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Legal Issues and International Labour Standards Section

LILS

International Labour Standards and Human Rights Segment

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Second evaluation of the functioning of the Standards Review Mechanism Tripartite Working Group

Purpose of the document

In accordance with the decision adopted in March 2017 to undertake a second evaluation of the functioning of the Standards Review Mechanism Tripartite Working Group (SRM TWG) no later than March 2020, and pursuant to paragraph 26 of the terms of reference of the SRM TWG, the Governing Body is invited to consider the report of the Officers of the SRM TWG as it undertakes its second evaluation (see the draft decision in paragraph 3).

Note: The consideration of this item was deferred from the 338th Session (March 2020) of the Governing Body. The content of the document is the same as [GB.338/LILS/3](#).

Relevant strategic objective: All.

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

Policy implications: None.

Legal implications: None.

Financial implications: None.

Follow-up action required: Subject to the Governing Body decision

Author unit: International Labour Standards Department (NORMES).

Related documents: GB.337/LILS/PV; GB.337/LILS/1; GB.335/PV; GB.335/INS/5; GB.334/PV;
GB.334/LILS/3; GB.331/PV; GB.331/LILS/2; GB.329/PV; GB.329/LILS/2; GB.328/PV; GB.328/LILS/2/1(Rev.);
GB.326/PV; GB.326/LILS/3/2; GB.325/PV; GB.325/LILS/3; GB.323/PV; GB.323/INS/5.

1. Pursuant to paragraph 26 of the terms of reference of the SRM TWG, the "Governing Body shall evaluate the functioning of the SRM Tripartite Working Group at regular intervals". The Governing Body undertook an initial evaluation ¹ based on that paragraph of the terms of reference at its 329th Session (March 2017), when it expected a second evaluation no later than March 2020. ² In March 2019, the Governing Body further reviewed the work of the SRM TWG in the context of its overall review of the implementation of the Standards Initiative. At that time, the Governing Body requested the SRM TWG to provide a report for the Governing Body's second review of the functioning of the SRM TWG in March 2020.
2. The report of the SRM TWG Officers included in the appendix to this document provides an update of relevant information since the report prepared for the Governing Body's March 2019 overall review of the implementation of the Standards Initiative. ³ It is accordingly transmitted for the Governing Body's consideration as it undertakes its second evaluation of the functioning of the SRM TWG.

► Draft decision

3. In undertaking its second evaluation of the functioning of the Standards Review Mechanism Tripartite Working Group (SRM TWG), the Governing Body noted the information provided by the Officers of the SRM TWG and:
 - (a) expressed its gratitude to the SRM TWG for its ongoing work to ensure a clear, robust and up-to-date body of international labour standards;
EITHER
(b1) (recognized that the impact of the SRM TWG's work relies on the Organization and its tripartite constituents taking appropriate measures to follow up on all of the SRM TWG's previous recommendations and accordingly encouraged member States and social partners to take concrete steps in this regard and the Office to assume its role in following up on the recommendations, including assisting ILO Member States in the ratification and effective application of standards in consultation with employers' and workers' organizations; and
OR
(b2) noted the information provided in the report of the SRM TWG on lessons learned and possible future directions; and
(c) requested the SRM TWG to take its guidance into account in continuing its work and that it continue to be kept informed of the functioning of the SRM TWG so as to allow it to undertake a further evaluation no later than March 2022.

¹ GB.325/LILS/3/decision, subpara. (d).

² GB.329/LILS/2.

³ GB.335/INS/5.

► Appendix

Report of the Officers of the SRM TWG

1. This report concerning the SRM TWG's first five meetings is transmitted to the Governing Body in accordance with its decisions in March 2017 and March 2019. It provides information to inform the Governing Body's second evaluation of the functioning of the SRM TWG.

I. The SRM TWG: Terms of reference, meetings held and previous evaluations

- A. Terms of reference: Mandate and methods of work
2. Pursuant to its terms of reference, the SRM TWG's mandate is to contribute to ensuring that the ILO has a clear, robust and up-to-date body of international labour standards that respond to the changing patterns of the world of work, for the purpose of the protection of workers and taking into account the needs of sustainable enterprises.¹ The SRM TWG shall review standards with a view to making recommendations to the Governing Body on:²
 - (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. The SRM TWG may address any other matter related to standards setting and standards policy as may be requested by the Governing Body.³
4. The SRM TWG meets once per year for one week, unless the Governing Body decides otherwise,⁴ according to a programme of work determined by the Governing Body taking into account the SRM TWG's recommendations.⁵ While attendance at the meetings has been limited to its Chairperson, its members, the secretariats of the Employers' and Workers' groups, ILO officials, and a limited number of advisers as it has authorized,⁶ its working documents and the reports of its meetings are public.⁷ Under the direction of the Officers, the Office has provided support to facilitate its meetings.⁸
5. Following discussion, its decisions are taken by consensus and submitted to the Governing Body for decision and follow-up action. Should it not be possible to reach

¹ GB.325/LILS/3, appendix, para. 8 (terms of reference of the SRM TWG).

² GB.325/LILS/3, appendix, para. 9 (terms of reference of the SRM TWG). The SRM TWG recalled the achievements of its first meetings in this regard in September 2018: GB.334/LILS/3, annex to the appendix (SRM TWG recommendations), para. 3.

³ GB.325/LILS/3, appendix, para. 12 (terms of reference of the SRM TWG).

⁴ GB.325/LILS/3, appendix, para. 14 (terms of reference of the SRM TWG).

⁵ GB.325/LILS/3, appendix, para. 15 (terms of reference of the SRM TWG).

⁶ GB.325/LILS/3, appendix, para. 18 (terms of reference of the SRM TWG).

⁷ GB.325/LILS/3, appendix, para. 19 (terms of reference of the SRM TWG).

⁸ GB.325/LILS/3, appendix, para. 24 (terms of reference of the SRM TWG).

consensus on a specific issue, the terms of reference provide that the divergent views shall be set out in its report to the Governing Body.⁹

B. Meetings held in 2016–19

6. The SRM TWG has met five times since its establishment in 2015:
 - (a) Following its first meeting in March 2016, the Governing Body approved its adoption of an initial programme of work composed of 235 international labour standards and referred 68 instruments to the Special Tripartite Committee (STC) established for addressing matters relating to the Maritime Labour Convention, 2006, as amended (MLC, 2006).¹⁰
 - (b) At its second meeting in October 2016, the SRM TWG examined the follow-up taken to 63 instruments previously determined to be outdated, involving approximately 21 subtopics.¹¹
 - (c) At its third meeting in September 2017, the SRM TWG reviewed 19 instruments concerning occupational safety and health (OSH) (general provisions and specific risks).¹²
 - (d) At its fourth meeting in September 2018, the SRM TWG reviewed nine instruments concerning OSH (specific branches of activity), labour statistics and labour inspection.¹³
 - (e) At its fifth meeting in September 2019, it reviewed seven instruments in its initial programme of work on employment policy.¹⁴

C. Previous evaluations

7. Paragraph 26 of the terms of reference of the SRM TWG sets out that the "Governing Body shall evaluate the functioning of the SRM Tripartite Working Group at regular intervals". The Governing Body undertook an initial evaluation¹⁵ of the functioning of the SRM TWG at its 329th Session (March 2017).¹⁶ At that time, the Governing Body noted that the SRM TWG had started its work and requested the information necessary for it to undertake a further evaluation no later than March 2020.
8. In March 2019, the Governing Body further reviewed the work of the SRM TWG in the context of its overall review of the implementation of the Standards Initiative.¹⁷ The Governing Body requested the SRM TWG to take its guidance into account in continuing its work and to provide a report for the Governing Body's second review of the functioning of the SRM TWG in March 2020. To guarantee the impact of that work, the Governing Body reiterated its call upon the Organization and its tripartite constituents

⁹ GB.325/LILS/3, appendix, para. 22 (terms of reference of the SRM TWG).

¹⁰ GB.326/LILS/3/2. The STC reviewed a first group of 34 instruments in April 2018: Recommendations concerning the classification of the instruments reviewed and possible follow-up action are set out in GB.334/LILS/2(Rev.). A second group of 34 instruments will be reviewed in April 2021.

¹¹ GB.328/LILS/2/1(Rev.).

¹² GB.331/LILS/2.

¹³ GB.334/LILS/3.

¹⁴ GB.337/LILS/1.

¹⁵ GB.325/LILS/3/decision, subpara. (d).

¹⁶ GB.329/LILS/2.

¹⁷ GB.335/INS/5.

to take appropriate measures to follow up on all the SRM TWG's previous recommendations.¹⁸

II. Outcomes of the SRM TWG (2016–19)

9. The SRM TWG has recorded outcomes in relation to all areas of its mandate.
10. An initial outcome concerns the achievement of consensual tripartite recommendations on all the reviews of standards the SRM TWG has conducted. The report for the Governing Body's overall review of the Standards Initiative noted the frank, constructive and committed approach of its Members, building on their often contrasting experiences and views in relation to the complex and wide-ranging issues under discussion.¹⁹ The current status of the SRM TWG's initial programme of work is that 68 instruments out of the 235 instruments included in that programme of work remain to be reviewed, five of which will be the subject of its sixth meeting in 2020.²⁰
11. Further outcomes relate to the three elements on which the SRM TWG's terms of reference expect it to make recommendations to the Governing Body following its reviews of instruments.
12. The first element concerns the classification of standards. In its first five meetings, the SRM TWG's outcomes in this regard amount to the classification of a total of 35 instruments in its initial programme of work according to the simplified three-classification system it adopted (see table 1).

► **Table 1. Outcomes of the SRM TWG process: Governing Body decisions concerning classification of standards**

Classification	2017	2018	2019	Total
Up-to-date standards	8	6	5	19
Standards requiring further action to ensure their continued and future relevance	10	0	0	10
Outdated standards	1	3	2	6
Total	19	9	7	35

13. In relation to the second element of the SRM TWG's mandate, it identified five gaps in coverage or other follow-up requiring standard-setting action in its first four meetings (see table 2). An item on apprenticeship has already been placed by the Governing Body on the agenda of the International Labour Conference in 2021. As detailed in the following paragraph, at its March 2020 session, the Governing Body will be considering proposals for possible standard-setting on the four OSH-related topics.

¹⁸ GB.335/INS/5/decision, subpara. (b).

¹⁹ GB.335/INS/5, para. 9; GB.326/LILS/3/2, para. 3 (“constructive discussion”); GB.328/LILS/2/1(Rev.), appendix (report of the meeting), para. 4 (the discussion was “thorough, wide-ranging and constructive”); GB.331/LILS/2, appendix (report of the meeting), para. 3 (“constructive and committed approach”); and GB.334/LILS/3, appendix (report of the meeting), para. 3 (“committed and frank discussions”).

²⁰ The STC has yet to take decisions regarding 34 of the instruments referred to it. These will be considered during its meeting in 2021.

► **Table 2. Outcomes of the SRM TWG process: Governing Body decisions concerning standard-setting**

Standard-setting required	Recommendation approved	Current status
Regulatory gap identified in relation to apprenticeships	October–November 2016 (328th Session of the Governing Body)	Standard-setting item placed on agenda of 110th Session (2021)
Biological hazards: revision of R.3 through a new instrument addressing all biological hazards	October–November 2017 (331st Session of the Governing Body)	Proposals for four standard-setting items on occupational safety and health to be submitted to the March 2020 session of the Governing Body
Consolidation of six chemicals instruments, in the context of C.170 and R.177		
Revision of C.119 and R.118 on guarding of machinery		
Revision of C.127 and R.128 to regulate ergonomics and update approach to manual handling		

14. At its fifth meeting in September 2019, the SRM TWG did not identify any further gaps in coverage arising from its review of the employment policy instruments. It discussed two working papers with a view to giving effect to the 2017 and 2018 Governing Body decisions calling for the Office to prepare proposals for possible standard-setting items on the topics of biological hazards, ergonomics and manual handling, chemical hazards and guarding of machinery.²¹ Approving the SRM TWG's recommendations, the Governing Body requested the Office to: (i) initiate the preparation of proposals for possible standard-setting items on the topics of biological hazards, ergonomics and manual handling, chemical hazards and guarding of machinery, for consideration at its 338th Session (March 2020) for inclusion in future agendas of the International Labour Conference;²² and (ii) be guided by the recommendations of the SRM TWG regarding the thematic integration approach and the process of standard-setting in preparing those standard-setting proposals for inclusion in the agenda of the Conference at the earliest dates possible and as a matter of institutional priority.²³
15. In relation to the third element of its mandate, the report provided to the Governing Body for the March 2019 review noted that the SRM TWG had stressed the need for practical and time-bound follow-up to be prioritized by the Organization as part of comprehensive and interrelated packages. At the fifth meeting of the SRM TWG, it reiterated that the components of those packages of follow-up action were interconnected, complementary and mutually reinforcing.²⁴ The Governing Body considered that the follow-up to the SRM TWG's recommendations should be a matter

²¹ GB.337/LILS/1, Annex I (recommendations of the SRM TWG), para. 9.

²² See the proposals in GB.338/INS/2/1.

²³ GB.337/LILS/1/decision, subpara. (a).

²⁴ GB.337/LILS/1, Annex I (recommendations of the SRM TWG), para. 3.

of institutional priority for the Office,²⁵ building on previous decisions in this regard in relation to the Organization as a whole.²⁶

16. The SRM TWG has been described as having developed a non-exhaustive “menu” of complementary possible follow-up action: the promotion of up-to-date standards, including those related to outdated standards with the aim of promoting ratifications of the most up-to-date Conventions on a particular topic; technical assistance to support the implementation of instruments in practice; standard-setting; actions to increase or share knowledge; non-normative initiatives such as technical guidelines; the abrogation, withdrawal or other related actions; and the provision of information on denunciation.²⁷ Table 3 summarises the follow-up action recommended by the SRM TWG in its first five meetings.

► Table 3. Outcomes of the SRM TWG process: Governing Body decisions concerning follow-up action

Follow-up action recommended by the SRM TWG	Recommendation approved by the Governing Body	Current status
Promotional action		
Campaign to promote the ratification of up-to-date Conventions related to Conventions previously identified as outdated	October–November 2016 (328th Session of the Governing Body)	Started in 2017: Individualized letters sent to Member States concerned; targeted follow-up undertaken, including in the context of the Centenary Ratification Campaign (five ratifications registered since 1 Jan. 2017)
Campaign to promote ratification of key OSH instruments and specific promotion of further up-to-date OSH Conventions	October–November 2017 (331st Session of the Governing Body)	Started in 2018: Individualized letters sent to Member States concerned; targeted follow-up undertaken, including in the context of the Centenary Ratification Campaign (11 ratifications registered since 1 Jan. 2018)
Campaign to promote ratification of five up-to-date Conventions on OSH, labour inspection and labour statistics	October–November 2018 (334th Session of the Governing Body)	Started in 2019: Individualized letters sent to Member States concerned; targeted follow-up undertaken, including in the context of the Centenary Ratification Campaign (three ratifications registered since 1 Jan. 2019)

²⁵ GB.337/LILS/1/decision, subpara. (g).

²⁶ GB.334/LILS/3/decision, subpara. (c); GB.334/LILS/3, appendix (meeting report), para. 7, annex (recommendations), para. 6.

²⁷ SRM TWG/2019/information document 3 on follow-up to classification decisions, para. 8.

Follow-up action recommended by the SRM TWG	Recommendation approved by the Governing Body	Current status
Encourage ratification of relevant up-to-date Conventions on OSH, labour inspection and labour statistics by Member States in which related outdated instruments recommended for abrogation are in force, including technical assistance	October–November 2018 (334th Session of the Governing Body)	Started in 2019: Individualized letters sent to Member States concerned; targeted follow-up undertaken, including in the context of the Centenary Ratification Campaign (five ratifications registered since 1 Jan. 2019)
Call by the ICLS to Member States to consider ratification of up-to-date Conventions on labour statistics	October–November 2018 (334th Session of the Governing Body)	Completed
Campaign to promote two up-to-date Conventions on employment policy, including technical assistance	October–November 2019 (337th Session of the Governing Body)	To start in 2020
Encourage ratification of relevant up-to-date Conventions on employment policy by Member States in which related outdated instruments recommended for abrogation or withdrawal are in force, including technical assistance	October–November 2019 (337th Session of the Governing Body)	To start in 2020
Technical assistance with implementation		
Technical assistance on implementation of two OSH Conventions, including research on obstacles to ratification; improve awareness of code of practice on prevention of major industrial accidents	October–November 2017 (331st Session of the Governing Body)	Under way as part of ILO regular technical assistance; research on obstacles to implementation expected to be completed by June 2021
Other non-normative action		
Juridical replacement of 14 Recommendations noted	October–November 2016 (328th Session of the Governing Body)	Completed
Publication of technical guidelines on biological and chemical hazards; and regular review of code of practice on safety and health in the use of machinery	October–November 2017 (331st Session of the Governing Body)	Under way: Technical guidelines expected to be completed by the end of 2022
Study on gender equality in mining; review of code of practice on construction; development of guidelines on labour inspection	October–November 2018 (334th Session of the Governing Body)	Under way: Study on gender equality in mining expected to be completed by end of 2020; review of code of practice on construction expected to be completed by end of 2021; guidelines on labour inspection expected to be completed by June 2021

Follow-up action recommended by the SRM TWG	Recommendation approved by the Governing Body	Current status
Technical assistance to support public employment services, including tools and good practices	October–November 2019 (337th Session of the Governing Body)	Planned for 2020–21
Technical assistance including guidance on promotion of job creation and decent work in SMEs in the future of the world of work and the establishment of an enabling environment for sustainable SMEs	October–November 2019 (337th Session of the Governing Body)	Planned for 2020–21
SRM TWG evaluation of implementation of tailored plans of action in 2026 to decide on an appropriate date to consider abrogation or withdrawal of C.2	October–November 2019 (337th Session of the Governing Body)	Development of tailored plans of action to start in 2020
ILC consideration of abrogation or withdrawal of instruments		
Abrogation or withdrawal of six Conventions and three Recommendations recommended	October–November 2016 (328th Session of the Governing Body)	Completed: Instruments abrogated/withdrawn (107th Session, ILC (2018))
Withdrawal of one Recommendation at the earliest date possible	October–November 2017 (331st Session of the Governing Body)	Item on agenda of 109th Session, ILC (2020)
Withdrawal of one Recommendation in 2022 and abrogation of four Conventions in 2024	October–November 2018 (334th Session of the Governing Body)	Items on agendas of 111th (2022) and 113th (2024) Sessions, ILC
Withdrawal of one Convention in 2021 and abrogation of one Convention in 2030	October–November 2019 (337th Session of the Governing Body)	Items on agendas of 110th (2021) and 119th (2030) Sessions, ILC

Follow-up action recommended by the STC	Recommendation approved by the Governing Body	Current status
Promotional action		
Encourage ratification of MLC, 2006, by Member States in which certain outdated maritime instruments are in force; and extension of application of MLC, 2006, to non-metropolitan territories	October–November 2018 (334th Session of the Governing Body)	Under way: Ratification campaign launched in 2019; meeting with relevant Member States will be held during 2020 to discuss the situation of non-metropolitan territories (eight ratifications registered since Nov. 2018)

Follow-up action recommended by the STC	Recommendation approved by the Governing Body	Current status
Other non-normative action		
Juridical replacement of two Recommendations noted	October–November 2018 (334th Session of the Governing Body)	Completed
ILC consideration of abrogation or withdrawal of instruments		
Withdrawal of ten Recommendations and nine Conventions, and abrogation of eight Conventions, in 2020	October–November 2018 (334th Session of the Governing Body)	Item on agenda of 109th Session (2020), ILC

17. A final outcome of the SRM TWG concerns its contribution to the Organization's development of the ILO standards policy. The ILO Declaration on Social Justice for a Fair Globalization emphasized the need to "promote the ILO's standard-setting policy as a cornerstone of ILO activities by enhancing its relevance to the world of work, and ensure the role of standards as a useful means of achieving the constitutional objectives of the Organization".²⁸ The SRM TWG, reporting to the Governing Body, is currently the only institutionalized mechanism directly contributing to efforts to keep the body of standards up to date which is an important, albeit not exclusive, component of the ILO standards policy. In carrying out its mandate to review the standards, the SRM TWG's discussions have touched on key matters such as the classification of existing standards; the identification of gaps in coverage requiring new standards; approaches to future standard-setting including the consideration of tools to ensure easier updating; the preparation and timetabling of standard-setting actions; methods to promote the ratification of up-to-date standards and ensure their implementation in practice; the revision of standards; and the abrogation, withdrawal and juridical replacement of outdated instruments.

III. The continuing role of the SRM TWG

18. The outcomes of the SRM TWG illustrate its functioning to date. Its achievements contribute to ensuring 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. Much that the SRM TWG has achieved in its first five meetings has a far-reaching institutional impact. In particular, this includes the adoption of a simplified classification system; the structured opportunity for tripartite discussions – leading to consensual recommendations – the identification of gaps in coverage; the abrogation or withdrawal of obsolete instruments and the identification of up-to-date instruments that should be promoted; and the evolution of a strategic and multifaceted approach to both the review and follow-up of the standards included in its initial programme of work.
19. Nevertheless, this should not be understood as suggesting that the SRM TWG has necessarily achieved its full potential, nor that its functioning has been without significant challenges and limitations. In the first place, the task entrusted to it has not

²⁸ ILO Declaration on Social Justice for a Fair Globalization 2008, preamble.

yet been fully completed: 68 instruments in its initial programme of work remain to be reviewed. While the number of instruments that may be reviewed reasonably at each SRM TWG meeting will depend on the particular topic under consideration, current rates suggest that the review of those 68 instruments could be expected to require approximately five to ten further meetings.

20. Second, members of the SRM TWG have raised concerns about the impact of its recommendations, particularly in light of lessons learnt from the experience of previous standards review processes. The balanced and complementary packages of follow-up action recommended by the SRM TWG require a “whole-Organization” response. Ensuring that the SRM TWG has a measurable impact requires actions not only by the Office, but also by the Organization, its Member States and the social partners. Notably, Member States should take steps to respond to the Governing Body’s requests that they consider ratifying up-to-date instruments related to the six outdated Conventions proposed for abrogation or withdrawal, to ensure that there is no gap in legal protection in any Member State as a result of their removal from the body of standards. Equally, appropriate and timely institutional responses are required to both proposals for standard-setting and proposals for the abrogation or withdrawal of outdated instruments.
21. Third, the SRM TWG’s future operation should continue to ensure representativity, inclusivity and expertise among its membership. In addition to a broadly constituted membership, regular information sessions for other constituents should both feed into the SRM TWG’s work and disseminate its outcomes.
22. Finally, none of this is cost free. Efficient follow-up to the SRM TWG’s recommendations has until now been funded within existing resources and should continue to be funded within existing resources, as far as possible. However, the Governing Body should keep in mind that the number of recommendations calling for Office action will continue to increase as work progresses.