



# 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 sixth meeting of the Standards Review Mechanism Tripartite Working Group (Geneva, 13–18 September 2021)

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 sixth meeting of the SRM TWG which reviewed five instruments on social security and to take decisions on recommendations arising from it as well as on arrangements for its seventh meeting in 2022 (see the draft decision in paragraph 6).

**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 or withdrawal, as relevant, of two Conventions and withdrawal of one Recommendation.

**Financial implications:** The estimated cost of the SRM TWG meetings and their follow-up for 2022–23 amounts to some US\$900,000. No specific provision has been made for 2022–23 and any approved activities would have to be prioritized and funded from within the Programme and Budget for 2022–23.

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

**Author unit:** International Labour Standards Department (NORMES).

**Related documents:** [GB.337/LILS/PV](#); [GB.337/LILS/1](#); [GB.334/PV](#); [GB.334/LILS/3](#); [GB.331/PV](#); [GB.331/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, the sixth meeting of the Standards Review Mechanism Tripartite Working Group (SRM TWG) took place from 13 to 18 September 2021 in a fully virtual format, after having been deferred for one year due to the COVID-19 pandemic. 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. In June 2021, the Governing Body noted the appointment of the Chairperson and members of the SRM TWG for the 2021–24 period.<sup>1</sup> The sixth meeting was chaired by Ms Thérèse Boutsen (Belgium) and attended by 31 of the 32 members of the SRM TWG, as well as a limited number of advisers to support the Government members<sup>2</sup> as set out in the report of the discussion included in the appendix. 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 October–November 2019, the SRM TWG reviewed, during its sixth meeting, five instruments concerning social security and considered the follow-up to be taken on five further instruments falling within that topic and previously determined to be outdated. Its corresponding recommendations concerning six instruments (three instruments that were reviewed and three outdated instruments in relation to which the follow-up was examined) are set out in the annex and encapsulated in the following table.

► **Recommendations of the SRM TWG at its sixth meeting (September 2021)**

<b>(1) Classifications</b>	
Standards classified as up to date	R.68 on social security (armed forces) R.69 on medical care
Standards classified as requiring further action to ensure continued and future relevance	R.17 on social insurance (agriculture)
Standards classified as outdated <sup>3</sup>	None

<sup>1</sup> GB.342/INS/3/Decision; GB.342/INS/3(Add.1)(Rev.1).

<sup>2</sup> Para. 18 of the [terms of reference of the SRM TWG](#); GB.337/LILS/1, appendix, para. 45.

<sup>3</sup> Additionally, the SRM TWG acknowledged the classification of the Sickness Insurance (Industry) Convention, 1927 (No. 24), the Sickness Insurance (Agriculture) Convention, 1927 (No. 25), and the Sickness Insurance Recommendation, 1927 (No. 29) as outdated instruments, as previously determined by the Governing Body.

<b>(2) Practical and time-bound follow-up action</b>	
Follow-up involving promotional or technical assistance action	<p>Promotional campaign on C.102 (Parts II and III) and/or C.130.</p> <p>Office plans of action to promote C.102 (Parts II and III) and/or C.130 in Member States currently party to outdated C.24 and C.25, including technical support and guidance for tripartite consultations.</p>
Follow-up involving non-normative action	<p>Technical support and guidance building on R.69 and recognising the increased significance of the instruments on medical care and sickness in the COVID-19 pandemic.</p> <p>In the context of the forthcoming Plan of action on social protection, Office guidance and technical support on the application of social security schemes to all agricultural workers including promotion of relevant up-to-date social security instruments.</p> <p>In the context of the forthcoming Plan of action on social protection, Office research to identify key challenges and opportunities in the application of social security to agricultural workers including with regard to existing exemptions, to assess follow-up options.</p>
Follow-up involving the ILC's consideration of the abrogation and the withdrawal of instruments	<p>Item on the Conference agenda in 2030 concerning the abrogation of C.24 and C.25 and the withdrawal of R.29 on medical care and sickness.</p>
Follow-up involving other social security matters	<p>Office background paper on the implications of gendered language in the social security instruments, for consideration by the Governing Body at the earliest date possible.</p>

- 4.** In accordance with paragraph 22 of its terms of reference, as no consensus was reached in relation to the remaining instruments reviewed at the sixth meeting, the divergent views of the members are recorded in the report of the Chairperson and Vice-Chairpersons to the Governing Body. As the SRM TWG did not reach consensual recommendations on the Unemployment Provision Convention, 1934 (No. 44), the Unemployment Provision Recommendation, 1934 (No. 44), the Employment Promotion and Protection against Unemployment Convention, 1988 (No. 168) and the Employment Promotion and Protection against Unemployment Recommendation, 1988 (No. 176), these four instruments retain classifications that they had before their review: Convention No. 168 and Recommendation No. 176 have the classification of up-to-date instruments and Convention No. 44 and Recommendation No. 44 have the status of outdated instruments.
- 5.** The SRM TWG agreed, subject to further discussion in the Governing Body, that its seventh meeting would take place from 12 to 16 September 2022. The SRM TWG recommended to the Governing Body that if the seventh meeting was to take place as tentatively agreed, it could review the one instrument in the initial programme of work concerning social security (employment injury), and examine the follow-up taken to six

outdated instruments falling within that topic. The full list of these instruments is set out in its report included in the appendix.

## ► Draft decision

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6. **The Governing Body took note of the report of the Officers concerning the sixth meeting of the Standards Review Mechanism Tripartite Working Group (SRM TWG) and, in approving its recommendations:**
  - (a) **thanked the SRM TWG for undertaking its review of the instruments in question and regretted that it was not able to reach consensual recommendations on the review of all the instruments on the agenda at its sixth meeting;**
  - (b) **decided that the instruments concerning social security that were reviewed by the SRM TWG should be considered to have the classifications it had recommended;**
  - (c) **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 plans of action encouraging States party to the Sickness Insurance (Industry) Convention, 1927 (No. 24) and the Sickness Insurance (Agriculture) Convention, 1927 (No. 25) to ratify related up-to-date Conventions;**
  - (d) **requested the Office to take the necessary follow-up to the recommendations of the SRM TWG at this and previous meetings as a matter of institutional priority;**
  - (e) **noted that certain follow-up required actions by the Governing Body to be discussed at the earliest possible session in relation to:**
    - (i) **the SRM TWG's recommendations concerning the abrogation and withdrawal of certain instruments, it will consider placing on the agenda of the 118th Session (2030) of the International Labour Conference an item concerning the abrogation of the Conventions Nos 24 and 25 and the withdrawal of the Sickness Insurance Recommendation, 1927 (No. 29); and**
    - (ii) **the SRM TWG's recommendation that Office work on the application of social security to agricultural workers should be carried out in the context of the forthcoming Plan of action on social protection (social security) to follow-up on the 2021 Conference conclusions on the recurrent discussion;**
  - (f) **requested the Office to prepare a 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), 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) **[decided to convene the seventh meeting of the SRM TWG from 12 to 16 September 2022, at which it should review the one instrument concerning**

**employment injury and examine the follow-up to the six outdated instruments in that topic within set of instruments five of the initial programme of work, and discuss certain matters of standards policy]; and**

- (h) decided that the cost of the SRM TWG estimated to cost up to US\$957,500 would be financed in the first instance from savings that might arise under Part I of the budget for 2022–23 or, failing that, through the use of the provision for unforeseen expenditure, in Part II. Should that not prove possible, the Director-General would propose alternative methods of financing at a later stage in the biennium.**

## ▶ Appendix

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### Report of the sixth meeting of the SRM Tripartite Working Group established by the Governing Body (Geneva, 13–18 September 2021)

1. The sixth meeting of the Standards Review Mechanism Tripartite Working Group (SRM TWG) took place in Geneva from 13 to 18 September 2021. It was chaired by Ms Thérèse Boutsen (Belgium) and attended by 31 of its 32 members (see table 1).

▶ **Table 1. Members attending the sixth meeting of the SRM TWG (September 2021)**

#### Members representing Governments

Algeria  
Brazil  
Cameroon  
China  
Colombia  
Lithuania  
Mali  
Mexico  
Namibia  
Netherlands  
Pakistan  
Philippines  
Republic of Korea  
Romania  
United Kingdom  
United States

#### Members representing Employers

Ms S. Regenbogen (Canada), Vice-Chairperson  
Mr H. Diop (Sénégal)  
Mr A. Echavarría Saldarriaga (Colombia)  
Ms L. Gimenez (Argentina)  
Mr P. Mackay (New Zealand)

Mr M. Teran Moscoso (Ecuador)

Mr K. Weerasinghe (Sri Lanka)

#### Members representing Workers

Ms C. Passchier (Netherlands), Vice-Chairperson

Ms S. Boincean (Switzerland)

Ms A. Brown (United Kingdom)

Ms F. Magaya (Zimbabwe)

Ms C. Middlemas (Australia)

Mr M. Norðdahl (Iceland)

Ms M. Pujadas (Argentina)

Mr C. Serroyen (Belgium)

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

### **Tripartite discussions leading to consensual recommendations on two topics and divergent views on one topic**

3. The discussions at the SRM TWG have always been complex and challenging. After a one year break due to the COVID-19 pandemic, the usual complexity and challenge was accentuated this year by the virtual nature of the sixth meeting. Unlike past meetings when the SRM TWG met in person in Geneva, in 2021 there were little or no face-to-face interactions and significantly shorter plenary sessions in which to review the five instruments concerning social security, and consider the follow-up to be taken on the five further instruments falling within that topic and previously determined to be outdated, that were on its agenda.
4. The SRM TWG members shared a strong sense of responsibility and commitment to its mandate and the objectives of the SRM. On many occasions during the week, members stressed 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. The SRM TWG considered that the impacts of the COVID-19 pandemic on the world of work emphasized the importance of its role.
5. Despite unanimity on the importance and value of the SRM TWG's work, and the personal commitment of members to attempt to reach consensus, differences remained. For the first time since it began meeting in 2016, the SRM TWG did not reach consensus on all the matters on its agenda following its review of the five instruments concerning social security and consideration of the follow-up to be taken on the five further outdated instruments falling within that topic. While it adopted consensual recommendations concerning the two comprehensive sectoral standards and the four standards concerning medical care and sickness benefits, in accordance with its terms of reference the SRM TWG concluded its review of the two instruments, and examination of the follow-up to the two outdated instruments concerning unemployment benefit, without making recommendations.



6. In the course of discussions, the Employer group emphasized the necessity of overcoming fragmentation in the body of standards and ensuring that instruments were universally relevant and were able to be widely ratified, implemented and effectively supervised in a balanced manner. Outdated instruments should be abrogated or withdrawn at the earliest point possible to ensure the ILO has an up-to-date body of international labour standards. With regard to respective apprehensions expressed by other groups, they noted that there was no evidence that the abrogation of an outdated Convention had ever led to a removal of protection in the area covered by it in the law or practice of a country that was bound by the outdated Convention. The Employer group also believed that the rate of ratification, and the ratification momentum were important objective criteria in determining whether or not a Convention was considered relevant and up-to-date by Member States.
7. The Worker group stressed that follow-up to all SRM TWG recommendations was an institutional priority, including those on standards-setting and ratification of up-to-date instruments especially where they replaced outdated instruments. The focus should be on ensuring that there were no gaps in the protection of workers. Accordingly, outdated instruments should only be withdrawn or abrogated after sufficient time for Member States to replace ratifications of those outdated conventions with ratifications of related up-to-date Conventions. There was no urgency to abrogation or withdrawal. The group considered that the rate of ratification and ratification momentum, according to the SRM TWG's terms of reference and earlier adopted positions by the SRM TWG, were not relevant criteria to determine the classification of an instrument as they did not reflect on the substance of the instrument nor its value in terms of the protection of workers; rather it was a factor to take into account in determining optimal follow-up. Furthermore, the Worker group warned about the effect of classifying a modern ILO instrument that was actively being used by the Office to provide technical assistance to Member States in the context of the pandemic as outdated or not up-to-date for the only reason that it was not considered to be sufficiently ratified, as this would have detrimental effects on the willingness of Member States to consider ratification. It would also seriously hamper the possibilities of the Office to continue to use the Convention as guidance for its technical assistance. In response to remarks made during the discussion questioning whether abrogation of an outdated Convention would have a detrimental effect in countries until then bound by it, the Worker group emphasized that – once a Convention was abrogated without being replaced by the ratification of a newer instrument – the relevant Member State could change its laws and regulations, without being any longer subject to any ILO supervision, thereby potentially leading for the workers concerned to gaps in their protection.
8. The Government group was equally concerned that previous recommendations of the SRM TWG were followed up by the Organization. It was important to ensure the continuing relevance of the ILO's body of standards and, at the same time, to ensure that there were no gaps in protection. Outdated instruments should, after thorough research and review in the SRM TWG on their status, be abrogated or withdrawn at an agreed concrete date, taking account of the length of time that it normally took Member States to be in a position to ratify a related up-to-date Convention as well as the fact that gaps will not necessarily be generated by the abrogation of an instrument as national legislation would remain in force. In the group's opinion, a low ratification rate could not automatically be assessed as indicating that a Convention was outdated. To the contrary, many Member States valued the guidance provided by such a Convention on action to undertake at national level with ILO technical assistance. Further, any classification other

than 'up-to-date' would be counterproductive to efforts to promote the ratification of the Convention.

### **Review of five instruments, and consideration of the follow-up to five outdated instruments, on social security (unemployment benefit, comprehensive sectoral instruments and medical care and sickness benefit)**

9. In accordance with the decision taken by the Governing Body in October–November 2019,<sup>1</sup> the SRM TWG reviewed the five instruments concerning unemployment benefit, comprehensive sectoral standards and medical care and sickness benefit in the initial programme of work: the Employment Promotion and Protection against Unemployment Convention, 1988 (No. 168), the Employment Promotion and Protection against Unemployment Recommendation, 1988 (No. 176), the Social Insurance (Agriculture) Recommendation, 1921 (No. 17), the Social Security (Armed Forces) Recommendation, 1944 (No. 68) and the Medical Care Recommendation, 1944 (No. 69). It further considered the follow-up to be taken to five instruments that had previously been determined to be outdated: the Unemployment Provision Convention, 1934 (No. 44), the Unemployment Provision Recommendation, 1934 (No. 44), the Sickness Insurance (Industry) Convention, 1927 (No. 24), the Sickness Insurance (Agriculture) Convention, 1927 (No. 25) and the Sickness Insurance Recommendation, 1927 (No. 29).
10. The SRM TWG's resulting consensual recommendations on the comprehensive sectoral instruments and the medical care and sickness benefit instruments are attached in paragraphs 7–8 of the Annex to this report. As no recommendations were made in relation to the instruments concerning unemployment benefit, the divergent views on this matter are set out in paragraphs 20–25 below.
11. The SRM TWG noted the importance of the social security instruments to the current and future world of work. The Government group in particular stressed that social protection was even more timely and urgent in the context of the COVID-19 pandemic. While governments had responded to the pandemic in different ways, social protection was always of the utmost relevance and concern. All three groups noted the tripartite recognition of the role of social protection in building forward better, including access to unemployment protection, adequate paid sick leave, and sickness benefits and health and care services.
12. In response to questions from the groups, the Office clarified that 'non-normative' follow-up on social security could mean any action that did not involve standard-setting; among others, it could cover technical support and guidance provided by the Office to Member States, the creation of tools or research by the Office, the development of technical guidelines through a tripartite process, or any other initiative in-between. ILO work in the area of social security will always be based on relevant ratified and unratified social security instruments, including Convention No. 102 and the later generation instruments that provide more advanced standards on specific branches of social security.
13. In reaching its consensual recommendations concerning the *comprehensive sectoral standards*, the SRM TWG agreed that they had relevance in the world of work despite the later social security standards, including particularly Convention No. 102, applying to all sectors of the working population. There was value in the declaratory nature of these Recommendations. Recommendation No. 68 still had relevance given the continuing

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<sup>1</sup> GB.337/LILS/1.

armed conflicts and subsequent demobilizations in the world. All SRM TWG members agreed with the importance of the principle of equal treatment with regard to social protection for agricultural workers as contained in Recommendation No. 17.

14. The Worker group highlighted the number of workers in the agricultural sector globally. Many of the later social security instruments, while covering agricultural workers in principle, allow for their exclusion from the scope of the instrument. In practice, agricultural workers also tend to be treated differently in the application of social protection instruments at the national level. The importance of the principle of equal treatment of agricultural workers in Recommendation No. 17 was, therefore, still relevant. The group considered that the Recommendation would be valid until agricultural workers were no longer excluded from the application of social security rights.
15. The Employer group stressed that the later social security instruments, including Conventions Nos 102, 128, 130 and 168 and accompanying Recommendations, covered wage-earners in the agricultural sector and persons employed in, or discharged from, the armed forces. The fact that these Conventions allowed particular categories of workers to be excluded did not mean that workers were not nevertheless in principle covered. The group believed that it was necessary to ask what protection would effectively be lost for those categories of workers if the two Recommendations were withdrawn, and whether that justified their maintenance given the need to overcome fragmentation of standards.
16. The Government members of the SRM TWG highlighted the relevance of ensuring social protection rights for agricultural workers, and the fact that in many countries agricultural workers did not have the same rights as other workers. Some Governments noted the importance of the issue and its link with the transition from informality. It was important to clarify that the existence of other instruments did not weaken Recommendation No. 202, which applied equally to agricultural workers.
17. Following its discussion, the SRM TWG classified Recommendation No. 17 as an instrument requiring further action to ensure its continued and future relevance and classified Recommendation No. 68 as an up-to-date instrument. In terms of the further action that should be taken in relation to Recommendation No. 17, it recommended that the Office continue to provide guidance and technical support to Member States, and to undertake research on key challenges and opportunities, on the application of social security schemes to all agricultural workers. This should be carried out within the forthcoming ILO plan of action on social protection in follow-up to the 2021 recurrent discussion.
18. In reaching its consensual recommendations concerning the *medical care and sickness benefits*, the SRM TWG agreed that the topic was of current significance and that there was no gap in legal coverage.
19. The Worker group stressed that the simple fact that an instrument was old did not mean that it was irrelevant or did not serve a purpose in terms of the protection of workers, and in this case the instruments had gained additional relevance due to the current context of the pandemic. The Employer group agreed with the relevance of the topic, and raised the issue of concepts such as individual responsibility for health, and preventive measures to safeguard health; the group also noted that Recommendation No. 69 continued to guide ILO's collaboration with the WHO and 16 multilateral member organizations of the Global Network for Health Financing and Social Health Protection.

The Government members of the SRM TWG highlighted the pertinence of the topic in the context of the COVID-19 pandemic.

20. Accordingly, the SRM TWG classified Recommendation No. 69 as an up-to-date instrument and confirmed the outdated status of Conventions Nos 24 and 25 and Recommendation No. 29. It recommended that follow-up action should include promotion of the ratification and effective implementation of Convention No. 102 (Parts II and III) and/or Convention No. 130; plans of action tailored to the Member States currently bound by Conventions Nos 24 and 25, encouraging them to ratify Convention No. 102 (Parts II and III) and/or Convention No. 130; the development of technical support and guidance that built on Recommendation No. 69; and the abrogation of Conventions Nos 24 and 25 and withdrawal of Recommendation No. 29 in 2030.
21. The SRM TWG did not reach consensual recommendations following its review of the instruments concerning *unemployment benefits*. As such, no recommendations were made, but the divergent views are set out below in accordance with paragraph 22 of the terms of reference.
22. The Worker group highlighted the enhanced relevance of the unemployment benefit instruments in the current context of the pandemic. A number of elements illustrated that Convention No. 168 and Recommendation No. 176 were clearly up-to-date, notably including the new approach taken in terms of promoting productive employment, through active labour market policies and public employment services, as a complement to unemployment benefits. The SRM TWG review of the unemployment benefit instruments was an opportunity to make a call to Member States to ratify Convention No. 168 and/or Convention No. 102 (Part IV), which had, until now, been insufficiently ratified. This would show the SRM TWG's recognition of the importance of social security, and be coherent with other ILO work in response to the pandemic. The group pointed out that the Committee of Experts had noted that the content of Convention No. 168 was of continuing relevance and, even if not widely ratified, provided important guidance to countries universally to adopt social security measures responsive to changing needs, and that a number of countries had asked the Office for further guidance in relation to it. Convention No. 44 and Recommendation No. 44 were previously classified as outdated and should be abrogated or withdrawn at a time that allowed the relevant countries sufficient time to go through all the necessary processes at national level, with the help of the Office, to ratify a more up-to-date relevant instrument, to ensure that it did not result in a gap in protection, in law or practice.
23. The Government members of the SRM TWG stressed the value that they placed on the unemployment benefit instruments, particularly at this point in time, and pointed out that Governments were primarily responsible for their implementation at national level. The Government group strongly supported the clear classification of Convention No. 168 and Recommendation No. 176 as up-to-date and considered action should be taken to improve the ratification rate which was regionally unbalanced. An unambiguous decision was important. Social security was a priority for the Organization at this point in time. While governments were concerned with the very low ratification rate of Convention No. 168, the guidance it provided allowed action to be taken at national level with ILO technical assistance. There was a need to work on promoting ratification of Convention No. 168 using different means than those used until now.
24. Accordingly, the Worker and Government groups were prepared to recommend to the Governing Body a package as follows:

- 7.1 The Governing Body considers taking decisions about the classification of those instruments:
    - 7.1.1 deciding that the Employment Promotion and Protection against Unemployment Convention, 1988 (No. 168) and the Employment Promotion and Protection against Unemployment Recommendation, 1988 (No. 176) have the classification of up-to-date instruments; and
    - 7.1.2 acknowledging the classification of the Unemployment Provision Convention, 1934 (No. 44) and the Unemployment Provision Recommendation, 1934 (No. 44) as outdated instruments.
  - 7.2 The Governing Body considers requesting the Organization to implement a time-bound and practical package of follow-up action as follows:
    - 7.2.1 The Office should:
      - (i) undertake a campaign to promote the ratification and effective implementation of Convention No. 102 (Part IV) by Member States as called for by the resolution of the recurrent discussion;
      - (ii) conduct research on possible obstacles to ratification and implementation of Convention No. 168 with a view to improving its ratification rate; and
      - (iii) develop a guide to practical implementation of Convention No. 168, taking into account the comments made by the ILO supervisory bodies.
    - 7.2.2 The development of Office plans of action to promote the ratification and effective implementation of Convention No. 102 (Part IV) and/or Convention No. 168 in Member States currently party to the outdated Convention No. 44, including through the provision of technical support and guidance for tripartite consultations.
    - 7.2.3 The SRM TWG will evaluate, at its meeting in 2026, the Office's follow-up undertaken and its impact to promote and improve the ratification rate of Convention No. 168.
    - 7.2.4 The abrogation of Convention No. 44 and the withdrawal of Recommendation No. 44 in 2030 through placing an item to this effect on the agenda of the 118th Session of the International Labour Conference.
25. The Employer group expressed its divergent view in relation to the classification of Convention No. 168 and Recommendation No. 176. Despite containing the most advanced standards on unemployment benefit, the Convention had been ratified by only eight countries in the thirty years since its adoption and there were no prospects for ratification in the foreseeable future. While ratification numbers alone were not a sufficient criterion to classify a Convention, the extremely low level of ratification of Convention No. 168 over a significant period of time and the absence of a ratification momentum pointed to significant issues regarding its continued relevance. The Employer group therefore suggested to classify Convention No. 168 as an instrument "requiring further action to ensure its continued and future relevance". In any case, the group saw no basis to accept the current classification of the instrument as up-to-date without receiving further information on the obstacles to its ratification. In this connection, the group noted the indication from the Committee of Experts that the main obstacle to ratification of Convention No. 168 may be that its advanced standards of protection against unemployment were relevant only to countries with developed formal economy and labour market policies. In order to remedy this situation, the Employer group suggested that the Office develops comprehensive guidance materials on the implementation of Convention No. 168 which should include practical examples, to

remove possible misunderstandings regarding the Convention's application requirements. In order to enable consensus on the classification of Convention No. 168 and Recommendation No. 176, the group made a number of compromise proposals none of which were, however, accepted by the other groups. In particular, the Employer group proposed to maintain the up-to-date status of the instrument on the condition that the SRM TWG would again review its status in five years on the basis of Office follow-up undertaken and results achieved in the meantime.

26. In light of the divergence of views in relation to the classification of Convention No. 168 and Recommendation No. 176 between the Worker and Government groups on the one hand, and the Employer group on the other hand, the Worker group could not agree to the remainder of the inter-related follow-up package as set out in paragraph 24. As there was no consensus on the instruments concerning unemployment benefit after their review by the SRM TWG, no recommendations could be made on that subject matter.
27. The Worker group stated that the follow-up package was closely linked to the classification of Convention No. 168 and Recommendation No. 176. If there was no consensus on the former there could be no consensus on the latter. Although Convention No. 168 and Recommendation No. 176 were currently classified as up-to-date instruments and would continue to be so, only giving effect to part of the package would create confusion about their continued up-to-date status, and thereby create additional obstacles for ratification. Also, it would not be appropriate to decide on an abrogation date for Convention No. 44 in a situation in which the Employer group continued to cast doubt on the up-to-date status of Convention No. 168 which was adopted to revise Convention No. 44. The Group also expressed concern at the proposal of the Employers, presented as a compromise, of declaring Convention No. 168 up-to-date only for a limited period of time. This did not correspond to any classification agreed by the SRM TWG. Moreover it would create legal uncertainty as to the status of the Convention and would not facilitate ratification of the instrument. The Worker group regretted that no consensus was reached on this important topic, which would have allowed the Organization to move forward with a solid, consistent and comprehensive package of actions.
28. The Employer group emphasized that, apart from the classification of Convention No. 168 and Recommendation No. 176, i.e. point 7.1.1, it supported all the other elements proposed under draft paragraph 7 of the recommendations as set out in paragraph 23 above and did not agree to them being deleted from the SRM TWG's consensual recommendations.
29. The Government group deeply regretted that it was not possible to reach consensus on the status of Convention No. 168 and Recommendation No. 176 and, consequently, on the practical and time-bound follow-up package which included various interrelated and useful components.

### Consideration of other matters concerning social security

30. The SRM TWG discussed the question of perceived gender bias in the social security instruments, and particularly the inclusion of gendered language in Convention No. 102. All three groups stressed the importance of this topic, given that gender equality in the world of work is a core value of the Organization. As the SRM TWG members considered that a comprehensive consideration of the matter was needed, they referred the matter to the Governing Body, which would decide on appropriate follow-up actions.

## Preparation for the seventh meeting

31. Final decisions regarding the topic and date of the SRM TWG's seventh meeting would be reserved for discussion at the Governing Body in October–November 2021. The Worker group reserved its agreement to fixing the dates in light of the failure to reach consensual recommendations on the unemployment benefit instruments. The Employer group expressed a preference to have the seventh meeting from 12 to 16 September 2022. The Government members of the SRM TWG expressed their clear preference for a date to have been set.
32. The SRM TWG agreed, subject to further discussion in the Governing Body, that its seventh meeting would take place from 12 to 16 September 2022. It would review the subtopic of employment injury within the set of five instruments on social security, comprising one instrument (see table 2). It would further consider the follow-up taken to six instruments falling within this subtopic and previously determined to be outdated. In addition, the SRM TWG requested the Office to prepare preparatory documents concerning standards policy further to its previous discussions of options for revision and setting of standards, how to ensure easier amendment and regular updating, how to facilitate the standard-setting work of the Conference and how to encourage ratification and replace ratifications of older standards with those of revising standards, as provided for in paragraph 12 of its terms of reference.
33. Finally, in line with its terms of reference, the SRM TWG authorized the attendance of eight advisers to assist the Government members at its seventh meeting. The SRM TWG 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 seventh meeting of the SRM TWG (September 2022)

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#### **Social security instruments:** Employment injury

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Workmen's Compensation (Agriculture) Convention, 1921 (No. 12)

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#### **Relevant outdated instruments**

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Workmen's Compensation (Accidents) Convention, 1925 (No. 17)

Workmen's Compensation (Occupational Diseases) Convention, 1925 (No. 18)

Workmen's Compensation (Occupational Diseases) Recommendation, 1925 (No. 24)

Workmen's Compensation (Occupational Diseases) Convention (Revised), 1934 (No. 42)

Workmen's Compensation (Minimum Scale) Recommendation, 1925 (No. 22)

Workmen's Compensation (Jurisdiction) Recommendation, 1925 (No. 23)

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## ▶ Annex

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### Recommendations adopted by the SRM TWG at its sixth meeting (13–18 September 2021)

#### To be submitted to the Governing Body for its consideration at its 343rd Session (November 2021) pursuant to paragraph 22 of the terms of reference of the SRM TWG

1. The SRM TWG recalls 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.<sup>1</sup> 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.<sup>2</sup>
2. The SRM TWG considers that the importance and value of its role has been highlighted by the devastating impacts of the COVID-19 pandemic on the world of work. It notes the commitment of governments and employers' and workers' organizations to working for a human-centred recovery through the focused and accelerated implementation of the ILO Centenary Declaration, thereby advancing progress towards an inclusive, sustainable and resilient development with decent work for all.<sup>3</sup> It further notes the tripartite recognition of the role of social protection in building forward better from the crisis, including access to unemployment protection, adequate paid sick leave, and sickness benefits and health and care services.<sup>4</sup> It recognizes the need for a strong and coherent global response in support of national recovery strategies, including in order to support Member States in developing and implementing financing strategies for comprehensive and sustainable social protection systems, with the objective of comprehensive, adequate and sustainable universal social protection, including floors, on the basis of international labour standards,<sup>5</sup> taking into account the conclusions of the second recurrent discussion on social protection (social security).<sup>6</sup>

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<sup>1</sup> Para. 8 of the [terms of reference of the SRM TWG](#).

<sup>2</sup> 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."

<sup>3</sup> [Resolution concerning a global call to action for a human-centred recovery from the COVID-19 crisis that is inclusive, sustainable and resilient](#) (2021), para. 9.

<sup>4</sup> [Resolution concerning a global call to action for a human-centred recovery from the COVID-19 crisis](#) (2021), para. 11(c)(a–e).

<sup>5</sup> [Resolution concerning a global call to action for a human-centred recovery from the COVID-19 crisis](#) (2021), para. 14(c).

<sup>6</sup> [Resolution concerning the second recurrent discussion on social protection \(social security\)](#), 19 June 2021, [ILC.109/Resolution III](#).



3. In that context, the SRM TWG notes the decision of the Governing Body in its second evaluation of the SRM TWG functioning, when it reiterated the importance of the SRM TWG and accordingly stressed the need for follow-up by Member States, social partners as well as by the Office to its recommendations as adopted by the Governing Body.<sup>7</sup>
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:<sup>8</sup>
  - (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.
5. The SRM TWG recalled that in 2017 it adopted a system composed of three classifications for its review of the standards contained in its initial programme of work: up-to-date standards; standards requiring further action to ensure continued and future relevance; and outdated standards.<sup>9</sup>
6. The SRM TWG once again organized its recommendations into practical and time-bound packages of follow-up action. The components of those packages are interconnected, complementary and mutually reinforcing. It reiterates the need for the Organization to take the appropriate measures to guarantee the time-bound implementation of all its recommendations.
7. 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. With respect to issues on which no consensus was reached, the divergent views are set out in its report to the Governing Body.

### Comprehensive sectoral standards<sup>10</sup>

8. In relation to the comprehensive sectoral instruments concerning social insurance for agricultural wage-earners and social security for workers from the armed forces, the SRM TWG recommends that:
  - 8.1. The Governing Body considers taking decisions about the classification of those instruments:
    - 8.1.1 deciding that the Social Insurance (Agriculture) Recommendation, 1921 (No. 17) has the classification of an instrument *requiring further action to ensure its continued and future relevance*; and
    - 8.1.2 deciding that the Social Security (Armed Forces) Recommendation, 1944 (No. 68) has the classification of an *up-to-date* instrument.
  - 8.2. Noting the importance of the principle of equal treatment with regard to social protection for agricultural workers as contained in Recommendation No. 17, the

<sup>7</sup> GB.341/LILS/5/Decision (27 March 2021).

<sup>8</sup> Para. 9 of the terms of reference.

<sup>9</sup> Report of the third meeting of the Standards Review Mechanism Tripartite Working Group, GB.331/LILS/2, Annex, para. 9 (recommendations).

<sup>10</sup> See SRM TWG/2021/Technical note 2.

Governing Body considers requesting the Organization to implement *a time-bound and practical package of follow-up action* to be implemented within the context of the forthcoming ILO Plan of action on social protection (social security) for the period 2021–26 to give effect to the conclusions adopted by the International Labour Conference and include Office action to:

- (i) continue to provide guidance and technical support to Member States on the application of social security schemes to all agricultural workers, including the promotion of ratification of the relevant up-to-date social security instruments and their effective application to those workers; and
- (ii) conduct research to identify the key challenges and opportunities in relation to the application of social security to agricultural workers, including challenges with regard to existing exemptions, with a view to assessing, with tripartite involvement, options for possible follow-up action, including on extending social protection rights to all agricultural workers.

### Medical care and sickness benefit <sup>11</sup>

9. In relation to the instruments concerning medical care and sickness benefit, the SRM TWG recommends that:
  - 9.1. The Governing Body considers taking decisions about the classification of those instruments:
    - 9.1.1 deciding that the Medical Care Recommendation, 1944 (No. 69) has the classification of an *up-to-date* instrument; and
    - 9.1.2 acknowledging the classification of the Sickness Insurance (Industry) Convention, 1927 (No. 24), the Sickness Insurance (Agriculture) Convention, 1927 (No. 25) and the Sickness Insurance Recommendation, 1927 (No. 29) as *outdated* instruments.
  - 9.2. The Governing Body considers requesting the Organization to implement *a time-bound and practical package of follow-up action*:
    - 9.2.1 A campaign to promote the ratification and effective implementation of Convention No. 102 (Parts II and III) and/or Convention No. 130 by Member States.
    - 9.2.2 The development of Office plans of action to promote the ratification and effective implementation of Convention No. 102 (Parts II and III) and/or Convention No. 130 in Member States currently party to the outdated Conventions Nos 24 and 25, including through the provision of technical support and guidance for tripartite consultations.
    - 9.2.3 Recognizing that the instruments regulating medical care and sickness have an increased significance in the context of the COVID-19 pandemic, request the Office to develop technical support and guidance, building on the detailed provisions of Recommendation No. 69 and in a form and through a process to be determined, to support Member States in this regard, where appropriate in collaboration with the World Health Organization.

<sup>11</sup> See SRM TWG/2021/Technical note 3.

9.2.4 The abrogation of Conventions Nos 24 and 25 and the withdrawal of Recommendation No. 29 in 2030 through placing an item to this effect on the agenda of the 118th Session of the International Labour Conference.

### Other issues arising from the discussions

10. Noting that gender equality in the world of work is a core value of the International Labour Organization, as reaffirmed by the International Labour Conference Resolution concerning gender equality and the use of language in legal texts of the ILO,<sup>12</sup> and following up on the Resolution and Conclusions concerning the first and second recurrent discussions on social protection (social security) adopted by the International Labour Conference at its 100th and 109th sessions<sup>13</sup> and the Plan of Action approved by the Governing Body at its 312th session (November 2011),<sup>14</sup> the SRM TWG recommends that the Governing Body request the Office to prepare a 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), 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.

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<sup>12</sup> [Resolution concerning gender equality and the use of language in legal texts in the ILO](#), adopted at the International Labour Conference, 100th Session (2011), Record of Proceedings, No. 10, p. 2.

<sup>13</sup> [Resolution and Conclusions concerning the Recurrent Discussion on Social Protection](#), International Labour Conference, 100th Session (2011); See in particular para. 30 of the Conclusions, p. 73.

<sup>14</sup> [GB.312/POL/2](#), 312th Session (November 2011), para. 7 and Appendix I, point 1.2.