

THIRD MEETING OF THE SRM TWG (ILO TRIPARTITE WORKING GROUP ON STANDARDS REVIEW MECHANISM)

Geneva, 25-29 September 2017

Report

EXECUTIVE SUMMARY. CONCLUSIONS

1. After the third meeting held in Geneva 25-29 September 2017, the ILO Tripartite Working Group on SRM (Standards Review Mechanism), the so called SRM TWG, has recommended by consensus to the ILO Governing Body that the Asbestos Convention, 1986 (No.162) concerning Safety in the Use of Asbestos) (QUOTE) ***“is considered to have the classification of up to date standards”***;
2. *“Accordingly, complementary to activities to promote the ratification and effective implementation of the occupational safety and health instruments that reflect the evolution of the regulatory approach referred to above, the SRM TWG considers that particular attention should be paid to:*
 - i. ***the promotion of the Convention No.162, particularly in regions in which the instrument has received few ratifications, and***
 - ii. *intensifying efforts to give practical effect to its implementation in practice, including through building on successful joint programs with the World Health Organization on the elimination of asbestos diseases”*¹;
3. In spite of attempts from the Workers group to introduce ban asbestos references supported by dubious or even flawed documents from ILO and WHO, **the final text of the recommendations does not include a single reference to banning or stopping the use of chrysotile asbestos;**
4. In particular, **Workers have tried to include -at two different stages of the discussion- two anti-asbestos references:** (i) firstly, a reference to ILO Resolution adopted in 2006 which calls for the stopping the use of all asbestos and states that C162 should not be used as a justification for the continued use of asbestos; (ii) the other document that Workers have tried to introduce at the end of the discussion is an “Outline” on asbestos-related diseases elaborated by the ILO and WHO staff the same year of 2006. This last document calls for

¹ The text in italics (QUOTE) is the wording of the recommendations approved by consensus in Geneva on September, 29.

- stopping the use all types of asbestos as the best way to eliminate asbestos-related diseases;
5. Although anti-asbestos representatives composed the half of the Workers bench, **no one single mention about banning asbestos or chrysotile** has been spoke up by them during the plenaries;
 6. **No one single government out of the 16 present neither spoke up about banning asbestos or chrysotile**, even though some of them have already banned all types of asbestos or intend to do it in the future (i.e. Canada);
 7. Although the issue of asbestos substitutes has been raised by the ILO Office (BIT), the Employers and all the governments having spoked up during the discussions (Mexico, Brazil, India, Mali, Zimbabwe, Canada and Netherlands), with the exception of the Workers, **no mention has been included in the recommendations to fill the gap of asbestos substitutes** like, the synthetic fibers.
Nevertheless, many interventions called the ILO Office (BIT) to properly address the issue of asbestos substitutes, therefore **it is not impossible that the issue will be tackled in the future by ILO**;
 8. The C162 is, together with the WHA Resolution 60.26 and the fact that chrysotile is not included so far in the PIC list of the Rotterdam Convention ('Banned or severely restricted chemicals' as read in Annex II) **one of the international regulatory pillars supporting the responsible and safe use of the chrysotile fiber**;
 9. After this meeting, C162 shows its **relevance and has been reinforced in the world of work**. If the ILO Governing Body endorses these recommendations in view of the 100' Centenary of the ILO in 2019, **the responsible and controlled use of the chrysotile fiber, as a measure compatible with the C162, will gain momentum** in chrysotile-producing and using countries: both in those countries that have already ratified the Convention and in those where future ratifications will be promoted as recalled by the recommendations;
 10. The **Employers Group** has been key for this positive outcome;
 11. This meeting confirms that **threats are well present** in any international meeting where the asbestos issue is discussed and that anti-asbestos interests remain **strong and well organized**.

BACKGROUND

This tripartite working group is composed by 32 members from Governments, Workers and Employers. It has the mission of reviewing the full set of ILO standards (Conventions and Recommendations) ahead of the 100' anniversary of the ILO in 2019. Two previous meetings have been held in 2016.

The review of Asbestos Convention No. 162 and Asbestos Recommendation No. 172 were in the agenda for this third meeting. Although, from the outset, asbestos was considered the most contentious issue ahead of the September meeting, seven other ILO standards related to other labor fields, were also in the agenda for review (industrial accidents, anthrax, occupational health services, chemical substances, machinery and maximum weight).

Under the Chairmanship of Germany, the 32 delegates met during five days in Geneva, from 25 to 29 September 2017:

- 16 Governments representatives: India, Iran, Kenya, Rep. of Korea, Lithuania, Mali, Mexico, Namibia, Netherlands, Brazil, Canada, Cameroon, China, Colombia, Romania and Sweden.
- 8 Workers representatives (Trade Unions): Ghana, Belgium, Switzerland (IndustriALL), United Kingdom (2 representatives: BWI and University of Liverpool), Netherlands, New Zealand and Argentina.
- 8 Employers representatives (National Business Associations): Spain, Colombia, Argentina, USA, Malawi, New Zealand, Canada and Sri Lanka.
- Other participants present: 8 Advisors from Paraguay, China, Chile, South Africa, Spain, Zimbabwe, Rep. of Korea and the European Commission, 3 substitutes (India, Romania and USA), 3 invited representatives from WHO, UNECE (United Nations Economic Commission for Europe) and OECD and, finally, the ILO staff (International Labor Bureau, BIT) headed by the General Director of the Standards Division.

The recommendations adopted are to be transmitted to the ILO Governing Body for final approval.

THE ISSUE AT STAKE

A possible revision of the ILO Asbestos Convention, 1986 (No. 162) was at stake.

To recap, the C162 - Asbestos Convention No. 162 concerning Safety in the Use of Asbestos contemplates de responsible and controlled use of chrysotile as one of the possible risk management measures to be taken by the States. The C162 approach is gradual, coherent and balanced going from the controlled use to the ban, if necessary.

The articles are based in a differentiated approach depending on factors such as the type of asbestos (i.e. crocidolite is prohibited in article 11.1), the work process or the specific products made of asbestos.

The C162 is, together with the WHA Resolution 60.26 and the fact that chrysotile is not included so far in the Annex III of the Rotterdam Convention ('Banned or severely restricted chemicals') one of the international regulatory pillars supporting the responsible and safe use of the chrysotile fiber.

The tone and content of the Technical Note nr. 5 prepared by the ILO staff ahead of the meeting was inaccurate, biased and incomplete. It was clearly anti-asbestos oriented.

Half of the Workers delegation was composed by well-known anti-asbestos activists starting by its Vice-Chair Ms Passchier (Dutch Trade Unions), Fiona Murie (BWI), Brian Kohler (IndustriALL) and Rory O'Neill.

The hot issue of classification of standards (updated, partially updated, outdated) appeared in the discussions along the week. The Workers have tried, as a question of principle, to keep alive as many Conventions as possible while the Employers' strategic line has been seeking to find the ways to consolidate and simplify the current heavy set of ILO standards. Governments appeared very active during the discussions.

Regarding the asbestos issue, three questions were at stake: 1) if the C162 was updated and relevant; 2) if "further actions" were needed and 3) if some gaps exists in its coverage like synthetic fibers.

SUMMARY OF THE DISCUSSIONS

The discussion on asbestos has started Wednesday, 27 September at 18:30 by a short introduction from the International Labor Office (BIT, Geneva).

BIT recalled that C162 and R172 were first reviewed at this occasion since those instruments were approved after 1986². That led to its automatic classification of "up-to-date instruments" by the Working Group 'Cartier'. It was recalled that the ILO Office

² Those ILO standards adopted before 1985 have been reviewed by the so called Working Group Cartier.

recommends further action on C162 and R172 to assure their future and continued relevance. It was also mentioned a possible gap with synthetic fibers and, finally, a short reference was made to the Asbestos Resolution adopted in 2006.

Employers mentioned that asbestos was a sensitive and complex issue and recalled that its review was going to be the first one.

Recalled that this complexity arises because 'asbestos' is a commercial name covering very different forms and a differentiated approach on the type of fiber remains therefore crucial. It was indicated that the number of 36 ratifications of C162 was in this case relevant since the main producers like Russia or Brazil have ratified it.

Employers considered the C162 as a standard containing a flexible set of rules and thus proposed to consider it up-to-date. Finally, they called on means to improve the rate of ratifications and how other issues could be addressed like the asbestos substitutes.

Workers reacted but indicating the extreme sensitiveness of the asbestos issue among any worker and recalled the figures and well known broken records around it (carcinogenic, causing terrible diseases like mesothelioma, 100,000 yearly deaths, etc.).

Indicated that 200,000 tons/year of asbestos are mainly used in developing countries and considered the importance of addressing the issue of asbestos in place.

They mentioned that 56 countries have banned all type of asbestos and stated that C162 still is highly relevant, updated and no need exists to address the substitutes issue³.

Finally, Workers also mentioned the good collaboration between ILO and WHO but did not come back to the controversial ILO Resolution adopted by the International ILO Conference in June 2006.

Seven **countries** spoke up on the issue (Mexico -spoke person for the Governments-), Brazil, India, Mali, Zimbabwe, Canada and Netherlands.

All the countries representatives highlighted in their interventions the sensitiveness of the issue and the need to have a preventive approach towards the asbestos exposure.

They agreed on the consideration of C162 as a relevant and updated standard in the world of work and asked for promoting more ratifications. The concern about asbestos substitutes was mentioned by various countries.

Brazil spoke up about the legal controversy after a court decision on asbestos and the need for the national government to evaluate the consequences.

³ The assertion on substitutes put the Workers in an isolated position since the ILO Office (BIT), the Employers and various government representatives who spoke up, mentioned the issue of asbestos substitutes ((like f.e. synthetic fibers) as a concern. See Executive Summary. Conclusions.

After the governments finish, the Chairman recapped the discussion and the Workers came again to indicate that the proposed recommendations could include the common work WHO-ILO for the effective implementation of asbestos standards and to carry out the technical support.

IN THE CORRIDORS AND FINAL SESSION

After the positive outcome of the first discussion on Wednesday, 27, Thursday, 28 and Friday, 29 were busy and deserved unexpected developments.

Firstly, the Workers have tried to include a mention to the flawed Resolution adopted by the ILO in 2006. This Resolution –both due to its “back door” adoption and its controversial content⁴- has been since considered by the Employers group a red line.

Secondly and quiet unexpectedly, the Workers tried to include during last Plenary (at the very last minute...) on Friday, 29 a reference to the ‘Outline for the development of programs for the elimination of asbestos-related diseases’. This working document elaborated by the staff from ILO and WHO in September 2007 (two months after the flawed Resolution indicated above) calls for an asbestos ban and contradicts the C162.

Both proposals by the Workers were rejected.

October 2017

⁴ Basically, the 2006 Resolution calls for an asbestos ban in contradiction with the C162.