working Group on Social Responsibility (“SR Working Group” or “WG”) and to the Technical Management Board.

- 1.3 **Scope:** The areas of cooperation between the Parties will include the development of any ISO International Standard in the field of SR; any activities and publications for the promotion, support, evaluation and approval of any published ISO International Standard on SR, and any periodic review of such ISO International Standard for confirmation, revision, or withdrawal. This cooperation will encompass any issues involving ILO’s mandate, including but not limited to international labour standards and the interpretation and application of ILO instruments.

Article 2 Understandings

The Parties agree:

- 2.1 That any guidance or other ISO International Standard to be developed in the area of social responsibility, which implicates ILO issues will be fully consistent with the object and purpose of the provisions of international labour standards incorporated in ILO instruments, and their interpretation by the competent bodies of the ILO and in no way detract from the provisions of those standards, and the ISO procedures relating to development of any such Standard will provide for the following:
- 2.1.1 Prior to circulation for review within the SR Working Group or any of its Task Groups, any elements of any proposed text which implicate ILO issues will be identified in consultation between the Parties, and shall be the subject of ILO review and/or comment, to be provided in a timely fashion, and, at ILO’s request, ILO comments will be circulated together with such elements within the WG or Task Group concerned;
- 2.1.2 Any committee or enquiry draft or final draft International Standard (CD, DIS, FDIS) will be the subject of a pre-circulation process seeking the full and formal backing of the ILO relating to any of the elements in such draft Standard that implicate ILO issues prior to circulation for vote and/or comment of any such draft Standard (CD, DIS, FDIS); and
- 2.1.3 In the event ILO does not provide the backing referred to in paragraph 2.1.2, ILO’s comments on such draft Standard will be circulated, together with the draft Standard (CD, DIS, FDIS), to all statutory ISO members, to the D-liaison organisations in the SR Working Group and to the Technical Management Board prior to submission to a vote by any ISO body;
- 2.2 That any ISO activities and/or publications for the promotion, support, evaluation and approval of any published ISO International Standard on SR, insofar as they implicate ILO issues, will:

2.2.1 Facilitate greater awareness and wider observance of international labour standards in accordance with their object and purpose, and their interpretation by the competent bodies of the ILO;

2.2.2 Complement the role of governments in ensuring compliance with international labour standards; and

2.2.3 Permit application without discrimination as to type and size of all concerned;

2.3 That international labour standards adopted by the ILO will take priority in any case of conflict in the context of development, and of any promotion, support, evaluation and approval, or periodic review of any ISO International Standard in the field of SR, as well as in any case of conflict involving ILO issues with any private initiative with which ISO may collaborate in the context of that Standard;

2.4 That any ISO activities in the field of social responsibility will avoid addressing ILO issues that should only be resolved through representative political or legal processes, and which the Parties agree to identify in consultation.

Article 3 Exchange of information

The ILO and the ISO shall arrange for the exchange of information, publications and documents and shall inform each other of forthcoming meetings as necessary to achieve the objectives of this Agreement.

Article 4 Mutual consultation

The ILO and the ISO will maintain regular consultations as necessary on activities of common interest for the purpose of furthering the mutual achievement of this Agreement.

Article 5 Participation

The Parties agree that ISO will provide, within the Working Group on SR including all of its subgroups, and all other ISO bodies concerned with any ISO International Standard in the field of SR, for full participation by the ILO and, through the appropriate ISO mechanisms, by its tri-partite constituency, at ILO's request.

Article 6 Specific areas of cooperation in the development of any ISO International Standard in the field of social responsibility

The Parties agree:

6.1 That ISO will ensure, in the development of any ISO Standard in the field of SR, that the provisions of ILO instruments serve as the authoritative and definitive source of reference, and minimum base line for any elements which relate to international labour standards;

- 6.2 That ILO, by and through its tri-partite constituents (workers, employers, Governments), inform and guide the development of any elements of an ISO standard which implicate ILO issues, including international labour standards, by the sharing of expertise in relation to ILO instruments, including through the tripartite process by which they have been developed and are applied;
- 6.3 That working procedures and mechanisms be definitively established prior to commencement of development of any International Standard in the field of SR to ensure the effective implementation of this Article and the provisions of Articles 1.2 and 2.1.

Article 7

Specific areas of cooperation in the event of development of any International Standard in the field of social responsibility

In the event of development of any ISO International Standard or any other deliverable in the field of SR involving ILO issues, including international labour standards and practices, the Parties agree:

- 7.1 That they will conduct ongoing consultation and cooperation and adopt the necessary measures to implement the understandings of Article 2 in the context of any ISO activities and/or publications related to the promotion, support, evaluation and approval of any published ISO International Standard on SR, insofar as they implicate ILO issues; and
- 7.2 That they will apply the provisions of this Agreement, in particular Articles 2, 5 and 6, *mutatis mutandis* in the context of any periodic review of any International Standard in the field of SR, including in any related processes of confirmation, revision or withdrawal of any such Standard.

Article 8

Working arrangements

The Director-General of the ILO and the Secretary-General of the ISO, or their duly-mandated representatives, may make appropriate working arrangements for the implementation of the provisions of this Memorandum of Understanding.

Article 9

Other provisions

The Parties agree that:

- 9.1 ILO assistance or participation provided in this Agreement in any ISO process or activity relating to development, promotion, support, evaluation and approval, or review of any International Standard in the field of SR does not imply the specific endorsement by ILO of that ISO International Standard or any other ISO product or activity.
- 9.2 Nothing in this Agreement shall be construed to permit either party to use or permit to use the logo of the other party without obtaining the other's prior written consent.

Article 10

- 10.1 This Agreement shall enter into force upon the date of signature by duly-authorized representatives of the Parties.
- 10.2 The Parties shall make every effort to resolve amicably by direct informal consultations any disagreement or dispute which may arise concerning the commitments made under this Agreement.
- 10.3 In the event the Parties define other mechanisms of cooperation under Articles 6 and 7 of this Agreement, or other areas of cooperation, they shall be specified in a separate document to be annexed as an integral part of this MOU.
- 10.4 Termination of this Memorandum of Understanding may occur at any time subject to 90 days advance written notification.
- 10.5 The relevant constituent bodies of each of the Parties shall be informed of this Memorandum of Understanding.

(signed)

Kari Tapiola
Executive Director
on behalf of the Director-General

(signed)

Kevin McKinley
Deputy Secretary-General
on behalf of the ISO Secretary-General

Date: 4 March 2005

Appendix IV



International Organization for Standardization
Organisation internationale de normalisation
Международная организация по стандартизации



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Ref. DSG2017

2017-10-04

Ms. Deborah Greenfield
Deputy Director-General for Policy
International Labour Organization
Route des Morillons 4
CH-1211 Geneva 22
Switzerland

Dear Ms. Greenfield,

We refer to the recent e-mail exchange between Sophie Clivio, Director, Standards & Technical Policy and Janelle Diller, Senior Counsellor to the Deputy Director-General for Policy, regarding the Memorandum of Understanding signed between ISO and the ILO in 2005 (the “2005 MoU”).

As explained in these communications, ISO’s understanding has always been that the Memorandum of Understanding signed in 2013 (the “2013 MoU”) superseded the 2005 MoU and that the 2005 MoU is therefore no longer applicable. To our surprise, Mrs. Diller conveyed the ILO’s understanding that the 2005 MoU remains in full force and effect.

To avoid any confusion and ensure continued transparency and clarity in the dealings between our two organizations, we hereby confirm that in our view the 2005 MoU is no longer applicable. Pursuant to clause 10.4 of the 2005 MoU, it terminates at the latest 90 days from the date of this letter, namely on 3 January 2018.

We look forward to continuing the successful collaboration in the implementation of the 2013 MoU.

Best regards,

A handwritten signature in blue ink, appearing to read 'NFleury'.

Nicolas Fleury
Deputy Secretary-General

Copy:
Ms. Janelle Diller, ILO

LEG/ILO