



Governing Body

328th Session, Geneva, 27 October–10 November 2016

GB.328/INS/6

Institutional Section

INS

Date: 10 October 2016

Original: English

SIXTH ITEM ON THE AGENDA

The Standards Initiative

Review of the decision adopted by the Governing Body in March 2015

Purpose of the document

Following-up on the decision taken by the Governing Body at its 323rd Session (March 2015), concerning the fifth item on the agenda: the Standards Initiative, this document invites the Governing Body to decide to continue its consideration of the Standards Initiative and undertake a further overall review of its implementation at its March 2018 session (see the draft decision in paragraph 16).

Relevant strategic objective: All four strategic objectives.

Policy implications: Will depend on the outcome of the discussion of the Governing Body.

Legal implications: Will depend on the outcome of the discussion of the Governing Body.

Financial implications: Will depend on the outcome of the discussion of the Governing Body.

Follow-up action required: Will depend on the outcome of the discussion of the Governing Body.

Author unit: International Labour Standards Department (NORMES).

Related documents: GB.328/LILS/2/1; GB.328/LILS/2/2; GB.326/PV; GB.326/LILS/3/1; GB.326/LILS/3/2; GB.326/INS/13; GB.325/PV; GB.325/INS/14; GB.325/LILS/3; GB.323/PV; GB.323/INS/5; GB.322/PV; GB.322/INS/5; International Labour Conference, 104th Session (2015): *Provisional Record* No. 14 (Parts I and II) and No. 17.

1. At its 323rd Session (March 2015), the Governing Body decided to place on the agenda of its 328th Session (November 2016) an overall review of the decision it took in relation to the Standards Initiative, without prejudice to any other issue arising out of the Standards Initiative requiring prior consideration. The full text of the decision is as follows:

The Governing Body:

- (a) took note of the outcome and report of the Tripartite Meeting on the Freedom of Association and Protection of the Right to Organise Convention, 1948 (No. 87), in relation to the right to strike and the modalities and practices of strike action at national level;
- (b) pursuant to the decision taken at the 322nd Session of the Governing Body (November 2014), decided, in light of the outcome and report of the Tripartite Meeting, not to pursue for the time being any action in accordance with article 37 of the Constitution to address the interpretation question concerning Convention No. 87 in relation to the right to strike;
- (c) decided to take the necessary steps to ensure the effective functioning of the Committee on the Application of Standards at the 104th Session of the International Labour Conference (June 2015), taking into account any recommendations made by the Working Group on the Working Methods of the Conference Committee on the Application of Standards, in particular with regard to the establishment of the list of cases and the adoption of conclusions;
- (d) called on all parties concerned, in light of the commitments made at the Tripartite Meeting and at the 323rd Session of the Governing Body (March 2015), to contribute to the successful conclusion of the work of the Conference Committee on the Application of Standards at the 104th Session of the International Labour Conference (June 2015);
- (e) decided to establish under the Standards Review Mechanism (SRM) a Tripartite Working Group composed of 32 members: 16 representing Governments, eight representing Employers and eight representing Workers to meet once per year for one week;
- (f) requested the Director-General to prepare draft terms of reference for the Tripartite SRM Working Group for its consideration and submission to the 325th Session of the Governing Body (November 2015) for decision;
- (g) decided that this Tripartite SRM Working Group would report to the Governing Body at its 325th Session in November 2015 on progress made in the implementation of the SRM;
- (h) requested the Chairperson of the Committee of Experts on the Application of Conventions and Recommendations (CEACR), Judge Abdul Koroma (Sierra Leone), and the Chairperson of the Committee on Freedom of Association (CFA), Professor Paul van der Heijden (Netherlands), to jointly prepare a report, to be presented to the 326th Session of the Governing Body (March 2016), on the interrelationship, functioning and possible improvement of the various supervisory procedures related to articles 22, 23, 24 and 26 of the ILO Constitution and the complaints mechanism on freedom of association;
- (i) decided that the cost of the measures proposed in document GB.323/INS/5 estimated to cost up to US\$226,800 in 2015 and up to \$707,200 in 2016–17 be financed in the first instance from savings in Part I of the budget for the respective bienniums or, failing that, through Part II, on the understanding that should this subsequently prove impossible, the Director-General would propose alternative methods of financing;
- (j) decided to place on the agenda of its 328th Session (November 2016) an overall review of this decision, without prejudice to any other issue arising out of the Standards Initiative requiring prior consideration.¹

2. Since March 2015, this decision has been followed up under specific items placed on the agenda of subsequent sessions of the Governing Body as well as in the context of the work of the Conference Committee on the Application of Standards at the 104th Session (2015) of the International Labour Conference. An overview of the follow-up taken to date as called

¹ GB.323/PV, para. 84.

for in points (c), (d), (e), (f), (g) and (h), is presented below with a view to facilitate the overall review by the Governing Body under point (j).

Points (c) and (d): The work of the Committee on the Application of Standards at the 104th Session (2015) of the Conference

3. A meeting concerning the working methods of the Committee on the Application of Standards was held during the 323rd Session (March 2015). The Governing Body was informed of the recommendations² arising therefrom as regards the establishment of the list of cases, the adoption of conclusions and the functioning of the Committee in the context of the two-week session of the Conference in 2015. These recommendations informed the consideration by the Committee on the Application of Standards of its methods of work³ during the 104th Session (2015) of the Conference.
4. At the 104th Session (2015) of the Conference, the Committee on the Application of Standards completed its work.⁴ In a statement before the plenary of the Conference at its 104th Session (2015),⁵ and noting the call made by the Governing Body at its 323rd Session (March 2015), the Reporter of the Committee indicated “being in a position to report that the Committee was able, at this session to conclude its work successfully”. This was further acknowledged by the Governments in the context of the work of the Working Party on the Functioning of the Governing Body and the International Labour Conference during the 325th Session (October–November 2015).⁶ During informal tripartite consultations on the working methods of the Committee on the Application of Standards in March 2016, it was noted that “in 2015, the Committee had been able to complete its work within the framework of a two-week session” and agreed that the same modalities should be applied in 2016.⁷
5. Informal tripartite consultations on the working methods of the Committee on the Application of Standards will continue in order to further inform the consideration by the Committee of its method of work and the broader discussions on the functioning of the Conference.

² GB.323/INS/5(Add.).

³ C.App./D.1.

⁴ See Part one and Part two of its report in *Provisional Record* No. 14, International Labour Conference, 104th Session, Geneva, 2015.

⁵ ILO: *Provisional Record* No. 17, Report of the Committee on the Application of Standards: Submission, discussion and approval, International Labour Conference, 104th Session, Geneva, 2015, p. 17/1.

⁶ GB.325/INS/14, para. 2.

⁷ GB.326/INS/13, para. 9.

Points (e), (f) and (g): The Standards Review Mechanism Tripartite Working Group (SRM TWG)

6. At its 325th Session (November 2015), the Governing Body was informed of the steps taken to follow up on the decision of March 2015.⁸ In particular, as questions arose concerning the scheduling of the first meeting of the SRM TWG, and in order to enable it to commence its substantive work as soon as possible, the Officers of the Governing Body had agreed to adopt a specific approach to the implementation of the decision taken at the 323rd Session (March 2015). A first round of informal consultations with each of the groups separately was held in September 2015, following which the Office prepared draft terms of reference for the SRM TWG as a starting point for tripartite discussions. These were then considered in tripartite consultations chaired by the Chairperson of the Governing Body and held on 22 and 23 October 2015, involving the Officers of the Governing Body, the Chairperson and Vice-Chairperson of the Government group, the Regional Coordinators, the secretariats of the Workers' and Employers' groups and the person proposed by the Government group to be appointed Chairperson of the SRM TWG.
7. The resulting proposed terms of reference were submitted to the Governing Body in November 2015. On the basis of its consideration the Governing Body decided to:
 - (a) approve the terms of reference of the SRM Tripartite Working Group;
 - (b) appoint Mr Jan Farzan (Germany) as Chairperson of the SRM Tripartite Working Group;
 - (c) convene two meetings of the SRM Tripartite Working Group in 2016, one prior to its 326th Session and the other prior to its 328th Session; and
 - (d) undertake an initial evaluation of the functioning of the SRM Tripartite Working Group no later than March 2017.⁹
8. In accordance with that decision, the SRM TWG held its first meeting from 22 to 25 February 2016. A report of the first meeting was submitted to the Governing Body at its 326th Session (March 2016).¹⁰ Based on its examination, the Governing Body:
 - (a) took note of the report of the Officers concerning the first meeting of the Standards Review Mechanism Tripartite Working Group (SRM TWG);
 - (b) approved an initial programme of work for the SRM TWG that reviewed a total of 231 international labour standards organized into 20 thematic sets of instruments grouped by strategic objective;
 - (c) decided that the SRM TWG would examine sets of instruments 4, 11, 13, 16 and 19 concerning all the unfinished follow-up to the instruments identified as outdated by the Cartier Working Party, in its meeting to take place from 10 to 14 October 2016;

⁸ GB.325/LILS/3.

⁹ GB.325/PV, para. 612.

¹⁰ GB.326/LILS/3/2.

- (d) referred the maritime instruments (sets of instruments 18 and 20), to the Special Tripartite Committee established under Article XIII of the Maritime Labour Convention, 2006 (MLC, 2006), for its expert review and report to the Governing Body; and
 - (e) convened the second meeting of the SRM TWG from 10 to 14 October 2016.¹¹
9. A report of the second meeting of the SRM TWG is presented to the Governing Body at its current session under a separate item concerning the Standards Initiative in the context of its Legal Issues and International Labour Standards (LILS) Section.¹²
10. In accordance with the decision taken¹³ by the Governing Body at its 325th Session (October–November 2015), an initial evaluation of the functioning of the SRM TWG will be transmitted to the 329th Session (March 2017) of the Governing Body. The third meeting of the SRM TWG will be held in September–October 2017 as indicated in the ILO Programme of meetings.

Point (h): Joint report of the Chairpersons of the Committee of Experts on the Application of Conventions and Recommendations and the Committee on Freedom of Association

11. The joint report was submitted to the Governing Body at its 326th Session (March 2016).¹⁴
12. On the basis of its discussion of the report, the Governing Body took a decision under which it:
- (a) received the joint report of the Chairperson of the Committee of Experts on the Application of Conventions and Recommendations and the Chairperson of the Committee on Freedom of Association on the interrelationship, functioning and possible improvement of the various supervisory procedures related to articles 22, 23, 24 and 26 of the ILO Constitution and the complaints mechanism on freedom of association;
 - (b) requested the Director-General to undertake further consultations on issues related to the joint report with a view to formulating recommendations for consideration by the Governing Body.¹⁵

¹¹ GB.326/PV, para. 514.

¹² GB.328/LILS/3.

¹³ GB.325/PV, para. 612.

¹⁴ GB.326/LILS/3/1.

¹⁵ GB.326/PV, para. 502.

13. The follow-up to this decision is considered by the Governing Body at its current session under a separate item on its agenda in the context of its LILS Section.¹⁶ It includes a time frame and a consultation process.

Next steps

14. As set out above, an initial evaluation of the functioning of the SRM TWG will be transmitted to the 329th Session (March 2017) of the Governing Body, and the SRM TWG is expected to meet during September–October 2017 to continue its review to ensure that the ILO has a clear, robust and up-to-date body of international labour standards. With respect to the supervisory system, a way forward on the follow-up to the joint report of the Chairpersons of the CEACR and the CFA is considered by the Governing Body at its current session with the overall objective of building tripartite consensus on an authoritative supervisory system.
15. The Governing Body may wish to review its decision taken in March 2015 in light of the information provided above concerning the specific steps called for in its decision. Certain of these steps will continue to feed into the implementation of the Standards Initiative, building on discussions in the Governing Body as well as the reference to it in the 2016 Conference resolution on Advancing Social Justice through Decent Work.

Draft decision

16. *Having regard to the information set out above, the Governing Body is invited to decide to continue its consideration of the Standards Initiative and undertake a further overall review of its implementation at its March 2018 session.*

¹⁶ GB.328/LILS/4.