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**Report IV (1)**

# **Social protection floors for social justice and a fair globalization**

**Fourth item on the agenda**

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## Abbreviations

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CEACR	Committee of Experts on the Application of Conventions and Recommendations
CESCR	Committee on Economic, Social and Cultural Rights
ICESCR	International Covenant on Economic, Social and Cultural Rights
ILC	International Labour Conference
ILO	International Labour Organization or Office
NREGA	National Rural Guarantee Act (India)
OECD	Organisation for Economic Co-operation and Development
RSBY	Rashtrya Swartha Bima Yojna (India)
SPF	social protection floor
UDHR	Universal Declaration of Human Rights
UN CEB	United Nations Chief Executives Board for Coordination
UNDP	United Nations Development Programme
UNGA	United Nations General Assembly
WHO	World Health Organization



# Introduction

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1. At its 311th Session in June 2011, the Governing Body of the International Labour Office (ILO) decided to place a standard-setting item on the agenda of the 101st Session (2012) of the International Labour Conference (ILC) on social protection (social security), with a view to the elaboration of an autonomous Recommendation on the social protection floor (single discussion).<sup>1</sup> This decision was pursuant to the resolution concerning the recurrent discussion on social protection (social security)<sup>2</sup> adopted by the ILC at its 100th Session, 2011 (resolution concerning social security (2011)), which invited the Governing Body of the ILO to do so with a view to following up on the recurrent discussion on social protection (social security) under the ILO Declaration on Social Justice for a Fair Globalization.<sup>3</sup> The ILC concluded that it was necessary to adopt an international labour standard in the form of an autonomous Recommendation on this subject in order to complement the existing ILO social security standards and to provide flexible but meaningful guidance to member States in building social protection floors within comprehensive social security systems tailored to national circumstances and levels of development.<sup>4</sup> The Governing Body then decided that this question should be the subject of a single discussion in accordance with article 38 of the Standing Orders of the Conference.<sup>5</sup>

2. The ILO has accordingly prepared this summary report on law and practice, which covers examples of existing law and practice in member States from different regions, legal systems, traditions and circumstances (levels of income and development). The report provides a comparative analysis of the main developments and emerging trends in the establishment of social protection floors, or elements thereof, at national level.

3. The report does not seek to provide a comprehensive and in-depth analysis, but rather to highlight some of the key elements that may be relevant for the discussion on a possible Recommendation as identified in the conclusions concerning the recurrent discussion on social protection (social security) adopted by the ILC at its 100th Session

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<sup>1</sup> GB.311/6.

<sup>2</sup> In line with the ILO Constitution the term *social protection* as used in this report refers to the protection that is offered to ordinary residents in a Member's territory through social security schemes that provide for income security and access to health-care goods and services.

<sup>3</sup> ILO: *Provisional Record* No. 24, report of the Committee for the Recurrent Discussion on Social Protection, resolution concerning the recurrent discussion on social protection (social security), ILC, 100th Session, Geneva, 2011.

<sup>4</sup> ILO: *Provisional Record* No. 24, report of the Committee for the Recurrent Discussion on Social Protection, conclusions concerning the recurrent discussion on social protection (social security), ILC, 100th Session, Geneva, 2011, para. 31.

<sup>5</sup> GB.311/6.

in 2011 (conclusions concerning social security (2011)).<sup>6</sup> The report has been prepared on the basis of the factual information collected during the preparation of the recurrent discussion on social protection (social security) (ILC, 2011), the General Survey concerning social security instruments (2011),<sup>7</sup> and other sources available to the ILO. These include, more specifically, the replies provided by member States in the framework of the General Survey concerning social security instruments (2011). It is also based on the analytical reports prepared by the Social Security Department of the International Labour Office in preparation for the recurrent discussion on social protection (social security) and notably the report for the recurrent discussion on social protection (social security) under the ILO Declaration on Social Justice for a Fair Globalization (report for the recurrent discussion on social security).<sup>8</sup> It should be read in conjunction with these as well as with the following documents and reports as referenced throughout this report:

- ILO: *World Social Security Report 2010/11: Providing coverage in times of crisis and beyond* (Geneva, 2010);<sup>9</sup>
- ILO: *Extending social security to all – A guide through challenges and options* (Geneva, 2010);<sup>10</sup>
- Chairperson's summary of the Tripartite Meeting of Experts on Strategies for the Extension of Social Security Coverage in ILO: *Report of the Director-General, Second Supplementary Report: Tripartite Meeting of Experts on Strategies for the Extension of Social Security Coverage* (Geneva, 2–4 September 2009), Governing Body, 306th Session, Geneva, November 2009, appendix;
- ILO: *Social health protection: An ILO strategy towards universal access to health care*, Social Security Policy Briefings, Paper 1 (Geneva, 2008);
- ILO: *Setting social security standards in a global society*, An analysis of present state and practice and of future options for global social security standard setting in the ILO, Social Security Policy Briefings, Paper 2 (Geneva, 2008);
- ILO: *Interregional Tripartite Meeting on the Future of Social Security in Arab States*, Amman, 6–8 May 2008, Social Security Policy Briefings, Paper 5 (Geneva, 2008);
- ILO: *Reunión Regional Tripartita sobre el futuro de la protección social en America Latina*, Santiago, Chile, 12 al 14 de diciembre de 2007, Social Security Policy Briefings, Paper 4 (Geneva, 2008);
- ILO: *Asia–Pacific Regional High-Level Meeting on Socially-Inclusive Strategies to Extend Social Security Coverage*, New Delhi, India 19–20 May 2008, Social Security Policy Briefings, Paper 6 (Geneva, 2008);

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<sup>6</sup> ILO: *Provisional Record* No. 24, report of the Committee for the Recurrent Discussion on Social Protection, conclusions concerning the recurrent discussion on social protection (social security), ILC, 100th Session, Geneva, 2011.

<sup>7</sup> ILO: Report III(1B)&Add., *General Survey concerning social security instruments in light of the 2008 Declaration on Social Justice for a Fair Globalization*, ILC, 100th Session (Geneva, 2011).

<sup>8</sup> ILO: Report VI, *Social security for social justice and a fair globalization*, ILC, 100th Session, Geneva, 2011.

<sup>9</sup> Referred to as *World Social Security Report 2010/11*.

<sup>10</sup> Referred to as *Extension guide*.

- ❑ ILO: *Social security for all: Investing in social justice and economic development*, Social Security Policy Briefings, Paper 7 (Geneva, 2009);
- ❑ ILO: *Can low-income countries afford basic social security?*, Social Security Policy Briefings, Paper 3 (Geneva, 2008);
- ❑ ILO: *Building a social protection floor with the Global Jobs Pact: Second African Decent Work Symposium Yaoundé*, October 2010 (Geneva, 2010);
- ❑ *Yaoundé Tripartite Declaration on the implementation of the social protection floor*, Second African Decent Work Symposium Yaoundé, October 2010 (Yaoundé, 2010);
- ❑ ILO–UNDP–Global South–South Development Academy: *Successful social protection floor experiences: Sharing Innovative Experiences*, Volume 18 (New York, 2011);
- ❑ ILO: Resolution concerning gender equality at the heart of decent work and conclusions, report of the Committee on Gender Equality, ILC, 98th Session, Geneva, 2009.

4. This report is accompanied by a questionnaire drawn up with a view to preparing a Recommendation on the social protection floor. Governments are invited to send their substantiated replies to the ILO, on the basis of which the ILO will prepare a final report in accordance with article 38, paragraph 2, of the Standing Orders of the Conference, summarizing the views expressed in the replies and, on this basis, proposing a draft Recommendation. In accordance with the decision of the Governing Body to allow for shorter intervals,<sup>11</sup> as provided in article 38, paragraph 3, of the Standing Orders of the Conference and in order to allow the ILO the time to draft the final report, which must be communicated to governments not less than three months before the opening of the 101st Session of the ILC, governments are requested to send their replies so as to reach the ILO no later than 1 November 2011.

5. The ILO wishes to draw the attention of governments to article 38, paragraph 1, of the Standing Orders, under which governments are asked to consult the most representative organizations of employers and workers before finalizing their replies. The result of this consultation should be reflected in the governments' replies with an indication of the organizations consulted.

6. The conceptual frame of the social protection floor is consistent with the transfer component of the Social Protection Floor Initiative adopted by the United Nations Chief Executives Board for Coordination (UN CEB) in April 2009.<sup>12</sup> This joint UN Initiative promotes a set of basic transfers or entitlements enabling persons to access essential goods and services.

7. This report adopts a pragmatic position on definitions. The terms “minimum income security”, “essential health care”, “adequate social security”, and other similar terms are set out only for the purpose of national social protection floors and their definitions are left to the determination of member States. They are not intended to replace any definition that has been adopted for higher or different levels of social security, social protection or health protection within the ILO, the WHO or the UN, but

<sup>11</sup> GB.311/6, para. 7.

<sup>12</sup> UN: CEB Issue Paper: *The global financial crisis and its impact on the work of the UN system*, 2009, p. 20 (available at [www.un.org/ga/econcrisissummit/docs/CEB\\_Paper\\_final\\_web.pdf](http://www.un.org/ga/econcrisissummit/docs/CEB_Paper_final_web.pdf)).

explicitly leave the determination of the content of the terms to a process of national dialogue.

8. This report is divided into three chapters. Chapter I outlines the main challenges and opportunities for the extension of social security. In order to do so it examines the framework of existing ILO social security standards against the gaps in social security coverage observed in ILO member States (inter alia by the *World Social Security Report 2010/11*) and presents the case for a new Recommendation to fill the protection gaps that are left by existing standards; hence responding to the needs of the global population. Chapter II examines national law and practice in the provision of basic income guarantees and essential health care in the context of the related international legal and conceptual framework. Chapter III contains the questionnaire and briefly introduces its purpose.

# Chapter 1

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## **The social protection floor: A concept to ensure basic social security for all – Overview of challenges and opportunities**

### 1.1. Background

9. Since the establishment of the ILO in 1919, social security has been a core element of the Organization's mandate and, consequently, one of its key standard-setting areas. The Declaration of Philadelphia (1944)<sup>1</sup> called upon the ILO "to further among the nations of the world programmes which will achieve ... the extension of social security measures to provide a basic income to all in need of such protection and comprehensive medical care ...". The universal recognition of social security as a right belonging to all persons was subsequently embodied by the inclusion of the right to social security in the Universal Declaration of Human Rights (UDHR), 1948,<sup>2</sup> in the International Covenant on Economic, Social and Cultural Rights (ICESCR), 1966,<sup>3</sup> and in numerous other regional and international human rights treaties.<sup>4</sup>

10. The inclusion of social security in a number of international and regional human rights instruments as well as national legislation is also an acknowledgment of the fact that social security is a human need. Effective national social security systems are recognized as powerful tools to provide income security, to prevent and reduce poverty

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<sup>1</sup> Declaration concerning the aims and purposes of the International Labour Organisation (Declaration of Philadelphia), adopted by the International Labour Conference at its 26th Session, held in Philadelphia, on 10 May 1944. The Declaration of Philadelphia forms part of the ILO Constitution.

<sup>2</sup> Universal Declaration of Human Rights, General Assembly Resolution 217 A(III), 1948.

<sup>3</sup> International Covenant on Economic, Social and Cultural Rights, General Assembly Resolution 2200A(XXI), 1966.

<sup>4</sup> These include the following: Convention on the Elimination of All Forms of Discrimination against Women, adopted by General Assembly Resolution 34/180 of 18 December 1979, Articles 11(1)(e), 11(2)(b) and 14(2); Convention on the Rights of the Child, adopted by General Assembly Resolution 44/25 of 20 November 1989, Articles 26, 27(1), 27(2) and 27(4); Convention on the Elimination of All Forms of Racial Discrimination, adopted by General Assembly Resolution 2106(XX) of 21 December 1965, Article 5(e)(iv); International Convention on the Protection of the Rights of All Migrant Workers and Their Families, adopted by General Assembly Resolution 45/158 of 18 December 1990, Articles 27 and 54; Convention on the Rights of Persons with Disabilities, adopted by General Assembly Resolution A/RES/61/106 of 13 December 2006; American Declaration of the Rights and Duties of Man, O.A.S. Res. XXX, adopted by the Ninth International Conference of American States (1948); Additional Protocol to the American Convention on Human Rights in the Area of Economic, Social and Cultural Rights "Protocol of San Salvador" (1988); African Charter on Human and Peoples' Rights, adopted by the 18th Assembly of Heads of State and Government, June 1981, Nairobi, Kenya (1981); African Charter on the Rights and Welfare of the Child, adopted on 11 July 1990 OAU Doc. CAB/LEG/24.9/49 (1990); Convention for the Protection of Human Rights and Fundamental Freedoms (1950), CETS No. 005; European Social Charter (1961) as revised in 1996.

and inequality and to promote social inclusion and dignity.<sup>5</sup> Social security is also an economic necessity. When well-designed and linked to other policies it enhances productivity, employability and supports economic development. In times of crisis, it acts as an economic and social stabilizer and thereby contributes to mitigating the economic and social impact of economic downturns, enhancing resilience and achieving faster recovery towards inclusive growth.<sup>6</sup>

11. Despite its fundamental role and functions, social security is still far from being a reality for the vast majority of the world's population, which has no access to social security protection, or very little. In view of this huge coverage gap, estimated by the ILO to leave approximately 80 per cent of the world population without adequate income security and/or access to medical care, ILO constituents have on many occasions over the last decade reaffirmed the importance of social security and the primary role of the ILO to assist its member States to extend social security coverage. The conclusions adopted by the 100th Session of the ILC, provide that this should be done not only by using ILO social security standards and notably the Social Security (Minimum Standards) Convention, 1952 (No. 102), but also by elaborating a new Recommendation which would provide guidance to member States in building social protection floors for the provision of basic income security and medical care to all in need, thereby complementing existing standards.<sup>7</sup>

## 1.2. Evolution of the discussion at the ILO on the social protection floor concept

12. The new consensus on social security reached at the ILC, at its 89th Session in 2001, gave the highest priority to policies and initiatives that can bring social security to those who are not covered by existing schemes. Consequently, the ILO launched, in 2003, the Global campaign on social security and coverage for all. The ILO Declaration on Social Justice for a Fair Globalization, adopted by the ILC at its 97th Session in 2008, again reaffirmed the tripartite commitment to extend social security to all in need of such protection in the framework of the Decent Work Agenda.

13. In April 2009, the UN Chief Executives Board launched the joint UN social protection floor initiative. In June 2009, the ILC at its 98th Session recognized the crucial role of social protection policies in crisis response, and the Global Jobs Pact called for countries to “give consideration, as appropriate, to ... building adequate social protection for all, drawing on a basic social protection floor ...”.<sup>8</sup>

14. Regional tripartite ILO meetings in Latin America, Arab States and Asia and the Pacific during 2007 and 2008 discussed social security extension strategies. A generic two-dimensional extension strategy emerged, combining the extension of coverage to all through nationally defined social protection floors and the progressive implementation of higher levels of social security through comprehensive systems. This strategy was endorsed by the Yaoundé Tripartite Declaration adopted at the Second African Decent

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<sup>5</sup> Conclusions concerning social security (2011), para. 5(b).

<sup>6</sup> *ibid.*, para. 5(c).

<sup>7</sup> *ibid.*, para. 31.

<sup>8</sup> ILO: *Recovering from the crisis: A Global Jobs Pact*, adopted by the International Labour Conference at its 98th Session, Geneva, 19 June 2009, para. 12(1)(ii).

Work Symposium in Yaoundé in 2010, and the Chairperson's summary of the Tripartite Meeting of Experts on Strategies for the Extension of Social Security Coverage in 2009.

15. Simultaneously, the Committee of Experts on the Application of Conventions and Recommendations (CEACR) undertook in 2009 and 2010 a General Survey on the application of social security instruments<sup>9</sup> in the light of the 2008 Declaration on Social Justice for a Fair Globalization. Based on replies from 116 member States, it concluded in its report<sup>10</sup> that the "ILO mandate in social security, as reaffirmed and updated by the Declaration on Social Justice for a Fair Globalization of 2008, has largely outgrown the standards with which it has to be implemented. The available means are no more sufficient to meet the new ends. This is particularly evident as regards the objective of extending social security coverage to all, beyond the formal economy to the masses of population living in abject poverty and insecurity, which is placed at the heart of the ILO's mandate and mission."<sup>11</sup> The CEACR stated that "the task of globalizing social security requires the ILO to complement the current set of up-to-date standards with a new high-impact instrument embedding social security in a new development policy paradigm and designed so as to be accepted by all ILO member States".<sup>12</sup> It further noted that "The idea of underpinning the world economy by a global social security floor has the potential of once again changing the social security paradigm, the ways and means with which social security is going to be provided in the coming future, moving away from the risk-based towards more integrated forms of social protection."<sup>13</sup> In this regard, the CEACR expressed full support for the two-dimensional strategy for the extension of social security but reiterated that "the legal framework provided by the existing social security standards needs to be strengthened".<sup>14</sup>

16. Most recently, in June 2011, the 100th Session of the ILC affirmed in its conclusions concerning social security (2011) that: "Closing coverage gaps is of highest priority for equitable economic growth, social cohesion and Decent Work for all women and men. Effective national strategies to extend social security in line with national priorities, administrative feasibility and affordability contribute to achieving these objectives. These national strategies should aim at achieving universal coverage of the population with at least minimum levels of protection (horizontal dimension) and progressively ensuring higher levels of protection guided by up-to-date ILO social security standards (vertical dimension). The two dimensions of the extension of coverage are consistent with moving towards compliance with the requirements of the Social Security (Minimum Standards) Convention, 1952 (No. 102), and are of equal importance and should be pursued simultaneously where possible. The horizontal dimension should aim at the rapid implementation of national social protection floors, containing basic social security guarantees that ensure that over the life cycle all in need can afford and

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<sup>9</sup> The instruments covered by the General Survey concerning social security instruments (2011) are the Social Security (Minimum Standards) Convention, 1952 (No. 102), the Employment Promotion and Protection against Unemployment Convention, 1988 (No. 168), the Income Security Recommendation, 1944 (No. 67), and the Medical Care Recommendation, 1944 (No. 69).

<sup>10</sup> General Survey concerning social security instruments (2011); ILO: *Report of the Committee of Experts on the Application of Conventions and Recommendations* (articles 19, 22 and 35 of the Constitution), Report II (Part IB), ILC, 100th Session, Geneva, 2011.

<sup>11</sup> General Survey concerning social security instruments (2011), para. 30.

<sup>12</sup> *ibid.*, para 31.

<sup>13</sup> *ibid.*, para. 53.

<sup>14</sup> *ibid.*, para. 626.

have access to essential health care and have income security at least at a nationally defined minimum level. social protection floor policies should aim at facilitating effective access to essential goods and services, promote productive economic activity and be implemented in close coordination with other policies enhancing employability, reducing informality and precariousness, creating decent jobs and promoting entrepreneurship.”<sup>15</sup>

17. The ILC finally concluded that: “In view of the renewed support for the provision of at least a basic level of social security through establishing social protection floors, there is a need for a Recommendation complementing the existing standards that would provide flexible but meaningful guidance to member States in building social protection floors within comprehensive social security systems tailored to national circumstances and levels of development” and went further by identifying elements of a possible Recommendation on social protection floors.<sup>16</sup> These elements are discussed in Chapter 2 of this report. Underlining the high priority to close the social security coverage gaps, the conclusions concerning social security (2011) call on countries to set themselves time frames for progressive implementation.<sup>17</sup>

### 1.3. The global protection gap<sup>18</sup>

18. Despite the universal recognition of social security as a fundamental human right and as an essential component of social and economic development, the majority of the world’s population does not benefit from any protection. Only about 20 per cent of the world’s working-age population (and their families) are estimated to have effective access to comprehensive social security systems.<sup>19</sup>

#### *Gaps in population coverage*

19. While there has been some progress in the extension of social security coverage in some parts of the world, in others stagnation and even contraction have occurred. In many countries, the growing incidence of informal work led to stagnant or even declining rates of coverage. With regard to the coverage of contributory benefits, these developments are closely associated with employment trends, particularly the quantity and quality of jobs available in the formal economy. Social insurance was originally established to serve wage and salary workers who have explicit contracts with regular and identifiable income in formal enterprises in the context of an identifiable employment relationship. Under these conditions, incomes can be monitored and compliance with contributory obligations can be enforced. Workers with less formal working conditions, especially in middle- and low-income countries are generally not covered by social insurance. This is usually the case for the self-employed, own-account workers or other workers in irregular forms of employment who often represent the vast majority of informal economy workers. Furthermore, in some countries employers and workers in small enterprises are exempted from social security contributions with certain provisions of labour and social security laws. In other countries, many workers – even

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<sup>15</sup> Conclusions concerning social security (2011), paras 8 and 9.

<sup>16</sup> *ibid.*, para. 31 and appendix.

<sup>17</sup> *ibid.*, paras 8 and 31.

<sup>18</sup> More details on the level and quality of social security coverage is provided in the *World Social Security Report 2010/11*.

<sup>19</sup> *World Social Security Report 2010/11*, p. 33.

though legally covered – are effectively excluded from protection through social security due to deficient enforcement mechanisms. They represent a relatively high share of total employment in low- and middle-income countries.

20. On the other hand, in many countries with low social insurance coverage – mainly middle- and low-income countries, alternative non-contributory and tax-financed social security mechanisms which could provide at least a basic level of coverage to those outside a formal employment relationship and hence close the coverage gaps, are underdeveloped. While recent developments show by many examples the large potential of non-contributory social security schemes in closing at least partially existing coverage gaps, many countries still have policy deficits and/or lack the administrative capacity and the political will to implement such schemes and allocate the required budgetary resources.

#### *Gaps in contingencies covered*

21. Comprehensive social protection (coverage by all branches of social security at least at a minimum level of benefits as guaranteed by the Social Security (Minimum Standards) Convention, 1952 (No. 102), is not a reality for the vast majority of the world's population. Out of the 165 countries for which information is available, only 59 countries have comprehensive social security systems covering at least eight branches of social security. In many countries, coverage is limited to a few branches, and only a minority of the population has access – both legally and in practice – to existing schemes.

22. Every country makes some form of provision for social health protection, thus enabling theoretically access to at least a limited range of health-care services. These include access to some free public health-care services or to services financed through health insurance for certain population groups. Most countries have schemes providing contributory old-age pensions, although in many coverage is restricted to selected groups of workers in the small formal economy. Many of these schemes are relatively new, so actual coverage measured in terms of the percentage of elderly persons receiving any benefit is very low. In most countries, formal economy employees have some form of protection in the event of employment injury, although often such coverage does not meet the requirements of Convention No. 102 with regard to the range and type of benefits provided. In most countries, at least some groups of employees are entitled to paid sick leave and paid maternity leave, either through provisions in the Labour Code or in collective agreements. However, as the actual enforcement of these provisions is often low, effective coverage is equally low.

#### *Gaps in the adequacy of benefits provided*

23. Protection provided through social security benefits should at least ensure that people of all ages are able to purchase or access all essential goods and services, including health services, enabling them to live decently. This means that their income should be lifted above the poverty level or a minimum level of income and they should be able to effectively access a set of essential health-care goods and services to be defined through a transparent national process. Persistent levels of poverty, social exclusion and avoidable disease burdens show that social security benefits often do not live up to the challenge of ensuring a life in dignity for all. The Committee of Experts observed in the General Survey concerning social security instruments (2011) a “divide between the high-income countries, on the one side, and the middle- and low-income countries, on the other side, in terms of the value and adequacy of the benefits provided by their respective social security systems. While in the former group of countries benefits as a rule are superior even to the advanced standards established by subsequent social security Conventions, the middle- and low-income countries often have a level of

benefits that does not attain the minimum benchmarks ... to permit a beneficiary to maintain himself and his family ‘in health and decency’.”<sup>20</sup>

#### 1.4. The current ILO legal framework for the extension of social security

24. ILO Conventions and Recommendations are the main tools through which the ILO can pursue its mandate to extend social security to all in need of protection. Two important recommendations, the Income Security Recommendation, 1944 (No. 67), and the Medical Care Recommendation, 1944 (No. 69), and six Conventions that are considered up to date by the ILO Governing Body<sup>21</sup> embody the core of the ILO’s legal instruments on social security and maternity protection:

- Social Security (Minimum Standards) Convention, 1952 (No. 102);
- Employment Injury Benefits Convention, 1964 [Schedule I amended in 1980] (No. 121);
- Invalidity, Old-Age and Survivors’ Benefits Convention, 1967 (No. 128);
- Medical Care and Sickness Benefits Convention, 1969 (No. 130);
- Employment Promotion and Protection against Unemployment Convention, 1988 (No. 168); and
- Maternity Protection Convention, 2000 (No. 183).

25. In addition, two Conventions on the social security rights of migrant workers are considered up to date, the Equality of Treatment (Social Security) Convention, 1962 (No. 118), and the Maintenance of Social Security Rights Convention, 1982 (No. 157).

26. In their entirety, these instruments represent a unique and useful reference framework for the design of national social security systems. However, they leave a few important gaps, which need to be closed through a complementary instrument which provides guidance.

##### 1.4.1. Recommendations Nos 67 and 69: The blueprint for comprehensive social security systems

27. The Income Security Recommendation, 1944 (No. 67), and the Medical Care Recommendation, 1944 (No. 69), are at the origin of the development of social security in ILO instruments and were foreseen, at the time of their adoption, to be translated into binding, conventional provisions. Together, they establish a comprehensive system of income security and medical care protection for each of the nine classical branches of social security in addition to general neediness (called “general want” in 1944), with the objective of relieving want and preventing destitution.<sup>22</sup>

28. Recommendation No. 67 recommends the establishment of a comprehensive social security system for the provision of income security (cash benefits) in respect of eight contingencies: sickness, maternity, invalidity, old age, death of the breadwinner,

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<sup>20</sup> General Survey concerning social security instruments (2011), para. 460, with reference to Article 67 of Convention No. 102.

<sup>21</sup> ILO: GB.276/LILS/WP/PRS/1, Geneva, Nov. 1999.

<sup>22</sup> Recommendation No. 67, paras 1–4.

unemployment, emergency expenses, and employment injuries.<sup>23</sup> One of the key principles of this Recommendation is universal coverage, following which income security, through a combination of social insurance and social assistance, should be extended to the population as a whole.<sup>24</sup> Specifically, it recommends that income security should be organized as far as possible on the basis of compulsory social insurance for the coverage of all workers and their families, including the self-employed, which should be complemented by social assistance programmes for the coverage of those who fall out of formal social security schemes and thus ensure the full coverage of the population.<sup>25</sup> Social assistance should comprise general measures of assistance to secure the well-being of dependent children, special maintenance allowances at prescribed rates for invalids, aged persons and widows if they are not covered by compulsory insurance, and general assistance for all persons who are in want and do not require internment for corrective care<sup>26</sup> (Guiding principle 3).

29. At the core of Recommendation No. 69 is also the guiding principle of universal coverage, based on the recognition that the availability of adequate medical care constitutes an essential element of social security.<sup>27</sup> According to Recommendation No. 69, medical care services may be provided in two ways: either through a social insurance service with supplementary provision by way of social assistance, or through a public medical care service.<sup>28</sup> Whichever method is adopted, the medical care service should cover all members of the community, whether or not they are in paid employment.<sup>29</sup>

#### 1.4.2. Social security Conventions: A reference for the development of social security systems

30. The Social Security (Minimum Standards) Convention, 1952 (No. 102), is the flagship of the six up-to-date social security Conventions. It is the only international Convention which defines the nine classical branches of social security (medical care, sickness benefit, unemployment benefit, old-age benefit, employment injury benefit, family benefit, maternity benefit, invalidity benefit, survivors' benefit)<sup>30</sup> and sets minimum standards for each.

31. Minimum objectives are set for each contingency with regard to:

- a *minimum percentage* of the population protected in case of occurrence of one of the contingencies;<sup>31</sup>
- a *minimum level of benefits* to be provided in case of occurrence of one of the contingencies; and<sup>32</sup>

<sup>23</sup> *ibid.*, para. 7.

<sup>24</sup> *ibid.*, Preamble.

<sup>25</sup> *ibid.*, paras 2 and 3.

<sup>26</sup> *ibid.*, para. 3.

<sup>27</sup> Recommendation No. 69, para. 8.

<sup>28</sup> *ibid.*, para. 5.

<sup>29</sup> *ibid.*, para. 8.

<sup>30</sup> These are set out, respectively, in Articles 8, 14, 20, 26, 32, 40, 47, 50 and 54 of Convention No. 102.

<sup>31</sup> Convention No. 102, Articles 9, 15, 21, 27, 33, 41, 48, 55 and 61.

<sup>32</sup> *ibid.*, Articles 10, 16, 22, 28, 34, 36, 49, 50, 56 and 62.

□ *conditions for and the periods of entitlement* to the prescribed benefits.<sup>33</sup>

32. These minimum objectives should be reached by the application of the key principles anchored in Convention No. 102, which have to be complied with irrespective of the type of scheme established:

- The general responsibility of the State for the due provision of the benefits and the proper administration of the institutions and services concerned in securing the provision of the benefit.<sup>34</sup>
- The participation of the persons protected in the management of social security schemes.<sup>35</sup>
- The collective financing of social security schemes.<sup>36</sup>
- The guarantee of defined benefits by the State.<sup>37</sup>
- The adjustment of pensions in payment.<sup>38</sup>
- The right of appeal in case of refusal of the benefit or complaint as to its quality or quantity.<sup>39</sup>

33. A key feature of Convention No. 102 is that it contains flexibility clauses allowing ratifying member States to gradually attain universal coverage. Based on the notion that each country should have the discretion to determine how best to ensure its income security, thereby reflecting in its choices its social and cultural values, history, institutions and level of economic development, the Convention fixes a set of objectives or standards based on commonly agreed principles that constitute a socially acceptable minimum for all member States. It thus prescribes certain minimum requirements to be observed by ratifying States while aiming at the progressive realization of a more comprehensive protection, both in terms of the number of contingencies covered and the persons protected. This is done first by allowing ratifying States to accept as a minimum three out of the nine branches of social security, with at least one of those three branches covering a long-term contingency or unemployment, and with a view to extending coverage to other contingencies at a further stage.<sup>40</sup>

34. In addition, the scope of personal coverage under Convention No. 102 provides alternatives that take into account differences in the employment structure and in the socio-economic situation of member States, and as between the different categories of residents within a State. Hence, for each branch accepted the Convention gives member States the possibility to cover only a certain proportion of their population. Furthermore, in the implementation of social security branches it allows member States whose economy and medical facilities are insufficiently developed to make use of temporary exceptions relating, for example, to the proportion of people covered.<sup>41</sup> The Convention

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<sup>33</sup> *ibid.*, Articles 11, 17, 23, 29, 37, 51, 57 and 63.

<sup>34</sup> *ibid.*, Article 71, para. 3.

<sup>35</sup> *ibid.*, Article 72, para. 1.

<sup>36</sup> *ibid.*, Article 71, paras 1 and 2.

<sup>37</sup> *ibid.*, Article 71, para. 3.

<sup>38</sup> *ibid.*, Article 65, para. 10 and Article 66, para. 8.

<sup>39</sup> *ibid.*, Article 70.

<sup>40</sup> *ibid.*, Article 2.

<sup>41</sup> *ibid.*, Article 3.

also provides for flexibility as to the type of schemes member States may establish for the implementation of the Convention and to reach its objectives. Such objectives can be reached through:

- universal schemes where entitlement to benefits is based solely on length of residence; or
- contributory social insurance schemes; or
- means-tested social assistance schemes where all those whose means during the contingency do not exceed prescribed limits are entitled to benefits.

The benefits provided may be either earnings-related or at a flat rate.

35. The other up-to-date Conventions in the field of social security set higher standards for the different branches of social security, notably as regards the personal scope of coverage and the minimum level of benefits to be provided (see box 1).

**Box 1**  
**Main features of other up-to-date ILO social security standards**

*Employment Injury Benefits Convention, 1964 [Schedule I amended in 1980] (No. 121)* – The contingency covered by Convention No. 121 includes: a morbid condition, incapacity for work, invalidity or a loss of faculty due to an industrial accident or a prescribed occupational disease, and the loss of support as a result of the death of the breadwinner following employment injury. It belongs to ratifying States to define the notion of “industrial accident”, including the conditions under which this notion applies to commuting accidents. Convention No. 121 indicates the cases in which accidents should be considered by national legislation as industrial accidents and under which conditions the occupational origin of the disease should be presumed. The national list of employment-related diseases has to comprise at least the diseases enumerated in Schedule I to the Convention. Convention No. 121 envisages that all employees, including apprentices in the public and private sectors, and in cooperatives, are to be protected. The Convention further lays down three types of benefits: medical care, cash benefits in the event of incapacity for work and loss of earning capacity (invalidity), and cash benefits in the event of the death of the breadwinner.

*Invalidity, Old-Age and Survivors’ Benefits Convention, 1967 (No. 128)* – Convention No. 128 covers all employees, including apprentices, or not less than 75 per cent of the whole economically active population, or all residents whose means during the contingency do not exceed certain limits. The periodical payment rate for invalidity benefit should amount to at least 50 per cent of the reference wage. Moreover, the Convention envisages the adoption of measures for rehabilitation services. The minimum amount of old-age and survivors’ benefit should correspond to at least 45 per cent of the reference wage.

*Medical Care and Sickness Benefits Convention, 1969 (No. 130)* – This Convention covers both the contingency of medical care benefits and cash sickness benefit. All employees, including apprentices, or at least 75 per cent of the whole economically active population, or all residents whose means do not exceed certain limits should be covered for both contingencies. In relation to medical care, wives and children of employees are also covered. In addition to the medical care required under Convention No. 102, Convention No. 130 provides for dental care and medical rehabilitation, including the supply, maintenance and renewal of prosthetic and orthopaedic appliances. Convention No. 130 also provides for entitlement to benefit throughout the contingency and allows for less possibility of limiting the duration of sickness benefits; a limitation corresponding to 26 weeks is only authorized where the beneficiary ceases to belong to the categories of persons protected and if the sickness started while the beneficiary still belonged to such categories.

*Employment Promotion and Protection against Unemployment Convention, 1988 (No. 168)* – The main aim of Convention No. 168 is twofold: the protection of unemployed persons through the provision of benefits in the form of periodical payments and through the promotion of employment. The minimum replacement rate of the benefits provided in case of unemployment should amount to 50 per cent of the reference wage. Ratifying States have to adopt appropriate steps to coordinate their system of protection against unemployment and their employment policy. The system of protection against unemployment, and in particular the methods of providing unemployment benefit, have to contribute to the promotion of full, productive and freely chosen employment and must not be such as to discourage employers from offering, and workers from seeking, productive employment. The persons protected must comprise prescribed classes of employees, constituting not less than 85 per cent of all employees, including public employees and apprentices, or all residents whose resources during the contingencies do not exceed prescribed limits.

*Maternity Protection Convention, 2000 (No. 183)* – Under Convention No. 183, the persons protected must comprise all employed women, including those in atypical forms of dependent work. The Convention further requires a minimum period of entitlement to maternity benefits of 14 weeks (including six weeks of compulsory leave after childbirth). Women who are absent from work on maternity-related leave are entitled to a cash benefit which, generally, must be not less than two-thirds of their previous earnings. The medical benefits provided to protected persons must include prenatal, childbirth and post-natal care. Convention No. 183 also lays down the right to work breaks for breastfeeding, as well as provisions relating to health protection, employment protection and non-discrimination.

## 1.5. Interim conclusion: The need to close the legal gaps in the ILO body of social security instruments<sup>42</sup>

36. As reaffirmed by the ILC in the conclusions concerning social security (2011), the up-to-date ILO social security standards, and in particular Convention No. 102, provide a unique set of minimum standards for national social security systems which are internationally accepted. Convention No. 102 continues to serve as a benchmark and reference in the gradual development of comprehensive social security coverage at the national level. Several member States currently implementing successful and innovative social security extension policies have recently ratified Convention No. 102 and others have indicated their intention to do so. Moreover, international experience shows that the ILO social security Conventions, and particularly Convention No. 102, are a means to prevent the levelling down of social security systems worldwide, as they constitute benchmarks to assess whether their requirements have been met and contribute to the creation of a level playing field for social conditions across the world.<sup>43</sup>

37. However, in the developing world, the impact of these standards has often been limited to formal employment, due to the fact that the personal scope of coverage under the classic system of social security, which the Conventions embody, does not extend to farmers and other subsistence workers, rural workers, and workers in the informal economy and their families, which form the major part of these countries' populations. As concluded by the CEACR, "Whereas Recommendations Nos 67 and 69, applying the

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<sup>42</sup> For further information see ILO: *Setting social security standards in a global society: An analysis of present state and practice and of future options for global social security standard setting in the International Labour Organization*, Social Security Policy Briefings, Paper 2 (Geneva, 2008).

<sup>43</sup> Report for the recurrent discussion on social security, para. 436.

Declaration of Philadelphia, aspired to social inclusion and universal coverage, social security Conventions have thus far been unable to achieve these goals, leaving open the possibility to exclude from coverage a substantial part of the population.”<sup>44</sup> Hence, the CEACR further concluded that the universal approach to social security, and the fundamental objectives and principles of Recommendations Nos 67 and 69 are still pertinent “in terms of the guiding principles they set forward for national law and practice and for ILO action on the extension of social security to all.”<sup>45</sup> However, they are limited in the means which they set out to ensure full population coverage and do not take account of the modern forms and concepts of social security coverage that have developed in many low- and middle-income countries during the last two decades.<sup>46</sup>

38. Convention No. 102 does not require universal coverage, or the provision of a complete essential set of social security benefits (i.e. national social protection floors) to ensure basic protection to all throughout the life cycle. It also does not provide guidance for countries on the prioritization and sequencing of the benefits to be provided, taking into account the most urgent needs in terms of protection and the resources available within a country.

39. In view of the limited ability of up-to-date ILO social security standards to make the right to social security a reality for everyone, a new Recommendation is needed. It should be elaborated with a view to making concrete the principle of full social security coverage for all in need of such protection in law and in practice, as soon as possible. Most importantly, this would aim to protect in the first place the presently unprotected, the poor and the most vulnerable, including workers in the informal economy and their families, to ensure that they can enjoy effective essential social security throughout the life cycle. This instrument should also support a modern development strategy that is based on a simultaneous pursuit of economic and social development through the reduction of poverty, inequality and ill-health and assist ILO member States in providing basic social security for all those in need as fast as possible, so as to close persisting coverage gaps.

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<sup>44</sup> General Survey concerning social security instruments (2011), para. 628.

<sup>45</sup> *ibid.*, para. 53.

<sup>46</sup> See report for the recurrent discussion on social security, Chapter 3.6.



## Chapter 2

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### **Law and practice in the provision of basic guarantees for income security and essential health care**

40. The conclusions concerning social security (2011), identify the establishment of nationally designed social protection floors that guarantee minimum income security and essential health care as the priority for the extension of social security.<sup>1</sup> This chapter examines how guarantees for basic income security and essential health care throughout the life cycle are organized in different countries against the background of the provisions of the relevant ILO standards and the related international legal and conceptual framework.<sup>2</sup> It also draws on the conclusions concerning social security (2011). It refers to the law and practice in countries that provide these guarantees for the population, including both an analysis of the process of how schemes are set up and managed and the kind of benefits they provide in terms of eligibility criteria, benefit levels, the duration and accessibility of benefits, etc. In view of the object and purpose of the possible Recommendation, this chapter will deal almost exclusively with non-contributory schemes aimed specifically at covering those with no or insufficient protection through statutory schemes. It addresses the questions of who gets what, when, how and why, in terms of basic income security and essential health care.

41. The chapter draws on and supplements the information in the report for the recurrent discussion on social security, the General Survey concerning social security instruments (2011) and previous relevant ILO studies and research.

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<sup>1</sup> Conclusions concerning social security (2011), in the appendix.

<sup>2</sup> For reasons of conciseness, this part focuses on the main UN instruments and ILO social security standards, those which have been the most widely ratified and/or which are considered to be references, namely the Universal Declaration of Human Rights, 1948, (UDHR); the International Covenant on Economic, Social and Cultural Rights, 1966, (ICESCR); the ILO Convention No. 102; and Recommendation Nos 67 and 69. It may be noted that the UDHR has only a declarative character and does not contain binding provisions and therefore does not have a supervisory mechanism, while the ICESCR, which gives effect to the UDHR, is binding for ratifying States. Its application is supervised by the Committee on Economic, Social and Cultural Rights (CESCR). For these reasons reference is made throughout this chapter to the interpretation of the right to everyone to social security laid down in the ICESCR by the CESCR.

## 2.1. Population coverage<sup>3</sup>

### 2.1.1. The international legal and conceptual framework

42. The human right to social security, as laid down in the UDHR was recognized and reiterated by the 2011 ILC, and the ILO's commitment to achieving adequate social security for all, in the pursuit of its constitutional mandate.<sup>4</sup> Universal coverage was thus stated as an essential principle on which national strategies for the extension of social security should be based and towards which they should progress.<sup>5</sup>

43. In addition to the UDHR, the ICESCR ratified by 160 States, lays down the right of everyone to social security.<sup>6</sup> In its General Comment No. 19 on the right to social security (Art. 9), (CESCR General Comment No. 19),<sup>7</sup> the Committee on Economic, Social and Cultural Rights (CESCR)<sup>8</sup> spells out the key features of this right and the content of respective States' obligations. It notes that States parties are obliged to progressively ensure the right to social security to all individuals within their territories.<sup>9</sup> For such purpose, all persons should be covered by the social security system, especially individuals belonging to the most disadvantaged and marginalized groups, without discrimination on any of the grounds prohibited under the ICESCR.<sup>10</sup> It further adds that: "In order to ensure universal coverage, non-contributory schemes will be necessary."<sup>11</sup>

44. The conclusions concerning the recurrent discussion on social protection (social security) translate the principle of universality as referring to the universal protection of all residents by a defined set of essential social security guarantees (constituting a national social protection floor) to be achieved as quickly as possible.<sup>12</sup> This "does not necessarily imply that the nature of the benefits, as well as the organization that reaches out to recipients, should be identical for all population subgroups".<sup>13</sup> "Inevitably, universal coverage may, in some cases, assume the character of a progressive development objective to be reached within a specific time frame. Not all countries are

<sup>3</sup> For further information see also *Extension guide*, Chapter 2.1.1; Report for the recurrent discussion on social security, Chapter 5.1; General Survey concerning social security instruments (2011), Part III, Chapter I B.

<sup>4</sup> Conclusions concerning social security (2011), para. 5.

<sup>5</sup> *ibid.*, para. 12.

<sup>6</sup> ICESCR, article 9.

<sup>7</sup> CESCR: General Comment No. 19: The right to social security (Art. 9), adopted at the 39th Session, 5–23 November 2007, Doc. E/C.12/GC/19 (UN).

<sup>8</sup> The UN CESCR is the independent expert monitoring body in charge of interpreting and ratifying States' obligations under the ICESCR and of examining States' compliance with their obligations under this instrument. See CESCR General Comment No. 19.

<sup>9</sup> CESCR General Comment No. 19, para. 4.

<sup>10</sup> *ibid.*, para. 23. As specified in para. 29, these grounds include "... race, colour, sex, age, language, religion, political or other opinion, national or social origin, property, birth, physical or mental disability, health status (including HIV/AIDS), sexual orientation, and civil, political, social or other status, which has the intention or effect of nullifying or impairing the equal enjoyment or exercise of the right to social security".

<sup>11</sup> CESCR General Comment No. 19, para. 23. With regard to non-contributory schemes, and pension schemes most particularly, see also the Recommendations of the independent UN expert on the question of human rights and extreme poverty regarding cash transfer programmes and non-contributory pensions, UN General Assembly Doc. A/HRC/14/31 (31 March 2010).

<sup>12</sup> Conclusions concerning social security (2011), para. 9.

<sup>13</sup> Report for the recurrent discussion on social security, para. 363.

able to afford a complete range of social security benefits or have the logistical systems in place to reach the entire population immediately.”<sup>14</sup> Nonetheless, universal protection should be stated as a clear objective, that may have to be achieved progressively.

### 2.1.2. National law and practice

45. There is a vast variety of strategies that countries have adopted to realize the goal of providing a minimum level of social protection to all members of society based on contributory, subsidized or non-contributory financing methods; providing entitlements to all or targeted to specific levels of income, age groups, geographical regions, sectors or skill levels; making benefits conditional or unconditional and delivering benefits in cash or in kind.

#### *Countries with mature systems*<sup>15</sup>

46. Some countries like Austria, Belgium, Denmark, Finland, Germany, the Netherlands and Sweden have reached quasi universal coverage, whereas in Bulgaria, Greece, Italy, Latvia, Lithuania, Malta, Poland and others, coverage remains incomplete. With the exception of Greece and Italy, all Member States of the EU-27<sup>16</sup> have some form of means-tested, non-contributory minimum income scheme that operates at national level. They essentially operate as a last resort for all those in need but not covered by social insurance payments or whose entitlements have expired, thus aiming to ensure universal coverage. Most schemes are focused on people who are out of work, but in some States they also supplement the income of workers with very low wages. The extent to which States succeed in providing coverage for all varies. Coverage gaps are often reported for specific groups even in the more comprehensive schemes, e.g. undocumented migrants, homeless or young people. Some countries such as Latvia, Slovenia and Slovakia report that recent trends of tightening eligibility criteria and increasing conditionality have led to reduced coverage. Furthermore, non-take-up due to the complexity of the system, stigma, poor administration or insufficient information on entitlements is an obstacle for universal coverage, for example in Austria, Belgium, Czech Republic, Denmark, Finland, Germany, Hungary, Portugal and United Kingdom.

#### *Countries that were able to close certain coverage gaps quickly*

47. Some countries that faced challenges of large coverage gaps developed innovative schemes that achieved a rapid extension of social security to (almost) the entire population for certain contingencies or a whole package of social security guarantees. Rapid progress with respect to population coverage can be observed over the last decades in national health protection in several countries. In Asia, for example China, Republic of Korea, India, Sri Lanka and Thailand have reached complete or near complete population coverage in a relatively short period. Most of these schemes rely on mixed financing models.

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<sup>14</sup> *ibid.*, para. 364.

<sup>15</sup> This paragraph summarizes findings from *Minimum Income Schemes Across EU Member States – Synthesis Report* by the EU Network of Independent Experts on Social Exclusion, Oct. 2009, for more information on coverage of various contingencies, see *World Social Security Report 2010/11*, Chapters 3–6; Report for the recurrent discussion on social security, Chapter 3; *General Survey concerning social security instruments* (2011) Part III, Chapter 1; and *Extension guide*, Chapters 2.1 and 2.2.

<sup>16</sup> The EU-27 includes the following countries: Austria, Belgium, Bulgaria, Czech Republic, Cyprus, Denmark, Finland, Germany, Estonia, France, Greece, Ireland, Italy, Latvia, Lithuania, Luxembourg, Hungary, Malta, Netherlands, Poland, Portugal, Romania, Slovenia, Slovakia, Spain, Sweden, United Kingdom.

48. Further examples of successful social security extension efforts are provided in table 1 below. Strong political commitment, the dedication of the necessary financial resources, innovative approaches and the use of new technologies for the benefit, design, delivery, management and monitoring as well as a participatory approach for the design, implementation and management, were decisive success factors in achieving this progress. In some cases pragmatism with respect to designing mixed forms of financing also contributed to the success of these schemes.

**Table 1. Coverage levels of selected tax- and mixed- financed social transfer schemes in middle income countries**

Programme	Type	Coverage
Argentina, <i>Asignación Universal por Hijo – Asignación Familiar</i>	Conditional universal child allowance Contributory family allowance	86% of Argentinian children and adolescents under 18
Plurinational State of Bolivia, <i>Renta Dignidad</i>	Universal old-age pension	97% of total eligible beneficiaries
Brazil, <i>Bolsa Familia</i>	Means-tested conditional cash transfer	26% of the total population (estimated at 94% of the target group of extremely poor families with children)
Brazil, Rural Social Insurance Programme	Social pension for old age, survivors, disability, sickness and maternity	80% of small self-employed farmers, 66% of the rural population
China, Minimum Living Standards Guarantee	Social assistance	All households with income below official thresholds (5.4% of the population received benefits from the scheme in 2010)
Colombia, The General System of Social Security in Health	Universal health coverage	90% of the population
Ghana, National Health Insurance System	Universal health care	30–70% of the population
Mexico, <i>Oportunidades</i>	Means-tested conditional cash transfer, providing also benefits in kind, e.g. access to basic health care and nutritional supplements	25 million people, 25% of the total population <sup>1</sup>
South Africa, Child Support Grant	Means-tested cash transfer	78–80% of total eligible children
Thailand, Universal Coverage Scheme	Universal health care	75% of the population

<sup>1</sup>SEDESOL, 2008, *Oportunidades*, Presentation during the Operational Workshop 2008, [http://archivos.diputados.gob.mx/Comites/Inf\\_Gest\\_Quejas/Taller\\_Operacion\\_2008/PONENCIAS/10\\_Oportunidades.pps](http://archivos.diputados.gob.mx/Comites/Inf_Gest_Quejas/Taller_Operacion_2008/PONENCIAS/10_Oportunidades.pps) [accessed 10 July 2011].  
Source: ILO–UNDP–Global South–South Development Academy: *Successful social protection floor experiences: Sharing innovative experiences*, Vol. 18 (New York, 2011); and country information.

## 2.2. The range of benefits provided with respect to the social protection floor guarantees <sup>17</sup>

### 2.2.1. International legal and conceptual framework

49. The appendix to the conclusions concerning social security (2011) contains an explicit mention of the types of benefits, or guarantees which should be provided under national social protection floors. These four basic social security guarantees are nationally defined minimum levels of income security during childhood, working age and old age, as well as affordable access to health care.

50. These correspond to the core content of general elements of the right to social security as laid down in the UDHR and ICESCR <sup>18</sup> as well as the contingencies to be covered under ILO Recommendations Nos 67 and 69.

51. On this basis, the set of essential guarantees provided under national social protection floors, in order to ensure protection against major risks throughout the life cycle, should aim to achieve a situation in which:

- ❑ all residents have the necessary financial protection to afford and have access to a nationally defined set of essential health-care services, including maternal health;
- ❑ all children enjoy income security, at least at a nationally defined minimum level, through family–child benefits in cash or in kind aimed at facilitating access to nutrition, education and care;
- ❑ all residents in active age groups who are unable to earn sufficient income on the labour market enjoy minimum income security through social assistance, maternity benefits, other social transfer schemes in cash or in kind or through public employment programmes; and
- ❑ all residents in old age and all residents with a disability to the extent that it excludes them from gainful activity enjoy income security at least at a nationally defined minimum level, through benefits in cash or in kind for old age and disability.

### 2.2.2. National law and practice

52. While most States acknowledge the relevance of each contingency and undertake efforts in each of these areas, only a few States outside of Europe and the OECD have established an explicit policy to create a complete social protection floor below which nobody should fall in the sense of providing a defined set of well-coordinated minimum guarantees for income security and access to medical care throughout the life cycle. However, there are examples <sup>19</sup> of countries with a fairly wide range of minimum guarantees:

- ❑ In Brazil, the unified system of social assistance, national system for food and nutrition security and cash transfer schemes (*Bolsa Familia* – family grant, benefits

<sup>17</sup> For more information on the scope of coverage see *Extension guide*, Chapter 2.3; Report for the recurrent discussion on social security, Chapter 3; *World Social Security Report 2010/11*, Chapter 1.2.

<sup>18</sup> See CESCR General Comment No. 19, and more particularly paras 2 and 59–61.

<sup>19</sup> Taken from ILO–UNDP–Global South–South Development Academy: *Successful social protection floor experiences: Sharing innovative experiences*, Vol. 18 (New York, 2011), Chapters 3, 7, 13 and 16.

for the elderly and disabled and those living in poverty) provides a comprehensive package of benefits for those in need.

- The social protection system “Red protege” in Chile, elaborated between 2006 and 2010, supports and guides people throughout their life cycle. “Red protégé” is organized in three core parts or subsystems: the poverty and vulnerability social protection system (*Chile Solidario*); the comprehensive child social protection system (*Chile Crece Contigo*); and the labour social protection system.
- The Vivir Mejor scheme (Live Better) in Mexico is an integrated social strategy of inter-institutional coordination that takes into account the entire life cycle of individuals and their families. It includes all programmes that provide access to education, food, health and decent housing for Mexico’s poorest families and safety net programmes that enable citizens to better deal with the contingencies and risks that may arise throughout life.
- In South Africa, the Government adopted a broader social protection framework, which aims to guarantee both social transfers (access to health care, financial support for children, financial support in old age, protection for the working-age population) and basic social services (free basic services, including subsidized housing and free basic electricity).

53. The following sections analyse the replies to the General Survey concerning social security instruments (2011) with a view to observing the degree to which countries have achieved the above four social protection floor guarantees. Several countries<sup>20</sup> reported that they plan to establish a set of basic guarantees for income security and access to medical care for all.

#### *Income security throughout the life cycle*<sup>21</sup>

54. There is an emerging body of national experiences from the past two decades of countries that are committed to providing a social protection floor for their populations. The most common form of non-contributory minimum income guarantees are social pensions, followed by child or family benefits. Only a few States provide income security for people of working age – through unemployment insurance, social assistance benefits or through employment guarantee schemes. Social assistance schemes and unemployment insurance are common in States with large formal economies and mature social security systems. Social assistance typically provides means-tested benefits to persons unable to generate sufficient income through work, and who do not or no longer qualify for unemployment insurance or other (contributory) social security benefits. Other countries provide social assistance or other benefits to vulnerable groups of the population which correspond to elements of the social protection floor but often in a fragmented and discretionary manner.

55. The innovative approach of employment guarantee schemes to provide income security through a minimum number of days of guaranteed employment per household per year or unemployment benefits was pioneered by India through its Mahatma Gandhi National Rural Employment Guarantee Act (NREGA).<sup>22</sup> Many countries provide ad hoc

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<sup>20</sup> Antigua and Barbuda, Benin, Plurinational State of Bolivia, Bosnia and Herzegovina, China, Côte d’Ivoire, Djibouti, El Salvador, Indonesia, Madagascar, Namibia, Senegal, Sudan, Syrian Arab Republic and United Republic of Tanzania, General Survey concerning social security instruments (2011), table 6, pp. 124–128.

<sup>21</sup> For further information see, Report for the recurrent discussion on social security, Chapters 3.2–3.6; *Extension guide*, Chapter 3.3; *World Social Security Report 2010/11*, Chapters 3–7.

<sup>22</sup> National Rural Employment Guarantee Act, No. 42 of 2005, New Delhi, Sep. 7, 2005, *The Gazette of India*.

or one-off employment opportunities in public work schemes, but the Indian scheme and the employment guarantee component of the Productive Safety Nets Programme (PSNP) in Ethiopia and the small-scale Zibambele Programme in South Africa offer rights-based entitlements for the working-age population.

56. Regarding family or child benefits, many countries<sup>23</sup> reported in the General Survey concerning social security instruments (2011) that they provide benefits to assist families in meeting the cost of raising and educating children and preventing child labour. While periodic cash payments are at the core of most family benefits schemes, they are often complemented through various benefits in kind or in cash, including social services, free or subsidized day-care services or benefits for vulnerable groups such as disabled children, orphans or families affected by HIV and AIDS. Countries further emphasized the importance of legislation on compulsory education and the provision of free primary education and further support measures such as free textbooks, school supplies, uniforms or transport to and from school.

57. In some middle- and high-income countries, family benefits are universal and paid for each child and sometimes supplemented by additional entitlements for poor families. Other countries<sup>24</sup> target family benefits to poor households. Such benefits are often conditional upon compliance with certain predefined behaviour such as school attendance or uptake of certain health services, etc.

58. At least 82 countries provide some form of social pension for the elderly of a certain age, mostly means-tested and at very modest benefit levels.<sup>25</sup> These are often supplemented with additional services or benefits depending on needs such as care arrangements, subsidies for housing, heating or transport. In countries with mature social security systems, social pensions are usually schemes of last resort for those with insufficient or incomplete contribution records to contributory pension schemes. In countries with large informal economies and persistent challenges regarding old-age poverty, social pensions have become important social inclusion mechanisms with positive impacts for the entire household.

### *Health*<sup>26</sup>

59. Eighteen member States reported that they are largely complying with the provisions of Recommendation No. 69 on medical care, but many more States are actually complying with, or working towards, achieving the objectives of the Recommendation.<sup>27</sup>

<sup>23</sup> Including all European countries as well as Algeria, Angola, Argentina, Azerbaijan, Bangladesh, Chile, Djibouti, Republic of Fiji, Gabon, Mauritius, Mexico, Morocco, New Zealand, General Survey concerning social security instruments (2011), paras 192–204 and country information.

<sup>24</sup> For example, Belarus, Bosnia and Herzegovina, Brazil, Ecuador, El Salvador, Guatemala, Mozambique, Senegal, South Africa, Suriname, Uganda, United States, Uruguay, Bolivarian Republic of Venezuela and Zimbabwe; *ibid.*, paras 199–204 and country information.

<sup>25</sup> HelpAge International Pension Watch Database, [www.pension-watch.net/download/4e11c05090f58](http://www.pension-watch.net/download/4e11c05090f58) [accessed 20 June 2011].

<sup>26</sup> For more information on Social Health Protection Coverage see Report for the recurrent discussion on social security, Chapter 3.1; *World Social Security Report 2010/11*, Chapter 2; *Extension guide*, Chapter 3.2; and ILO: *Social health protection: An ILO strategy towards universal access to health care*, Social Security Policy Briefings, Paper 1 (Geneva, 2008).

<sup>27</sup> These include: Algeria, Austria, Bosnia and Herzegovina, Costa Rica, Czech Republic, El Salvador, France, Honduras, Indonesia, Israel, Republic of Korea, Kuwait, Malaysia, Montenegro, New Zealand, Peru, Syrian Arab

60. In a recent ILO review of social health protection coverage, around 50 countries<sup>28</sup> were found to have achieved “universal coverage” in social health protection – defined as being an affiliated member of a scheme or being entitled to free medical care. This figure of population coverage does not necessarily mean all people enjoy effective access to a comprehensive range of services. Protection may be inadequate as many schemes require co-payments, especially for more expensive services, or are facing staff and technology shortages, as well as deficiencies in the geographical density of services. Several countries like China and Viet Nam have set clear targets and are undertaking serious efforts to reach comprehensive protection over the next five to ten years.

## 2.3. The level of benefits provided<sup>29</sup>

### 2.3.1. International legal and conceptual framework

61. The benefits that should be provided under national social protection floors, as stated in the conclusions concerning social security (2011), are “basic social security guarantees that ensure that over the life cycle all in need can afford and have access to essential health care and have income security at least at a nationally defined minimum level. social protection floor policies should aim at facilitating effective access to essential goods and services ....”<sup>30</sup> As further developed in the appendix to the conclusions, these guarantees set nationally defined “minimum levels of protection that all members of a society should be entitled to in case of need”.<sup>31</sup> The principle of adequacy of benefits was also identified in the conclusions concerning social security (2011) as one of the principles which should guide national policy and strategic decisions on the extension of social security.<sup>32</sup>

62. The conclusions concerning social security (2011) pragmatically accepted that the concrete definition of adequacy should be formulated at national level, as not all member States have developed definitions of poverty lines, minimum wages or average or median wage levels or other benchmarks.

63. Providing adequate social security benefits is also considered by the CESCRC as one of the essential factors that should apply in all circumstances for guaranteeing the realization of the right to social security and the right to an adequate standard of living<sup>33</sup>

Republic and Bolivarian Republic of Venezuela, General Survey concerning social security instruments (2011), para. 52.

<sup>28</sup> These include: Antigua and Barbuda, Argentina, Armenia, Aruba, Australia, Austria, Bahamas, Barbados, Belgium, Canada, Cuba, Czech Republic, Denmark, Estonia, Finland, France, Germany, Greece, Hungary, Iceland, India, Ireland, Israel, Italy, Japan, Republic of Korea, Luxembourg, Mauritius, Netherlands, New Zealand, Norway, Poland, Portugal, Rwanda, Russian Federation, Slovakia, Slovenia, South Africa, Spain, Sri Lanka, Sweden, Switzerland, Taiwan (China), Thailand, Ukraine, United Arab Emirates, United Kingdom, Uruguay and Uzbekistan, *World Social Security Report 2012/13*, forthcoming.

<sup>29</sup> For further information see report for the recurrent discussion on social security, Chapter 2.2; *Extension guide*, Chapter 2.

<sup>30</sup> Conclusions concerning social security (2011), para. 9.

<sup>31</sup> Appendix to the conclusions concerning social security (2011), para. A6.

<sup>32</sup> Conclusions concerning social security (2011), para. 9.

<sup>33</sup> Article 11(1) of the ICESCR stipulates that: “The States Parties to the present Covenant recognize the right of everyone to an adequate standard of living for himself and his family, including adequate food, clothing and housing, and to the continuous improvement of living conditions. The States Parties will take appropriate steps to ensure the realization of this right ... .”

under the ICESCR. More specifically, the CESCR in its General Comment No. 19 states that the application of this principle requires that “Benefits, whether in cash or in kind, must be adequate in amount and duration in order that everyone may realize his or her rights to ... an adequate standard of living ...” as contained in article 11 of the ICESCR.<sup>34</sup>

64. With regard to the right to social security (article 9 of the ICESCR), in conjunction with the right of everyone to the enjoyment of the highest attainable standard of physical and mental health (article 12 of the ICESCR), the CESCR considers that the core obligation to ensure the minimum essential levels of each of the rights, means the obligation to ensure access to a social security scheme that provides minimum essential levels of benefits to all individuals and families, that will enable them to acquire at least essential primary health care.<sup>35</sup> Although this level cannot be determined in the abstract as it is a national task, the following core obligations are set out to guide the priority-setting process:<sup>36</sup>

- (c) to ensure access to basic shelter, housing and sanitation, and an adequate supply of safe and potable water;
- (d) to provide essential drugs, as from time to time defined under the WHO Action Programme on Essential Drugs;
- (e) to ensure equitable distribution of all health facilities, goods and services;
- (f) to adopt and implement a national public health strategy and plan of action, on the basis of epidemiological evidence, addressing the health concerns of the whole population; the strategy and plan of action shall be devised, and periodically reviewed, on the basis of a participatory and transparent process; they shall include methods, such as right to health indicators and benchmarks, by which progress can be closely monitored; the process by which the strategy and plan of action are devised, as well as their content, shall give particular attention to all vulnerable or marginalized groups.<sup>37</sup>

65. Furthermore, the CESCR states that among others, the following are obligations of comparable priority under article 12:

- (a) to ensure reproductive, maternal (prenatal as well as post-natal) and child health care;
- (b) to provide immunization against the major infectious diseases occurring in the community;
- (c) to take measures to prevent, treat and control epidemic and endemic diseases ...<sup>38</sup>

66. Within the ILO standards framework, Recommendation No. 67 contains, in its Annex some guiding principles for the determination of the rates and level of “social assistance” benefits or “maintenance allowances” which aim to ensure their adequacy.

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<sup>34</sup> CESCR General Comment, No. 19, para. 22.

<sup>35</sup> CESCR General Comment No. 19, para. 59; and CESCR: General Comment No. 14: *The Right to the Highest Attainable Standard of Health* (article 12), adopted at the 22nd Session of the CESCR, on 11 August 2000, document E/C.12/2000/4 (UN) (herewith referred to as: CESCR General Comment No. 14), paras 43–44.

<sup>36</sup> In the CESCR General Comment No. 14, para. 43, the Committee indicates that the Alma-Ata Declaration provides compelling guidance on the core obligations arising from article 12, in conjunction with more contemporary instruments, such as the Programme of Action of the International Conference on Population and Development. It should be noted that other core obligations are identified by the Committee under both articles 9 and 12. However, the list here is limited to those which are relevant for guaranteeing “access to essential health care services for all residents” as part of the social transfer component of the social protection floor.

<sup>37</sup> *ibid.*, para. 43.

<sup>38</sup> *ibid.*, para. 44.

With regard to the level of benefits provided under such schemes, it recommends that: “Maintenance allowances should be sufficient for full, long-term maintenance; they should vary with the current cost of living, and may vary as between urban and rural areas.”<sup>39</sup> As to the rates of benefits, “Maintenance allowances should be paid at the full rate to persons whose other income does not exceed a prescribed level and at reduced rates in other cases.”<sup>40</sup>

67. Recommendation No. 69, concerning medical care benefits, lays down that medical care should be complete (preventive and curative care) and meet the need of the individual for care without time limit and provide the highest possible standard of care and of professional skill and knowledge with a view to maintaining, restoring and improving the health of the persons protected, subject only to such reasonable limitations as may be imposed by the technical organization of the service.<sup>41</sup>

68. Convention No. 102 also sets a minimum level of benefits to be provided by means-tested social assistance schemes. Under such schemes, such benefits must not be lower than prescribed portions of the typical prevailing wage levels paid for simple unqualified work. In addition, the total of the benefits paid and other means of the beneficiary “should be sufficient to maintain the family of the beneficiary in health and decency”.<sup>42</sup>

### 2.3.2. National law and practice

69. Measures introduced by countries to ensure basic income security and essential health care include benefits in cash and in kind. Benefits provided in kind often consist of food transfers or waivers or vouchers to cover the cost of health and education services or a combination of cash and vouchers.<sup>43</sup>

70. For benefits provided in cash, a variety of reference variables may be used to determine the level of benefits including absolute or relative poverty lines, level of earnings or overall income levels (individual or average). The practice of how benefit levels are set, what levels are considered adequate and whether these are the same nationwide or vary according to household characteristics, geographical areas<sup>44</sup> or other factors, differs across regions and countries. Table 2 below shows the level of benefits or the reference for setting benefit levels for a selected range of basic income guarantee schemes.

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<sup>39</sup> Recommendation No. 67, Annex, para. 29(2).

<sup>40</sup> *ibid.*, Annex, para. 29(3).

<sup>41</sup> Recommendation No. 69.

<sup>42</sup> Convention No. 102, Article 67(c).

<sup>43</sup> This is for example the case of the Bono Juancito Pinto scheme in the Plurinational State of Bolivia, Familias en Acción in Colombia, the Red Solidaria in El Salvador, the Programa de Asignacion Familiar in Honduras, Programme of Advancement through Health and Education in Jamaica (see Barrientos et al., *Social Assistance in Developing Countries Database*, University of Manchester, Chronic Poverty Research Centre, Manchester, 2010).

<sup>44</sup> China reported that although there is no general poverty line established in the country, there are different poverty standards established at local levels.

**Table 2. Types and benefit levels of cash transfer programmes in selected countries, absolute levels and relative to minimum wages**

Programme	Type	Level of benefit provided	Level of benefit in per cent of minimum wage
Argentina, Asignación Universal por Hijo	Universal child allowance for each child up to a maximum of 5 children	Monthly benefit level set at ARS\$220 per child or ARS\$880 for disabled children <sup>1</sup> (not automatically indexed)	Minimum wage: ARS\$1,740 (Sep. 2010). <sup>2</sup> Benefit in per cent of minimum wage: 12.5% per child and 51% per disabled child
Plurinational State of Bolivia, Renta Dignidad	Universal old-age pension	Income transfer equivalent to BOP200 per month. Can be collected monthly, quarterly, biannually or annually depending on beneficiaries' needs <sup>3</sup>	Minimum wage: BOP679.5 (2010). <sup>4</sup> Benefit in per cent of minimum wage: 29.5%
Brazil, <i>Bolsa Familia</i>	Means-tested conditional cash transfer	Households in extreme poverty (> R\$140/month/person): R\$32 per child under age 16 (up to 3 children, as of Sep. 2011: 5 children) plus R\$38 per child aged 16–17 (max. 2 children per family) plus additional R\$70 per month	Minimum wage: BRL545 (2011). <sup>5</sup> Benefit in per cent of minimum wage: 9% per household in extreme poverty plus 3% per child
Brazil, Rural Social Insurance Programme	Social pension for old age, survivors, disability, sickness and maternity	The non-contributory benefits have a minimum value of one official minimum wage <sup>6</sup>	Minimum wage: BRL545 (2011) Benefit in per cent of minimum wage: 100%
India, Mahatma Gandhi National Rural Employment Guarantee Schemes	Rights-based employment guarantee for one member per rural households (including disabled, no age limit)	Equal wages for men and women at levels of Minimum Wages Act 1948 (INR100 per day) <sup>7</sup>	Minimum wage: currently between 80 and 203 rupees/day <sup>8</sup>
Mauritius	Minimum basic pension	MUR2,802 per month <sup>9</sup>	Half median monthly household income 2006–07: MUR7,320. <sup>10</sup> Benefit in per cent of half median monthly household income: 38%
Mexico, Oportunidades	Conditional cash transfer for children going to school, elderly and cash benefit for electricity, housing and food	Monthly benefit in cash and in kind. Cash amounts vary from MXN60 to 925 with a ceiling of MXN2,345 pesos per household depending on age, sex and other eligibility criteria. <sup>11</sup> Benefit levels correspond to those of the second semester of 2010	Minimum wage: from MXN 54.47 to 57.46 per day (from MXN1,634.1 to 1,723.8 per month in 2010). <sup>12</sup> Benefit in per cent of minimum wage: MXN1,634.1, it varies from 3.7% to 56.6% MXN1,723.8, it varies from 3.5% to 53.7%
South Africa, Child Support Grant	Means-tested cash transfer	Initially based on the food costs of a child – subsequently increased. The transfer as of Apr. 2011 is ZAR260 <sup>13</sup> per month for children under the age of 18 for households with annual income of less than ZAR31,200 per month for a single parent or ZAR62,400 for a married couple	Minimum wage for Security Guard category in 2010 (employees in the wholesale and retail sector): ZAR1,999.62 (area A) and ZAR1,902.02. <sup>14</sup> Benefit in per cent of minimum wage: 13% (area A) and 13.7% (area B)

Programme	Type	Level of benefit provided	Level of benefit in per cent of minimum wage
South Africa	Means-tested old-age grant and disability grant	ZAR1,010 per month (US\$132) <sup>15</sup>	Benefit in per cent of minimum wage: 50.5% (area A) and 53.1% (area B)

<sup>1</sup> Administración Nacional de la Seguridad Social ANSES – Argentina, [www.anses.gov.ar/AFF\\_HIJO2/index.php?p=1](http://www.anses.gov.ar/AFF_HIJO2/index.php?p=1). <sup>2</sup> Ministerio de Trabajo, Empleo y Seguridad Social – Argentina, [www.trabajo.gov.ar/left/estadisticas/bel/index.asp](http://www.trabajo.gov.ar/left/estadisticas/bel/index.asp). <sup>3</sup> Barrientos, op. cit., p. 15. <sup>4</sup> Ministerio de Economía y Finanzas – Plurinational State of Bolivia, [www.economiayfinanzas.gob.bo/index.php?opcion=com\\_contenido&ver=contenido&id=1215&seccion=306&categoria=446](http://www.economiayfinanzas.gob.bo/index.php?opcion=com_contenido&ver=contenido&id=1215&seccion=306&categoria=446). <sup>5</sup> Ministério do Trabalho e Emprego – Brazil, [www.mte.gov.br/sal\\_min/default.asp](http://www.mte.gov.br/sal_min/default.asp). <sup>6</sup> ILO–UNDP–Global South–South Development Academy: *Successful social protection floor experiences: Sharing innovative experiences*, Vol. 18 (New York, 2011), p. 81. <sup>7</sup> Minimum Wages Act 1948, <http://labour.nic.in/annrep/files2k1/lab5.pdf>. <sup>8</sup> Ministry of Labour – India, <http://labourbureau.nic.in/wagetab.htm>. <sup>9</sup> Barrientos, op. cit., p. 103. <sup>10</sup> Mauritius does not have a national poverty line or a national minimum wage. However, the half median monthly household can be used as a poverty-related indicator, [www.gov.mu/portal/site/cso/menuitem.dee225f644ffe2aa338852f8a0208a0c/?content\\_id=6dda3f48c654c010VgnVCM1000000a04a8c0RCRD](http://www.gov.mu/portal/site/cso/menuitem.dee225f644ffe2aa338852f8a0208a0c/?content_id=6dda3f48c654c010VgnVCM1000000a04a8c0RCRD). <sup>11</sup> Reglas de operación Oportunidades and SEDESOL Fact Sheet Booklet Mexico 2009. <sup>12</sup> Servicio de Administración Tributaria – México, [www.sat.gob.mx/sitio\\_internet/asistencia\\_contribuyente/informacion\\_frecuente/salarios\\_minimos/default.asp](http://www.sat.gob.mx/sitio_internet/asistencia_contribuyente/informacion_frecuente/salarios_minimos/default.asp). <sup>13</sup> [www.capegateway.gov.za/eng/directories/services/11586/47468](http://www.capegateway.gov.za/eng/directories/services/11586/47468). <sup>14</sup> Department of Labour – South Africa, [www.labour.gov.za/downloads/legislation/sectoral-determinations/basic-conditions-of-employment/wholesaleretail2009-2010.doc](http://www.labour.gov.za/downloads/legislation/sectoral-determinations/basic-conditions-of-employment/wholesaleretail2009-2010.doc). <sup>15</sup> Barrientos, op. cit., pp. 113–114.

71. In order to ensure adequacy, measures have to be taken to ascertain or to maintain the purchasing power of benefits. In the General Survey concerning social security instruments (2011), the CEACR observes differences between high-income countries and middle- and low-income countries with regard to the value and adequacy of the benefits provided by their respective social security systems. More specifically, the CEACR notes that: “While in the former group of countries benefits as a rule are superior even to the advanced standards established by subsequent social security Conventions, the middle- and low-income countries often have a level of benefits that does not attain the minimum benchmarks ... to permit a beneficiary to maintain himself and his family ‘in health and decency’.”<sup>45</sup> The low level of benefits also was the key issue among the problems raised by workers’ organizations in their replies to the General Survey concerning social security instruments (2011).<sup>46</sup> Replies stated that the level of benefits – including from contributory schemes – in many instances do not guarantee an income above the poverty line.

72. The levels of benefits are often a matter of national debate. South Africa intended to set the level of the benefit for child support according to an objective measure of need: the food costs of a child (calculated at US\$10.35 in 1998).<sup>47</sup> Advocacy groups argued that the amount was set far too low given the cost of living. Political engagement with civil society groups resulted in an increase in the amount of the grant to US\$13.80. In Germany, the constitutional court ruled that the method used to set the level of benefit for the social assistance scheme “Arbeitslosengeld 2” is not sufficiently justified and obliged the Government to provide more detail on the rationale and calculations used to determine the benefit amount.

73. In addition to different methods of setting benefit levels, States have also adopted different mechanisms to maintain the purchasing power of benefits. This can take place automatically, periodically or ad hoc. Benefits can be indexed to the cost of living, average, median or minimum wages, economic growth, ad hoc or a mix of these

<sup>45</sup> General Survey concerning social security instruments (2011), para. 460.

<sup>46</sup> This was pointed out for example, in replies from workers’ organizations in Argentina, Canada, Colombia, Dominican Republic, Montenegro, Peru, Sri Lanka, Turkey, United States and Uruguay, General Survey concerning social security instruments (2011), para. 539.

<sup>47</sup> ILO–UNDP–Global South–South Development Academy: *Successful social protection floor experiences: Sharing innovative experiences*, Vol. 18 (New York, 2011), p. 372.

methods.<sup>48</sup> Some countries reported that they do not adjust social security benefits.<sup>49</sup> As the General Survey concerning social security instruments (2011) points out, adjusting benefits to the cost of living alone protects recipients from sliding into absolute poverty (provided that initial benefit levels were set at adequate levels). However, it does not prevent them from experiencing relative poverty as benefits will lag behind the growth of the average income of the working population.

74. Regarding health services, there is discussion on the question of what an “essential” level of health care consists of. Genuine social protection from hardship in cases of ill health would require a fairly comprehensive package. Many States define a comprehensive package but are confronted with great difficulties to ensure the funding and availability of a well-trained health workforce and the necessary equipment and infrastructure to provide adequate care to the whole population, especially outside urban centres.

## 2.4. The legal nature of entitlements<sup>50</sup>

### 2.4.1. International legal and conceptual framework

75. The provision of rights-based benefits was recognized by the ILC in its conclusions concerning social security (2011) as one of the core principles which should guide national strategies for the extension of social security.<sup>51</sup> ILO Recommendations and Conventions provide for the implementation of coverage and benefit provisions by “virtue of national laws or regulations” (e.g. Convention No. 102, Article 1).

76. Thus, rights-based social security is here understood as the provision of benefits as of right, i.e. it requires the establishment of national social protection systems grounded in sound legal and institutional frameworks adhering to internationally recognized principles of good governance and state responsibility and in line with international human rights and their interpretation by competent bodies. A sound legal framework, following a rights-based approach, is one where social security rights are clearly stipulated and their beneficiaries identified, without discrimination, and which sets out benefits levels and entitlements conditions that are reasonable, proportionate and transparent. The withdrawal, reduction or suspension of benefits should be circumscribed, based on grounds that are reasonable, subject to due process, and provided for in national law. Under such a framework, obligations carry legal weight and therefore rights are enforceable through statutory complaint and appeal procedures. In

<sup>48</sup> Adjustment of benefits to inflation is practiced for example in Albania, Argentina, Australia, Azerbaijan, Belgium, Brazil (statutory schemes), Canada, Croatia, Estonia, France, India, Latvia, Malaysia, New Zealand, Poland, Romania, Turkey and others. Adjustment to the growth in average wage is undertaken for example in Australia, Barbados, Brazil (*Bolsa Familia*), Côte d’Ivoire, Croatia, Finland, Germany, Latvia, Mongolia, Montenegro, New Zealand, Poland, Romania and Turkey. New Zealand and Finland use a mixed method of adjusting benefits in line with consumer prices and wages. Countries lacking legislation for obligatory regular adjustments of benefits but undertaking ad hoc adjustments include Algeria, Antigua and Barbuda, China, Ethiopia, Ghana, Republic of Korea, Mauritius, Namibia, Philippines, Saudi Arabia, Syrian Arab Republic, Zimbabwe among others. Germany, Japan, Portugal and Sweden report adjusting benefits to the rate of the country’s economic growth and other macroeconomic indicators, General Survey concerning social security instruments (2011), paras 477–85.

<sup>49</sup> Belize, Cameroon, Thailand and Uganda, *ibid.*, para. 482.

<sup>50</sup> For further information, see also report for the recurrent discussion on social security, Chapter 1; General Survey concerning social security instruments (2011), Part II; *Extension guide*, Chapter 1.2.

<sup>51</sup> Conclusions concerning social security (2011), para. 12.

this regard, it should be noted that the right of beneficiaries to lodge a complaint and the right of appeal in social security matters is explicitly laid down in ILO social security standards and notably Recommendations Nos 67 and 69 and Convention No. 102.<sup>52</sup>

77. Realizing people's right to social protection also requires that all people have full access to the protection to which they are entitled under the law. This can be done, among others, by setting up adequate mechanisms for the effective delivery of benefits by ensuring that people are informed of their rights, entitlements and recourses, and by ensuring their physical and financial access to justice. Finally, rights-based social security requires equality of treatment and non-discrimination in the statutory formulation of social security rights and in their implementation in practice, so as to avoid, among others, any adverse effect on the levels of benefits and the form in which they are provided. This would require that schemes aiming to cover specific groups who share distinctive characteristics should, in their design and provisions, take into account and reflect their special needs.<sup>53</sup>

78. With regard to health care more specifically, a rights-based approach would require that States ensure the right of access to social security systems/schemes and health facilities, goods and services on a non-discriminatory basis, especially for vulnerable or marginalized groups.<sup>54</sup> In this regard, it should be noted that the HIV and AIDS Recommendation, 2010 (No. 200) concerning, provides that: "There should be no discrimination against workers or their dependants based on real or perceived HIV status in access to social security systems and occupational insurance schemes, or in relation to benefits under such schemes, including for health care and disability, and death and survivors benefits."<sup>55</sup>

#### 2.4.2. National law and practice

79. The objective to "provide a basic income to all in need of such protection and comprehensive medical care" Declaration of Philadelphia (1944) is recognized in the form of a legal entitlement to social security to various extents in the Constitution of many States (e.g. Bangladesh, Plurinational State of Bolivia, Brazil, Ecuador, Greece, India, Italy, Japan, Kenya, Namibia, Pakistan, Portugal, South Africa, Spain, Sri Lanka, Switzerland and Bolivarian Republic of Venezuela). National legislation aims to give effect to these constitutional provisions. Examples of national legislation creating legal social security entitlements include most European minimum income guarantee schemes, the Indian National Rural Employment Guarantee Act No. 42 of 2005, the Thailand National Health Security Act, B.E. 2545 (2002) for the non-contributory universal health coverage scheme, the Ghana National Health Insurance Act No. 650 of 2003 and accompanying National Health Insurance Regulations, LI 1809 of 2004, the Namibia universal pension scheme through the National Pensions Act 1992 (Act 10), the South African Child Grant as included in the Children's Act No. 38 of 2005, the Chile Solidario family benefit Law No. 19949 of 2004. Constitutional provisions take many different forms, ranging from binding or promotional provisions, general statements or

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<sup>52</sup> See Recommendation No. 67, Annex, Articles 27(8), (9) and (10); Recommendation No. 69, Paragraphs 63 and 112; and Convention No. 102, Article 70.

<sup>53</sup> CESCR General Comment No. 19; and UN: *Report of the independent UN expert on the question of human rights and extreme poverty regarding cash transfer*, UN General Assembly document A/HRC/11/9 (27 March 2009).

<sup>54</sup> *ibid.*, para. 13.

<sup>55</sup> HIV and AIDS Recommendation, 2010 (No. 200), para. 20.

specific obligations, covering different branches of social security and sometimes including also provisions attributing competence to certain authorities or determining how social security should be implemented.<sup>56</sup> In practice, it has proven very difficult for States to effectively provide protection to all in need in terms of identifying who is in need of protection, as well as in terms of ensuring sufficient financing or developing effective delivery mechanisms to reach those in need. To give effect to the right to social security enshrined in the Constitution, detailed national legislation is required that determines the design, administration, management, delivery, financing and monitoring arrangements of the entitlements provided by the social security system. Ultimately, the government then needs to commit the necessary resources for the implementation of the social security legislation to give effect to the rights-based benefits. However, persistent high levels of poverty, hunger, malnutrition, maternal and child mortality, forced labour, child labour and social exclusion show that many of the social security entitlements are not inclusive in coverage or not implemented properly. On the other hand, in many countries, governments implement programmes on a discretionary basis, or provide ad hoc benefits not anchored in national legislation. Also, non-governmental actors who do not act under contract with or on behalf of the Government or a social security institution, sometimes provide certain benefits or services. While these measures may have important poverty alleviation effects for the population benefiting from them, they do not meet the criteria of providing a minimum level of social protection in the sense of providing transparent, predictable, regular and certain entitlements with clear eligibility criteria and guaranteed levels of benefits. For example, some countries have established systems that have budgetary ceilings, providing benefits up to a certain level of public expenditure rather than a rights-based entitlement that is provided following defined eligibility criteria based on the need for protection among the population. Budgetary ceilings clearly do not meet the requirements of providing protection to all in need of social protection but provide for a discretionary and often accidental limitation of the number of beneficiaries generally on a first come, first served basis. However, a budgetary ceiling that selects beneficiaries by their degree of need (for example, selecting the poorest x per cent of the population, as is the case for the Livelihood Empowerment Against Poverty (LEAP) programme in Ghana) and where that limitation is stipulated by law, can be considered akin to a rights-based approach as long as the levels of income of the non-selected part of the population permits a life in “health and decency”. Likewise, a country can be considered to follow a rights-based approach to social security if it provides, as legal entitlements, the core guarantees as spelled out in the social protection floor concept.

80. The vast majority of countries reported that they guarantee the right to complain and to appeal, including to a body independent of that which initially awards and pays the benefits. The legal procedures and institutions for complaint and appeal differ widely between countries but can be grouped into four categories: (1) internal administrative procedures; (2) special judicial procedures; (3) judicial procedures before general courts; and (4) mixed procedures.<sup>57</sup> Several countries have established tripartite social security dispute settlement mechanisms.

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<sup>56</sup> The details of these different provisions are discussed in the General Survey concerning social security instruments (2011), paras 234–293.

<sup>57</sup> The General Survey concerning social security instruments (2011) discusses different national complaint and appeal mechanisms in detail in paras 403–438.

81. A further key issue highlighted by most countries<sup>58</sup> in their General survey replies was the question of equality and non-discrimination as a general principle underpinning their social security system and ensured in their national legislation. Some even mentioned affirmative action for disadvantaged groups such as special programmes for young persons seeking employment. At the same time, some States<sup>59</sup> reported on gaps in law and practice as important parts of the population remain excluded from social security coverage, particularly as differences are persistent, especially between women and men as well as between national and foreign workers. Currently, there is no ILO standard that deals especially with equal treatment for men and women in matters of social security. Several States<sup>60</sup> have made progress in closing the gender gap by allowing or requiring the affiliation of part-time, domestic or informal economy workers, most of whom are women.

## 2.5. Delivery mechanisms and organization<sup>61</sup>

### 2.5.1. International legal and conceptual framework

82. The need for flexibility in the design and implementation of national social protection floors, which should be based on national circumstances and priorities defined with the participation of social partners is clearly stated by the ILC in the conclusions concerning social security (2011). The ILC further concluded that: “While expected outcomes of these guarantees are of a universal nature, member States find different ways of implementing social protection floor policies, which may include universal benefit schemes, social insurance, public employment programmes and employment support schemes, and social assistance schemes that provide benefits only to people with low income, or appropriate combinations of such measures. To be effective, these policies require an appropriate mix of preventive measures, benefits and social services.”<sup>62</sup>

83. The principle of flexibility in the means of providing social security at national level is also contained in Convention No. 102 and other social security standards, including Recommendations Nos 67 and 69. As mentioned previously in this report, Convention No. 102 allows that social security be provided through a combination of contributory and non-contributory benefits, general and occupational schemes, compulsory and voluntary insurance, through different methods for the administration of benefits, and public and private institutions, all intended to secure an overall level of

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<sup>58</sup> Algeria, Antigua and Barbuda, Argentina, Australia, Austria, Azerbaijan, Bangladesh, Belize, Benin, Bosnia and Herzegovina, Brazil, Bulgaria, Cameroon, Canada, Central African Republic, China, Colombia, Costa Rica, Côte d’Ivoire, Croatia, Czech Republic, Djibouti, Ecuador, Ethiopia, Republic of Fiji, Finland, France, Gabon, Germany, Ghana, Greece, Guatemala, India, Italy, Republic of Korea, Kuwait, Lebanon, Lithuania, Malaysia, Mauritius, Mexico, Republic of Moldova, Mongolia, Montenegro, Morocco, Mozambique, Myanmar, New Zealand, Nicaragua, Norway, Oman, Peru, Philippines, Poland, Portugal, Qatar, Romania, Saint Lucia, Senegal, Serbia, Spain, Sri Lanka, Sudan, Sweden, Switzerland, Syrian Arab Republic, Thailand, Turkey, United Kingdom, United States, Uruguay, Bolivarian Republic of Venezuela and Zimbabwe, General Survey concerning social security instruments (2011), para. 208.

<sup>59</sup> For example El Salvador and Ghana, *ibid.*, para. 209.

<sup>60</sup> Algeria, Argentina, El Salvador, Republic of Fiji, Honduras and India, *ibid.*, paras 219–223 and paras 321–322.

<sup>61</sup> For further information see also *Extension guide* Chapter 3, Report for the recurrent discussion on social security, Chapter 4.3; ILO–UNDP–Global South–South Development Academy: *Successful social protection floor experiences: Sharing innovative experiences*, Vol. 18 (New York, 2011).

<sup>62</sup> Conclusions concerning social security (2011), para. 10.

protection which best responds to its needs. As stated by the CEACR, “The method selected must reflect the social and cultural values, history, institutions and level of economic development.”<sup>63</sup>

## 2.5.2. National law and practice

84. The law and practice of providing basic social security guarantees for income security and access to health services of the population display a large diversity between and within countries of approaches and strategies in the design and delivery of benefits. Benefits are delivered in cash or in kind, at a flat rate or at different benefit levels, monthly throughout the year or seasonal, with or without limitation of time, universally or targeted to specific income groups, age groups, geographical areas, sectors, or depending on other socio-economic characteristics, by a number of different public or private sector (but publicly mandated and supervised) institutions, and are financed from a variety of different sources. Virtually all national social security systems combine more than one form of benefit delivery, organization and financing. There is no single best solution or one-size-fits-all prescription for how to best provide social protection floor guarantees to all. The choice of policies for countries aiming to establish a national social protection floor will often depend on already existing social assistance or social insurance schemes, as measures should be designed to build on and complement structures that are already in place. Extending the mandate of established institutions to implement social protection floor policies may create economies of scale and be a more cost efficient arrangement than setting up new – potentially competing – institutions.

85. To ensure access to essential health care, it is necessary to ensure both financial protection and an adequate supply of health services both in terms of quality and in terms of geographical access. The delivery of health services is more complex than delivering benefits to ensure income security. Health services require highly skilled personnel and a considerable amount of equipment and infrastructure which is more demanding than the delivery of a cash payment. Many countries face great staff shortages in the health workforce and severe difficulties in setting up and maintaining an adequate health infrastructure to provide guaranteed access to services for the whole population. In some countries, e.g. Ghana and some Central and Eastern European countries, the migration of skilled health workers aggravates staff shortages and hence impedes universal access to adequate health care.

86. Even within countries, no one-size-fits-all solution can be applied to reach different population groups, so that many States develop different delivery mechanisms and benefit schemes for urban or rural populations, different geographical areas, formal or informal economy workers, and women and men. Whether a country opts for a uniform social protection architecture or a plurality of financing and delivery mechanisms will depend on country context and circumstances, and is of secondary importance as long as the outcomes of a basic level of income security and access to health services protection is ensured for all. A pluralistic system may sometimes be better able to reach various population groups and fulfil their needs. On the other hand, there is a danger of fragmentation and increased need for coordination in the case of more pluralistic social protection systems, and larger schemes may benefit from larger risk pools and economies of scale for administrative costs.

87. The physical delivery of benefits also varies widely. In countries where the money cannot simply be deposited in the claimant’s bank account, delivery mechanisms to pay

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<sup>63</sup> General Survey concerning social security instruments (2011), para. 58.

out cash benefits vary widely across countries and schemes. Commonly used payment systems include paying through post offices or banks, and the installation of special pay-points, for example in schools; sometimes national social security institution branch offices, lottery agents or local shops are used. Some countries use advanced technologies of magnetic cards or mobile phones for the transfer of the money.

88. An example of a flexible delivery mechanism: In the Plurinational State of Bolivia, “Renta Dignidad” payments, made in real time on a daily basis, ensure that the payments are available in over 1,100 payment centres at the national level. Payment centres are available in more than 900 financial institution platforms, operating online transactions in real time. Regarding the logistics of benefit payments, it is important to emphasize the operational innovation of employing the armed forces to pay out the Renta Dignidad. There are more than 200 payment centres between the military installations and the mobile military units. The mobile military units are equipped with mobile satellite equipment interfaced to the main database of beneficiaries, enabling people to collect payments online from any location in the country. The system has also achieved greater geographical coverage in urban areas and, more significantly, in rural areas.

## 2.6. Coherence with other policy objectives <sup>64</sup>

### 2.6.1. International legal and conceptual framework

89. The importance of ensuring policy coherence and the responsibility of the State in this regard were recognized by the ILC as key elements in its conclusions concerning the recurrent discussion on social protection (social security). Notably, it recommended that: “Governments of member States should consider and/or undertake ... fostering coherence of social security policies with employment, macroeconomic, and other social policies within a decent work framework, particularly with respect to promoting the progressive formalization of employment and providing support for productive employment.” <sup>65</sup>

90. Within the framework of ILO social security standards, the Employment Promotion and Protection against Unemployment Convention, 1988 (No. 168), spells out the need for close coordination and harmonization of employment policies with unemployment benefits. The ILO’s Decent Work Agenda and the ILO Declaration on Social Justice and a Fair Globalization (2008) emphasize the importance of integrating economic and social policies. The CEACR in its General Survey concerning social security instruments (2011) highlighted the concern about the detrimental consequences of a one-sided focus on economic policies during the 1990s. Increased competition, privatization and deregulation of labour markets threaten social cohesion, increase precariousness, reduce social protection and erode fundamental principles and rights at work, but do not produce the desired effects in terms of increasing employment or economic growth. Only a coherent and balanced consideration of the economic and social consequences of economic, social, fiscal, monetary, labour market and development policies will ensure a socially just and sustainable path to development. <sup>66</sup>

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<sup>64</sup> For further information, see also report for the recurrent discussion on social security, Chapters 4.1 and 5.2.1; *Extension guide*, section 2.5.2; General Survey concerning social security instruments (2011), Part IV, Chapter 2.

<sup>65</sup> Conclusions concerning social security (2011), para. 33(b).

<sup>66</sup> General Survey concerning social security instruments (2011), Part I, Chapter 2(A).

91. Another reference to policy coherence can be found notably in Recommendation No. 200, which provides that national policies and programmes on HIV and AIDS should be coordinated with national social security policies and health policies and programmes.<sup>67</sup>

## 2.6.2. National law and practice

92. Positive synergies between social security schemes and national economic policies occur when benefits are designed to promote the re-insertion of people into the labour market after spells of unemployment, sickness, maternity or disability, or when they facilitate the mobility of labour between different jobs when the economy is restructuring. Positive side effects also occur when social security reserves are invested in productive public and private investments (as was the case, for example in Chile). However, in many countries, improved coordination or integration of social, economic, labour, fiscal or monetary policies poses challenges in terms of establishing efficient mechanisms for cross-sectoral and inter-ministerial collaboration.<sup>68</sup> Some countries<sup>69</sup> report positive examples of improving policy coherence through inter-ministerial working groups, or other coordination structures. For example, in Uruguay “the Government has established a Social Cabinet which regroups the President of the Republic, Ministers of Social Development, Finance, Education and Culture, Labour and Social Security, Health, Tourism and Sport, Housing, Territorial Planning and Environment, Office of Planning and Budget and the President of the Congress of Mayors”.<sup>70</sup>

### *Increasing labour market participation of the economically active population*

93. Social expenditure is financed by taxes and contributions, which inevitably influences labour costs and the tax levels in society. A narrow tax base focusing only on employers and employee contributions is likely to be insufficient to fund the extension of social protection to all and might result in wrong incentives. The taxation of all forms of income and wealth can avoid undue tax burdens on formal employment. Wrong incentives can jeopardize the macroeconomic benefits of investing in social security. This can be the case if benefit levels or design cause an undesired level of inactivity or withdrawal from the labour market, resulting in unnecessarily high dependency rates, reduced output and, as a result, economic inefficiency.

94. Effective policy responses to such challenges may not only require adjustments in the social security system, but also need to address the availability of quality employment opportunities, the adequate coordination of labour market policies, especially active labour market policy, and wage policies with the social security policy. Measures to increase employability of actual and potential social security benefit recipients are necessary but cannot be effective if decent employment opportunities in terms of remuneration and working conditions are not available. This includes

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<sup>67</sup> Recommendation concerning HIV and AIDS and the World of Work, 2010 (No. 200), para. 37(h).

<sup>68</sup> A lack of measures to coordinate social security and employment policies was reported for example by Antigua and Barbuda, Belize, Benin, Plurinational State of Bolivia, Gabon, Mozambique, Nicaragua, Saint Lucia, Senegal and Suriname, General Survey concerning social security instruments (2011), para. 508.

<sup>69</sup> Countries reporting administrative links between employment and social protection include Colombia, Ethiopia, Malaysia, Mali and Mauritius, *ibid.*, para. 509.

<sup>70</sup> *ibid.*, para. 507.

appropriate labour market policies and lifelong learning strategies especially for the youth to enter and for the elderly to stay in employment, especially if their previous activities had been dependent on physical strength.

95. A recent trend of closer integration of social and employment policies has focused in particular on linking benefits for the unemployed with activation policies and employment services<sup>71</sup> like vocational training and guidance or placement. For example, in Argentina, the Seguro de Capacitación y Empleo (SCyE) links a cash transfer for the unemployed with a professional training programme. Strong case management and early interventions can minimize the need for unemployment assistance and prevent workers from becoming long-term unemployed. Social security benefits and employment policies should be designed to encourage workers to seek productive employment and avoid disincentives for employers to offer and workers to seek employment. The Republic of Korea has established an innovative set of benefits to set the right incentives, including early re-employment allowances, vocational skills development allowances, wide-area jobseeking and moving allowances.

96. Extending working lives and increasing the employment rates of people of active age is high on the policy agendas of many countries. The key challenge for managing the demographic change is the maintenance of high productivity growth that requires continuous investment in infrastructure, education, lifelong learning as well as working conditions and health and safety provisions that avoid premature ageing. Early retirement poses a serious problem in some European countries. In the Netherlands, for example, the employment-to-population ratio for the age group 55–64 was as low as 29.7 per cent in 1990. The pension system did not reduce benefit levels in the case of early retirement. Pension reform in 1997 succeeded in providing incentives to postpone de facto retirement by putting the actuarially calculated “price” on early retirement and reducing entitlements in cases of early retirement. The European Union has set itself two key objectives with regard to the employment of older people. In 2001, the Stockholm European Council set a target that, by 2010, at least half of the EU population aged 55–64 should be in employment. This was then followed by the conclusion of the 2002 Barcelona European Council that: “A progressive increase of about 5 years in the effective average age at which people stop working in the European Union should be sought by 2010”,<sup>72</sup> the aim being to step up efforts to allow older workers to remain longer in the labour market. A number of OECD countries have taken decisive steps to increase pension ages during the last two decades, by either raising the normal retirement ages, or introducing incentives to retire later by linking pension levels to retirement ages, to life expectancy at the age of retirement, or both. In 13 out of 29 OECD countries retirement age is being adjusted upwards, in some cases beyond the age of 65 (Denmark, Germany, Netherlands, United Kingdom and United States).

97. Another focus is on increasing the integration into the labour market of people of active age, especially by tackling youth employment. Regulations for a sustainable work–life–family balance to facilitate the labour force participation of women through improved childcare and maternity and parental benefits are being put in place in countries (e.g. Canada and Sweden). Scandinavian family benefit policies seem to have been notably successful over recent decades.

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<sup>71</sup> Countries reporting on improving the coordination and integration of employment and social policies include Ecuador, Mongolia, Tunisia and Uruguay, *ibid.*, paras 504–507.

<sup>72</sup> EU: *Presidency Conclusions*, Barcelona European Council, 15–16 March 2002, Document SN 100/1/02 REV 1, para. 32.

98. A need for policy coherence of social protection and employment policies arises also in the context of the new welfare–workfare mix that has emerged in some European countries. Policies placed more emphasis on mandatory labour market participation with important implications for the disabled and long-term sick who had to face new measures of tightening eligibility criteria, reduction in the level and duration of benefits, subjecting benefits to work and activity tests and increasing sanctions, surveillance and control. A number of other countries seem to be taking decisive steps to reduce withdrawal from the labour market through invalidity. The Dutch experience with disability benefits illustrates the challenges resulting from interactions between social security and employment policies. The disability pension scheme, as is the case in many countries facing waves of increased unemployment as a result of structural adjustments and economic transformations, was used as a pathway of early exit from the labour force for workers made redundant. The rising number of beneficiaries undermined the sustainability of the scheme. This led to a series of reforms in the 1990s which aimed at restricting entitlements to disability benefits, while at the same time promoting the employment of older women and men with disabilities. The most recent reform through the Act on work and income according to labour capacity enacted in 2006, puts a strong emphasis on integration into the labour market for those with an earnings capacity of more than 20 per cent through the provision of a benefit replacing a certain percentage of earnings lost due to disability for a certain period, after which claimants have to resort to social assistance.

99. The General Survey concerning social security instruments (2011) points out the importance of balancing the protection objectives of social security mechanisms with the activation objectives of employment services, respecting the concept of principles of “suitable and freely chosen employment” laid down in Conventions Nos 168 and 102. The tendencies in some countries<sup>73</sup> to tighten eligibility criteria for unemployment benefits and to oblige unemployed persons to apply for and take up immediately any ordinary work a person is able to perform can contradict the very purpose of unemployment benefits aimed at protecting workers from being forced to take up any work, even below their level of education and skills, at least for some time after their dismissal. Ensuring suitable employment in respect of the qualification and skills of the jobseeker will also ensure the most effective utilization of the human resource potential and the preservation of the overall quality of a workforce in the economy.

#### *Promoting the formalization of employment*

100. The high level of informality of employment, and the risk of further informalization and growth of atypical and precarious employment are among the biggest challenges for a number of countries. Levels of informality are generally much lower in most high-income countries compared to low- and middle-income countries, but there have been concerns about an increase in precarious employment and informality in countries at all income levels. The repercussions of the global financial and economic crisis have contributed to an increase in informality in large parts of the world, and may give rise to negative effects on social and economic development in the medium and the long run.

101. One of the challenges for the formalization of employment is to ensure social security coverage for workers in small and micro-enterprises and for the self-employed

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<sup>73</sup> This is the case for example in Denmark, Germany or Norway, General Survey concerning social security instruments (2011), para. 224.

(see section on good governance, ensuring compliance). Bringing these groups under the umbrella of social protection provided by labour and social security legislation is one important step, but it is not sufficient to ensure effective coverage, as compliance ratios tend to be low. A number of countries have engaged in promoting the extension of coverage for these groups, e.g. Jordan, by including companies with less than ten employees in social security coverage, or using simplified contribution and tax collection systems for small enterprises and the self employed as in the *Monotributista* schemes in Argentina, Brazil and Uruguay, leading in part to dramatic increases in coverage. In fact marginal workers can be included in social security coverage and hence the formal sector as the successful inclusion of domestic workers into unemployment insurance funds in South Africa has demonstrated.

### *Increasing the productivity of the workforce*

102. Investments in basic levels of social security have positive economic effects. Societies which invest in people through basic social protection mechanisms including health protection policies can move towards developing their full productive potential. These investments help to create a population that is sufficiently healthy, well nourished, educated and better employable in the formal economy. Evidence is emerging from the analysis of existing transfer schemes, which all indicate that these benefits increase the health, nutritional and educational status of children.<sup>74</sup> This will translate into higher productivity, as evidence from the *Oportunidades* scheme in Mexico shows.<sup>75</sup>

## 2.7. Financing arrangements<sup>76</sup>

### 2.7.1. International legal and conceptual framework

103. The need to ensure the long-term sustainability of national social protection floors by financing them from domestic sources or revenue was recognized by the ILC in its conclusions concerning social security (2011). However, it was noted that “there may be cases where these resources are insufficient to extend the social protection floor to all in a short time frame”. In that respect, “International cooperation can play an important role in helping member States to initiate the process and build the national resource base with a view to ensuring sustainable financing mechanisms.”<sup>77</sup> It was further concluded that “Governments of member States should consider and/or undertake ... ensuring the financial, fiscal and economic sustainability of social security systems through appropriate policies and different financing mechanisms, developed in consultation with or by social partners as appropriate.”<sup>78</sup>

<sup>74</sup> See *World Social Security Report 2010/11*, p. 110.

<sup>75</sup> S. Levy: *Progress Against Poverty: Sustaining Mexico's Progres/Oportunidades Programme* (Washington, DC, Brookings Institution, 2006).

<sup>76</sup> For further information, see also the report for the recurrent discussion on social security, Chapters 4.2 and 5.2.3; General Survey concerning social security instruments (2011), Part IV Chapter 1; *World Social Security Report 2010/11*, Chapter 8; *Extension guide*, Chapter 2.4 and 2.5.3; as well as ILO: *Can low-income countries afford basic social security?*, Social Security Policy Briefings, Paper 3 (Geneva, 2008); and ILO: *Social security for all: Investing in social justice and economic development*, Social Security Policy Briefings, Paper 7 (ILO, 2009).

<sup>77</sup> Conclusions concerning social security (2011), para. 18.

<sup>78</sup> *ibid.*, para. 33(h).

104. With regard to the financing of social security, ILO social security instruments, and notably Convention No. 102, are based on the principle of the collective financing of benefits, following which the cost of benefits, and expenses for their administration, shall be borne collectively by way of insurance contributions or taxation or both, and distributed fairly among the stakeholders.<sup>79</sup> Under the comprehensive framework of Recommendations Nos 67 and 69, general principles common to all branches of the social security system, being applied to the medical care branch, would require countries to orient their health-care strategy according, notably, to the principle of resource pooling and solidarity. A medical care branch should be financed collectively so as to ensure its long-term viability and progressive development promoting social stability and cohesion in society.<sup>80</sup>

105. For the CESCR, the need for the allocation of adequate fiscal and other resources at the national level is part of the State's obligation to develop a national strategy for the full implementation of the right to social security.<sup>81</sup>

## 2.7.2. National law and practice

### *Financing arrangements and expenditure*

106. Social security benefits can be financed by a variety of sources, ranging from general revenues to earmarked taxation, to social security contributions, to private insurance contributions or out-of-pocket payments for health services. Most countries use an idiosyncratic mix of financial sources.<sup>82</sup> Financing patterns usually develop over decades of social security history and mirror national preferences with regard to the organization of national social security systems. The weights of taxes versus contributions mirror preferences for national solidarity in tax-financed systems or group-based solidarity in insurance-based systems.

107. Most national financing systems generally finance basic benefits, i.e. conditional, unconditional or means-tested basic social transfers and essential health services, provided on a universal or selective basis by general taxation. For health financing arrangements, there is a greater diversity of financing arrangements including direct tax financing of health services (subsidized) insurance systems or mixed schemes. Many health systems suffer from chronic underfunding.

108. According to a World Bank study,<sup>83</sup> in 2008 about half of the 72 countries for which data on "basic social safety nets" could be collected spent less than 2 per cent of GDP on these benefits. The average for the EU was less than 3 per cent of GDP, out of a total average social expenditure of 25 per cent.<sup>84</sup> The majority of developing and middle-income countries for which data were available spent less than 30 per cent of their social expenditure on basic social security. As a general rule, the share of social assistance or safety net expenditure as total national social expenditure declines, as economies mature and formalize and average incomes increase.

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<sup>79</sup> Convention No. 102, Article 71(1) and Recommendation No. 67, Paragraph 26.

<sup>80</sup> Recommendation No. 69, paras 6(c) and 7(b).

<sup>81</sup> CESCR General Comment No. 19, para. 41.

<sup>82</sup> See more details in report for the recurrent discussion on social security, pp. 40 and 41.

<sup>83</sup> As quoted in ILO *World Social Security Report 2010/11*, p. 75.

<sup>84</sup> *ibid.*, p. 73.

109. ILO estimates indicate that social protection floor cash benefits could be financed in a number of developing countries by between 2.2 per cent and 5.7 per cent of GDP in the case of universal benefits and substantially less in the case of means-tested benefits. Mauritius, for example, as one of the few African countries with a near complete social protection floor of non-contributory benefits, finances it with about 3 per cent of GDP<sup>85</sup> or about 12 per cent of total government expenditure. Examples like the *Bolsa Familia* schemes in Brazil and the Benazir income support scheme in Pakistan show that substantial elements of social protection floors can be financed by about 0.3 to 0.4 per cent of GDP, while ILO estimates for Viet Nam indicate that a complete closure of the social protection floor coverage gaps in the country could cost as much as 2.6 per cent of GDP.<sup>86</sup>

110. On the whole it appears that depending on national preferences with regard to tax-financed versus contribution-financed universal benefits, cash social protection floor expenditure in mature social security systems does not have to exceed 10–30 per cent of all national social expenditure. Perhaps the most interesting finding when analysing national social expenditure is that countries with the same level of government spending allocate widely different proportions of their available resources to social security. “Thus, the size of social security investment ... depends to a significant extent on the prevailing political and social will ... .”<sup>87</sup>

111. Some countries are reported to have introduced various measures to ensure adequate levels of financing including earmarked levies for social security expenditures and broadening the general tax base both through improving tax collection and introducing new taxes, including excise taxes on alcohol or tobacco, luxury taxes, taxes on polluting activities or on specific sectors like the pharmaceutical industry. For example, in Algeria, since 2006 2 per cent of the revenues from the oil industry have been allocated to the social security budget and in 2010 a social security fund was created which is filled by a part of the revenues coming from the tax on tobacco, on profits from the import of medicines and the tax on the purchase of yachts. In Ghana, 2.5 percentage points of the VAT are earmarked and paid to the National Health Insurance Authority.

### *Financial management*

112. Countries emphasized in their replies to the General Survey that financing provisions, benefits levels, delivery and administrative arrangements need to be designed in a way that a long-term financial balance between expenditures and resources is ensured. Despite a diversity of financing arrangements across countries, it is likewise acknowledged that this requires sound financial management on the basis of principles and good practices such as:

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<sup>85</sup> Estimated on the basis of the report *Social Security Statistics 2003/2004–2008/2009*, by the Government Statistical Office. Mauritius, [www.gov.mu/portal/goc/cso/ei827/socsec.pdf](http://www.gov.mu/portal/goc/cso/ei827/socsec.pdf) [accessed on 8 July 2011].

<sup>86</sup> ILO: *Compatibility analysis of the national social protection strategy and the UN Social Protection Floor Initiative – Costing and financial projections to implement social protection policies, 2011–20*, forthcoming.

<sup>87</sup> *World Social Security Report 2010/11*, p. 99.

- ❑ Conducting repeated long-term actuarial valuations that allow corrections of potential financial disequilibria. Actuarial valuations should also be conducted when planning reforms of social security systems;<sup>88</sup>
- ❑ Setting up contingency reserves or stabilization funds that ensure a reliable provision of benefits during cyclical economic fluctuations or even in case of unforeseen expenditure shocks, for example through financial, economic or natural crises that suddenly increase the number of beneficiaries;<sup>89</sup>
- ❑ Establishing sound investment rules for any reserves built up following the principles of safety, yield and liquidity;
- ❑ Establishing a sound overall regulatory and monitoring framework to minimize inefficiencies, mismanagement, fraud and misuse;
- ❑ Collecting reliable statistical (socio-economic, demographic, financial) data as necessary for the sound management of the schemes;
- ❑ Providing adequately trained staff to ensure the availability of the necessary specialist knowledge for the reliable performance of management, actuarial, statistical and investment tasks;
- ❑ The collective/solidarity financing of benefits and risk pooling;
- ❑ The ultimate responsibility of the government is to ensure the sound financial management of social security schemes and the due provision of benefits regardless of the financing sources and mechanisms.<sup>90</sup>

113. Countries with mature social security schemes increasingly face financial pressures regarding the sustainability of their schemes, which lead to efforts to improve the management of the systems to increase their efficiency. The reports refer to different measures introduced by governments since the late 1990s, including:<sup>91</sup>

- ❑ improved coordination between fiscal reforms and social security reforms;
- ❑ improved coordination and integration of different social security schemes to reduce administrative costs and to ensure closer collaboration between social security institutions and other government departments and public services;
- ❑ the extension of the base for social contributions to include income both from activity and capital;
- ❑ the enhancement of the link between social protection and employment policy;

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<sup>88</sup> Regular actuarial reviews are required by law, for example in Cameroon, Ghana, Jamaica, Lao People's Democratic Republic, Lesotho and Namibia, General Survey concerning social security instruments (2011), para. 468.

<sup>89</sup> Countries that have reported the establishment of reserve funds in their social security schemes include Algeria, Cameroon, China, Finland, Japan, Luxembourg, Republic of Moldova, Philippines, Poland and Romania among others, *ibid.*, para. 469.

<sup>90</sup> In some country replies, "governments frankly, admit being unable to accept and fulfil the responsibility for the proper maintenance of their social security system" including e.g. Antigua and Barbuda and Uganda; *ibid.*, para. 457. Other countries report that government guarantees for the provision of benefits is enshrined in the national legislation and organized through subsidies from the state budget: Azerbaijan, Brazil, Philippines, Romania, Russian Federation; *ibid.*, para. 470.

<sup>91</sup> For further detail see *ibid.*, paras 330–396 as well as paras 462–495.

- the improvement of the coordinated exercise of inspection activities and tougher sanctions designed to strengthen endeavours against evasion of contribution payments, undeclared work and fraud;
- faster, simpler and more client-oriented administrative procedures, including for appeal, complaint and mediation services.

114. The measures to improve efficiency also display a trend of centralizing numerous agencies into unified institutions through an integrated model of management with a simultaneous decentralization of the delivery of the services. This was clearly the case in Norway, Portugal and Spain where the responsibilities of the ministries responsible for social security and those responsible for labour, training and employment were merged. Likewise, the administrations providing employment services and those providing social security services were unified in Belgium, Spain, Sweden and Turkey.

## 2.8. Governance<sup>92</sup>

### 2.8.1. International legal and conceptual framework

115. The conclusions concerning social security (2011) recognized the importance of social security governance and notably the need for social security “to be well-managed and administered to ensure effectiveness in reaching agreed objectives, efficiency in using resources, and transparency ...”. It further emphasized the importance of “Active involvement of all stakeholders, and in particular workers and employers through effective social dialogue mechanisms and tripartite supervision ...” as a means to secure the good governance of social security systems.<sup>93</sup> The general responsibility of the State for effective and efficient social security, the role of social dialogue in identifying and defining priority objectives and in the design of corresponding schemes and in the ... monitoring of financial sustainability and the social adequacy, effectiveness and efficiency of management and administration of social security schemes.<sup>94</sup>

116. The realization of the human right to social security, under human rights instruments, would require, according to the CESCR, that a social security system be established under domestic law, and that public authorities take responsibility for the effective administration or supervision of the system. The schemes should also be sustainable, in order to ensure that the right can be realized for present and future generations.<sup>95</sup> Furthermore, “Beneficiaries of social security schemes must be able to participate in the administration of the social security system. The system should be established under national law and ensure the right of individuals and organizations to seek, receive and impart information on all social security entitlements in a clear and transparent manner.”<sup>96</sup>

117. ILO social security standards lay down a series of general principles and guidelines for the good governance of social security systems. Convention No. 102 notably stipulates that: the system shall be supervised by the public authorities or administered

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<sup>92</sup> For further information, see also report for the recurrent discussion on social security, Chapter 4.3.2 and 5.2.4; General Survey concerning social security instruments (2011), Part III; *Extension guide*, Chapter 2.5.

<sup>93</sup> Conclusions concerning social security (2011), para. 22.

<sup>94</sup> *ibid.*, paras 23–26.

<sup>95</sup> CESCR General Comment No. 19, para. 11.

<sup>96</sup> *ibid.*, para. 26.

jointly by employers' and workers' organizations whose contributions represent the largest share of social security revenues; representatives of the persons protected, which include social groups outside wage employment, shall participate in management if the administration is not entrusted to a public institution; and that the State must accept general responsibility for the due provision of benefits and for the proper administration of the institutions and services concerned.<sup>97</sup> Recommendation No. 67 also puts forward key principles for the good governance of social security: the certainty and regularity of support (sustainability of schemes/adjustment of benefits to meet standards of living), democratic and transparent governance of the social security system, the oversight by persons protected (and protection of their rights through legal process, and the primary role of the State (responsibility/guarantee)).<sup>98</sup>

118. Recommendation No. 69 lays down basic principles specific to the organization and management of the medical care branch. Specifically, it provides that all medical care should be rationally organized throughout the country with a view to the greatest possible economy and efficiency, centrally supervised, and closely coordinated with general health services.<sup>99</sup>

119. More specifically, as formulated by the CEACR in the General Survey concerning social security instruments (2011):

General principles common to all branches of the social security system, being applied to the medical care branch, require countries to orient their health-care strategy ...

- (3) According to the principle of the general responsibility of the State, the central government should be responsible for formulating the national health policy and for supervising all medical care and general health services, so as to ensure the due provision of care and the proper administration of all the institutions and services concerned, irrespective of the adopted method of financing or administration.
- (4) According to the principle of democratic and transparent governance of the social security system, the management of the health sector should be exercised with the participation of the representatives of the persons protected, of the contributors, and of the medical and allied professions, and provide for a quick and effective procedure of complaint or appeal as to the decisions made.<sup>100</sup>

120. The Consultation (Industrial and National Levels) Recommendation, 1960 (No. 113), calls on member States to take "Measures appropriate to national conditions [should be taken] to promote effective consultation and co-operation at the industrial and national levels between public authorities and employers' and workers' organisations, as well as between these organisations ...".<sup>101</sup> Furthermore, it lays down that "such consultation and cooperation should aim, in particular ... at ensuring that the competent public authorities seek the views, advice and assistance of employers' and workers' organisations in an appropriate manner, in respect of such matters as ... the establishment and functioning of national bodies, such as those responsible for ... social security and welfare ...".<sup>102</sup>

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<sup>97</sup> Convention No. 102, Articles 71(3) and 72.

<sup>98</sup> Recommendation No. 67, Para. 27 and Annex, para. 27(1)–(10).

<sup>99</sup> Recommendation No. 69, Paras 92–111.

<sup>100</sup> General Survey concerning social security instruments (2011), para. 47.

<sup>101</sup> Consultation (Industrial and National Levels) Recommendation, 1960 (No.113), para. 1(1).

<sup>102</sup> *ibid.*, para. 5(b)(ii).

121. The monitoring of the performance of comprehensive social security schemes requires significant investments of public resources in statistical reporting systems. Guidelines on social security statistics are included in the resolution concerning the development of social security statistics adopted by the Ninth International Conference of Labour Statisticians in 1957. This resolution states that each country should encourage the development of a system of social security statistics adequate to serve the following major objectives:

- (a) to provide basic data for the administrative control of the social security schemes and the appraisal of their operational efficiency;
- (b) to provide a basis for the appraisal of the financial structure of the schemes, for actuarial valuations and for short- and long-term forecasts;
- (c) to provide a means of appraising the social security system as an instrument of social policy and, in particular, to provide a basis for the evaluation of the level of social security protection afforded to the various population groups;
- (d) to provide general information on social security;
- (e) to supply data for international comparisons in the field of social security; and
- (f) to supply data from administrative and accounting records to satisfy important outside needs in the fields of labour, the economy, health, demographic and other statistics.

122. Unfortunately, more than half a century after the abovementioned resolution was adopted, only a minority of countries, mainly those that are members of the EU and OECD have sufficient statistical systems to enable them to monitor and to evaluate the effectiveness and efficiency of their national social security systems.

## 2.8.2. National law and practice

### *The overall responsibility of the State*

123. There is a wide consensus among governments, social partners and social security experts that the State should bear the overall responsibility for the adequate social protection of its population, both in terms of ensuring the due provision of benefits and the proper administration of the institutions and services concerned. This principle is also anchored in the related social security standards such as Convention No. 102. However, as the Committee noted with concern in the General Survey concerning social security instruments (2011), the trend towards the privatization of social security schemes during the 1990s gradually reduced the State's responsibility and the principle of participatory administration and management.<sup>103</sup> While this has produced some positive results with respect to the financial sustainability of social expenditure for governments, it shifted an increasingly heavy burden of the risk and financing onto individuals. In many countries, during the recent crisis, this trend has been put on hold or reversed as strong government crisis responses included strong measures to ensure/increase social security entitlements. Some governments reclaimed responsibilities previously relinquished and taken up by private insurers or enterprises,

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<sup>103</sup> This was the case for example in Latin American (Argentina, Plurinational State of Bolivia, Colombia, Costa Rica, Dominican Republic, El Salvador, Mexico, Panama, Peru and Uruguay) and in the Central and Eastern European countries (Bulgaria, Croatia, Czech Republic, Estonia, Hungary, Latvia, Lithuania, Poland, Romania, Russian Federation, Slovakia and Slovenia) that formed part of the wave of pension privatization during the 1990s (para. 447).

notably by turning previously privatized pension schemes back into public schemes. In other countries, governments were called upon to introduce measures to remedy low pension entitlements of pensioners who had contributed to funded schemes and retired during the crisis before the assets recovered.

*Social dialogue based design and monitoring of system performance*

124. The majority of replies to the General Survey concerning social security instruments (2011) recognized the importance of freedom of association and collective bargaining and the participation of social partners in the design and management of social security schemes. Collective agreements played a crucial role in many States to supplement the regulatory function of the State. In Argentina, collective agreements even facilitated the extension of social security to the informal economy by the conclusion of agreements between professional associations of workers with trade union status and representative employers.

125. However, some countries regulate the nature and scope of negotiable issues, sometimes prohibiting the discussion of certain matters or restricting negotiations at certain levels especially in times of economic crisis and financial constraints as shown recently by the cases of some European countries. The ILO Committee on Freedom of Association points out that measures taken by authorities to restrict the scope of negotiable issues or prohibiting negotiations at certain levels against the will of workers' and employers' organizations are often incompatible with the Right to Organise and Collective Bargaining Convention, 1949 (No. 98).

*Building trust in social security institutions through information, transparency and accountability*

126. Many replies to the General Survey concerning social security instruments (2011) emphasized the importance and duty of social security institutions to inform and advise the persons protected.<sup>104</sup> Objectives, procedures and rules for accessing services and benefits should be clearly communicated and the administrative burden for the individual to register for benefits or services kept to a minimum. Records and data of beneficiaries need to be kept confidential and secure and several States passed specific provisions regarding the obligation of institutions to inform and advise beneficiaries automatically on the protection of personal data. In Mexico, the *Ley General de Desarrollo Social (LGDS)* (General Law of Social Development), adopted in 2004, sets the base for the national social policy, including the budget, evaluation procedures and conditions that guarantee accountability and transparency through audits, quarterly budget reports, and the publication of information. Publication of information has to be in accordance with the Federal Law of transparency and access to public government information. According to the law, all social protection programmes must define and make publicly available their rules of operation to avoid having the design and implementation of social programmes left to the discretion of responsible officials. These rules of operation include: target coverage, target populations, eligibility criteria, types and amounts of support, participating agencies, modus operandi, the rights and obligations of recipients, evaluation indicators, and issues relating to complaints and allegations. In India, the Government is undertaking great efforts to provide detailed up-to-date data on the Mahatma Gandhi National Rural Employment Guarantee scheme, mainly through a website that is linked to the government database and constantly

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<sup>104</sup> See General Survey concerning social security instruments (2011), paras 397–402.

updated.<sup>105</sup> The NREGA contains further specific provisions for public accountability. Based on statutory directives, a three-pronged strategy for public accountability has been adopted. The first refers to proactive disclosure: annual reports on outcomes to the Parliament and the state legislature are mandated. In addition, the Minister for Rural Development has tabled a statement on the Act in every session, since the passage of the Act. The second concerns information upon payment (RTI): documents have to be made available to the public on payment of a prescribed fee. The third deals with social audit: a social audit of all works in the Gram Panchayat has to be carried out by the Gram Sabha and the Gram Panchayat has to provide all its records for this task.

*Efficient and sound administration/ensuring adequate administrative capacity and the training of staff*

127. Ensuring the coherence and coordination of national social security schemes and programmes, both contributory and non-contributory, is a prerequisite for the efficient administration of a social security system as well as for achieving effective and adequate protection of the population. Various other aspects of good administration such as a clear regulatory framework, supervision and inspection mechanisms, tripartite participation in the management of the scheme, the close coordination and possible integration of different social security schemes and social security administration with employment services or other public authorities, are discussed in other sections of this report (see in particular the section on financial sustainability, on legal entitlements, and on facilitating transitions from the informal to the formal economy). Overall, the administrative set-up has to meet the requirements of transparency, predictability and accountability. This is achieved through various arrangements including public administration through ministries, specialized agencies, semi-autonomous institutions, public-private hybrids or privatized systems under public supervision. One key challenge for many social security administrations is ensuring adequate skill levels of the officials administering the schemes. A recent trend in state practice has been to step up monitoring efforts and establish performance and impact indicators to evaluate whether the system is operating satisfactorily vis-à-vis its intended objectives. For example, the *Bolsa Familia* programme in Brazil and the *Progresar/Oportunidades* scheme in Mexico had built-in monitoring and evaluation mechanisms at their inception.

*Ensuring compliance and minimizing fraud and misuse*

128. Most States report that the obligation to register workers with social security institutions generally rests with the employer. National legislation typically requires this to be done either before beginning employment or immediately thereafter (e.g. within three or ten days). Employers, further, have an obligation to calculate, collect and pay the contributions on behalf of their workers and keep related records. The State in turn has the right and duty to supervise compliance with the provisions. Many States<sup>106</sup> have introduced safeguards and sanctions to make sure that employers do not avoid affiliation and have entrusted the labour inspectorate to control also for compliance with social security obligations during on-site inspection visits and by auditing the documents of

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<sup>105</sup> See <http://india.gov.in/outerwin.php?id=http://nrega.nic.in/>.

<sup>106</sup> This was reported for example by Argentina, El Salvador, Republic of Fiji, Hungary, Lao People's Democratic Republic, Lesotho, Lithuania, Montenegro, Mozambique, Spain and Sri Lanka, General Survey concerning social security instruments (2011), para. 344.

employers. In other countries,<sup>107</sup> inspection is within the realm of the social security system. Sweden, for example set up a Social Insurance Surveillance Authority in 2009 to improve compliance. Some other countries like Benin, Madagascar or Senegal have mixed systems where both social security inspectors and labour inspectors can control the enforcement of legislation on social security. Recent experiences of countries like Spain who have integrated social security and labour inspection services in one single institution, the Inspectorate of Labour and Social Security, have shown that this improves efficiency and effectiveness. The competencies of these institutions include the right to impose administrative sanctions, the right to initiate legal proceedings and the right to register undeclared employees with social security institutions.<sup>108</sup> However, in many countries where large informal economies employ up to 95 per cent of the workforce there is widespread evasion. Several countries and trade unions also reported their concern about the lack of enforcement of existing provisions, and persistent non-compliance by large segments of the economy.<sup>109</sup> This is the case in registered businesses that do not declare all of their workers. There are also cases where unregistered businesses, operating completely outside the control of social security or other labour standards, do not pay taxes and employ unregistered workers. The design of social protection floor benefits in these countries will be very different from countries where the majority of workers are registered with contributory social security schemes, and social protection floor benefits only cover residual groups not yet or insufficiently protected through statutory schemes.

129. Therefore, minimizing evasion is an important element to make social protection floors more feasible and sustainable, and many countries<sup>110</sup> have introduced measures to combat undeclared work and non-compliance by employers and workers. They include campaigns encouraging businesses and workers to enter the formal economy, the establishment of fraud hotlines, increasing fines and sanctions, and improving training for officers of all agencies involved. The rights of officers of social security institutions in terms of collaboration, data exchange and pooling of information with the Ministry of Finance, labour inspectors, tax authorities and other public administrations or entities, as well as banks, have been broadened. Other measures include the centralization of records and contribution collection. With regard to the latter, many countries improved efficiency and compliance by setting up a centralized social security institution to collect and administer contributions<sup>111</sup> or by integrating the collection of contributions with tax

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<sup>107</sup> This is the case for example in Angola, France, Finland, Germany, Greece, India, Malaysia, Morocco, Namibia, Nicaragua, Philippines, Poland, United Republic of Tanzania, Tunisia and United States, *ibid.*, para. 345.

<sup>108</sup> The General Survey concerning social security instruments (2011) discusses these competencies and penalties applied in case of evasion in more detail in paras 351–359.

<sup>109</sup> For example, trade unions of Argentina, Italy or Peru as well as government reports from Argentina, Australia, Belize, Plurinational State of Bolivia, Cameroon, Canada, Chile, Colombia, Djibouti, Ethiopia, Ghana, Guatemala, Hungary, Republic of Korea, Lithuania, Mali, Mauritius, Morocco, Mozambique, Namibia, Panama, Philippines, Portugal, Swaziland, Uganda and Uruguay, *ibid.*, paras 367–373.

<sup>110</sup> Examples include Argentina, France, Gambia, Germany, Italy, Lao People's Democratic Republic, Lesotho, Mali, Switzerland and Turkey, *ibid.*, paras 364–373.

<sup>111</sup> This is practised for example in Algeria, Azerbaijan, Belarus, Brazil, China, Czech Republic, Egypt, France, Ghana, Israel, Japan, Kuwait, Lithuania, Madagascar, Mexico, Namibia, Poland, Saudi Arabia, Spain, Thailand, Tunisia, Uganda and Zimbabwe, *ibid.*, para. 382.

collection.<sup>112</sup> This allowed for significant economies of scale, reduced costs and fraud, undeclared work and the evasion of social security contributions. In contrast, it was noted that countries with a very fragmented structure of their social security systems, with many organizations, a lack of coordination and no central supervision of compliance, tended to suffer from high levels of evasion and high overall administration costs.

130. Measures to encourage a transition from unemployment to formal employment have already been discussed under the section concerning policy coherence. The recent trend to better integrate active employment policies with social security policies, including through integrated management models that enable unemployed persons to register for benefits and seek employment services through a single institution, greatly improved the effectiveness and efficiency of public administrations in several countries.

## 2.9. Extension processes<sup>113</sup>

### 2.9.1. International legal and conceptual framework

131. The 2011 ILC gave the highest priority to closing coverage gaps. Its conclusions concerning social security (2011) affirmed the need for “Effective national strategies to extend social security in line with national priorities, administrative feasibility and affordability ... .” It concluded that national strategies “should aim at achieving universal coverage of the population with at least minimum levels of protection (horizontal dimension) and progressively ensuring higher levels of protection guided by up-to-date ILO social security standards (vertical dimension). The two dimensions of the extension of coverage are consistent with moving towards compliance with the requirements of the Social Security (Minimum Standards) Convention, 1952 (No. 102), and are of equal importance and should be pursued simultaneously where possible.”<sup>114</sup> According to the conclusions concerning social security (2011), the Recommendation should, “focus on the extension of coverage to wider groups of the population (horizontal extension of coverage) and thereby supporting the implementation of national social protection floors. With respect to progressively ensuring higher levels of protection (vertical extension of coverage), the Recommendation would encourage member States to ratify and those that have ratified to ensure the effective implementation of the Social Security (Minimum Standards) Convention, 1952 (No. 102), and other up-to-date ILO social security Conventions.”<sup>115</sup>

132. The principle of the progressive realization of the right to social security is well-recognized and articulated within the UN human rights framework. As with other economic, social and cultural rights, the right to social security is achieved progressively in step with the level of economic and social development of the State and the available financial resources. The ICESCR provides, in this respect, that States Parties are required to take steps to ensure the progressive realization of the rights recognized by the

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<sup>112</sup> Country examples include Albania, Argentina, Australia, Bosnia and Herzegovina, Bulgaria, Canada, Croatia, Estonia, Finland, Hungary, Ireland, Italy, Latvia, Republic of Moldova, Montenegro, Netherlands, New Zealand, Norway, Romania, Slovakia, Slovenia, Sweden, United Kingdom and United States, *ibid.*, para. 381.

<sup>113</sup> For further information see also General Survey concerning social security instruments (2011), Part III Chapter 1; Report for the recurrent discussion on social security, Chapter 5.1; *Extension guide*, Chapter 2.1.

<sup>114</sup> Conclusions concerning social security (2011), para. 8.

<sup>115</sup> *ibid.*, appendix, para. A2.

ICESCR by developing medium- and long-term policies and programmes, to the maximum of their available resources, including through international assistance and cooperation.<sup>116</sup> Although the concept of “progressive realization” affords the State some latitude in achieving the full realization of the right, the UN CESCR in practice requests States parties to demonstrate that they are moving as expeditiously and effectively as possible towards that goal.<sup>117</sup> Progressive realization also implies that the States should generally avoid “any deliberate retrogressive measures” which reduce the coverage or level of benefits provided under the social security system.<sup>118</sup>

## 2.9.2. National law and practice

133. The challenges to progressively extend social security coverage and the related measures taken differ across regions and levels of development. For countries with very large informal economies and low population coverage, the inadequate coverage of rural populations and urban informal economy workers, homeworkers or domestic workers often pose particular problems. In countries with mature schemes, the issues relate to the changing nature of the labour market, often include a steady growth of self-employment and increasing precariousness including through increased temporary work, seasonal work, part-time work, etc.

134. Over the past two to three decades, a wealth of experience in the extension of social security has developed in countries of all levels of income and development. The strategies differ remarkably, depending on the political, cultural, economic and historic context, ranging from stepping up measures to improve compliance and move towards increased formalization thus creating access to existing social security schemes, e.g. for self-employed or informal economy workers, to creating specific schemes for informal economy workers or developing innovative schemes for specific categories of workers. Measures to attract unprotected persons into existing schemes include the reduction of the number of employees required for a company to fall within the scope of the social security scheme, or the relaxing of certain qualifying conditions such as the number of years of service or contribution periods, reducing contributions, waiving outstanding payments, or allowing the possibility to buy back missing contribution periods.

135. For example, Ecuador started a process in 2010 to reform the social security system based on two strategies: to aggressively increase compliance from the wage-earning contributory population (i.e. those who are not affiliated although their affiliation is compulsory), and to include independent workers and poor people.<sup>119</sup> In addition to various schemes targeting specifically the informal sector like the NREGA and Rashtrya Swarthya Bima Yojna (RSBY), India has recently adopted the Unorganized Sector Workers Social Security Act, 2008, which will further facilitate the formulation of policies and programmes to extend social security to the informal sector. South Africa extended unemployment insurance to domestic workers and seasonal farm workers.<sup>120</sup>

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<sup>116</sup> ICESCR, Article 2(1).

<sup>117</sup> CESCR General Comment No. 19, para. 62. In this regard para. 68 specifies that with a view to monitoring progress, States are to put in place a plan of action for realizing the right. This plan of action should include goals and benchmarks (concrete standards of achievement) that are tied to specific time frames.

<sup>118</sup> *ibid.*, para. 64.

<sup>119</sup> ILO–UNDP–Global South–South Development Academy: *Successful social protection floor experiences: Sharing innovative experiences*, Vol. 18 (New York, 2011), p. 248.

<sup>120</sup> ISSA: *Good practice review: Extending social security coverage in Africa*, Working Paper, 2009, p.19, [www.issa.int/content/download/91344/1830606/.../2-paper2-MSamson.pdf](http://www.issa.int/content/download/91344/1830606/.../2-paper2-MSamson.pdf).

Until 2003, domestic workers constituted the largest single category of workers in the country, numbering approximately 1 million – nearly all excluded from the Government’s Unemployment Insurance Fund. Legislation in 2002 required domestic workers and their employers to make contributions to the Unemployment Insurance Fund starting in 2003. By 2008, the number of registered workers reached 633,000 with over 324,000 domestic workers actually receiving unemployment, maternity or adoption benefits as well as benefits in case of illness or death. This shows that significant extension of coverage to the informal sector is possible if appropriate strategies are adopted that take into account the specific bottlenecks facing different groups of workers. Argentina, El Salvador, Guatemala, Honduras and Uruguay also introduced measures to extend social security coverage to domestic workers. Algeria adopted two decrees enabling part-time workers and homeworkers to be included in social security schemes. Several States developed specific schemes to extend coverage to rural areas and/or agricultural workers. For example, Brazil introduced a successful non-contributory rural pension scheme (Prêvidencia Rural) in 1971 and China launched a basic pension scheme for rural workers in 2009. South Africa’s Constitution explicitly foresees progressive realization of the right to have access to health care services and social security, within the State’s available resources and through progressive realization. For example, the country extended its child grants programme by successively increasing the age of eligibility. Reducing the age of eligibility extended the social security coverage in Nepal. Albania increased rural pensions with the aim to reach comparable levels of urban pensions over time. In Mexico, coverage of casual agricultural workers is facilitated by exempting workers and employers from paying part of the contributions. Other countries explicitly reject the idea of setting up schemes for specific categories of workers or sectors of the economy, and organize social security schemes by age, means and residence.<sup>121</sup>

136. In recent years, many States<sup>122</sup> have taken steps to improve the coverage of the self-employed, mainly through the compulsory or voluntary affiliation of existing schemes, sometimes creating incentives to join by exempting them from part of the contributions. Other States extend coverage to informal economy workers and other persons currently unprotected by introducing universal schemes. Fourteen countries<sup>123</sup> established tax-financed universal basic old-age pension systems, while 22 countries<sup>124</sup> provide universal social old-age pensions for all those not receiving any other old age pension.<sup>125</sup>

137. Several States have extended the coverage of social health protection through subsidizing or exempting the insurance contributions of those who cannot contribute. Examples include the universal health-care scheme in Thailand, the national health

<sup>121</sup> The General Survey concerning social security instruments (2011) discusses extending coverage to specific categories of workers in paras 307–329.

<sup>122</sup> Examples include Belize, Canada, Chile, Czech Republic, Dominica, Finland, Germany, Honduras, Indonesia, Jamaica, Republic of Korea, Latvia, Lithuania, Republic of Moldova, Suriname, Switzerland and Syrian Arab Republic, *ibid.*, paras 325–329.

<sup>123</sup> Plurinational State of Bolivia, Botswana, Brunei Darussalam, Cook Islands, Kenya, Kiribati, Kosovo, Mauritius, Namibia, Netherlands, New Zealand, Samoa, Seychelles, Timor-Leste, Zambia (HelpAge International Pension Watch Database, *op. cit.*).

<sup>124</sup> Azerbaijan, Bahamas, Barbados, Belarus, Bermuda, Cyprus, Estonia, Finland, Kazakhstan, Kyrgyzstan, Latvia, Lesotho, Lithuania, Maldives, Republic of Moldova, Nepal, Panama, Swaziland, Sweden, Thailand, Turkmenistan and Viet Nam, *ibid.*

<sup>125</sup> *ibid.*

insurance scheme in Ghana, and the nationwide *Mutuelles de Santé* (mutual health system) in Rwanda.

138. The extension of social protection floor guarantees not only applies to a gradual extension of population coverage but also to the range and level of benefits. As some countries may not be in a position to immediately introduce all the elements needed to ensure income security through the life cycle and access to medical care, countries may need to set narrow eligibility criteria that are gradually widened, or sequence the introduction of benefits for children, the elderly or people of working age according to national needs and priorities. Likewise, some countries have gradually extended eligibility criteria and scaled up the level of benefits in line with economic development and domestic resources. For example, Nepal introduced a universal social pension scheme in 1995 for people aged 75 and above. In the fiscal year 2008–09, the Government of Nepal reduced the age threshold for older people from 75 years to 70 years, and recently this was again lowered to 65 years for certain particularly vulnerable groups. Simultaneously, benefit levels were gradually increased to the current level of 500 Nepal rupees (NPR) (US\$7 PPP). While this is still criticized as being too low, it nevertheless marks a significant increase from the initial level of NPR100. Similarly, Ghana gradually introduced exemptions from the national health insurance contribution for pregnant women, then for children under six and later for children under 18 years of age. The LEAP conditional cash benefit programme in Ghana is rolled out gradually, starting by targeting the poorest area councils in each district.

## 2.10. Interim conclusion: Identification of elements of a Recommendation on social protection floors

139. International legal instruments aim to provide universal coverage and protection. However, coverage gaps and benefit level deficiencies persist around the world. While a number of innovative schemes seek to fill protection gaps in a range of countries in Africa, Asia, Europe and the Americas, not many of these national schemes have been formulated as part of a coherent legal framework that forms an explicit component of a strategic national development plan. Where they have, effective implementation often remains a challenge.

140. As the 100th Session of the conclusions concerning social security (2011) has concluded that there is an obvious need for the ILO to formulate guidance on basic social security through national social protection floors, a new Recommendation on social protection floors would be the first international instrument to fully take the newly emerging realities of social security into account.

141. A certain number of key elements for a new possible Recommendation can be obtained from the above analysis of national law and practice, the state of international law on the issue, as well as the discussion at the 100th Session of the ILC and the resulting conclusions. These elements are as follows:

- (a) The need to embed national social protection floors as a coherent, comprehensive and coordinated set of nationally defined basic social security guarantees into a wider national social protection extension strategy which in turn should be an integral part of wider national development frameworks.
- (b) Up-to-date ILO instruments on social security have provided and still provide in many cases helpful guidance on the formulation of higher than-floor level social security objectives.

- (c) There are a number of common principles that should govern national social security extension strategies that underpin their long-term political, financial and economic sustainability. These refer to:
- (i) the need to formulate the ultimate objective of adequate social protection for all, across the life cycle, and in line with national social needs and economic and fiscal capacities;
  - (ii) the need for progressive implementation of national extension strategies including social protection floor guarantees, albeit with a clear formulation of steps and milestones, so as not to lose sight of the overall objective;
  - (iii) the need to establish, through the formulation of social security extension and social protection floor strategies, clear links and coherence with employment and other national social and economic policy objectives;
  - (iv) the necessity to combine the objectives of preventing poverty, protecting against social risks and empowering individuals to seize decent employment and entrepreneurship opportunities;
  - (v) the necessity to follow meticulously sound financing methods and financial management practices in a transparent way in order to maintain the national consensus on the scope and extent of social security;
  - (vi) the necessity to enshrine guarantees and benefits in national legislation to ascertain benefit reliability and predictability;
  - (vii) the necessity to establish robust and transparent governance principles, including the central responsibility of the State and the role of social partners and beneficiaries in the design, general and financial management, and monitoring of social security systems; and
  - (viii) the need to give particular attention to gender-responsive approaches.

142. In addition to these common principles, there are a number of elements that need to remain the responsibility of member States and technically cannot be generally prescribed. They relate to:

- a. the exact range and type of benefits, the organizational and conceptual form (i.e. universal benefits, insurance-based benefits, means-tested and/or conditional benefits, benefits in cash or in kind) for the implementation of the social protection floor guarantees which can only be determined at the national level; and
- b. the level of benefits provided which can only be established according to national circumstances, such as the levels and distribution of income in the country, the availability of a health and social service infrastructure, the dimension of national fiscal space, etc.

143. The following section seeks to incorporate the above principles and elements into a questionnaire, the replies to which will guide the content of a possible new Recommendation.

# Questionnaire

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## Introduction

At its 311th Session (June 2011), the Governing Body decided to complete the agenda of the 101st Session of the International Labour Conference (June 2012) with a standard-setting item entitled “Elaboration of an autonomous Recommendation on the social protection floor” (single discussion), and to adopt the programme of reduced intervals proposed.<sup>1</sup> The purpose of the following questionnaire is to ascertain the views of member States on the scope and content of the proposed Recommendation. In drafting the questionnaire, account was taken of the Conclusions concerning the recurrent discussion on social protection (social security) adopted by the 100th Session of the International Labour Conference,<sup>2</sup> in particular in relation to the objective and elements of a possible Recommendation.

In accordance with article 38 of the Standing Orders, governments are invited to give their views after consultation with the most representative organizations of employers and workers. Such consultations are obligatory in the case of Members that have ratified the Tripartite Consultation (International Labour Standards) Convention, 1976 (No. 144). Recipient ministries are invited to consult with other relevant authorities when formulating the replies to this questionnaire.

When preparing their replies, Members will wish to bear in mind that, in the light of the Conclusions concerning the recurrent discussion on social protection (social security) adopted by the 100th Session (2011) of the International Labour Conference arising from the general discussion held at that session of the Conference, standards-related activity in this area should be oriented towards the adoption of a Recommendation. Such a Recommendation could complement existing standards and provide guidance to member States in building their social protection floor within their comprehensive social security system tailored to national circumstances and levels of development.<sup>3</sup> The term “social protection floor” is used as a global concept which is implemented by each Member at the national level according to its circumstances and levels of development; where national contexts are referred to collectively, the term “social protection floors” may be used.

In order for the Office to take account of the replies to the questionnaire in preparing the report for the Conference discussion, replies must reach the Office no later than 1 November 2011. The questionnaire is also available on the ILO website at the following address: [www.ilo.org/](http://www.ilo.org/).

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<sup>1</sup> See document GB.311/6 (June 2011), para. 3 and annex.

<sup>2</sup> See Conclusions concerning the recurrent discussion on social protection (social security) and their appendix in the report of the Committee for the Recurrent Discussion on Social Protection, *Provisional Record* No. 24, 100th Session, International Labour Conference (June 2011).

<sup>3</sup> *ibid.*, paras 31 and 37.

## I. Preliminary questions

1. *Please indicate any legislation or practice, including case law, programmes and policies, of your country that has not already been provided to the Office in response to the questionnaire submitted under article 19 of the Constitution on social security instruments<sup>4</sup> (please send a copy or web link, if possible):*

*Comments:*

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## II. Preamble

2. *Should the Preamble of the Recommendation recall the Declaration of Philadelphia; the Universal Declaration of Human Rights 1948; the ILO Declaration on Social Justice for a Fair Globalization; and the continuing relevance of ILO social security Conventions and Recommendations, in particular, the Social Security (Minimum Standards) Convention, 1952 (No. 102), the Income Security Recommendation, 1944 (No. 67), and the Medical Care Recommendation, 1944 (No. 69)?*

Yes                       No

*Comments:*

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3. *Should the Preamble recognize that social security is a social and economic necessity for development and progress, and is:*
- (a) *an important tool to reduce, alleviate and prevent poverty, social exclusion and social insecurity?*

Yes                       No

*Comments:*

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<sup>4</sup> See *General Survey concerning social security instruments in light of the 2008 Declaration on Social Justice for a Fair Globalization*, Report III (Part IB), 100th Session, International Labour Conference (June 2011) (questions found in Appendix V).

(b) *an investment in people that allows them to adjust to necessary structural changes in the economy and labour markets, and an effective automatic stabilizer in times of crisis and beyond?*

Yes                       No

*Comments:*

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4. *Should other considerations be included in the Preamble?*

Yes                       No

*Comments:*

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### III. Objective

5. *Should the Recommendation provide guidance to Members, with a view to realizing the human right to social security, on:*

(a) *building a social protection floor within a wider social security system tailored to national circumstances and levels of development?*

Yes                       No

*Comments:*

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(b) *implementing their social protection floor within a social security extension strategy that progressively ensures higher levels of social security to as many people as possible, and is coherent with the Member's social, economic and employment policies?*

Yes                       No

*Comments:*

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#### IV. National social protection floor

6. *Should the Recommendation provide that Members should establish and implement as rapidly as possible their social protection floor containing basic social security guarantees that ensure that over the life cycle all in need can afford and have access to essential health care and have income security at least at a nationally defined minimum level?*

Yes                       No

*Comments:*

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7. *Should the Recommendation provide that each Member should provide at least the following basic social security guarantees:*

- (a) *all persons ordinarily resident in the country have the necessary financial protection to access a nationally defined set of essential health-care services, including maternal health care?*

Yes                       No

*Comments:*

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- (b) *all children enjoy income security, at least at a nationally defined minimum level, through family/child benefits in cash or in kind aimed at facilitating access to nutrition, education and care?*

Yes                       No

*Comments:*

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- (c) *all persons in active age groups ordinarily resident in the country who are unable to earn sufficient income enjoy minimum income security through social assistance, maternity benefits, disability benefits, other social transfers in cash or in kind, or public employment programmes?*

Yes                       No

*Comments:*

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and

- (d) *all persons in old age ordinarily resident in the country enjoy income security, at least at a nationally defined minimum level, through benefits in cash or in kind?*

Yes                       No

*Comments:*

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8. *Should the Recommendation provide that:*

- (a) *basic social security guarantees should be legally recognized as a right that is enforceable through simple and rapid complaint and appeal procedures defined by national laws or regulations ?*

Yes                       No

*Comments:*

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(b) *legal and institutional frameworks should set out benefits as well as qualifying conditions that are reasonable, proportionate, transparent and non-discriminatory?*

Yes                       No

*Comments:*

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9. *Should the Recommendation provide that the basic social security guarantees should be nationally defined with due consideration to the following aspects:*

(a) *Minimum levels of income security should correspond at least to the monetary value of a nationally defined basket of essential goods and services that is needed to live in health and decency?*

Yes                       No

*Comments:*

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(b) *Minimum levels of income security may correspond to agreed poverty lines, defined income thresholds for social assistance benefits, or other income levels defined in national law and practice?*

Yes                       No

*Comments:*

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(c) *Financial protection for essential health-care goods and services should be sufficient to ensure access whenever required, without increasing the poverty risks and vulnerability of those in need of health care?*

Yes                       No

*Comments:*

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(d) *The levels of basic social security guarantees should be regularly reviewed through a transparent procedure prescribed by law?*

Yes                       No

*Comments:*

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*and*

(e) *The establishment and review of the levels of these guarantees should include an effective social dialogue involving representative employers' and workers' organizations, as well as beneficiaries and relevant public authorities?*

Yes                       No

*Comments:*

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10. *Should the Recommendation provide that the social protection floor should:*

(a) *facilitate effective access to essential goods and services as defined at national level?*

Yes                       No

*Comments:*

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(b) *promote productive economic activity and formal employment?*

Yes                       No

*Comments:*

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*and*

(c) *be implemented in close coordination with other policies enhancing skills and employability, reducing informality and precariousness of employment, creating decent jobs, and promoting entrepreneurship and sustainable enterprises?*

Yes                       No

*Comments:*

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11. *Should the Recommendation provide that Members may use different means and approaches to implement the basic social security guarantees of their social protection floor, including universal benefit schemes, social insurance, public employment programmes and employment support schemes as well as social assistance schemes that provide benefits to people with low income, or appropriate combinations of such measures?*

Yes                       No

*Comments:*

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12. *Should the Recommendation provide that, to be effective, the implementation of the national social protection floor requires an appropriate mix of preventive and promotional measures, benefits and social services?*

Yes                       No

*Comments:*

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13. *Should the Recommendation provide that:*

(a) *Members may choose different options to mobilize the necessary resources to ensure financial and fiscal sustainability of their social protection floor, taking into account the contributory capacities of different population groups?*

Yes                       No

*Comments:*

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*and, more specifically, that:*

(b) *These options may include better enforcement of tax and contribution obligations, reprioritizing expenditure, and broadening the revenue base?*

Yes                       No

*Comments:*

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14. *Should the Recommendation provide that the national social protection floor should, in principle, be financed by domestic resources, while noting that some low-income countries may need to have recourse to transitional international financial support?*

Yes                       No

*Comments:*

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## V. National social security extension strategy

15. *Should the Recommendation provide that Members should design, through an effective social dialogue process, a long-term social security extension strategy that identifies gaps in protection and seeks to close them by building a comprehensive social security system?*

Yes                       No

*Comments:*

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16. *Should the Recommendation provide that a Member's social security extension strategy should:*

(a) *prioritize the implementation of a social protection floor?*

Yes                       No

*Comments:*

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*and*

(b) *simultaneously seek to provide progressively higher levels of income security and access to health care to as many people as possible and as soon as possible?*

Yes                       No

*Comments:*

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17. *Should the Recommendation provide that Members whose economic and fiscal capacities are insufficient to implement the entire range of guarantees of the social protection floor should stipulate in their social security extension strategy approximately when and in what sequence the entire set of guarantees could be introduced, and how the domestic resources to cover projected expenditure could be mobilized?*

Yes                       No

Comments:

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18. *Should the Recommendation provide that Members should consider establishing mechanisms, based on effective social dialogue, to further extend social security coverage and build a comprehensive social security system, in line with national social needs and economic and fiscal capacities, on the basis of the Social Security (Minimum Standards) Convention, 1952 (No. 102) and other ILO Conventions and Recommendations?*

Yes                       No

Comments:

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19. *Should the Recommendation encourage Members to take measures, as early as possible in national social and economic development processes, to ensure the ratification and the effective implementation of the Social Security (Minimum Standards) Convention, 1952 (No. 102) as well as other ILO instruments considered relevant to the national context?*

Yes                       No

Comments:

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20. *Should the Recommendation contain an annex listing all ILO instruments of possible relevance to national social security extension strategies, and should the Recommendation provide that this list could later be updated by the Governing Body of the International Labour Office?*

Yes                       No

*Comments:*

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21. *Should the Recommendation provide that the national social security extension strategy, including a social protection floor, should be part of and conducive to the implementation of the Member's social and economic development plans?*

Yes                       No

*Comments:*

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22. *Should the Recommendation provide that the gradual formalization and development of the economy should be conducive to strengthening people's income security and their access to health care?*

Yes                       No

*Comments:*

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23. *Should the Recommendation provide that the national social security extension strategy should address the needs of specific groups in urban and rural areas, in particular indigenous people, minorities, migrant workers, persons with disabilities and chronic illness, persons living with or affected by HIV, and orphans and vulnerable children?*

Yes                       No

*Comments:*

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24. *Should the Recommendation provide that the social security extension strategy should set out how the Member plans to improve existing social security coverage within a specific time frame?*

Yes                       No

*Comments:*

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25. *Should the Recommendation provide that the social security extension strategy should specify targets with regard to the progressive achievement of full population coverage, the range and levels of benefits, as well as the financial means to cover the related expenditure?*

Yes                       No

*Comments:*

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26. *Should the Recommendation provide that the social security extension strategy should seek, as appropriate, to build on existing institutional capacities and social security schemes such as social insurance or social assistance schemes?*

Yes                       No

*Comments:*

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27. *Should the Recommendation encourage Members to close coverage gaps of persons with contributory capacity through contributory schemes where appropriate?*

Yes                       No

*Comments:*

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28. *Should the Recommendation provide that the design of the national social security extension strategy, its time frame and periodicity of updates, should be subject to effective social dialogue?*

Yes                       No

*Comments:*

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## VI. Guiding principles for the extension of social security

29. *Should the Recommendation provide, in line with the Conclusions included in the Resolution concerning the recurrent discussion on social protection (social security) adopted at the 100th Session (June 2011) of the International Labour Conference, that the extension of social security, including the implementation of the social protection floor at the national level, should be guided by the following principles:*

- (a) universal coverage;*
- (b) progressive realization;*
- (c) coherence with macroeconomic, employment and other social policies;*
- (d) general responsibility of the State;*
- (e) diversity of means and approaches, including of financing mechanisms and delivery systems;*
- (f) adequacy of benefits and fair balance of the interests of those who finance social security schemes and those who benefit from them;*
- (g) non-discrimination;*
- (h) gender responsiveness and gender equality;*
- (i) entitlement to benefits defined by law;*
- (j) financial, fiscal and economic sustainability;*
- (k) good governance, including sound financial management and administration;*
- (l) involvement of employers' and workers' organizations through effective social dialogue mechanisms regarding design, governance and supervision;*

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Yes                       No

*Comments:*

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## VII. Monitoring of progress

30. *Should the Recommendation provide that Members monitor, through appropriate mechanisms, the extension of social security, including the implementation of their social protection floor and progress towards achieving universal coverage as well as higher levels of protection?*

Yes                       No

*Comments:*

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31. *Should the Recommendation provide that appropriate monitoring mechanisms should include:*

(a) *regular collection, compilation and publication of social security statistics based on administrative records and household surveys?*

Yes                       No

*Comments:*

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(b) *any other mechanism? If so, please specify:*

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32. *Should the Recommendation provide that social security statistics should include for each category of benefit the number of protected persons and beneficiaries, and the amount of benefits, as well as levels and patterns of expenditure and financing?*

Yes                       No

*Comments:*

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33. *Should the Recommendation provide that, in designing or revising the concepts, definitions and methodology used in the production of social security statistics, Members should take into consideration relevant guidance of the International Labour Organization, including the International Conference of Labour Statisticians and, as appropriate, of other international organizations?*

Yes                       No

*Comments:*

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34. *Should the Recommendation provide that Members should contribute to an exchange of information, experiences and expertise on social security policies and practices among themselves and with the International Labour Office?*

Yes                       No

*Comments:*

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### VIII. Other issues

35. *Should the Recommendation include other elements not mentioned in this questionnaire?*

Yes                       No

*Comments:*

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# Appendix I

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## Resolution concerning the recurrent discussion on social protection (social security)<sup>1</sup>

The General Conference of the International Labour Organization, meeting in Geneva at its 100th Session, 2011,

Having undertaken, in accordance with the ILO Declaration on Social Justice for a Fair Globalization, a recurrent discussion on the basis of Report VI, *Social security for social justice and a fair globalization*,

1. Adopts the following conclusions,
2. Invites the Governing Body of the International Labour Office as a follow-up to the recurrent discussion on social protection (social security) and in line with the following conclusions which recognize the need for a Recommendation, to place a standard-setting item entitled “Elaboration of an autonomous Recommendation on the social protection floor” on the agenda of the 101st Session of the International Labour Conference, 2012, for a single discussion with a view to the adoption of a Recommendation, and
3. Invites the Governing Body of the International Labour Office to give due consideration to the following conclusions in planning future action on social protection (social security) and requests the Director-General to take them into account when preparing and implementing the programme and budget for future biennia and when allocating such other resources as may be available during the 2012–13 biennium.

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<sup>1</sup> From ILC, 100th Session (2011), *Provisional Record* No. 24. p. 6.

## Appendix II

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### Conclusions concerning the recurrent discussion on social protection (social security) <sup>1</sup>

#### Policy and institutional context

1. The new consensus on social security reached at the International Labour Conference, at its 89th Session in 2001, gave the highest priority to policies and initiatives that can bring social security to those who are not covered by existing schemes. Consequently, the International Labour Office launched in 2003 the Global Campaign on Social Security and Coverage for All. The ILO Declaration on Social Justice for a Fair Globalization, adopted by the International Labour Conference at its 97th Session in 2008, again reaffirmed the tripartite commitment to extend social security to all in need of such protection in the framework of the Decent Work Agenda.
2. The International Labour Conference at its 98th Session in 2009 recognized the crucial role of social protection policies in crisis response, and the Global Jobs Pact called for countries to “give consideration, as appropriate, to building adequate social protection for all, drawing on a basic social protection floor”. The High-level Plenary Meeting of the UN General Assembly on the Millennium Development Goals (MDG Summit) in September 2010 recognized that “promoting universal access to social services and providing social protection floors can make an important contribution to consolidating and achieving further development gains” and hence endorsed the social protection floor initiative which the UN Chief Executives Board had launched in 2009.
3. Regional tripartite ILO meetings in Latin America, Arab States and Asia and the Pacific during 2007 and 2008 discussed social security extension strategies. A generic two-dimensional extension strategy, combining the extension of coverage to all through nationally defined social protection floors and the progressive implementation of higher levels of social security through comprehensive systems, emerged. This strategy was endorsed by the Yaoundé Tripartite Declaration on the implementation of the social protection floor adopted at the 2nd African Decent Work Symposium in Yaoundé in 2010, and the Chair’s Summary of the Tripartite Meeting of Experts on Strategies for the Extension of Social Security Coverage in 2009.
4. This consensus concerning social security is underpinned by the Decent Work Agenda, including its four pillars: employment, social dialogue, social protection and standards and fundamental principles and rights. These four pillars are inseparable, interrelated and mutually supportive. These conclusions on social security sit within this context. Sustainable social security systems are a key element in promoting productive economic growth with equity. They are closely linked to all of the elements of the Decent Work Agenda and should be based on entitlements within a legal framework. Tripartism and

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<sup>1</sup> From ILC, 100th Session (2011), *Provisional Record* No. 24, pp. 66–78.

social dialogue based on freedom of association and the effective recognition of the right to collective bargaining are key elements to ensure adequate wages for workers thereby assisting them to increase their contributory capacity. They also contribute to the sustainability of broader social security systems in which non-contributory and contributory schemes complement each other.

## The role of and need for social security

5. The Conference recognizes and reiterates that:

(a) Social security is a human right.

Everyone as a member of society has a right to social security as stated in the Universal Declaration of Human Rights, Article 22. Globally the large majority of women, men and children do not have access to adequate or any social security. By recognizing in the Declaration of Philadelphia the solemn obligation of the International Labour Organization “to further among the nations of the world programmes which will achieve ... the extension of social security measures to provide a basic income to all in need of such protection and comprehensive medical care”, its member States confirmed the ILO’s commitment to achieving adequate social security for all.

(b) Social security is a social necessity.

Effective national social security systems are powerful tools to provide income security, to prevent and reduce poverty and inequality, and promote social inclusion and dignity. They are an important investment in the well-being of workers and the population at large, notably by enhancing access to health care, and providing income security thereby facilitating access to education and reducing child labour and in particular eliminating its worst forms. Social security strengthens social cohesion and thus contributes to building social peace, inclusive societies and a fair globalization with decent standards of living for all.

(c) Social security is an economic necessity.

Full, productive and decent employment is the most important source of income security. Social protection is key to ensure a just share of the fruits of progress for all. Sustainable growth requires good health, nutrition and education, which can foster transitions from low productivity and subsistence level activities to highly productive decent jobs and from the informal to the formal economy. Social security, well designed and linked to other policies, enhances productivity, employability and supports economic development. Adequate social security encourages human capital investment for both employers and workers, enables workers to adapt to change and facilitates equitable and inclusive structural change associated with globalization. As an effective automatic stabilizer in times of crisis, social security contributes to mitigating the economic and social impact of economic downturns, to enhancing resilience, and achieving faster recovery towards inclusive growth.

## Social security extension strategies

6. Many developing countries have made significant progress in extending social security coverage during the last decade. They offer the best evidence that the extension of social security is possible. Despite these advances, broad social security coverage gaps remain in many countries of the world. In some regions, the vast majority of the population is excluded from social security.

7. The risk of being excluded from coverage is particularly high among certain groups, including workers in the informal economy and atypical forms of employment, vulnerable

workers in rural and urban areas, domestic workers, migrant workers, unskilled workers, and people with disabilities and chronic illnesses, including those affected by HIV and AIDS. Women tend to face higher exclusion than men, due to discrimination throughout the life cycle and the burden they usually shoulder in family and care responsibilities. Children of excluded populations are more likely to grow up in impaired states of health and nutrition that undermine their future and that of their societies.

8. Closing coverage gaps is of highest priority for equitable economic growth, social cohesion and Decent Work for all women and men. Effective national strategies to extend social security in line with national priorities, administrative feasibility and affordability contribute to achieving these objectives. These national strategies should aim at achieving universal coverage of the population with at least minimum levels of protection (horizontal dimension) and progressively ensuring higher levels of protection guided by up-to-date ILO social security standards (vertical dimension). The two dimensions of the extension of coverage are consistent with moving towards compliance with the requirements of the Social Security (Minimum Standards) Convention, 1952 (No. 102) and are of equal importance and should be pursued simultaneously where possible.
9. The horizontal dimension should aim at the rapid implementation of national social protection floors, containing basic social security guarantees that ensure that over the life cycle all in need can afford and have access to essential health care and have income security at least at a nationally defined minimum level. social protection floor policies should aim at facilitating effective access to essential goods and services, promote productive economic activity and be implemented in close coordination with other policies enhancing employability, reducing informality and precariousness, creating decent jobs and promoting entrepreneurship.
10. As a one-size-fits-all approach is not appropriate, every member State should design and implement its social protection floor guarantees according to national circumstances and priorities defined with the participation of social partners. While expected outcomes of these guarantees are of a universal nature, member States find different ways of implementing social protection floor policies, which may include universal benefit schemes, social insurance, public employment programmes and employment support schemes, and social assistance schemes that provide benefits only to people with low income, or appropriate combinations of such measures. To be effective, these policies require an appropriate mix of preventive measures, benefits and social services.
11. The process of building comprehensive social security systems cannot stop at the ground floor of protection. Hence, the vertical dimension of the social security coverage extension strategy in each member State should seek to provide higher levels of income security and access to health care – taking into account and progressing towards in the first instance the coverage and benefit provisions of Convention No. 102 – to as many people as possible and as soon as possible; based, as a prerequisite, on policies aiming at encouraging participation of those in the informal economy and its gradual formalization. As economies develop and become more resilient, people’s income security and their access to health care should be strengthened.
12. National strategies to extend social security should progress based on the resources of the nation and a set of essential principles, i.e. universal coverage, progressive realization while providing immediate protection against discrimination, promoting gender equality, social and economic adequacy, rights-based benefits, financial and fiscal sustainability, good governance with the overall general responsibility of the State and the ongoing participation of social partners, and finally institutional and organizational questions should not prevent adequate protective outcomes. These principles should guide national policy and strategic decisions.
13. Strategies to extend social security are closely associated with employment policies. Member States should therefore pay particular attention to building an economic and social framework that is conducive to sustainable enterprise creation and growth of decent and

productive employment. A large informal economy constitutes a particular challenge for the extension of social security coverage. Social insurance remains the central pillar of social security systems in most member States, yet it tends to focus on formal employees. However, a growing number of developing countries have gradually extended the scope of social insurance coverage to other categories of workers such as own-account workers, domestic workers or workers in rural areas and workers in small and micro-enterprises by adapting the scope of benefits, contributions and administrative procedures. The inclusion of these groups in social insurance is a key component of the formalization of employment and can also reduce the cost of tax-financed benefit systems for poor workers in the informal economy.

14. Member States should be encouraged to continuously employ efforts aimed at the transition from informal to formal economies. While social security policies have a strong role to play in attaining this objective, they have to be complemented by fiscal and employment policies, and by developing administrative procedures aimed to create adequate incentives to join the formal economy and reduce the costs of formalization. Member States should be encouraged to strengthen compliance assistance, the promotion and the enforcement of legal frameworks including by adequate labour, tax and social security inspections aiming at reducing fraud, and informality including disguised employment, undeclared business and undeclared work. The formalization of the economy is one of the crucial prerequisites for long-term growth and will increase the public revenue base necessary to finance higher levels of social security for contributors and taxpayers and non-contributory benefits to cover those without capacity to contribute.

## Ensuring the affordability and the financing of social security

15. The expenditure required to finance social security systems is a long-term investment in people. Societies that do not invest in social security face important costs such as those associated with the lack of a healthy and productive workforce, economic insecurity and social exclusion. On the other hand, investing in people through social security systems requires resources that have to be provided by enterprises, workers, households and others as contributors and taxpayers. It is thus essential that a rational balance is found between short- and long-term costs and benefits of social security systems for society and different groups of financers and beneficiaries.
16. Social security interventions need to achieve their objectives in terms of both social and economic adequacy in an effective and cost-efficient way. Permanent monitoring and evaluation by the social partners of the short- and long-term effectiveness and efficiency of individual programmes and social security systems, including actuarial studies, are important mechanisms and may lead to reform and adjustments whenever necessary. In the case of State operated schemes transparency, consultation and social dialogue are appropriate. In the case of schemes that involve workers and employers organizations social dialogue and agreements are usually appropriate.
17. Many member States at all levels of development have already implemented elements of a national social protection floor as part of their efforts in building comprehensive social security systems. Member States have chosen different options to ensure the necessary fiscal space, including reprioritizing expenditure, and broadening the revenue base. Sustainable growth, the progressive formalization of the economy and high levels of productive employment are essential in ensuring the financial resources necessary to extend social security to all.
18. While national social protection floors should be financed from domestic sources of revenue to ensure their long-term sustainability, there may be cases where these resources are insufficient to extend the social protection floor to all in a short time frame. International cooperation can play an important role in helping member States to initiate

the process and build the national resource base with a view to ensuring sustainable financing mechanisms.

19. The affordability of social security systems is widely discussed in the context of demographic change. The expected increase in economic dependency ratios over the next decades raises concerns about the sustainability of social security systems. The ageing of the population will increase expenditure on pensions, health and long-term care in the decades to come. However, evidence suggests that this challenge is manageable within properly organized systems. Necessary reform processes can be successfully managed fairly balancing social needs and financial and fiscal requirements, if embedded in a well informed social dialogue process.
20. It is indispensable to create positive synergies for sustainable growth and higher levels of decent employment between social protection, financial and economic policies. Integrated national policies promoting productive employment are necessary to ensure sustainable financing, addressing possible skills shortages, promoting productivity, taking advantage of a wider diversity of the workforce in terms of sex, age, nationality and ethnic origin and facilitating a better balance between work and family responsibilities for women and men. Some of the policy options lie within the realm of social security policies proper, while others reside in other policy spheres. Such options may include:
  - (a) integrating macroeconomic, employment and social policies that give priority to Decent Work;
  - (b) investing social security reserves prudently;
  - (c) building quality public services that enhance effective social security systems;
  - (d) promoting social dialogue, the effective recognition of the right to collective bargaining and freedom of association;
  - (e) promoting and strengthening the enabling environment for sustainable enterprises reflecting employment growth and Decent Work;
  - (f) investing in education, vocational skills and lifelong learning;
  - (g) promoting the good governance of labour migration;
  - (h) facilitating reconciliation of work and family responsibilities for women and men, and ensuring effective access to comprehensive social services to address care needs including for children, people in old age, people living with HIV and AIDS and with disabilities. This includes, maternity protection such as adequate pre and post natal care and income guarantees and other supports for women during the last weeks of pregnancy and the first weeks after delivery;
  - (i) policies to enable all workers including those in atypical employment to take advantage of social security;
  - (j) promoting labour force participation of women by more equitable treatment creating better employment opportunities, reducing the segmentation of the labour market between men and women, eliminating gender gaps in wages and providing equal professional development opportunities;
  - (k) facilitating effective school-to-work transitions;
  - (l) improving the rehabilitation of workers with reduced working capacity including personal support and training where appropriate with a view to fostering their participation in the labour market;
  - (m) combining the income replacement function of social security with active labour market policies as well as assistance and incentives that promote real participation in the formal labour market.

21. Ensuring adequate labour force participation of older women and men is often essential for the adaptation of social security systems to demographic change. In addition to policies to promote full employment, measures to promote the employment of older workers may include:
  - (a) investing in technologies and occupational safety and health measures that permit the productive employment of older workers and workers with health impairments and disabilities;
  - (b) raising the labour force participation rates of older workers by eliminating age discrimination and providing incentives for workers and employers to address enterprise restructuring through innovative work arrangements;
  - (c) introducing socially acceptable rules through a transparent process, including social dialogue and tripartism, as to the age at which people withdraw from the labour market, which should reflect a sustainable relationship between the duration and demands of working life and retirement taking into account issues such as conditions of work, years of service and the recognition that retirement is a legitimate part of the life cycle.

## Social security governance

22. Social security systems need to be well managed and administered to ensure effectiveness in reaching agreed objectives, efficiency in using resources, and transparency to gain confidence of those who finance them and benefit from these systems. Active involvement of all stakeholders, and in particular workers and employers through effective social dialogue mechanisms and tripartite supervision, is one of the important means to secure good governance of social security systems.
23. The general responsibility for an effective and efficient social security system lies with the State, particularly with creating political commitment and with respect to setting appropriate policy, legal and regulatory frameworks and the supervision that guarantee adequate benefit levels, good governance and management and protecting acquired rights of beneficiaries and other participants.
24. Collective bargaining and freedom of association play an important role in helping employers and workers negotiate on social security provisions, including for occupational and other supplementary schemes. Agreements should be in the context of a state regulatory framework.
25. Social dialogue is essential in identifying and defining priority policy objectives; the design of the corresponding benefits, entitlements and delivery methods; the allocation of the financial burden between generations and between contributors and tax payers; and the need to find a fair balance between social expectations and financial constraints.
26. Social dialogue is an important means for contributing to the permanent monitoring of financial sustainability and the social adequacy, effectiveness and efficiency of management and administration of the scheme. It is also important in enforcing the existing social security legislation so that the contributions due are paid by all those obliged to pay and benefits delivered to all those eligible. This requires well-resourced and well-trained public inspection services to promote and ensure the law enforcement and the prevention of contribution evasion, fraud and corruption. However this also requires active monitoring by employers, workers and other stakeholders.
27. To play the expected active role in securing good social security governance, all workers and employers need to be aware of, and understand, existing social security provisions and emerging challenges. Member States should consider including basic knowledge about social security in the education and training curricula at different levels of the national education systems. Employers' and workers' organizations have to build significant capacity to be able to share the social security knowledge with their members as well as to

actively participate in social dialogue on social security policies and in monitoring and supervision of social security schemes.

## The role of ILO standards

28. The up-to-date<sup>2</sup> ILO social security standards, and in particular Convention No. 102, provide a unique set of minimum standards for national social security systems that are internationally accepted. They set out principles that guide the design, financing, governance and monitoring of national social security systems. Convention No. 102 continues to serve as a benchmark and reference in the gradual development of comprehensive social security coverage at the national level. Several member States currently implementing successful and innovative social security extension policies have recently ratified Convention No. 102 and others have indicated their intention to do so.
29. Increasing ratification and effective implementation of Convention No. 102 and other social security Conventions remain a key priority for member States. It is therefore essential to raise awareness and understanding of ILO social security standards, to identify gaps in coverage that still may prevent further ratifications, and to design policies that may close these gaps. In particular, this should also include the dissemination of information on the requirements concerning implementation of these instruments and devote special efforts to capacity building and the training of the social partners, and thus to strengthening the role of social dialogue in the implementation of standards.
30. As also noted in the outcome of the discussion on the General Survey of 2011 on social security by the Committee on the Application of Standards, the language of certain provisions of Convention No. 102 is often interpreted as gender-biased. There is a need for a pragmatic solution that would enable its interpretation in a gender-responsive way without revising the instrument itself or weakening the prescribed levels of protection and population coverage. This may facilitate further ratifications by a number of member States.
31. In view of the renewed support for the provision of at least a basic level of social security through establishing social protection floors, there is a need for a Recommendation complementing the existing standards that would provide flexible but meaningful guidance to member States in building social protection floors within comprehensive social security systems tailored to national circumstances and levels of development. Such a Recommendation should be promotional, gender-responsive and allow for flexible implementation to be applied by all member States using different methods and according to their own needs, resources and their time frame for progressive implementation. Elements of a possible Recommendation on social protection floors are outlined in the appendix to these conclusions.

## The role of governments and social partners

32. Governments have the primary responsibility for ensuring effective access to social security to all. Effective social dialogue processes play a key role in contributing to the formulation, implementation and monitoring of social security policies and ensuring good governance of national social security systems.

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<sup>2</sup> The ILO social security standards considered up-to-date by the ILO Governing Body are: the Social Security (Minimum Standards) Convention, 1952 (No. 102); the Equality of Treatment (Social Security) Convention, 1962 (No. 118); the Employment Injury Benefits Convention, 1964 [Schedule I amended in 1980] (No. 121); the Invalidity, Old-Age and Survivors' Benefits Convention, 1967 (No. 128); the Medical Care and Sickness Benefits Convention, 1969 (No. 130); the Maintenance of Social Security Rights Convention, 1982 (No. 157); the Employment Promotion and Protection against Unemployment Convention, 1988 (No. 168); and the Maternity Protection Convention, 2000 (No. 183).

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33. Governments of member States should consider and/or undertake the following:
- (a) fully assuming their responsibility for social security by providing an appropriate policy, legal and institutional framework, effective governance and management mechanisms, including a legal framework to secure and protect the private individual information contained in their social security data systems;
  - (b) fostering coherence of social security policies with employment, macroeconomic, and other social policies within a decent work framework, particularly with respect to promoting the progressive formalization of employment and providing support for productive employment;
  - (c) the development of a national two-dimensional social security extension strategy, through a social dialogue-based consultation process, that identifies gaps in the desired levels of social security and seeks to close those gaps in a coordinated and planned manner over a period of time with a view to developing national social protection floors and building comprehensive social security systems;
  - (d) ensuring that social security policies take account of changing roles of women and men with respect to employment and care responsibilities, promote gender equality, provide maternity protection and support the empowerment of women through measures to ensure equitable outcomes for women;
  - (e) ensuring that social security policies address the needs of women, men and children during all stages of the life cycle and in both urban and rural areas, and the specific needs of vulnerable groups, including indigenous people, minorities, migrant workers, people with disabilities, people living with HIV and AIDS, orphans and vulnerable children;
  - (f) strengthening labour and social security inspection systems to improve compliance with social security and occupational safety and health legislation and strengthen the preventive potential of the latter through the promotion of a health and safety culture;
  - (g) concluding bilateral, regional or multilateral agreements to provide equality of treatment in respect of social security, as well as access to and preservation and/or portability of social security entitlements, to migrant workers to be covered by such agreements;
  - (h) ensuring the financial, fiscal and economic sustainability of social security systems through appropriate policies and different financing mechanisms, developed in consultation with or by social partners as appropriate;
  - (i) balancing, with the participation of social partners, the economic and social adequacy in public and private social security schemes in the longer term;
  - (j) engaging with social partners and promoting effective social dialogue to define the most appropriate national social security policies and time frames for their progressive implementation;
  - (k) giving full effect to the provisions of Convention No. 102 and other up-to-date ILO social security Conventions, and undertaking measures to ratify these Conventions;
  - (l) contributing to exchange of information, experiences and expertise on social security policies and practices among member States and with the ILO.
34. Employers' and workers' organizations should consider and/or undertake the following:
- (a) raising awareness and building public support for social security among their members and the wider public, including on ILO social security standards;
  - (b) actively participating in social dialogue processes aiming at the design, implementation and monitoring of national social security strategies and policies, with a view to responding to the evolving needs and capacities of workers and enterprises;

- (c) contributing to the development of innovative solutions including those which might address economic shocks, structural changes and sustainability including through collective bargaining;
- (d) participating in policy dialogue aimed at the establishment of national social protection floors;
- (e) jointly developing initiatives to support the transition to formal employment and formal enterprises;
- (f) supporting the development of standards of good performance and accountability for effective and efficient and sustainable operation of the overall national social security systems;
- (g) actively participating in the governance of social security institutions in order to ensure the effective representation of protected persons and tax payers and contributors;
- (h) assisting workers and employers in their interactions with social security institutions, ensuring due contribution collection and provision of benefits;
- (i) collaborating with the Government and the ILO in promoting the ratification and effective implementation of Convention No. 102.

## The role of the ILO and follow-up

35. The Conference calls upon the International Labour Office in the context of the Global Campaign on Social Security and Coverage for All to:
- (a) assist member States, including through Decent Work Country Programmes and appropriate technical advisory services, to support the design and implementation of national two-dimensional strategies to extend social security coverage, including national social protection floors, in the wider context of comprehensive national social and economic policy frameworks;
  - (b) assist member States in designing and improving the governance, management and effective delivery systems of social security schemes, and to evaluate regularly the impact, viability and sustainability of social security policies;
  - (c) further strengthen member States' capacities to design, implement and monitor social security systems that are responsive to challenges including changing demographic trends and migration and assuring their proper functioning;
  - (d) support the establishment of bilateral and multilateral agreements to provide social security to migrant workers and their families;
  - (e) strengthen the ILO's leading role in the promotion of the social protection floor at both the international and national level with the participation of constituents and in partnership with other international organizations;
  - (f) support the development of macroeconomic frameworks and policies, including activation measures, which are conducive to the creation of quality employment and sustainable and effective social security systems;
  - (g) support member States in formulating and implementing, in consultation with employers' and workers' organizations, national policies aimed at facilitating progressive transition from the informal to the formal economy;
  - (h) promote, at the national and international level, social dialogue and the role of social partners in the design, governance and implementation of comprehensive and sustainable social security for all;

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- (i) devote special efforts to capacity building and the training of the social partners on ILO social security standards, thus strengthening the role of social dialogue in ways the standards are implemented;
  - (j) strengthen the capacities of social partners to engage in policy dialogue, and social security governance at the national level through the further development of appropriate training programmes, technical assistance and other means;
  - (k) expand the assistance to constituents in enhancing awareness and understanding of ILO social security standards and their implementation, designing policies to overcome obstacles to ratification and undertaking innovative initiatives for promoting up-to-date ILO Conventions on social security, notably Convention No. 102;
  - (l) develop in cooperation with ILO constituents a social security good practices guide that provides member States with practical guidance and benchmarks to evaluate and enhance their national social protection provisions, including general and financial social security management, benefit design and good governance;
  - (m) strengthen the International Labour Office's research capacities, particularly with regard to analysing national social security policies and practices, developing tools for the assessment of performance, and producing reliable statistics, and ensuring its high quality and visibility with the view to helping governments and social partners make informed decisions;
  - (n) facilitate the exchange of experiences and good practices, the transfer of knowledge and by mutual agreement, the transfer of technologies among member States including the promotion of South–South and triangular exchange of experiences and expertise;
  - (o) facilitate the implementation of the ILO's mandate on social protection by improving international policy coherence, effectiveness and efficiency including by coordinating its programmes and activities and deepening the collaboration with the UN system, the IMF, the World Bank, regional development banks, the OECD, the European Commission and other regional organizations, the ISSA and civil society organizations. This collaboration is crucial at national level through country-led initiatives;
  - (p) strengthen cooperation with ISSA and other national and international social security associations, and their member organizations, with regard to sharing information and mobilizing expertise to support the ILO's technical operations;
  - (q) proactively and consistently mainstream gender in all the above activities in order to promote gender equality.
36. The Conference requests the Director-General to take into account these conclusions in preparing future programme and budget proposals and facilitating extra-budgetary sources, including Regular Budget Supplementary Accounts.
37. The Conference invites the Governing Body to place the discussion on the possible Recommendation mentioned in paragraph 31 on the agenda of the 101st Session of the International Labour Conference in 2012.
38. The Conference invites the Governing Body to consider, in light of the resolution concerning gender equality and the use of language in legal texts of the ILO, the question of gender-sensitive language in ILO social security standards and report to the Conference at a later session.
39. The Conference requests the Director-General to prepare a plan of action for the implementation of the other recommendations of these conclusions and of the outcome of the discussions of the Committee of the Applications of Standards, and requests the Governing Body to consider that plan in its 312th Session in November 2011.

## Appendix III

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### Elements of a possible Recommendation on social protection floors <sup>1</sup>

#### 1. General context

A1. Everyone as a member of society has the right to social security as stated in the Universal Declaration of Human Rights, Article 22. Social security is a social and economic necessity, a prerequisite of social and economic development, and an element of Decent Work for all women and men. It can make a major contribution to the achievement of the Millennium Development Goals and targets.

#### 2. Objective

A2. The Recommendation would focus on the extension of coverage to wider groups of the population (horizontal extension of coverage), and thereby supporting the implementation of national social protection floors. With respect to progressively ensuring higher levels of protection (vertical extension of coverage), the Recommendation would encourage member States to ratify and those that have ratified to ensure the effective implementation of the Social Security (Minimum Standards) Convention, 1952 (No. 102), and other up-to-date ILO social security Conventions.

A3. The objective of the Recommendation would be to provide guidance to member States to develop a social security extension strategy compatible with, and supportive of, wider national social, economic and employment policy strategies and seek in particular to contribute to poverty reduction and the formalization of informal employment.

#### 3. Principles for the implementation

A4. The extension of social security should be country-led and responsive to national needs, priorities and resources. In order to support member States in this task, the Recommendation would specify a number of principles for the design and implementation of national social security extension strategies in line with the conclusions of this Committee.

#### 4. Scope of the instrument

A5. The Recommendation should encourage member States to design, through an effective national social dialogue process, a social security strategy that identifies gaps in the achievement of nationally pursued levels of protection and seeks to close those gaps and build a

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<sup>1</sup> ILO: International Labour Conference, *Provisional Record* No. 24, p. 78.

comprehensive social security system in a coordinated and planned manner over a period of time giving due regard to the workers in the informal economy.

A6. The horizontal dimension of the social security extension strategy should prioritize the implementation of a national social protection floor, consisting of four basic social security guarantees, i.e. nationally-defined minimum levels of income security during childhood, working age and old age, as well as affordable access to essential health care. These guarantees set the minimum levels of protection that all members of a society should be entitled to in case of need. Focusing on outcomes achieved, these guarantees do not prescribe specific forms of benefits, financing mechanisms or the organization of benefit delivery.

A7. The Recommendation could encourage member States to close coverage gaps of populations with contributory capacity through contributory schemes. It would encourage member States to ratify up-to-date ILO social security Conventions as early as possible in national social and economic development processes, and to ensure their effective implementation.

A8. The Recommendation should encourage member States to establish appropriate mechanisms to monitor the extension of social security and the implementation of their national basic social security guarantees. It could also invite member States to establish mechanisms, based on effective national social dialogue, to further extend social security coverage on the basis of Convention No. 102 and other up-to-date Conventions and build comprehensive social security systems in line with national social needs, and economic and fiscal capacities.