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Legal Issues and International Labour Standards Section
International Labour Standards and Human Rights Segment

LILS

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THIRD ITEM ON THE AGENDA

The Standards Initiative: Report of the fourth meeting of the Standards Review Mechanism Tripartite Working Group (Geneva, 17–21 September 2018)

Report of the Officers, in accordance with paragraph 17 of the terms of reference of the Standards Review Mechanism Tripartite Working Group

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 fourth meeting of the SRM TWG and to take decisions on recommendations concerning 11 instruments on occupational safety and health (OSH) (specific branches), labour inspection and labour statistics, including their classification and practical and time-bound follow-up, and on arrangements for its fifth meeting in 2019 (see the draft decision in paragraph 5).

Relevant strategic objective: All.

Main relevant outcome/cross-cutting policy driver: Outcome 2: Ratification and application of international labour standards.

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 four Conventions and withdrawal of one Recommendation.

Financial implications: At its 331st Session (October–November 2017), the Governing Body approved a budgetary provision for 2018–19 which covers SRM TWG meetings and the partial follow-up of its recommendations. Recommendations of the SRM TWG requiring Office follow-up will require additional resources for the next biennium.

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

Author unit: International Labour Standards Department (NORMES).

Related documents: GB.331/PV, paras 706–723; GB.331/LILS/2; GB.328/PV, paras 568–581; GB.328/LILS/2/1(Rev.); GB.326/PV, paras 503–514; GB.326/LILS/3/2; GB.325/PV, paras 597–612; GB.325/LILS/3; GB.323/PV, paras 51–84; GB.323/INS/5.

1. In accordance with the decision taken by the Governing Body at its 331st Session (October–November 2017),¹ the fourth meeting of the Standards Review Mechanism Tripartite Working Group (SRM TWG) took place from 17 to 21 September 2018 at the 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 fourth meeting was chaired by Mr Jan Farzan (Germany) and attended by 31 of the 32 members of the SRM TWG, as well as a limited number of advisers to support the Government members² 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
3. As decided by the Governing Body in October–November 2017, the SRM TWG reviewed, during its fourth meeting, nine instruments concerning occupational safety and health (OSH) (specific branches of activity), labour inspection and labour administration (labour statistics), and considered the follow-up taken to two further instruments falling within those topics and previously determined to be outdated. Its corresponding recommendations are set out in the appendix and encapsulated in the following table.

Recommendations of the SRM TWG at its fourth meeting (September 2018)

(1) Classifications

| | |
|--|---|
| | C.176 and R.183 on safety and health in mines |
| <i>Standards classified as up to date</i> | C.167 and R.175 on safety and health in construction C.160 and R.170 on labour statistics |
| <i>Standards classified as requiring further action to ensure continued and future relevance</i> | None |
| <i>Standards classified as outdated</i> ⁴ | C.45 on underground work (women) C.85 on labour inspectorates in non-metropolitan territories R.20 on labour inspection |

¹ [GB.331/PV](#), para. 723(i).

² Para. 18 of the [terms of reference of the SRM TWG](#); [GB.331/LILS/2](#), appendix, para. 30.

³ See: https://www.ilo.org/global/standards/WCMS_449687/lang--en/index.htm.

⁴ Additionally, the SRM TWG confirmed the classifications of the Safety Provisions (Building) Convention, 1937 (No. 62), and the Convention concerning Statistics of Wages and Hours of Work, 1938 (No. 63), as outdated instruments, as previously determined.

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

| | |
|---|--|
| <i>Follow-up involving promotional or technical assistance action</i> | <p>Promotional campaigns on C.176, C.167, C.81, C.129 and C.160, including technical assistance where required.</p> <p>Office follow-up with member States currently bound by C.45 to encourage the ratification of up-to-date OSH instruments, including but not limited to, C.176.</p> <p>Office follow-up and promotion of tripartite action with member States currently bound by C.62 to actively encourage the ratification of OSH instruments, including but not limited to C.167; targeted technical assistance to member States requiring the most support; and technical assistance in implementation of C.167 and R.175, including in relation to challenges noted by the CEACR.</p> <p>Technical assistance offered to member States bound by both C.81 and C.85 to clarify status and support steps towards denunciation of C.85.</p> <p>Information sought from member States bound by C.85 on reasons for non-ratification of C.81 and C.129, where relevant.</p> <p>Office follow-up with member States (and non-metropolitan territories) currently bound by C.63 to support ratification of C.160.</p> |
| <i>Follow-up involving non-normative action</i> | <p>Study on gender equality in the mining sector.</p> <p>Regular review of 1992 Code of practice on construction to ensure continued relevance, with the first revision developed by 2022.</p> <p>Development, before the withdrawal of R.20, of guidelines on general principles in C.81 and C.129 on labour inspection.</p> <p>Request for the October 2018 ICLS to call on member States currently bound by C.63 to consider ratifying C.160 on labour statistics.</p> |
| <i>Follow-up involving the ILC's consideration of the abrogation or the withdrawal of an instrument</i> | <p>Items concerning the abrogation of C.45 on underground work (women), C.62 on safety provisions (building), C.85 on labour inspectorates in non-metropolitan territories, and C.63 on statistics, on the Conference agenda in 2024.</p> <p>Item concerning the withdrawal of R.20 on labour inspection on the Conference agenda in 2022.</p> |
| <i>Follow-up involving monitoring of implementation of recommendations to promote ratification</i> | <p>Progress in relation to ratification of C.176 and the study on gender equality in mining to be addressed during the labour protection recurrent discussion in 2022.</p> <p>Progress in relation to ratification of C.167, including by member States currently bound by C.62, to be considered by the SRM TWG at its meeting in 2020.</p> <p>Information on obstacles to ratification of C.81 and C.129, on the part of member States currently bound by C.85, to be considered by the SRM TWG at its meeting in 2019.</p> |
| <i>Follow-up involving institutional arrangements</i> | <p>Appropriate measures taken by the Organization to guarantee the time-bound element of all its recommendations resulting from its review of standards.</p> <p>Further development of Office proposals concerning the standard-setting follow-up to the SRM TWG 2017 recommendations on OSH; and the impact of the SRM TWG recommendations on the Conference agenda and the Office.</p> |

4. The SRM TWG decided that its fifth meeting would take place from 23 to 27 September 2019 and recommended to the Governing Body that at that meeting it could review the eight instruments in the initial programme of work that concern employment policy, and examine the follow-up taken to one outdated instrument falling within that topic. The full list of these instruments is set out in its report included in the appendix.

Draft decision

5. *The Governing Body took note of the report of the Officers concerning the fourth meeting of the Standards Review Mechanism Tripartite Working Group (SRM TWG) and, in approving its recommendations:*
- (a) *welcomed the commencement, by the SRM TWG, of the crucially important discussion of its institutional implications with the aim of ensuring the sustainability of its process, and looks forward to continuing to receive updates from the SRM TWG in relation to its ongoing consideration of how to ensure follow-up to the SRM TWG is implemented as a matter of institutional priority, and how to ensure coherence and consistency in the standards policy framework in relation to occupational safety and health (OSH) instruments;*
 - (b) *decided that the nine instruments concerning OSH (general provisions and specific risks) reviewed by the SRM TWG should be considered to have the classifications it has recommended, and requests the Office to take the necessary follow-up action in that regard;*
 - (c) *called upon the Organization and its tripartite constituents to take appropriate measures to follow up on its recommendations relating to standard setting as well as to the time-bound element of all recommendations resulting from its review of standards, including follow-up action involving abrogation and withdrawal of outdated standards, giving due consideration to the availability of technical assistance to encourage ratification of up-to-date instruments;*
 - (d) *requested the Office to commence work on a study on gender equality in the mining sector, a revision of the 1992 Code of practice on safety and health in construction, the development of guidelines on the general principles in the Labour Inspection Convention, 1947 (No. 81), and the Labour Inspection (Agriculture) Convention, 1969 (No. 129), and requested the International Conference of Labour Statisticians (ICLS) to call on member States currently bound by the Convention concerning Statistics of Wages and Hours of Work, 1938 (No. 63), to consider ratification of Labour Statistics Convention, 1985 (No. 160);*
 - (e) *noted the SRM TWG's intention to monitor the implementation of its recommendations to promote ratification of certain instruments at its own future meetings, as well as to monitor progress in relation to the ratification of the Safety and Health in Mines Convention, 1995 (No. 176) and the study concerning gender equality in the mining sector within the context of the labour protection recurrent discussion that would take place in 2022;*
 - (f) *noted the SRM TWG's recommendations concerning the abrogation and withdrawal of certain instruments, in relation to which it will consider (see GB.334/INS/2):*
 - (i) *placing on the agenda of the 111th Session (2022) of the International Labour Conference an item concerning the withdrawal of the Labour Inspection Recommendation, 1923 (No. 20); and*

- (ii) *placing on the agenda of the 113th Session (2024) of the International Labour Conference an item concerning the abrogation of the Underground Work (Women) Convention, 1935 (No. 45), the Safety Provisions (Building) Convention, 1937 (No. 62), the Convention concerning Statistics of Wages and Hours of Work, 1938 (No. 63), and the Labour Inspectorates (Non-Metropolitan Territories) Convention, 1947 (No. 85);*
- (g) *noted the work undertaken by the Office in follow-up to the recommendations of the SRM TWG at its second and third meetings and requested the Office to continue this follow-up as planned;*
- (h) *decided that the SRM TWG would examine the nine instruments concerning employment policy (eight instruments and one outdated instrument), within sets of instruments 1 and 4 of the revised initial programme of work, in its fifth meeting; and*
- (i) *decided to convene the fifth meeting of the SRM TWG from 23 to 27 September 2019.*

Appendix

Report of the fourth meeting of the SRM Tripartite Working Group established by the Governing Body (Geneva, 17–21 September 2018)

1. The fourth meeting of the Standards Review Mechanism Tripartite Working Group (SRM TWG) took place in Geneva from 17 to 21 September 2018. It was chaired by Mr Jan Farzan (Germany) and attended by 31 of its 32 members (see table 1).

Table 1. Members attending the fourth meeting of the SRM TWG (September 2018)

| Members representing Governments |
|---|
| Brazil |
| Canada |
| China |
| Colombia |
| India |
| Iran, Islamic Republic of |
| Kenya |
| Korea, Republic of |
| Lithuania |
| Mali |
| Mexico |
| Netherlands |
| Nigeria ¹ |
| Romania |
| South Africa ² |
| Sweden |
| Members representing Employers |
| Ms S. Regenbogen (Canada), Vice-Chairperson |
| Mr A. Echavarría Saldarriaga (Colombia) |
| Ms S. D'Amico (Cambodia) |
| Ms L. Sephomolo (Lesotho) |
| Mr P. O'Reilly (New Zealand) |
| Mr U. Yildiz (Turkey) |
| Mr K. Weerasinghe (Sri Lanka) |

¹ Pursuant to paragraph 7 of the SRM TWG's terms of reference, the Office was informed that Cameroon would be replaced by a Member representing Nigeria for the fourth meeting of the SRM TWG.

² Pursuant to paragraph 7 of the SRM TWG's terms of reference, the Office was informed that Namibia would be replaced by a Member representing South Africa for the fourth meeting of the SRM TWG.

Members representing Workers

Ms C. Passchier (Netherlands), Vice-Chairperson

Ms A. Brown (United Kingdom)

Mr H. Fonck (Belgium)

Mr B. Kohler (Switzerland)³

Ms F. Murie (United Kingdom)

Mr R. O'Neill (United Kingdom)

Mr Z. Mtintema (Zimbabwe)

Ms M. Pujadas (Argentina)

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

Tripartite discussions leading to consensual recommendations

3. As was the case for previous meetings, the SRM TWG's fourth meeting was characterized by committed and frank discussions resulting in consensual decisions on all matters under review. Its members stressed the importance of their shared role in contributing to the common goal of an up-to-date and relevant body of standards. Constructive tripartite dialogue allowing innovative solutions to be developed was particularly necessary given the complexity of the work.
4. Building on lessons learned from past experiences, and in particular the way in which the impact of standards review processes has evolved, the SRM TWG discussed the far-reaching significance of its work on the body of standards and the Organization. Its recommendations and their follow-up could have a far-reaching impact on workers and businesses across the world. Mindful of the responsibility that came with its mandate, the SRM TWG stressed that its work must, in all cases, have the objective – and result – of improving the protection of workers taking into account the needs of sustainable enterprises.
5. The SRM TWG once again stressed that the critical importance of its work required it to be treated as an institutional priority. This related to all aspects of its recommendations, including the classification of standards, the identification of gaps in coverage requiring standard-setting action, and the various elements of practical and time-bound follow-up action such as non-normative initiatives to promote the ratification and implementation of standards, and the abrogation or withdrawal of outdated instruments where applicable.
6. With that in mind, the SRM TWG undertook a thorough and close examination of the standards it was called on to review. The SRM TWG considered that the potential significance of its work would only be fulfilled by integrated follow-up action that would be actively implemented. To this end, it developed balanced packages of practical and time-bound follow-up action for the topics under review, each comprising complementary and interrelated elements. Based on the classifications recommended for each instrument, the follow-up packages comprised, as applicable, promotional activities for up-to-date instruments, including technical assistance to support ratification or their full implementation, and abrogation or withdrawal of outdated instruments. The SRM TWG believed that each element of these integrated follow-up packages should be implemented by the Office and the Organization as an institutional priority, acknowledging their

³ Pursuant to paragraph 7 of the SRM TWG's terms of reference, the Office was informed that Mr Kohler would be replaced by Mr K. Ozkan (Turkey) for two days of the fourth meeting of the SRM TWG.

complementarity in terms of ensuring a clear, robust and up-to-date body of international labour standards.

7. In the course of its meeting, the SRM TWG discussed the elements to include in packages of follow-up action. Noting that its review this year did not lead it to identify any regulatory gaps in coverage requiring standard-setting action, the SRM TWG agreed that its recommendations involving possible standard-setting action from past years, as well as any resulting from future reviews, were a crucial part of its work to fulfil its mandate. The SRM TWG trusted that the Governing Body would take this into account when selecting standard-setting items to place on the agenda of the Conference. It noted the information provided by the Office that additional resources may be required for certain follow-up.
8. Further, the Workers' group emphasized the role of global campaigns in promoting the ratification of up-to-date instruments, including targeting member States with ratifications of related outdated standards to ensure that there would be no gap in protection caused by their abrogation or withdrawal. The Employers' group considered that, in general, support for ratification of instruments should focus on those member States that indicated an interest in considering ratification for a particular instrument. The Government group noted the importance of technical support being offered to member States wishing to ratify up-to-date instruments.
9. The SRM TWG discussed the follow-up action that should be taken in relation to instruments that it classified as outdated. The Employers' group considered that any instrument that was classified as outdated should, all things being equal, be considered for abrogation or withdrawal at the earliest date possible. The Workers' group stressed that it was critical to take effective actions to ensure transition towards the ratification of related up-to-date instruments by member States still bound by such outdated instruments as a matter of the highest priority, rather than emphasizing their abrogation or withdrawal, in this way preventing any gap in protection resulting from an early abrogation or withdrawal. Members of the Government group considered that outdated instruments should be abrogated or withdrawn at the earliest date possible in combination with measures to assist member States in ratifying related up-to-date instruments.

Review of five instruments, and consideration of the follow-up to one outdated instrument, on occupational safety and health (OSH) (specific branches)

10. In accordance with the decision taken by the Governing Body in October–November 2017, the SRM TWG reviewed the five instruments concerning OSH (specific branches) contained in the initial programme of work: the Safety and Health in Construction Convention, 1988 (No. 167), the Safety and Health in Construction Recommendation, 1988 (No. 175), the Underground Work (Women) Convention, 1935 (No. 45), the Safety and Health in Mines Convention, 1995 (No. 176), and the Safety and Health in Mines Recommendation, 1995 (No. 183). It further considered the follow-up to be taken to one instrument that had previously been determined to be outdated: the Safety Provisions (Building) Convention, 1937 (No. 62). The SRM TWG's resulting consensual recommendations are attached in paragraphs 9–14 of the annex to this report.
11. In relation to the discussion of the OSH instruments concerning specific branches, the Employers' group questioned the value generally of sectoral OSH instruments, particularly given their relatively low ratification rates, their often undue level of detail which affected their long-term relevance, and their partial overlap with the OSH instruments containing generally applicable provisions. The Workers' group responded that ratification rates as such did not say much about the quality and up-to-dated-ness of ILO instruments, which was illustrated during this SRM TWG meeting by, for instance, the high ratification rate of Convention No. 45 on women in mines that was considered to be outdated, whereas the more

modern instrument had a much lower ratification rate. Furthermore, the Workers' group considered that sectoral-specific OSH instruments were important and beneficial to workers and employers in those sectors, providing useful guidance on matters that impacted on their day-to-day working arrangements, whereas experience had shown that governments, especially in developing countries, might prefer ratification of a specific targeted Convention over a more comprehensive and complex Convention. Government members of the SRM TWG indicated that many member States considered the OSH sectoral instruments to be useful complements to the generally applicable OSH instruments, and explained that member States may find the offer of technical assistance helpful in relation to their current and future ratifications.

12. In reaching its consensual recommendations on the instruments concerned with *occupational safety and health in mining*,⁴ all three groups of the SRM TWG agreed that while Convention No. 45 was contrary to the fundamental principle of equality and non-discrimination and did not involve provisions to protect workers, Convention No. 176 was generally applicable and compatible with the approach taken by the key instruments on OSH as identified by the Governing Body. The SRM TWG had a frank exchange of views in relation to the optimal follow-up package that should be developed.
13. The Employers' group considered that the abrogation of Convention No. 45 should not be delayed and that there was no link between it and Convention No. 176 warranting a promotional campaign above the normal Office promotional work for up-to-date instruments. The Workers' group considered that a transitional approach towards abrogation, providing for effective actions to secure transition towards the ratification of the relevant up-to-date instruments, would ensure that the opportunity to promote the safety and health of women workers in mines was not lost, and in this regard considered a promotional campaign with regard to Convention No. 176, as well as other measures focusing on the particular challenges of gender equality in mines, to be a critical part of ensuring safety and health for all workers, women and men, in mines. The Government group considered that a promotional campaign was important for both ratification and effective implementation, but did not consider that the denunciation or abrogation of Convention No. 45 should be linked with the ratification of Convention No. 176.
14. Accordingly, the SRM TWG agreed to classify Convention No. 45 as an outdated instrument and Convention No. 176 and Recommendation No. 183 as up-to-date instruments. The corresponding package of practical and time-bound follow-up action should promote the ratification of Convention No. 176; involve consideration of the abrogation of Convention No. 45 by the Conference in 2024; and involve an Office study aiming to gain a better understanding of the situation with regard to gender equality in the mining sector, and that specific attention be paid to progress made in relation to ratification of Convention No. 176 and the study referred to above in the context of the labour protection recurrent discussion in 2022, to see if additional action would be necessary. The consensual recommendations are contained in paragraphs 9–12 of the annex to this report.
15. The SRM TWG's rich discussion about the instruments on *occupational safety and health in construction*⁵ resulted in consensual recommendations that Convention No. 167 and Recommendation No. 175 were up-to-date, as well as confirming the classification of Convention No. 62 as an outdated instrument. In determining the follow-up action that it

⁴ Conventions Nos 45 and 176 and Recommendation No. 183, discussed in [SRM TWG/2018/Technical Note 1.1](#); recommendations contained in paras 9–12 of the annex to this report.

⁵ Conventions Nos 62 and 167 and Recommendation No. 175, discussed in [SRM TWG/2018/Technical Note 1.2](#); recommendations contained in paras 13–14 of the annex to this report.

would recommend in relation to these instruments, the SRM TWG exchanged views to reach an innovative and balanced package of practical and time-bound follow-up action.

16. The Workers' group stressed that, as Convention No. 62 still provided relevant protections to many vulnerable workers in the member States in which it was still in force, follow-up should include effective actions to ensure transition towards the up-to-date instrument, Convention No. 167, the ratification of which leads to automatic denunciation of Convention No. 62, as the preferred way forward, rather than focusing on abrogation. The Employers' group considered Convention No. 167 and Recommendation No. 175 as overall up to date, although with certain qualifications. On the other hand, Convention No. 62 was outdated and the Conference should consider its abrogation as soon as possible. In terms of the follow-up, promotional activities should focus on the up-to-date OSH standards of general application. The Government group suggested that the earliest date at which abrogation of Convention No. 62 could be considered was following the next window for its denunciation (4 July 2022–4 July 2023), allowing member States time to consider ratification of the more up-to-date instruments and prevent a gap in protection. Government members highlighted the importance of revising the code of practice on construction which provided detailed guidance on OSH standards in the sector.
17. Following discussion, the SRM TWG agreed that the package of follow-up action in relation to the instruments concerning OSH in construction should promote ratification of Convention No. 167; involve follow-up by the Office with member States currently bound by Convention No. 62 to actively encourage ratification of up-to-date OSH instruments; include the provision of technical assistance; ensure a first revision of the Code of Practice on construction by 2022; and involve consideration of the abrogation of Convention No. 62 by the Conference in 2024. The SRM TWG will consider the promotional activities undertaken by the Office at its meeting in 2020, to see if additional action is necessary. The consensual recommendations in this regard are contained in paragraphs 13–14 of the annex to this report.

Review of two instruments on labour inspection

18. In accordance with the decision taken by the Governing Body in October–November 2017, the SRM TWG reviewed the two instruments concerning labour inspection contained in the initial programme of work: the Labour Inspectorates (Non-Metropolitan Territories) Convention, 1947 (No. 85), and the Labour Inspection Recommendation, 1923 (No. 20). Its resulting consensual recommendations are attached in paragraphs 15–19 of the annex to this report.
19. In reaching consensual recommendations on the instrument concerning *labour inspectorates in non-metropolitan territories*,⁶ the SRM TWG agreed that Convention No. 85 was based on a world view that no longer existed and was not fully compatible with the Organization's principle of universality of international labour standards. It also noted the legal complexities that surrounded the status of non-metropolitan territories with regard to this instrument.
20. During the discussion of the package of practical and time-bound follow-up action in this regard, the Workers' group emphasized the need for the follow-up action to include transitional elements to ensure that there was no gap in protection of workers in relation to member States and non-metropolitan territories in which Convention No. 85 was in force. Members of the Government group stressed that technical assistance should be offered to countries with ratifications of Convention No. 85 to ensure that there was no gap in protection as a result of its abrogation. The Employers' group emphasized that the Convention is currently applicable only in non-metropolitan territories and that only half of

⁶ Convention No. 85, discussed in [SRM TWG/2018/Technical Note 2.1](#); recommendations contained in paras 15–17 of the annex to this report.

the ten ratifying countries have still non-metropolitan territories in place. Therefore, they stressed the need to clarify the status of the Convention for the ratifying countries that have gained the status of independent countries with no other non-metropolitan territories and considered that abrogation of Convention No. 85 could be complemented by targeted promotion of the Labour Inspection Convention, 1947 (No. 81), and the Labour Inspection (Agriculture) Convention, 1969 (No. 129).

21. Accordingly, the SRM TWG agreed to classify Convention No. 85 as an outdated instrument. It recommended that follow-up action should involve consideration of the abrogation of Convention No. 85 by the Conference in 2024. The Office should promote the ratification of Conventions Nos 81 and 129, provide technical assistance in relation to some of the legal complexities, and seek information on obstacles to ratification of Conventions Nos 81 and 129 to be considered by the SRM TWG at its meeting in 2019.
22. The SRM TWG undertook a frank discussion of the instrument concerning *general principles for the organization of labour inspection systems*.⁷ Agreeing that the main principles of Recommendation No. 20 had been incorporated into the later governance instruments, the SRM TWG focused on the approach to take to certain provisions of the Recommendation that provided detailed guidance on principles in Conventions Nos 81 and 129.
23. The Government group considered that it would be useful to have guidelines, receiving tripartite endorsement, to deal with certain provisions not already covered by Conventions Nos 81 and 129 and the Labour Inspection Recommendation, 1947 (No. 81), and the Labour Inspection (Agriculture) Recommendation, 1969 (No. 133). The Employers' group emphasized that any guidelines should be kept regularly updated. In their view, guidelines should play a more prominent role in future in complementing OSH standards by providing technical detail. The Workers' group, on the contrary, mentioned they considered it problematic to replace a normative instrument, such as a Recommendation, or parts of it, only by guidelines as these did not have the same normative value. On the suggestion of the Workers' group, the possibility of a partial revision of Recommendation No. 81, to incorporate the provisions of Recommendation No. 20 that were not repeated in the later instruments, was considered on the basis of advice provided by the Legal Adviser. He explained that ILO standards may be revised, wholly or partly, according to specific provisions in the ILO Constitution and the Standing Orders of the Conference and Governing Body, as well as tools developed in practice. The procedure in articles 44 and 45 of the Standing Orders of the Conference was used until 1950, after which the double or single discussion procedure, pursuant to article 38 of the Standing Orders, has been used. In addition, the ILO has revised instruments through the adoption of Protocols and amendment clauses such as those in the Maritime Labour Convention, 2006, as amended (MLC, 2006), the Seafarers' Identity Documents Convention (Revised), 2003 (No. 185), and the Work in Fishing Convention, 2007 (No. 188). A simplified revision procedure based on the process under articles 44 and 45 was adopted in 1965 to address non-controversial questions; until now it has never been implemented in practice.
24. Following discussion, the SRM TWG agreed to classify Recommendation No. 20 as outdated. It recommended follow-up action involving the consideration of the withdrawal of Recommendation No. 20 in 2022 and the prior development of guidelines on the general principles in Conventions Nos 81 and 129, including, but not limited to, the provisions of Recommendation No. 20 that are not repeated in the later instruments

⁷ Recommendation No. 20, discussed in [SRM TWG/2018/Technical Note 2.2](#); recommendations contained in paras 18–19 of the annex to this report.

Review of two instruments, and consideration of the follow-up to one outdated instrument, on labour statistics

25. In accordance with the decision taken by the Governing Body in October–November 2017, the SRM TWG reviewed the two instruments concerning *labour statistics* contained in the initial programme of work: the Labour Statistics Convention, 1985 (No. 160), and the Labour Statistics Recommendation, 1985 (No. 170). It also considered the follow-up taken to the Convention concerning Statistics of Wages and Hours of Work, 1938 (No. 63), which had previously been determined to be outdated. Its resulting consensual recommendations are attached in paragraphs 20–21 of the annex to this report.
26. The SRM TWG’s discussion of the instruments on labour statistics⁸ resulted in consensual recommendations that Convention No. 160 and Recommendation No. 170 were up to date, as well as confirming the classification of Convention No. 63 as an outdated instrument.
27. In discussing the follow-up action that should be taken as a result, the Employers’ group highlighted the importance of taking a final decision on the possible abrogation of Convention No. 63 which had already been considered by the SRM TWG at its second meeting. Given that in their view the Convention was clearly redundant, the Employers felt that it should be recommended for abrogation at an International Labour Conference in the near future. Government members of the SRM TWG noted the flexibility of Convention No. 160, and suggested that promotional activities could complement a timeline for abrogation of Convention No. 63. The Workers’ group suggested that Convention No. 63 and its reporting obligations, as long as it was in place, could be used as a vehicle to promote the ratification of Convention No. 160. It proposed that the ratification of Convention No. 160 could be promoted at the October 2018 session of the International Conference of Labour Statisticians (ICLS).
28. Accordingly, following discussion, the SRM TWG agreed that the follow-up action in relation to labour statistics should involve the promotion of Convention No. 160 and consideration of the abrogation of Convention No. 63 in 2024. In relation to member States currently bound by Convention No. 63 – and non-metropolitan territories to which it had been declared applicable – the SRM TWG recommended Office follow-up and requested the ICLS to call on those States to consider ratifying Convention No. 160.

Consideration of matters concerning the SRM TWG’s review process

29. The SRM TWG continued its consideration of its dynamic and flexible review process and procedure. It once again provided feedback to the Office on how to further enhance the information documents provided within the set of preparatory documents, and welcomed the information contained in the internal workplan for the SRM TWG’s initial programme of work,⁹ the Office’s implementation report to follow-up the SRM TWG’s previous recommendations,¹⁰ the SRM TWG process to review instruments¹¹ and the synergies

⁸ Conventions Nos 63 and 160 and Recommendation No. 170, discussed in [SRM TWG/2018/Technical Note 3.1](#); recommendations contained in paras 20–21 of the annex to this report.

⁹ [SRM TWG/2018/Information document 1](#).

¹⁰ [SRM TWG/2018/Information document 2](#).

¹¹ [SRM TWG/2018/Information document 3](#).

between the SRM TWG's work and other ILO initiatives.¹² The SRM TWG looked forward to seeing the result of the continuing adaptations of NORMLEX to reflect its work, acknowledging the complexity of the changes required.

Consideration of the institutional implications of the SRM TWG's review process

30. The SRM TWG discussed the two options papers that, at its last meeting, it had requested the Office to prepare.¹³ The discussion was particularly far-reaching, directly contributing to the development of the ILO's standards policy. As such, members were aware of the significance of its discussion for the whole Organization. In that context, it decided to continue its reflection at its next meeting as several issues involved deserved careful study and comprehensive tripartite discussion. To aid it in ensuring that its recommendations were well-informed, realistic and impactful, the SRM TWG requested the Office to prepare further preparatory documents to facilitate its future discussions, including a document setting out the legal implications of the various issues discussed concerning international labour standards. Its resulting consensual recommendations are attached in paragraph 22 of the annex to this report.
31. With regard to its discussion of *options for ensuring coherence and consistency in the standard-setting follow-up to the SRM TWG recommendations on OSH*,¹⁴ the SRM TWG agreed that innovative approaches should ensure a clear, up-to-date and robust body of international labour standards for the purpose of the protection of workers and taking into account the needs of sustainable enterprises.
32. The Employers' group stressed that the SRM TWG, beyond its review and classification of individual OSH standards, should take advantage of the opportunity to explore and make suggestions on ways to reorganize, simplify and consolidate OSH standards and thus overcome the existing fragmentation of standards in this field. In that context, the group found value in exploring and elaborating the third approach, considering the desirability of being innovative and ambitious ("think big") in order to ensure transparency, sustainability, relevance and thus future impact of the OSH instruments for constituents. It queried whether, in providing the necessary further information for the SRM TWG's continuation of its discussion, the Office may be able to provide a pilot simulation of one or more of the approaches.
33. The Workers' group favoured a further discussion based on the first approach ("thematic integration"), while at the same time also raising concerns about the possible inclusion of up-to-date instruments in that approach, which it would certainly not want to agree to as this might endanger their promotion. Furthermore, it expressed strong concerns at the possible far-reaching consequences, as well as legal difficulties – for instance on the proposed use of protocols beyond the current ILO practice – of the other two approaches and stressed that any approach chosen must not result in lower levels of protections for workers. The group highlighted that this would be a resource-intensive process; and that it would not be logical to require member States to repeat previous ratifications of instruments included in a consolidation exercise in the case that the approach chosen meant that instruments were only reformulated. It considered that the third approach ("consolidation") exceeded the SRM TWG's mandate given that it would involve the possible consolidation of instruments, which are not under the purview of the SRM TWG, and had the potential to destabilize the ILO's body of standards. The group stressed that, during the SRM TWG's continuing

¹² [SRM TWG/2018/Information document 4](#).

¹³ [GB.331/LILS/2](#), appendix, paras 6–7.

¹⁴ [SRM TWG/2018/Options paper 1](#).

reflection on these issues, it was critical that the promotion of up-to-date instruments and follow-up of its standard-setting recommendations continued and would lead to visible and tangible results.

34. Government members of the SRM TWG stressed that this should be seen as the beginning of a longer discussion that would have a considerable impact on ILO standards policy. Members fully agreed that protections should not be reduced, stressing that any innovative solution must not undermine the protection of workers, and that effectiveness and feasibility were both important objectives. Supporting an elaboration of the first approach, taking into account the concerns expressed by the Workers' group, the Government group suggested that the Office could attempt to integrate some elements of the second approach ("partial integration") as a possible complement to it – in particular, it considered that protocols could be useful in some cases. The group mentioned that lessons learned from the process to adopt the MLC, 2006, should be taken into account as the process represented both positive aspects and challenges. For example, possibilities allowing instruments to be more easily updated could be inspired by the MLC, 2006 approach, within a discussion of the first approach. Some Government members stressed the need for future-proof and goal-oriented standards; while the goals of the standards should be the subject of tripartite agreement, the manner in which to reach those goals should be agreed at national level through social dialogue.
35. Following discussion, the SRM TWG requested the Office to start further elaborating, in the preparatory documents that it will develop for the SRM TWG's fifth meeting, mainly the first approach, taking also into account the questions and points raised by the groups regarding all three approaches. The Office should also provide further details and information about the possible implications and possibilities. The SRM TWG further suggested that future discussions could address the challenges and implications of transferring ratifications from older instruments to possible new revising instruments; how ratification rates could be improved; and how any new instruments could be more easily updated. The SRM TWG stressed that this should be seen as the beginning of a longer discussion that would have a considerable impact on ILO standards policy.
36. The SRM TWG's discussion of *options for addressing the impact of the SRM TWG recommendations on the Conference agenda and the Office*¹⁵ was equally wide-ranging and thoughtful. The SRM TWG agreed that ensuring more systematic and effective impact and follow-up of SRM TWG recommendations was an important discussion, requiring more time and information. It requested further information on Office capacity and resources; legal implications of the various options; how to ensure that the Conference's competence in terms of standard-setting was not infringed; how to facilitate the work of the Conference; the possibility of having two standard-setting items in one Conference; and information on how to facilitate revision and standard-setting, in order to mitigate the risk of backlog of standard-setting recommendations.
37. In the course of discussion, the Workers' group stressed that the SRM TWG's mandate focused not only on the revision of older instruments, but also on standard-setting and the promotion of ratifications. In this regard, it emphasized its concern that there should be a tripartite commitment to ensure full implementation of the SRM TWG's recommendations concerning standard-setting follow-up and promotion of up-to-date instruments. The Employers' group suggested that simple recommendations to the Governing Body may contribute to more effective follow-up. Government members of the SRM TWG requested the Office to elaborate further on the practical impact of each option, on its capacity and on how it envisaged these options would function in practice.

¹⁵ [SRM TWG/2018/Options paper 2](#).

Preparation for the fifth meeting

38. The SRM TWG decided that the fifth meeting of the SRM TWG would take place from 23 to 27 September 2019.¹⁶ The SRM TWG discussed the need for institutional coherence in selecting instruments for future reviews, in particular different ways to ensure coherence between the reviews of standards by the SRM TWG and the recurrent discussions and Conference discussions of the General Surveys. Further, it noted that the number of instruments reviewed should be calculated to allow sufficient time for adequate preparation, as well as discussion, by the members of the SRM TWG. The SRM TWG decided it would review set of instruments 1 on employment policy and promotion, comprising eight instruments (see table 2). It would further consider the follow-up taken to one instrument falling within the topic and previously determined to be outdated.¹⁷
39. Finally, in line with its terms of reference, the SRM TWG authorized the attendance of eight advisers to assist the Government members at its fifth meeting in September 2019. 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 fifth meeting of the SRM TWG (September 2019)

Employment policy instruments: Employment policy and promotion

Unemployment Convention, 1919 (No. 2)

Employment Service Convention, 1948 (No. 88)

Fee-Charging Employment Agencies Convention (Revised), 1949 (No. 96)

Private Employment Agencies Convention, 1997 (No. 181)

Employment Service Recommendation, 1948 (No. 83)

Private Employment Agencies Recommendation, 1997 (No. 188)

Job Creation in Small and Medium-Sized Enterprises Recommendation, 1998 (No. 189)

Employment policy instruments: Relevant outdated instrument

Fee-Charging Employment Agencies Convention, 1933 (No. 34)

¹⁶ [SRM TWG/2018/Information document 6.](#)

¹⁷ [SRM TWG/2018/Information document 5.](#)

Annex

Recommendations adopted by the SRM TWG at its fourth meeting, submitted to the Governing Body at its 334th Session (October–November 2018) pursuant to paragraph 22 of the terms of reference of the SRM TWG

1. In formulating the recommendations set out below, the SRM TWG reiterates its mandate to contribute to the overall objective of the SRM to ensure 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. It recalls that the 2016 Conference resolution on Advancing Social Justice through Decent Work stated that more work is needed to improve the implementation and ratification of standards.
2. 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: ¹
 - (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.
3. In doing so, the SRM TWG was mindful of the institutional importance of its work. In the first place, it recalled the achievements of its first three meetings in terms of reaching tripartite consensus on the classification of 19 instruments, the identification of five gaps in coverage requiring standard-setting action, ² and the adoption of a varied set of practical and time-bound follow-up action to be undertaken by the Office and Organization, including promotional initiatives, other non-normative activities, and abrogation or withdrawal of outdated instruments where appropriate. It was aware that the work of its fourth meeting contributed to those achievements, through tripartite consensus on the classification of nine instruments and the adoption of additional practical and time-bound follow-up action.
4. Further, the SRM TWG considered that ensuring the effectiveness and impact of its continuing work was of paramount importance. It was aware of the significance to the Organization of having up-to-date and robust international labour standards that respond to the needs of the current and future world of work, particularly at this point in time as the ILO prepares to enter its second century. This was especially necessary in relation to the subject matters of the sets of instruments reviewed by the SRM TWG at its fourth meeting. At its third meeting, the SRM TWG referred to the critical importance of the topic of occupational safety and health (OSH) to the current world of work; it considered that the topics of labour inspection and labour statistics also play a crucial role in an up-to-date and relevant body of international labour standards.
5. In that context, the SRM TWG considered that it was imperative that the follow-up of its recommendations should be understood as a focus for the Organization as a whole, as envisaged by the Director-General in establishing the Standards Initiative. Further, the SRM TWG considers that the linkages between its work and the other Centenary Initiatives

¹ Para. 9 of the [terms of reference of the SRM TWG](#).

² Gaps in coverage requiring standard-setting action were identified in relation to the topics of apprenticeships, biological hazards, chemicals, machine safety, and maximum weight.

should be noted. The Women in Work Initiative has a particular significance as the SRM TWG is of the firm belief that all international labour standards should work to promote gender equality. Equally, the SRM TWG highlights the importance for member States of the provision by the Office of technical assistance that is gender sensitive and has the objective of improving the protection of both women and men in the world of work.

6. The SRM TWG acknowledged the many challenges involved in the follow-up to its recommendations, firmly believing that tripartism at the international and national level was the only way in which such matters can be resolved. Effective follow-up of the SRM TWG recommendations requires committed and concrete actions to be taken by Governments and social partners, both at national level and within the ILO Governing Body and International Labour Conference. In addition, the role of the Office in providing technical support to enable those actions to take place is essential in the process. As a first and systematic action towards implementation of its recommendations, the SRM TWG particularly encourages member States to take advantage of technical assistance from the Office in framing and implementing holistic national policies and action plans for international labour standards ratification, implementation and reporting and their integration into Decent Work Country Programmes.
7. With this in mind, the SRM TWG has decided that its recommendations should comprise practical and time-bound packages of follow-up action. The need for time-bound prioritization applies equally to follow-up action involving abrogation and withdrawal of outdated standards, promotion of up-to-date standards, and standard-setting activities, where applicable. The SRM TWG calls on the Organization to take the appropriate measures to guarantee the time-bound element of all its recommendations resulting from its review of standards.
8. 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.

Occupational safety and health in mining³

9. The SRM TWG recommends to the Governing Body that:
 - (i) the Underground Work (Women) Convention, 1935 (No. 45), is considered to have the classification of an *outdated* instrument; and
 - (ii) the Safety and Health in Mines Convention, 1995 (No. 176), and the Safety and Health in Mines Recommendation, 1995 (No. 183), are considered to have the classification of *up-to-date* instruments.
10. Accordingly, the SRM TWG recommends that the Governing Body consider a *practical and time-bound package of follow-up action* involving:
 - (i) a campaign by the Office to promote the ratification of Convention No. 176 by member States not already bound by that Convention, including technical assistance to member States requiring it to support steps towards ratification;
 - (ii) Office follow-up with member States currently bound by Convention No. 45 to encourage the ratification of up-to-date instruments concerning OSH, including but not limited to, Convention No. 176; and
 - (iii) the abrogation of Convention No. 45 in 2024, through placing an item to this effect on the agenda of the 113th Session of the International Labour Conference.

³ See [SRM TWG/2018/Technical Note 1.1](#).

11. With the intention of gaining a better understanding of the situation with regard to gender equality in the mining sector, the SRM TWG recommends that the Governing Body requests the Office to undertake a study of these issues within existing resources so that it may consider appropriate follow-up action to address any challenges for women workers in the mining sector, including with respect to whether specific technical assistance is necessary.
12. The SRM TWG recommends that specific attention be paid to progress made in relation to the ratification of Convention No. 176 and the study referred to above, within the context of the labour protection recurrent discussion that will take place in 2022, to see if additional action is necessary.

Occupational safety and health in construction ⁴

13. The SRM TWG recommends to the Governing Body that:
 - (i) the Safety and Health in Construction Convention, 1988 (No. 167), and the Safety and Health in Construction Recommendation, 1988 (No. 175), are considered to have the classification of *up-to-date* instruments; and
 - (ii) the classification of the Safety Provisions (Building) Convention, 1937 (No. 62), as an *outdated* instrument is confirmed.
14. Accordingly, the SRM TWG recommends that the Governing Body consider a *practical and time-bound package of follow-up action* involving:
 - (i) a campaign by the Office to promote the ratification of Convention No. 167 by member States within the context of the Office promotion of up-to-date instruments on OSH;
 - (ii) Office follow-up and promotion of tripartite action with member States currently bound by Convention No. 62 to actively encourage the ratification of up-to-date instruments concerning OSH, including but not limited to, Convention No. 167 and targeted technical assistance offered to those countries requiring most support. The Office will report on its promotion activities to the SRM TWG in 2020, including on information received as to progress towards ratification of Convention No. 167 by those 19 member States with current ratifications of Convention No. 62 to see if additional action is necessary;
 - (iii) the abrogation of Convention No. 62 in 2024 through placing an item to this effect on the agenda of the 113th Session of the International Labour Conference;
 - (iv) the Office will offer technical assistance to member States in implementing Convention No. 167 and Recommendation No. 175, including in relation to specific challenges noted by the Committee of Experts; and
 - (v) measures to ensure that the relevant Code of Practice on construction that supplements Convention No. 167 and Recommendation No. 175 is regularly reviewed to ensure its continued relevance. A first revision of the Code of Practice should be developed by 2022.

Labour inspectorates in non-metropolitan territories ⁵

15. The SRM TWG recommends to the Governing Body that the Labour Inspectorates (Non-Metropolitan Territories) Convention, 1947 (No. 85), is considered to have the classification of an *outdated* instrument.

⁴ See [SRM TWG/2018/Technical Note 1.2.](#)

⁵ See [SRM TWG/2018/Technical Note 2.1.](#)

16. Accordingly, the SRM TWG recommends that the Governing Body consider a *practical and time-bound package of follow-up action* involving:
- (i) a campaign by the Office to promote the ratification of governance Conventions, the Labour Inspection Convention, 1947 (No. 81), and the Labour Inspection (Agriculture) Convention, 1969 (No. 129), by member States not already bound by those Conventions, including technical assistance to member States requesting it to support ratification;
 - (ii) within the context of that ratification campaign, Office technical assistance offered to member States currently bound by both Conventions Nos 81 and 85 to clarify their status and, where requested, to support active steps towards denunciation of Convention No. 85; and
 - (iii) action taken by the Office to seek additional information from member States bound by Convention No. 85, and not bound by Conventions Nos 81 and 129, on any practical or legal obstacles to ratification of those instruments.
17. The SRM TWG requests the Office to report at its next meeting in 2019 on information received as mentioned above to see if additional action is necessary. The SRM TWG recommends to the Governing Body that it consider placing an item concerning the abrogation of Convention No. 85 on the agenda of the 113th Session (2024) of the International Labour Conference.

General principles for the organization of labour inspection systems⁶

18. The SRM TWG recommends to the Governing Body that the Labour Inspection Recommendation, 1923 (No. 20), is considered to have the classification of an *outdated* instrument.
19. Accordingly, the SRM TWG recommends that the Governing Body consider a *practical and time-bound package of follow-up action* involving:
- (i) placing an item on the agenda of the International Labour Conference concerning the withdrawal of Recommendation No. 20, at its 111th Session (2022);
 - (ii) noting that while the withdrawal of Recommendation No. 20 would not result in any gaps in coverage, it could result in less detailed guidance being available on certain principles. Therefore, the SRM TWG recommends that the Governing Body requests the Office to develop guidelines on the general principles contained in the governance Conventions Nos 81 and 129, to ensure that detailed guidance on those principles is available for the use of the constituents before the withdrawal of the Recommendation.

Labour statistics⁷

20. The SRM TWG recommends to the Governing Body that:
- (i) the Labour Statistics Convention, 1985 (No. 160), and the Labour Statistics Recommendation, 1985 (No. 170), are considered to have the classification of *up-to-date* instruments; and
 - (ii) the classification of the Convention concerning Statistics of Wages and Hours of Work, 1938 (No. 63), as an *outdated* instrument is confirmed.

⁶ See [SRM TWG/2018/Technical Note 2.2.](#)

⁷ See [SRM TWG/2018/Technical Note 3.1.](#)

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21. Accordingly, the SRM TWG recommends that the Governing Body consider a *practical and time-bound package of follow-up action* involving:
- (i) a campaign by the Office to promote the ratification of Convention No. 160 by member States, including technical assistance to member States requiring it to support steps towards ratification;
 - (ii) Office follow-up with member States currently bound by Convention No. 63, and non-metropolitan territories to which Convention No. 63 has been declared applicable, to support consideration of the ratification of Convention No. 160;
 - (iii) the abrogation of Convention No. 63 in 2024, on the basis of follow-up taken by the Office with member States currently bound by Convention No. 63, through placing an item to this effect on the agenda of the 113th Session of the International Labour Conference; and
 - (iv) request made to the 20th Session (October 2018) of the International Conference of Labour Statisticians to call on member States currently bound by Convention No. 63 to consider ratifying the up-to-date Convention No. 160.

Discussion of the institutional implications of the work of the SRM TWG ⁸

22. The SRM TWG stresses its clear understanding that fulfilling its mandate requires, on the one hand, coherence and consistency in the standard-setting follow-up to its recommendations and, on the other hand, attending to the impact of its recommendations on the Conference agenda and the Office. On the basis of that clear understanding, the SRM TWG decided to continue the reflection that it started in its fourth meeting, with the intention of guaranteeing that its recommendations are well-informed, realistic and impactful in the institutional context. The SRM TWG accordingly requests the Office to prepare further preparatory documents to facilitate its discussions in this regard at its next meeting.

⁸ See SRM TWG/2018/Options papers 1 and 2.