

Governing Body

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Legal Issues and International Labour Standards Section

LILS

International Labour Standards and Human Rights Segment

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Report of the seventh meeting of the Standards Review Mechanism Tripartite Working Group (Geneva, 12–16 September 2022)

Report of the Officers

Purpose of the document

In accordance with the terms of reference of the Standards Review Mechanism Tripartite Working Group (SRM TWG), the Governing Body is invited to note the report of the seventh meeting of the SRM TWG which reviewed the Workmen's Compensation (Agriculture) Convention, 1921 (No. 12), and to take decisions on recommendations arising from it as well as on arrangements for its eighth meeting in 2023 (see draft decision in paragraph 5).

Relevant strategic objective: All.

Main relevant outcome: Outcome 2: International labour standards and authoritative and effective supervision.

Policy implications: Implications arising from the decisions taken by the Governing Body on the recommendations submitted by the SRM TWG.

Legal implications: Possible abrogation of three Conventions and withdrawal of three Recommendations.

Financial implications: Covered in GB.343/LILS/1 (November 2021).

Follow-up action required: Implementation of Governing Body decisions.

Author unit: International Labour Standards Department (NORMES).

Related documents: GB.344/PV; GB.344/LILS/3; GB.343/PV; GB.343/LILS/1; GB.341/PV; GB.341/LILS/5; GB.337/PV; GB.337/LILS/1; GB.334/PV; GB.334/LILS/3; GB.331/PV; GB.331/LILS/2; GB.329/PV; GB.329/LILS/2; GB.328/PV; GB.328/LILS/2/1(Rev.); GB.326/PV; GB.326/LILS/3/2; GB.325/PV; GB.325/LILS/3; GB.323/PV; GB.323/INS/5.

1. In accordance with the decision taken by the Governing Body at its 343rd Session (November 2021),¹ the seventh meeting of the Standards Review Mechanism Tripartite Working Group (SRM TWG) took place from 12 to 16 September 2022 at ILO headquarters in Geneva. Under paragraph 17 of the terms of reference “(t)he SRM Tripartite Working Group, through its Chairperson and two Vice-Chairpersons, shall report to the Governing Body”.
2. The seventh meeting was chaired by Ms Thérèse Boutsen (Belgium) and attended by all 32 of its members as set out in the report of the discussion included in the appendix, as well as a limited number of advisers to support the Government members.² Ms Sonia Regenbogen and Ms Catelene Passchier were appointed Vice-Chairpersons respectively by the Employers’ and Workers’ groups. In accordance with paragraph 19 of the terms of reference of the SRM TWG, its preparatory documents and other related materials were made public on a dedicated [web page](#).
3. As decided by the Governing Body in November 2021, the SRM TWG reviewed, during its seventh meeting, the Workmen’s Compensation (Agriculture) Convention, 1921 (No. 12) and considered the follow-up to be taken on six further instruments falling within the topic of social security (employment injury) and previously determined to be outdated. Its corresponding recommendations are set out in the annex and encapsulated in the following table.

► **Recommendations of the SRM TWG at its seventh meeting (September 2022)**

(1) Classifications

Standards classified as up to date	C.12 on employment injury benefit (agriculture)
Standards classified as requiring further action to ensure continued and future relevance	None
Standards classified as outdated *	None

(2) Practical and time-bound follow-up actions

Follow-up involving promotional or technical assistance action	<p>Promotion of the ratification and effective implementation of C.102 (Part VI) and/or C.121, with a view to including their application to agricultural workers, by Member States in which C.12, C.17, C.18 and C.42 are currently in force.</p> <p>Office technical guidance, including a proactive plan of action tailored to each Member State concerned and support to the tripartite constituents.</p> <p>Tripartite and active steps towards ratification of C.102 (Part VI) and/or C.121, ensuring their application to agricultural workers.</p>
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¹ GB.343/PV, para. 486(g).

² Para. 18 of the [terms of reference of the SRM TWG](#); GB.343/LILS/1, appendix, para. 33.

(2) Practical and time-bound follow-up actions

Follow-up involving non-normative action

Office technical support and guidance to Member States on the application of employment injury benefit to all workers including agricultural workers and other vulnerable groups of workers with special attention to women and migrant workers taking into account the relevant ILO standards on occupational safety and health (OSH) to prevent employment injury in agriculture.

Develop internal guidelines for the provision of its advice to Member States considering ratification and implementation of employment injury instruments to ensure application in law and practice to all workers including agricultural workers and other vulnerable groups of workers with special attention to women and migrant workers.

Conduct research to identify the key challenges and opportunities in relation to the application of employment injury benefit schemes to all workers including agricultural workers and other vulnerable groups of workers, with a view to assessing with tripartite involvement options for possible follow-up action, including on extending employment injury benefits to agricultural workers.

Invite the Committee of Experts on the Application of Conventions and Recommendations to consider seeking information from Member States on their application, in law and practice, of C.102 (Part VI) and C.121 to agricultural workers.

Office background paper on the implications of gendered and other obsolete and inappropriate terms and references in all international labour standards, for consideration by the Governing Body at the earliest date possible.

Follow-up involving the ILC's consideration of the abrogation and the withdrawal of instruments

Item on the Conference agenda in 2033 concerning the abrogation of C.17, C.18 and C.42 and the withdrawal of R.22, R.23 and R.24 on employment injury. An evaluation in 2028 to assess whether Member States with effective ratifications of those outdated Conventions have taken any necessary action to ratify either C.102 (Part VI) or C.121. If progress has not been made, the date at which the Conference will consider the item may be reconsidered by the Governing Body.

* Additionally, the SRM TWG acknowledged the classification of the Workmen's Compensation (Accidents) Convention, 1925 (No. 17), the Workmen's Compensation (Occupational Diseases) Convention, 1925 (No. 18), the Workmen's Compensation (Occupational Diseases) Convention (Revised), 1934 (No. 42), the Workmen's Compensation (Minimum Scale) Recommendation, 1925 (No. 22), the Workmen's Compensation (Jurisdiction) Recommendation, 1925 (No. 23) and the Workmen's Compensation (Occupational Diseases) Recommendation, 1925 (No. 24), as outdated, as previously determined by the Governing Body.

4. The SRM TWG agreed that its eighth meeting would take place for six days from 11 to 16 September 2023. It recommended to the Governing Body that at that meeting it could review three instruments in the initial programme of work concerning maternity protection ³

³ Maternity Protection Convention, 1919 (No. 3); Maternity Protection Convention, 2000 (No. 183); and Maternity Protection Recommendation, 2000 (No. 191).

and seven instruments concerning protection of children and young persons.⁴ Additionally, it could examine the follow-up taken to 14 instruments previously determined to be outdated: 6 instruments concerning social security (old age, invalidity and survivors' benefits), 2 instruments concerning maternity protection and 6 instruments concerning protection of children and young persons.

► Draft decision

- 5. The Governing Body took note of the report of the Officers concerning the seventh meeting of the Standards Review Mechanism Tripartite Working Group (SRM TWG) and, in approving its recommendations:**
 - (a) welcomed the SRM TWG's consensual recommendations;**
 - (b) decided that the instrument concerning employment injury that was reviewed by the SRM TWG should be considered to have the classification "up to date";**
 - (c) once again called upon the Organization and its tripartite constituents to take concerted steps to follow up on all its recommendations as organized by the SRM TWG into practical and time-bound packages of follow-up action, noting in particular promotion of the ratification and effective implementation of Conventions Nos 102 (Part VI) and/or 121, with a view to including their application to agricultural workers, by Member States in which Conventions Nos 12, 17, 18 and 42 are currently in force;**
 - (d) requested the Office to take the necessary action in follow-up to the recommendations of the SRM TWG at this and previous meetings as a matter of institutional priority;**
 - (e) invited the Committee of Experts on the Application of Conventions and Recommendations to consider seeking information from Member States on their application, in law and practice, of Conventions Nos 102 (Part VI) and 121 to agricultural workers;**
 - (f) requested the Office to prepare a background paper on the implications of gendered and other obsolete and inappropriate terms and references in all international labour standards, to be placed on the agenda of the Governing Body for discussion at the earliest possible date with a view to deciding on appropriate follow-up actions;**
 - (g) noted the SRM TWG's recommendations concerning the abrogation and withdrawal of certain instruments, in relation to which it will consider:**
 - (i) placing an item concerning the abrogation of Conventions Nos 17, 18 and 42 and the withdrawal of Recommendations Nos 22, 23 and 24 on the agenda of the 121st Session of the International Labour Conference (2033);**

⁴ Night Work of Young Persons (Industry) Convention, 1919 (No. 6); Night Work of Young Persons (Non-industrial Occupations) Convention, 1946 (No. 79); Night Work of Young Persons (Industry) Convention (Revised), 1948 (No. 90); Night Work of Children and Young Persons (Agriculture) Recommendation, 1921 (No. 14); Minimum Age (Non-Industrial Employment) Recommendation, 1932 (No. 41); Minimum Age (Family Undertakings) Recommendation, 1937 (No. 52); and Night Work of Young Persons (Non-Industrial Occupations) Recommendation, 1946 (No. 80).

- (ii) an evaluation will be held in 2028 to assess whether Member States with effective ratifications of Conventions Nos 17, 18 and 42 have taken any necessary action to ratify either Convention No. 102 (Part VI) or Convention No. 121. If progress has not been made, the date at which the International Labour Conference will consider the item for abrogation and withdrawal may be reconsidered by the Governing Body;
- (h) decided to convene the eighth meeting of the SRM TWG from 11 to 16 September 2023, at which it should review ten instruments, and examine the follow-up to 14 outdated instruments, concerning maternity protection, protection of children and young persons, and social security (old age, invalidity and survivors' benefits), as included in sets of instruments 5, 9, and 15 of the SRM TWG's initial programme of work.

► Appendix

Report of the seventh meeting of the SRM TWG established by the Governing Body (Geneva, 12–16 September 2022)

1. The seventh meeting of the Standards Review Mechanism Tripartite Working Group (SRM TWG) took place in Geneva from 12 to 16 September 2022. It was chaired by Ms Thérèse Boutsen (Belgium) and attended by its 32 members (see table 1).

► **Table 1. Members attending the seventh meeting of the SRM TWG (September 2022)**

Members representing Governments

Algeria
Brazil
Cameroon
Canada
China
Colombia
Lithuania
Mexico
Mali
Namibia
Netherlands
Pakistan
Philippines
Republic of Korea
Romania
United Kingdom of Great Britain and Northern Ireland

Members representing Employers

Ms S. Regenbogen (Canada), Vice-Chairperson
Mr A. Echavarría Saldarriaga (Colombia)
Mr M. Terán Moscoso (Ecuador)
Mr P. Mackay (New Zealand)
Mr F. Dreesen (Denmark)
Mr K. Moyane (South Africa)
Mr H. Diop (Senegal)
Mr K. Weerasinghe (Sri Lanka)

Members representing Workers

Ms C. Passchier (Netherlands), Vice-Chairperson

Ms M. Pujadas (Argentina)

Ms A. Brown (United Kingdom)

Ms F. Magaya (Zimbabwe)

Ms S. Boincean (Switzerland)

Ms C. Middlemas (Australia)

Ms P. Egusquiza Granda (Peru)

Mr F. Anthony (Fiji)

2. In accordance with the decision taken by the SRM TWG at its sixth meeting, four of the eight advisers authorized attended the meeting to support the Government members.

Tripartite discussions leading to consensual recommendations

3. This year was a return to an in-person format for the SRM TWG, ¹ after no meeting in 2020 and a virtual meeting in 2021 due to the COVID-19 pandemic. Members welcomed the chance to meet in person which allowed constructive discussions and contributed to an in-depth consideration of the status of instruments and broader standards policy. Face-to-face interaction was crucial to reaching consensus on sensitive issues of such great importance.
4. As in the past, the SRM TWG discussions at its seventh meeting were thoughtful, frank and at times challenging. The working group discussed legally complex and practically far-reaching matters, on which the Members often had differing views and experiences. Substantively rich exchanges allowed for the identification of joint solutions based on shared objectives and positions: in this case, a strong sense of responsibility and commitment to the importance of 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. Constructive discussions allowed consensual recommendations to be made on all matters on the SRM TWG's agenda. The SRM TWG approached its work with seriousness and mindful that its recommendations would impact the world of work.
5. The SRM TWG agreed on the crucial role played by international labour standards in the world of work. The Government group recalled the SRM TWG's fundamental role in ensuring that the international labour standards were up to date and relevant, and raised the question of incentives to ratification of international labour standards. The group considered that it was necessary to look at the reasons for low ratification rates.
6. The Employers' group emphasized the need for standards that are universally relevant, balanced, up to date and future-looking, that allow for wide ratification and implementation, and that lend themselves to effective supervision. It stressed that maintaining the body of standards as clear, robust and up to date should go hand in hand with a consolidation and concentration of existing standards to increase their effectiveness. The Employers' group also highlighted that, in its view, ratifications of up-to-date Conventions, including those identified by the SRM TWG, should only be made after close consultation with the social partners, and

¹ Three Members who, for exceptional circumstances were unable to travel to Geneva, attended virtually.

where a prior in-depth assessment of national law, practice, capacity of the competent authorities and relevant procedures gave assurance of proper implementation of the Convention.

7. The Workers' group stressed the role of all three constituent groups in ensuring that standards are ratified and effectively implemented at national level, the importance of a coherent standards policy, and the SRM TWG's role to contribute to ensuring 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. The group considered that the SRM TWG's mandate could not be detached from the overall mandate of the Organization to deliver decent work for workers. The Workers' group also emphasized that the body of standards as developed over the last hundred years in the ILO reflected as it were a building with several floors, where the later floors were built on the previous ones. It was not always the best approach to delete older instruments from the body of standards just because a more modern approach in the meantime had been developed to address certain needs for protection, especially where older instruments had a high ratification rate and were still relevant in the ratifying countries for the protection of workers. The primary aim of the SRM was not to become an abrogation and withdrawal exercise, but to ensure the necessary protection of workers through a robust and up to date body of standards.
8. Taking the above into account, the SRM TWG undertook a thorough and close examination of the instrument it was called on to review and the questions of standards policy it was called on to consider.

Review of one instrument, and consideration of the follow-up to six outdated instruments, on social security (employment injury)

9. In accordance with the decision taken by the Governing Body in November 2021,² the SRM TWG reviewed the Workmen's Compensation (Agriculture) Convention, 1921 (No. 12) and considered the follow-up to be taken on the six further instruments falling within that topic and previously determined to be outdated that were on its agenda: the Workmen's Compensation (Accidents) Convention, 1925 (No. 17), the Workmen's Compensation (Occupational Diseases) Convention, 1925 (No. 18), the Workmen's Compensation (Occupational Diseases) Convention (Revised), 1934 (No. 42), the Workmen's Compensation (Minimum Scale) Recommendation, 1925 (No. 22), the Workmen's Compensation (Jurisdiction) Recommendation, 1925 (No. 23) and the Workmen's Compensation (Occupational Diseases) Recommendation, 1925 (No. 24). The SRM TWG's resulting consensual recommendations are attached in paragraph 8 of the Annex to this report.
10. The SRM TWG's rich discussion about the instruments on employment injury benefit resulted in consensual recommendations classifying Convention No. 12 as up to date and confirming the classification of Conventions Nos 17, 18 and 42 and Recommendations Nos 22, 23 and 24 as outdated instruments. Stressing that the right to social protection applied to all workers, the SRM TWG noted that employment injury benefits were often not available to agricultural workers injured at work. All three groups of the SRM TWG emphasized the global significance of action to ensure that agricultural workers are protected in law and practice. The equal protection principle of Convention No. 12 was an important complement to the more modern and comprehensive Conventions on employment injury benefit, the Social Security (Minimum

² GB.343/PV, para. 486(g).

Standards) Convention, 1952 (No. 102) (Part VI) and the Employment Injury Benefits Convention, 1964 (No. 121).

11. The Government group stressed the importance of the principle of Convention No. 12 in most countries, that challenges existed in ensuring social protection was available to agricultural workers in practice, and that the Convention had been ratified by many countries. The Employers' group emphasized that the need for Convention No. 12 remained valid and its simple, clear and straightforward approach, which allowed for flexible application and wide ratification by Member States, should be given greater attention in current and future standard-setting. The Workers' group, while considering Convention No. 12 and its equal treatment and non-discrimination principle as important and relevant, stressed that the equal treatment principle of Convention No. 12 was not sufficient to address all the needs of agricultural workers with regard to employment injury, and that the more modern and comprehensive ILO regulatory approach to employment injury was reflected in Conventions Nos 102 (Part VI) and 121, the guarantees in which should be applied equally to agricultural workers, without exemptions. Therefore, there was the need to ensure that these instruments would fully cover agricultural workers, which in the Workers' group's view meant there had to be more effective and impactful commitment and action to ensure both their ratification and their application to agricultural and other vulnerable workers.
12. In reaching its consensual recommendations, the SRM TWG exchanged views on the components of a package of practical and time-bound follow-up action. All three groups agreed that, as the more modern and comprehensive Conventions on employment injury benefit, Conventions Nos 102 (Part VI) and 121 should be promoted with a view to including their application to agricultural workers and other vulnerable groups of workers with special attention to women and migrant workers, and that non-normative initiatives were an important complement.
13. Discussions in previous SRM TWG meetings about the optimal approach to determining the date at which outdated instruments should be abrogated or withdrawn continued at the seventh meeting. The SRM TWG agreed that the Conference should consider the abrogation of Conventions Nos 17, 18 and 42 and the withdrawal of Recommendations Nos 22, 23 and 24 in 2033. An evaluation in 2028 will be held to assess whether Member States with ratifications of the outdated Conventions have taken any necessary action to ratify either of the up-to-date Conventions; if progress has not been made, the Governing Body may reconsider the date of abrogation and withdrawal.
14. In the discussion leading to the above outcome, the Workers' group noted that abrogation of outdated Conventions would result in gaps in protection in law and in practice, if ratifying States had not ratified the related up-to-date instruments. The Workers' group emphasized, as it had done previously, that ratification also allowed ILO constituents to benefit from the supervisory system and for workers in particular to enjoy the protection afforded by the supervisory bodies. It was also important that ratification by a Member State ensured the binding nature of its commitment to the implementation of a certain standard in national law, which would be binding on a Member State also when its government would change. Finally, international labour standards endeavour to promote a level playing field with regard to minimum standards among Member States which would be non-existent if protection were left only to national legislation. For that reason, the package of measures with regard to the follow-up to outdated Conventions should attempt to create a dynamic towards ratification.
15. The Employers' group stressed that abrogation and withdrawal should happen speedily after an instrument was determined to be outdated given the clear mandate of the SRM TWG to

maintain the body of standards up to date. As gaps in legal protection could only be determined on a country-by-country basis, and were in any case very unlikely to occur as a result of abrogation, abrogation should not be conditional on ratification of more modern Conventions in the respective field. Moreover, the Employers' group highlighted that the additional evaluation to take place in 2028 should not set a precedent for future decisions on abrogation of outdated instruments.

16. The Government group favoured setting a fixed date at which abrogation would be considered, stressing that the date should allow time for Member States with ratifications of the outdated instrument to take the often complex and time-consuming steps towards ratification of related up-to-date instruments.
17. Finally, in the course of its examination of the employment injury instruments, the SRM TWG exchanged views on how it might respond to the obsolete language and references included in Convention No. 12, noting that similar language and references existed also in other older international labour standards. Considering that such terms were inappropriate and distracted from the important objectives of international labour standards, the SRM TWG recommended that the Governing Body further consider this issue.

Consideration of standards policy matters

18. The SRM TWG discussed two working papers concerning standards policy,³ within the mandate set out in paragraph 12 of its terms of reference.⁴ The SRM TWG was aware of the importance of the ongoing institutional discussions on standards policy and its role in this regard. It drew the attention of the Governing Body to its discussions which are summarized below.
19. Its consideration of **certain matters of standards policy** built on discussions at earlier meetings.⁵ The SRM TWG looked forward to continuing its dialogue on standards policy with the aim of providing inputs into Governing Body discussions. As an institutionally competent body to take decisions in relation to standards policy, the Governing Body may consider taking a more active role in ILO standards policy in the future.
20. The Employers' group considered that the Governing Body had the competence and legitimacy to address the ILO standards system's general direction, size and structure, workability and effectiveness. In relation to standard-setting, the group stressed the Organization's limited resources, that the Governing Body, in view of the many other proposals for the Conference agenda, could not automatically prioritize standard-setting proposals based on SRM TWG recommendations, as well as its preference for the consolidation of standards and for framework instruments. Separate sessions of the ILC or preparatory technical conferences could exacerbate the already existing overload in the standards system. The group also had doubts about the broader applicability of the tacit amendment procedure in the Maritime Labour Convention, 2006, as amended (MLC, 2006). Rather than trying to facilitate the revision

³ See SRM TWG/2022/Working paper 1 on certain matters of standards policy; SRM TWG/2022/Working paper 2 on final provisions of international labour Conventions.

⁴ GB.325/LILS/3, appendix, para. 12: "The SRM TWG may address any other matter related to standards setting and standards policy as may be requested by the Governing Body."

⁵ GB.334/LILS/3, appendix, paras 30–37 and annex para. 22; GB.337/LILS/1, appendix, paras 34–42 and Annex I, para. 9. The SRM TWG discussion in 2022 centred around four themes: its role in relation to standards policy (SRM TWG/2022/Working paper 1, paras 5–12 and 31–34); standard-setting (SRM TWG/2022/Working paper 1, paras 13–21); revising, amending and updating standards (SRM TWG/2022/Working paper 1, paras 22–27); and encouraging ratification (SRM TWG/2022/Working paper 1, paras 28–30).

of Conventions, the objective should be to avoid revisions, as much as possible, in particular by limiting the content of new Conventions to important principles complemented by codes of practice and technical guidelines. The group also highlighted that revising Conventions often had fewer ratifications than the related revised Conventions and suggested that this was perhaps because revising Conventions were usually more difficult to implement as they increased the level of protection and contained more detail. Promotional campaigns should be targeted and aim to align ratification with priorities at the national level rather than to achieve a higher number of ratifications per se.

21. The Workers' group was concerned that it was procedurally easier to abrogate outdated standards than to adopt new standards when gaps have been identified. The SRM TWG's standard-setting recommendations should be followed up as an institutional priority, as confirmed several times by the Governing Body, learning from the experience of the follow-up to the Cartier Working Party. Options like special standard-setting sessions or technical preparatory conferences should be explored further. In relation to revising and updating standards, the Office could develop further detailed papers on the potential opportunities suggested by the MLC, 2006 – while noting its specificities which may cast some doubt on its broader applicability – and possible versions of the simplified revision procedure. The group stressed that international labour standards, whether or not they have been ratified, are important, as they provide guidance to the Office as well as constituents. Targeted ratification campaigns should include discussions with constituents to identify their priorities and needs. Instruments are not outdated solely because of a low rate of ratification, or because a more modern instrument has been adopted, which as experience has shown often has lower ratification rates.
22. The Government group stressed that standard-setting should be efficient, cost-effective and inclusive. At the same time, there was a reluctance to over-burden constituents. The Office could provide further detail on possible options such as a dedicated standard-setting item on the Conference agenda, preparatory technical meetings, and, exceptionally, two standard-setting items at the same Conference session. While it was appropriate to prioritize standard-setting from the SRM TWG, there should be a balance to accommodate other issues for standard-setting as they arise. The group considered that reducing the reporting burden would encourage ratification.
23. The SRM TWG discussed the **final clauses of international labour Conventions** prior to a more in-depth discussion in the Governing Body, potentially in March 2023. To that end, it had received information from the Office on the eight standard final provisions adopted by the Conference with "open parameters" as regards the minimum number of ratifications, the entry into force and the time frame for denunciations.
24. There was firm, unanimous, and principled agreement among Members on the desirability of changing the standard final provision on language versions so that the English, French and Spanish versions of Conventions were considered equally authoritative. This change would be in line with the amendment to the Standing Orders of the Conference adopted in 2021 recognizing Spanish as one of the three official languages of the Conference.
25. The Workers' group did not see a need to discuss the final clauses of Conventions. The group did not support any change to current practice of requiring two ratifications for a Convention to enter into force as it did justice to the decision of Member States to be bound by the standard they had ratified, benefit from the guidance provided by the supervisory bodies and extend its protection to their respective workers. The ILO should be promoting ratification and any change could provide a confusing message. As the supervisory system can start its important

work only once an instrument enters into force, this should not be made more difficult. ILO Conventions could not be usefully compared to other multilateral treaties, as they were the result of a long and unique tripartite process. The group believed that the need for legal certainty suggested maintaining the limitation on the possibility for Member States to denounce Conventions. The need for legal certainty relates equally to the revision of standards. The group also did not consider the argument of the Employers' group regarding the need for a "critical mass of ratification" to ensure a level playing field in this context relevant or convincing, as on the one hand international labour standards indeed had the ambition to raise the minimum level of protection in Member States as well as across the world, but at the same time the approach taken by the ILO had always been one of gradual and step-by-step improvement of ratification rates including by technical support to Member States.

26. The Employers' group considered that the required number of ratifications for a Convention to enter into force should be considered against the objective of establishing a global minimum level playing field regarding the matters regulated in the Convention. A critical mass of ILO Member States was necessary to create such a global minimum level playing field. In view of this, as well as in view of the significant rise in the number of ILO Member States in recent decades, it was appropriate to increase the default number of ratifications for entry into force to 20–30 ratifications. The Employers' group did not consider that it was justified for an organization with a worldwide mission like the ILO to supervise the implementation of Conventions that have been ratified by just two or a few more countries. The group requested that the option of a discussion in the Governing Body be considered to allow the Governing Body to endorse new recommended default values in the final articles. There should also be a reasonable balance between continuity of international obligations and flexibility to adapt to changing situations: this suggested that the current approach of a one-year denunciation window every ten years could be shortened after the first ten years, so that one-year denunciation windows could be granted every three–five years. As regards possible new final provisions to facilitate revision, the group expressed doubts and considered that the best approach to revision would be to adopt Conventions that were limited to general principles that were less likely to change and therefore less likely to be in need of revision.
27. There was a variety of views among Governments represented in the SRM TWG in relation to the final clauses of Conventions. Some Governments could consider increasing the minimum number of ratifications required for a Convention to come into force and reducing the period of validity after which a Convention could be denounced; others considered that there was no need for change as the current practice worked well.

Preparation for the eighth meeting

28. The SRM TWG discussed its progress in reviewing the standards included in its initial programme of work and the organization of its subsequent meetings. Taking account of the importance of its work, and its contribution to other institutional standards policy discussions, it decided to accelerate its reviews with a view to completing the initial programme of work as soon as possible. The SRM TWG considered the practical implications of an ambitious agenda. Its ongoing standards policy discussions would continue with consideration of a paper providing more detail on options for future standard-setting taking into account the revision of such standards, and the revision of existing standards, including consideration of the MLC, 2006, which could provide some examples for further reflection, as well as options for developing versions of the simplified revision procedure.
29. The SRM TWG agreed that at its eighth meeting it would review three instruments in the initial programme of work concerning maternity protection and seven instruments concerning

protection of children and young persons. It would further consider the follow-up taken to six instruments concerning social security (old age, invalidity and survivors' benefits), two concerning maternity protection, and six concerning protection of children and young persons, all of which had been previously determined to be outdated. Given the extensive agenda for the eighth meeting, the SRM TWG decided that it would meet for six, rather than five, days from 11 to 16 September 2023.⁶ Good time management would be a priority. In line with its terms of reference, the SRM TWG authorized the attendance of eight advisers to assist the Government members at its next meeting. The Chairperson and Vice-Chairpersons may decide at a later date whether representatives of relevant international organizations and other ILO bodies should be invited to attend the meeting.

► **Table 2. Instruments proposed for examination at the eighth meeting of the SRM TWG (September 2023)**

Maternity protection instruments

Maternity Protection Convention, 1919 (No. 3)
 Maternity Protection Convention, 2000 (No. 183)
 Maternity Protection Recommendation, 2000 (No. 191)

Protection of children and young persons instruments

Night Work of Young Persons (Industry) Convention, 1919 (No. 6)
 Night Work of Young Persons (Non-industrial Occupations) Convention, 1946 (No. 79)
 Night Work of Young Persons (Industry) Convention (Revised), 1948 (No. 90)
 Night Work of Children and Young Persons (Agriculture) Recommendation, 1921 (No. 14)
 Minimum Age (Non-Industrial Employment) Recommendation, 1932 (No. 41)
 Minimum Age (Family Undertakings) Recommendation, 1937 (No. 52)
 Night Work of Young Persons (Non-Industrial Occupations) Recommendation, 1946 (No. 80)

Social security (old age, invalidity and survivors' benefits): Relevant outdated instruments

Old-Age Insurance (Industry, etc.) Convention, 1933 (No. 35)
 Old-Age Insurance (Agriculture) Convention, 1933 (No. 36)
 Invalidity Insurance (Industry, etc.) Convention, 1933 (No. 37)
 Invalidity Insurance (Agriculture) Convention, 1933 (No. 38)
 Survivors' Insurance (Industry, etc.) Convention, 1933 (No. 39)
 Survivors' Insurance (Agriculture) Convention, 1933 (No. 40)

Maternity protection: Relevant outdated instruments

Maternity Protection Convention (Revised), 1952 (No. 103)
 Maternity Protection Recommendation, 1952 (No. 95)

Protection of children and young persons: Relevant outdated instruments

Minimum Age (Industry) Convention, 1919 (No. 5)
 Minimum Age (Agriculture) Convention, 1921 (No. 10)
 Minimum Age (Non-industrial Employment) Convention, 1932 (No. 33)
 Minimum Age (Industry) Convention (Revised), 1937 (No. 59)
 Minimum Age (Underground Work) Convention, 1965 (No. 123)
 Minimum Age (Underground Work) Recommendation, 1965 (No. 124)

⁶ See SRM TWG/2022/Information document 3.

30. The SRM TWG noted that such an ambitious programme would benefit from longer periods of time for preparation, both by the Office and by the Members. Accordingly, it also reached a provisional agreement on the scope of its ninth meeting in 2024, on the understanding that a final decision would be taken at its eighth meeting in 2023. The SRM TWG decided provisionally that at its ninth meeting it would review five instruments in the initial programme of work concerning fishers, three instruments concerning dockworkers and seven instruments concerning other categories of workers; and examine the follow-up taken to one outdated instrument concerning fishers and two outdated instruments concerning dockworkers. The dates and agenda of the ninth meeting would be confirmed at its eighth meeting, taking into account lessons learned from the ambitious eighth meeting and further refined proposals from the Office on topics to be considered for the following meetings.

► **Table 3. Provisional agreement on instruments to be proposed for examination at the ninth meeting of the SRM TWG (September 2024)**

Fishers
Medical Examination (Fishermen) Convention, 1959 (No. 113)
Fishermen's Articles of Agreement Convention, 1959 (No. 114)
Fishermen's Competency Certificates Convention, 1966 (No. 125)
Accommodation of Crews (Fishermen) Convention, 1966 (No. 126)
Vocational Training (Fishermen) Recommendation, 1966 (No. 126)
Dockworkers
Marking of Weight (Packages Transported by Vessels) Convention, 1929 (No. 27)
Dock Work Convention, 1973 (No. 137)
Dock Work Recommendation, 1973 (No. 145)
Other categories of workers
Labour Standards (Non-Metropolitan Territories) Convention, 1947 (No. 83)
Working Conditions (Hotels and Restaurants) Convention, 1991 (No. 172)
Home Work Convention, 1996 (No. 177)
Hours of Work (Inland Navigation) Recommendation, 1920 (No. 8)
Older Workers Recommendation, 1980 (No. 162)
Working Conditions (Hotels and Restaurants) Recommendation, 1991 (No. 179)
Home Work Recommendation, 1996 (No. 184)
Fishers: Relevant outdated instruments
Minimum Age (Fishermen) Convention, 1959 (No. 112)
Dockworkers: Relevant outdated instruments
Protection against Accidents (Dockers) Convention (Revised), 1932 (No. 32)
Protection against Accidents (Dockers) Reciprocity Recommendation, 1932 (No. 40)

► Annex

Recommendations adopted by the SRM TWG at its seventh meeting (12–16 September 2022)

To be submitted to the Governing Body for its consideration at its 346th Session (October–November 2022) pursuant to paragraph 22 of the terms of reference of the SRM TWG

1. The SRM TWG recalled that its mandate is to contribute to the overall objective of the SRM 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.¹ The fundamental importance of international labour standards and the value of this objective was confirmed by the ILO Centenary Declaration for the Future of Work, 2019.²
2. It noted that in its third evaluation of the functioning of the SRM TWG, the Governing Body had reiterated the importance of the SRM TWG in contributing to ensuring a clear, robust and up-to-date body of international labour standards and stressed the need for timely follow-up action by Member States, social partners as well as by the Office to its recommendations as adopted by the Governing Body.³ The guidance provided by the Governing Body was valuable to the SRM TWG as it continued its work.
3. Throughout its seventh meeting, the SRM TWG was mindful of the great responsibility to the Organization that it holds pursuant to its mandate and the pivotal nature of its role. In preparing recommendations for the Governing Body's consideration and decision, it would continue to work to reach consensus through negotiations in good faith, full confidence and commitment to the SRM objectives, acknowledging the importance of clarity, transparency and consistency.⁴
4. As in past meetings, the SRM TWG has carefully reviewed the international labour standards included within its initial programme of work with a view to making recommendations to the Governing Body on:⁵
 - (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.

¹ Para. 8 of the terms of reference of the SRM TWG.

² ILO Centenary Declaration for the Future of Work, IV(A): "The setting, promotion, ratification and supervision of international labour standards is of fundamental importance to the ILO. This requires the Organization to have and promote a clear, robust, up-to-date body of international labour standards and to further enhance transparency. International labour standards also need to respond to the changing patterns of the world of work, protect workers and take into account the needs of sustainable enterprises, and be subject to authoritative and effective supervision. The ILO will assist its Members in the ratification and effective application of standards."

³ GB.344/LILS/PV, para. 30.

⁴ Para. 13 of the terms of reference.

⁵ Para. 9 of the terms of reference.

5. The SRM TWG once again organized its recommendations into a practical and time-bound package of follow-up action. The components of that package are interconnected, complementary and mutually reinforcing. It will continue to monitor the actions taken by the Organization in relation to the Governing Body's decisions in follow-up to all of its time-bound recommendations.
6. In line with its terms of reference, the SRM TWG submits its recommendations to the Governing Body for decision, and recommends that the Governing Body take the necessary steps to implement the recommendations set out below.

Standards policy

7. The SRM TWG draws the Governing Body's attention to its discussions on standards policy, including on the final provisions of international labour Conventions, which are summarized in the report of the Chairperson and Vice-Chairpersons of the SRM TWG to the Governing Body.

Employment injury ⁶

8. In relation to the instruments concerning employment injury benefit the SRM TWG recommends that:
 - 8.1. The Governing Body considers taking decisions about the classification of the instruments:
 - 8.1.1. deciding that the Workmen's Compensation (Agriculture) Convention, 1921 (No. 12) has the classification of an up-to-date instrument; and
 - 8.1.2. acknowledging the classification of Workmen's Compensation (Accidents) Convention, 1925 (No. 17), the Workmen's Compensation (Minimum Scale) Recommendation, 1925 (No. 22), the Workmen's Compensation (Jurisdiction) Recommendation, 1925 (No. 23), the Workmen's Compensation (Occupational Diseases) Convention, 1925 (No. 18), the Workmen's Compensation (Occupational Diseases) Recommendation, 1925 (No. 24) and the Workmen's Compensation (Occupational Diseases) Convention (Revised), 1934 (No. 42) as outdated instruments.
 - 8.2. The Governing Body considers requesting the Organization to implement a time-bound and practical package of follow-up action as follows:
 - 8.2.1. Promotion of the ratification and effective implementation of Conventions Nos 102 (Part VI) and/or 121, with a view to including their application to agricultural workers, by Member States in which Conventions Nos 12, 17, 18 and 42 are currently in force:
 - (a) in promoting the ratification and effective implementation of Conventions Nos 102 (Part VI) and 121, the Office should provide the necessary technical guidance, including by implementing a proactive plan of action tailored to each Member State concerned and providing support to the tripartite constituents; and

⁶ See SRM TWG/2022/Technical note 1.

- (b) the tripartite constituents should collaborate to take active steps towards ratification of Conventions Nos 102 (Part VI) and/or 121, and ensuring their application to agricultural workers.

8.2.2. The Office should:

- (a) continue to provide technical support and guidance to Member States on the application of employment injury benefit to all workers including agricultural workers and other vulnerable groups of workers with special attention to women and migrant workers taking into account the relevant ILO standards on OSH to prevent employment injury in agriculture;
- (b) develop internal guidelines for the provision of its advice to Member States considering ratification and implementation of employment injury instruments to ensure application in law and practice to all workers including agricultural workers and other vulnerable groups of workers with special attention to women and migrant workers; and
- (c) conduct research to identify the key challenges and opportunities in relation to the application of employment injury benefit schemes to all workers including agricultural workers and other vulnerable groups of workers, with a view to assessing with tripartite involvement options for possible follow-up action, including on extending employment injury benefits to agricultural workers.

8.2.3. The SRM TWG suggests to the Governing Body that it invite the Committee of Experts on the Application of Conventions and Recommendations to consider seeking information from Member States on their application, in law and practice, of Conventions Nos 102 (Part VI) and 121 to agricultural workers.

8.2.4. The SRM TWG recommends to the Governing Body that it requests the Office to prepare a background paper on the implications of gendered and other obsolete and inappropriate terms and references, such as “workmen”⁷ and “colonies, possessions and protectorates”, in all international labour standards, to be placed on the agenda of the Governing Body for discussion at the earliest possible date with a view to deciding on appropriate follow-up actions. This should be in addition to, or combined with, the background paper providing information on the implications of gendered language used in certain provisions of ILO social security standards, and in particular of the Social Security (Minimum Standards) Convention, 1952 (No. 102), that was adopted by the Governing Body at its 343rd Session in November 2021 in follow-up to the recommendations of the SRM TWG.

8.2.5. The SRM TWG recommends to the Governing Body the abrogation of Conventions Nos 17, 18 and 42 and the withdrawal of Recommendations Nos 22, 23 and 24 in 2033 through placing an item to this effect on the agenda of the 121st Session of the International Labour Conference. An evaluation will be held in 2028 to assess whether Member States with effective ratifications of those outdated Conventions have taken any necessary action to ratify either Convention No. 102 (Part VI) or 121. If progress has not been made, the date at which the International Labour

⁷ Only applies to the English version.

Conference will consider the item for abrogation and withdrawal may be reconsidered by the Governing Body.

Considerations relating to its subsequent meetings

9. The SRM TWG decided to take the opportunity of its seventh meeting to take stock of its progress and the organization of its subsequent meetings, the outcomes of which are summarized in the report of the Chairperson and Vice-Chairpersons of the SRM TWG to the Governing Body.