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Report V(1)

The transition from the informal to the formal economy



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The transition from the informal to the formal economy

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CONTENTS

	<i>Page</i>
INTRODUCTION	1
OFFICE COMMENTARY ON THE PROPOSED RECOMMENDATION	3
PROPOSED RECOMMENDATION CONCERNING THE TRANSITION FROM THE INFORMAL TO THE FORMAL ECONOMY	21

INTRODUCTION

At its 317th Session (March 2013), the ILO Governing Body decided to place a standard-setting item on the agenda of the 103rd Session (2014) of the International Labour Conference on facilitating transitions from the informal to the formal economy (standard-setting, double discussion) with a view to the elaboration of a Recommendation.¹ It also approved a programme of reduced intervals for the preparatory stages of the discussion.²

In accordance with article 39, paragraph 1, of the Standing Orders of the Conference, the Office prepared a preliminary report setting out the law and practice in the different countries, also containing a questionnaire, which was communicated to member States in August 2013.³ According to the programme of reduced intervals decided upon by the Governing Body, the Office invited governments to send their replies by 31 December 2013. Based on the replies received, the Office prepared a second report on the item,⁴ which was thereafter communicated to governments. These two reports formed the basis for the first discussion of the item by the Conference, at its 103rd Session, in May–June 2014.

On 11 June 2014, the International Labour Conference, meeting in Geneva in its 103rd Session, adopted the following resolution:⁵

The General Conference of the International Labour Organization,

Having adopted the report of the Committee appointed to consider the fifth item on the agenda,

Having in particular approved as general conclusions, with a view to the consultation of governments, proposals for a Recommendation concerning facilitating transitions from the informal to the formal economy,

Decides that an item entitled “Facilitating transitions from the informal to the formal economy” shall be included in the agenda of its next ordinary session for second discussion with a view to the adoption of a Recommendation.

¹ ILO: *Minutes of the 317th Session of the Governing Body of the International Labour Office*, Governing Body, 317th Session, Geneva, Mar. 2013, GB.317/PV, paras 3, 5, 12, 20, 21 and 22.

² ILO: *Agenda of the International Labour Conference: Proposals for the agenda of the 103rd Session (2014) and beyond of the Conference*, Governing Body, 317th Session, Geneva, Mar. 2013, GB.317/INS/2(Rev.) and GB.317/PV, op. cit., para. 25.

³ ILO: *Transitioning from the informal to the formal economy*, Report V(1), International Labour Conference, 103rd Session, Geneva, 2014.

⁴ ILO: *Transitioning from the informal to the formal economy*, Report V(2), International Labour Conference, 103rd Session, Geneva, 2014.

⁵ ILO: *Report of the Committee on Transitioning from the Informal Economy*, in *Provisional Record No. 11(Rev.)*, International Labour Conference, 103rd Session, Geneva, 2014.

In the light of this resolution and in conformity with article 39, paragraph 6, of the Standing Orders of the Conference, the Office has prepared the text of a proposed Recommendation. The text is formulated on the basis of the first discussion by the Conference and takes into account the replies received to the questionnaire contained in the preliminary report. Pursuant to article 39, paragraph 6, of the Standing Orders, this text is now to be communicated to governments and should reach them not later than two months from the closing of the 103rd Session of the Conference. The purpose of the present report is to transmit the proposed Recommendation to governments in accordance with the Standing Orders.

Governments are hereby asked to inform the Office within three months from receipt of this report, and after consulting the most representative organizations of employers and workers, whether they have any amendments to suggest or comments to make. In the light of the first discussion, the Office has suggested some changes to the text adopted at the 103rd Session of the Conference. Given the extent of these suggested changes, governments are invited to provide detailed comments. These comments will be reflected in the fourth and final report on the item, which will be prepared by the Office for the consideration of the Conference in 2015. Pursuant to article 39, paragraph 6, of the Standing Orders of the Conference, the replies should be communicated to the Office in Geneva as soon as possible and in any case not later than **30 November 2014**.

Governments are further requested to inform the Office by the same date whether they consider that the proposed text provides a satisfactory basis for the second discussion by the Conference at its 104th Session, in June 2015. Governments are also requested to indicate which organizations of employers and workers they consulted before they finalized their replies, pursuant to article 39, paragraph 6, of the Standing Orders. It should be noted that such consultations are also required by Article 5(1)(a) of the Tripartite Consultation (International Labour Standards) Convention, 1976 (No. 144), for countries that have ratified this Convention. The results of the consultations should be reflected in the governments' replies.

OFFICE COMMENTARY ON THE PROPOSED RECOMMENDATION

The text of the proposed Recommendation concerning the transition from the informal to the formal economy is based on the Conclusions adopted by the International Labour Conference following its first discussion of the item at its 103rd Session, in May–June 2014 (the “Conclusions”). It also takes into account the replies received to the questionnaire contained in the preliminary report.

First and foremost, it responds to the calls made on the Office during, and at the completion of, the first discussion to fill the gaps identified in particular with respect to the preliminary and second reports on the item, and when drafting the instrument to review the text so as to add clarity to a complex topic and remove inconsistencies. The Office was also called upon to facilitate consultations.

The first discussion highlighted the complexity of the topic and the diversity of situations and perspectives. In preparing this report, the Office has taken a proactive approach by suggesting restructuring and reformulation that go beyond the usual practice. Its objective is to facilitate discussions and consensus at the second and final discussion of the item at the 104th Session (2015) of the International Labour Conference, which will be held over a two-week period, a shorter time frame than usual.

Accordingly, the drafting changes introduced in the proposed instrument can, on the whole, be classified as one of four types:

- (a) Rearrangements of the text and changes to the titles of various Parts with a view to ensuring that the proposed Recommendation has a logical structure; for example, the provisions setting out the objectives of the instrument have been brought forward and placed with the provisions outlining its scope in Part I. The new titles provide a more accurate reflection of the text contained in each Part.
- (b) Changes to the position of some paragraphs and subparagraphs, or elements thereof, to Parts where they more logically fit, as well as to align them with the new structure. Unnecessary repetitions have been deleted in the process. Such paragraphs and subparagraphs, or elements thereof, have been moved but retain the formulation used in the Conclusions. Minor drafting changes were introduced only when needed.
- (c) Additions of new text, as requested during the first discussion, in particular with respect to Part IV, entitled “Employment policies”.
- (d) Text reformulations to introduce greater clarity, in order to ensure consistency between the two official language versions (English and French) and avoid inconsistencies with the terminology used in other ILO instruments.

Some other reformulations and additions are proposed in this commentary for examination by governments before their possible inclusion in the text.

The detailed changes and the rationale behind them are explained in this commentary under the relevant headings. In proposing these changes, the Office has fully taken into account the views expressed by the tripartite constituents and has been mindful of respecting the agreements reached during the first discussion. The wording left in brackets after the first discussion remains in brackets in the proposed text.

The comments made by governments on the suggested changes will inform the preparation of the fourth and final report on the item, which will be submitted by the Office for the second discussion, at the 104th Session (2015) of the International Labour Conference. Furthermore, it should be recalled that, at the 103rd Session of the Conference, the Office made a commitment to facilitate informal consultations in preparation for the discussion at the 104th Session.¹ The present report will be used to support these consultations. In accordance with the practice established in 1988, the report of the Committee on Transitioning from the Informal Economy (“the Committee”) appointed by the Conference to consider this item is being sent to member States in its entirety, together with the record of the discussion of the item in the plenary sitting of the Conference.²

PROPOSED RECOMMENDATION

Preamble (Points 3 and 4 of the Conclusions)

The Office has established a preambular text based on points 3 and 4 of the Conclusions with the following changes:

- The elements of the Conclusions have been reordered, so that the Preamble begins by noting the consequences of the prevalence of informality, followed by references to: the pertinent ILO and United Nations instruments; the Conclusions ensuing from the most relevant discussions by the International Labour Conference; the need for action to facilitate the transition from the informal to the formal economy; and the intent of the Recommendation.
- Six new paragraphs have been added to the preambular text to provide a more complete list of relevant resolutions and Conclusions adopted by the Conference, and to reaffirm with greater clarity the intent of the Recommendation, as described below:
 - the tenth preambular paragraph recalls the resolution and Conclusions concerning decent work and the informal economy adopted by the Conference at its 90th Session (2002) – the last time tripartite consensus was reached on the subject – which paved the way for the discussion of an instrument on the transition to formality;³

¹ ILO: *Provisional Record* No. 11(Rev.), 2014, op. cit.

² ILO: *Provisional Record* No. 11(Rev.), 2014, op. cit.; and *Provisional Record* No. 16, International Labour Conference, 103rd Session, Geneva, 2014.

³ ILO: *Report of the Committee on the Informal Economy*, in *Provisional Record* No. 25, International Labour Conference, 90th Session, Geneva, 2002.

- the 12th preambular paragraph recalls the resolution and Conclusions concerning the youth employment crisis adopted by the Conference at its 101st Session (2012);⁴
 - the 13th preambular paragraph recalls the resolution and Conclusions concerning the second recurrent discussion on employment adopted by the Conference at its 103rd Session (2014), which are relevant to the transition to formality;⁵
 - the 14th preambular paragraph, which reproduces the wording used in point 3(h) of the Conclusions, has been included to better highlight one of the objectives of the transition to formality;
 - the 15th preambular paragraph has been included to reaffirm that the transition to formality is essential to achieve inclusive development; and
 - the 20th preambular paragraph reproduces text from point 27(a) of the Conclusions, which has been included in the Preamble in view of its preambular nature.
- Point 3(j) of the Conclusions has been removed from the Preamble and has become, with slightly new wording, Paragraph 10, in Part III (“Legal and policy frameworks”), considering that it concerns policy guidance.
 - Point 4 of the Conclusions was restructured into two preambular paragraphs (the 16th and 19th) for the purposes of alignment with the structure of the Preamble. With regard to the 16th preambular paragraph, the Office has made a slight drafting change, by replacing the word “large” by “broad”.

In addition, the Office has made the following changes to the wording of specific paragraphs:

- In the second preambular paragraph, the Office has replaced the wording “government revenues, the State’s scope of action” by “public revenues and governments’ scope of action” and has removed the words “and structural” from after “economic, social, environmental” for the purposes of clarification and simplification.
- In the fifth preambular paragraph, the Office has deleted the word “recognized” from before “social dialogue” to align the wording with existing standards.
- In the sixth preambular paragraph, the Office has inserted “and low productivity” after “low income”, as low productivity is a common feature of the informal economy and this issue was raised several times in the replies to the questionnaire and in the debates of the Committee.
- In the seventh preambular paragraph, the Office has removed the words “and their families” from after “the rural poor” as the former is included in the latter category. The Office has aligned the wording of this paragraph with that used in point 18(d) of the Conclusions by removing the words “and other vulnerable groups” and by replacing “susceptible” by “vulnerable”.

⁴ ILO: *The youth employment crisis: A call for action* – Resolution and conclusions of the 101st Session of the International Labour Conference, Geneva, 2012.

⁵ ILO: *Report of the Committee for the Recurrent Discussion on Employment*, in *Provisional Record No. 12(Rev.)*, International Labour Conference, 103rd Session, Geneva, 2014.

- In the ninth preambular paragraph, the Office has added “and its Protocol, 2014,” after “the Forced Labour Convention, 1930 (No. 29),” in the light of the Protocol’s adoption at the 103rd Session of the Conference. In addition, the Office has inserted “and its Recommendation, 1964 (No. 122), the Employment Policy (Supplementary Provisions) Recommendation, 1984 (No. 169),” after “which is one of the governance Conventions,” as these instruments should be mentioned together.
- In the last preambular paragraph, the title of the Recommendation has been slightly reworded to replace in the English version the word “transitioning” by the word “transition”. This change does not affect the meaning and simplifies translation into other languages.
- Throughout the text of the proposed Recommendation, the word “transition” is used in singular form for the sake of consistency, while it is clearly understood that the transition to formality can take many forms.

The Office draws attention to the length of the Preamble. The Members may wish to consider reducing the number of preambular paragraphs.

I. OBJECTIVES AND SCOPE

In order to state the objectives and the scope of the instrument clearly, the Office has brought forward the text outlining the objectives as set out in point 12 of the Conclusions and has placed it together with the text of Part I of the Conclusions (entitled “Scope”). The Office has introduced a new title for Part I of the proposed Recommendation, namely “Objectives and scope”.

With respect to the scope of the instrument, taking into account the discussions that took place during the 2014 session of the Conference and the replies to the questionnaire, and with a view to achieving greater clarity and consistency in the description of the term “informal economy”, the Office has restructured and reformulated the text as detailed below.

Point 10 of the Conclusions, which was placed during the 2014 discussion in the Part entitled “Scope”, clearly refers to policy and action and therefore the Office has moved it to Part III of the proposed Recommendation, which is entitled “Legal and policy frameworks” (Paragraph 14).

Paragraph 1 (Point 12 of the Conclusions)

In Paragraph 1, which sets out the objectives of the Recommendation, the Office has removed from the chapeau the words “taking into consideration national circumstances and laws”, as this principle is now included as one of the guiding principles in Part II that would apply to all the provisions of the Recommendation.

Paragraph 2 (Point 5 of the Conclusions)

Paragraph 2 has the same wording as point 5 of the Conclusions.

*Paragraphs 3 and 4
(Points 6 and 7 of the Conclusions)*

Paragraphs 3 and 4 reflect the text contained in points 6 and 7 of the Conclusions, as restructured by the Office.

Paragraph 3 describes where informal work can be carried out, stating that it can be carried out in both public and private spaces. However, since the term “informal work” is not used elsewhere in the Recommendation, and is not defined in Paragraphs 4, 5 and 6, this statement has been set out as a separate paragraph.

Paragraph 4 provides a description of what the term “informal economy” means and what it does not cover for the purposes of the Recommendation.

With respect to Paragraph 4(b) of the proposed text, the Committee decided, during the first discussion, to delete the reference to “relevant international treaties” in qualifying illicit activities, on the grounds that, while international treaties define specific activities that are deemed to be illicit, they do not define the term “illicit activities”; furthermore, certain illicit activities that would be better placed outside the scope of the proposed Recommendation may not be covered by international treaties.

The Office draws the attention of Members to the fact that, in the absence of qualification, the use of the term “illicit activities” may lead to the exclusion of a significant proportion of workers and economic units in the informal economy from the scope of the proposed Recommendation. At its 2002 session, the Conference sought, in adopting the Conclusions concerning decent work and the informal economy, to distinguish the activities carried out in the informal economy from “criminal and illegal activities, such as production and smuggling of illegal drugs, as they are the subject of criminal law, and are not appropriate for regulation or protection under labour or commercial law”.⁶ A similar issue concerning definitions was addressed in Article 3 of the Worst Forms of Child Labour Convention, 1999 (No. 182), by the inclusion, after the term “illicit activities”, of the following text: “in particular for the production and trafficking of drugs as defined in the relevant international treaties”.

The Office invites Members to consider including, after the term “illicit activities”, the following text:

, in particular the production of goods and services whose production, sale or possession is forbidden by law, including the production and trafficking of drugs, the illicit manufacturing and trafficking in firearms, trafficking in persons and money laundering, as defined in the relevant international treaties.

The Office invites comments as to whether the inclusion of such a non-exhaustive list of illicit activities as defined in international treaties would be a suitable means of providing guidance.

*Paragraph 5
(Point 8 of the Conclusions)*

With respect to Paragraph 5(b), the Office would like to draw the attention of Members to the fact that the term “underpaid family members” is not well defined, as there is no generally recognized reference level of pay. To the extent that other provisions of this Part follow the International Classification of Status in Employment, 1993, Members could consider using the corresponding term in the Classification,

⁶ Paragraph 5 of the Conclusions concerning decent work and the informal economy, as contained in ILO: *Report of the Committee on the Informal Economy*, in *Provisional Record* No. 25, 2002, op. cit.

namely “contributing family workers”, to align the wording with that used in Paragraph 6(b) of the proposed text.

*Paragraph 6
(Point 9 of the Conclusions)*

The Office has tried to simplify and harmonize the formulation of this Paragraph, noting that, in point 9 of the Conclusions, reference was made to economic units in relation to some groups and not in relation to others, and that the expression “informal sector” was retained for one group while it had been removed elsewhere in the text.

Considering that a description of the term “economic units” has now been included in the Part on scope and objectives, and taking into account the formulation introduced by the Committee for own-account workers, the Office has reformulated the text using the term “economic units” in relation to all groups, except in the case of Paragraph 6(d). In relation to this last subparagraph, the Office draws the attention of Members to the fact that workers in unrecognized and unregulated employment relationships are usually considered as employees holding informal jobs. For the sake of greater clarity, the Office invites comments on the following wording, which merges the text of, and would replace, the current Paragraphs 6(c) and 6(d):

- (c) employees holding informal jobs – including those in unrecognized or unregulated employment relationships – in or for formal enterprises or in or for economic units in the informal economy, [including in subcontracting and supply chains,] or as paid domestic workers employed by households.

(Point 10 of the Conclusions)

The Office draws the attention of Members to the fact that the wording used in point 10 of the Conclusions does not describe the scope of application of the proposed Recommendation, but rather provides guidance as to the consideration of the role of land and property in facilitating the transition to the formal economy and therefore would be better placed in another Part of the text. The Office has moved that wording to Part III (“Legal and policy frameworks”), as Paragraph 14.

*Paragraph 7
(Point 11 of the Conclusions)*

The Office proposes that the words “as defined” could be replaced by “as described”, given that the Recommendation provides a description of the informal economy rather than a definition.

Furthermore, taking into account the discussion in the Committee that suggested diverging views between social partners and several government representatives about the nature and purpose of the consultation referred to in this paragraph, the Office invites Members to consider replacing “through tripartite mechanisms” by “in consultation with”, to align the wording with that used in existing instruments, such as the Employment Policy Convention, 1964 (No. 122), the Labour Inspection (Agriculture) Convention, 1969 (No. 129), the Employment Policy (Supplementary Provisions) Recommendation, 1984 (No. 169), the Promotion of Cooperatives Recommendation, 2002 (No. 193), the Domestic Workers Recommendation, 2011 (No. 201), and the Social Protection Floors Recommendation, 2012 (No. 202). Recognizing the overall and primary responsibility of governments in giving effect to the Recommendation, this new wording stresses the responsibility of the competent authority in identifying the nature and extent of the informal economy and its responsibility to consult the most

representative organizations of employers and workers and the membership-based representative organizations of the informal economy.

In addition, the Office draws the attention of Members to the fact that, as currently formulated, this provision excludes direct consultation with membership-based representative organizations of those in the informal economy and provides that the latter should be included in the rank of the most representative employers' and workers' organizations in order to participate in the consultation processes. The Office wishes to draw the attention of Members to the fact that the current wording of point 29 of the Conclusions and Paragraph 27 of the proposed Recommendation is more inclusive and reflects the wording initially used by the Office in the proposed Conclusions, which were set out in the second report on the item on the basis of the replies to the questionnaire.⁷

In view of the above, Members are invited to consider an alternative formulation for Paragraph 7 of the proposed Recommendation, which would read as follows:

Given the diversity of the informal economy across member States, the competent authority should identify the nature and extent of the informal economy, as described in this Recommendation, in consultation with the most representative employers' and workers' organizations and, where they exist, representatives of membership-based representative organizations of workers and economic units in the informal economy.

Similar formulations, reflecting the need to adopt a more inclusive approach during the consultation process, were retained in Conventions Nos 122 and 189 and Recommendations Nos 169, 193, 201 and 202.

II. GUIDING PRINCIPLES

Taking into account the fact that the objectives and scope of the instrument are set out in Part I, the Office has placed the provisions offering general guidance in Part II, under the title "Guiding principles".

Paragraph 8 (Points 13(a)–(e), 18(c)–(e) and 21 of the Conclusions)

Paragraph 8 sets out a series of general considerations that apply to all the provisions of the proposed Recommendation, and their presentation as guiding principles will highlight their importance and at the same time obviate the need for them to be repeated in other Parts of the text. The Office has grouped these general principles, which were stated repeatedly in several points of the Conclusions and in the replies to the questionnaire, together in this Part of the text and has made some minor drafting changes to the subparagraphs to enhance the clarity and coherence of the text. Paragraph 8 is structured in the following manner:

- Paragraph 8(a) is a slightly reworded version of point 13(a) of the Conclusions and emphasizes the diversity of situations of informality across different groups in the informal economy. The word "causes" before "characteristics" has been deleted for grammatical reasons; the phrase "their different needs of protection" has been replaced by "and needs" in order to broaden the range of needs to be considered; and the words "and the need to" have been replaced by "and the necessity to".

⁷ ILO: *Transitioning from the informal to the formal economy*, Report V(2), op. cit.

- Paragraph 8(b) builds on Paragraph 8(a) by pointing to the diversity of circumstances across national contexts. This idea was included, inter alia, in point 13(c) of the Conclusions.
- Paragraph 8(c) underscores “that different and multiple strategies can be applied to facilitate the transition to formality”, as mentioned in point 13(c) of the Conclusions.
- Paragraph 8(d) is new and aims to highlight the importance of coherence and coordination across a broad range of policy areas to facilitate the transition to formality.
- Paragraph 8(e) is point 21 of the Conclusions. The Office has moved it to this Part to emphasize the importance of promoting and protecting the human rights of those in the informal economy as a guiding principle.
- Paragraph 8(f) is point 13(e) of the Conclusions.
- Paragraph 8(g) is new and points out that there is a body of up-to-date international labour standards that contain useful guidance in specific policy areas, including with respect to facilitating the transition to formality. The Office proposes inserting a reference at the end of the paragraph to the Annex, which lists the instruments. Further in the Office commentary with respect to the Annex, the Office proposes organizing the Annex by subject matter instead of listing the instruments by the date of their adoption. The reference to the Annex under Part II on the guiding principles obviates the need to refer in full to these instruments under specific provisions.
- In Paragraph 8(h), the Office has introduced a minor modification to point 18(c) of the Conclusions, so that it reads “promotion of gender equality and non-discrimination” in order to align the wording with that used in existing instruments.
- In Paragraph 8(i), the Office slightly reworded point 18(d) of the Conclusions to improve legibility and to harmonize the wording with that used in the seventh preambular paragraph. The Office also made some slight editorial adjustments, by replacing the word “give” by “the need to pay”, and “as they” by “who”.
- Paragraph 8(l) is a rewording of point 13(b) of the Conclusions and is also in line with the wording used in the fourth preambular paragraph. During the Committee discussion, it was indicated in several interventions, including by the proponents of the subamended text ultimately adopted, that the text would be better placed in Part VI (“Incentives, compliance and enforcement”). The Office draws attention to a similar provision in Part VI (Paragraph 22(e)), which the Office has maintained since it was partially in square brackets.

III. LEGAL AND POLICY FRAMEWORKS

Paragraph 9 (Point 14 of the Conclusions)

Paragraph 9 contains the same wording as point 14 of the Conclusions.

Paragraph 10 (Point 3(j) of the Conclusions)

The Office has moved point 3(j) of the Conclusions, regarding the need to undertake a proper assessment of the informal economy, to Paragraph 10, to take into

account the fact that this provision provides policy guidance and is best placed in the Part on legal and policy frameworks. The Office has slightly reworded the text to clarify the objectives of such an assessment.

Paragraph 11
(Point 15 of the Conclusions)

The Office finds merit in dividing point 15 of the Conclusions into two paragraphs in the proposed Recommendation so as to improve clarity in the distinct ideas contained therein. Paragraph 11 deals with the need to take into account the roles of different levels of government. The Office has moved the second sentence of point 15, which deals with coordination across institutions, to Paragraph 13 in the same Part (see commentary below).

Furthermore, according to the interpretation of the Office, the term “where appropriate” does not refer to the need for an integrated policy framework, which should be an objective in all circumstances, but to the phrase before, qualifying the nature of national development strategies or plans that differ from country to country. Members are invited to confirm that this interpretation is correct.

Paragraph 12
(Point 16(a)–(s) of the Conclusions)

Members may wish to consider an alternative wording for the chapeau, to replace the word “address”, which is neutral, by “should aim at”. The chapeau would read: “This integrated policy framework should aim at:”. With this change, the paragraph would signify in clearer terms the intended direction of the policies and not only provide a listing of policy areas.

Paragraph 12(b) and the subsequent subparagraphs have been slightly reworded to qualify the list of policy areas and to harmonize the wording with that used in Paragraph 12(a), which has the same wording as that used in point 16(a) of the Conclusions.

The Office has replaced “the” by “an appropriate” in Paragraph 12(b); “the” by “a conducive” in Paragraph 12(c); and “oversight” by “effective” in Paragraph 12(p). It has inserted the words “the promotion of” before “entrepreneurship” in Paragraph 12(g) and “effective” before “access” in Paragraph 12(s).

In Paragraph 12(g), to enhance clarity, the Office has removed the words “for example start-ups”, because start-ups are covered by the term “entrepreneurship” and the other categories listed in the text.

In Paragraph 12(i), the Office has provided additional guidance related to access to finance and credit by replacing “and credit” by “services, including through a regulatory framework promoting an inclusive financial sector”.

To complete the list of relevant policies, the Office has added a new Paragraph 12(m), which is point 18(f) of the Conclusions, slightly reworded to read “sectoral policies”.

In Paragraph 12(n), for the sake of consistency with Recommendation No. 202, the Office has reworded the text to read “establishment of social protection floors, where they do not exist, and the extension of social security coverage;”.

In Paragraph 12(r), the Office has added “policies” after “wage” so that it is better understood that the word “design” in this context should refer not only to a given level of minimum wages but to the entire minimum wage fixing machinery.

Paragraph 13
(Point 15 of the Conclusions)

As explained above in the commentary relating to Paragraph 11, in order to improve clarity and coherence in this Part, the Office has inserted a new paragraph, which is drafted on the basis of the second sentence of point 15 of the Conclusions.

Furthermore, the Office draws the attention of Members to the fact that the listing of institutional bodies provided in this Paragraph is not exhaustive and does not include many institutions that are responsible for the policy areas listed under Paragraph 12. Hence, the Office suggests that the words “such as” and the list of bodies and authorities which follows those words should be removed in the next version of the instrument. The Office invites comments on this suggestion.

Paragraph 14
(Point 10 of the Conclusions)

As explained above in relation to Part I (“Objectives and scope”), point 10 of the Conclusions has been moved to Part III (“Legal and policy frameworks”), becoming Paragraph 14, as this provision provides guidance on an important policy area – that of land and property – and does not fit in the Part on objectives and scope.

IV. EMPLOYMENT POLICIES

Paragraphs 15 and 16
(Points 17 and 19 of the Conclusions)

In the light of the mandate given to the Office by the Committee to provide new text for Part IV on employment policies, the Office has inserted two new Paragraphs (Paragraphs 15 and 16). These Paragraphs are a condensed and shortened version of the most up-to-date guidance provided by the resolution and Conclusions concerning the second recurrent discussion on employment adopted by the International Labour Conference at its 103rd Session (2014).⁸ These Conclusions were reached through a strong tripartite consensus including on the key elements of a comprehensive policy framework to promote full, decent, productive and freely chosen employment. The provisions have been shortened and slightly reworded to adapt them to the context of the Recommendation and to provide guidance on promoting job creation in the formal economy, in order to facilitate transition to formality. The 2014 Conclusions concerning the second recurrent discussion on employment recall the resolution and Conclusions concerning the youth employment crisis adopted by the Conference at its 101st Session (2012)⁹ and the resolution and Conclusions concerning the promotion of sustainable enterprises adopted by the Conference at its 96th Session (2007).¹⁰ In order to avoid

⁸ ILO: *Report of the Committee for the Recurrent Discussion on Employment*, in *Provisional Record* No. 12(Rev.), 2014, op. cit.

⁹ ILO: *The youth employment crisis: A call for action*, op. cit.

¹⁰ ILO: *Report of the Committee on Sustainable Enterprises*, in *Provisional Record* No. 15, International Labour Conference, 96th Session, Geneva, 2007.

repetition, Paragraph 16(c) has been expanded and is worded in line with point 17 of the Conclusions.

In addition to, and in the light of, the first discussion, which highlighted the need for practical guidance, including for the transition to formality of micro- and small enterprises, Members are invited to provide comments with respect to adding a new Paragraph after Paragraph 16 that would provide specific and practical policy guidance in this area. This Paragraph, which is inspired by the most recent good practice analysis by the Office, would read as follows:

Members should adopt measures to facilitate and create incentive for the formalization of micro- and small enterprises, including:

- (a) undertaking business entry reforms by reducing registration costs or the length of the procedure;
- (b) reducing compliance costs by introducing simplified tax assessment and payment regimes, such as those combining income tax, value added tax and social insurance contributions in a single periodic fee;
- (c) promoting access by micro- and small enterprises to public procurement through measures such as lowering procurement volumes and providing training and advice on participating in public tenders, and reserving quotas for these enterprises;
- (d) improving access to inclusive financial services such as credit and equity, payment and insurance services, and guarantee schemes tailored to the size and needs of these enterprises;
- (e) improving access to entrepreneurship training and tailored business development services; and
- (f) improving access to social security coverage, for example through temporary or permanent subsidies for social insurance contributions.

V. RIGHTS AND SOCIAL PROTECTION

In order to better reflect the substance of this Part, the Office has modified the title to read “Rights and social protection”.

Paragraph 17 (Point 20 of the Conclusions)

Paragraph 17 has the same wording as point 20 of the Conclusions.

Paragraph 18 (Point 22(a)–(c) of the Conclusions)

The Office suggests a slight rewording of Paragraph 18(b) to replace “to the informal economy” by “to employers and workers in the informal economy” for clarity of purpose. Members might wish to offer comments on this suggestion.

In order to improve and streamline the structure of the proposed Recommendation and to avoid repetitions, the Office has moved point 22(c) of the Conclusions, incorporating it into Paragraph 22(b) in Part VI (“Incentives, compliance and enforcement”), which deals with systems of inspection (point 25(c) of the Conclusions).

Paragraph 19
(Point 23(a)–(d) of the Conclusions)

For clarity, the Office has reordered the clauses by moving point 23(b) of the Conclusions to the end of Paragraph 19.

Paragraph 20
(Point 24 of the Conclusions)

The discussion on this point at the 2014 session of the Conference was neither completed nor conclusive, and the text was left in brackets. The Office invites Members to comment on a rewording of this text, based on a subamendment presented by the European Union group during the first discussion, which would read:

Members should take appropriate measures, including the provision of adequate incentives, the enforcement of laws and the application of sanctions, in order to prevent evasion of taxation and contributions, social and labour regulations and other laws.

VI. INCENTIVES, COMPLIANCE AND ENFORCEMENT

Paragraph 21
(Point 18(a) and (b) of the Conclusions)

For the sake of clarity, the first two clauses of point 18 in the proposed Conclusions, which refer to incentives and compliance, have been moved and placed under the title “Incentives, compliance and enforcement”.

In Paragraph 21(b), the Office has replaced “identify” by “to” after “provide incentives” to improve the flow of the text without undermining its substance.

Members may wish to consider some drafting changes to Paragraph 21(b), proposed by the Office so that the reference to the advantages of an effective transition to formality includes also a reference to the advantages for workers as indicated in the Preamble. To that end, the Office suggests the addition of a reference in that subparagraph to social protection and rights at work. The Office also suggests the addition of a reference to justice, to better reflect the amendments relating to access to justice and complaint and appeal procedures made during the Committee discussion. With all these changes included, Paragraph 21(b) would read:

provide incentives to and promote the advantages of an effective transition to formality, including improved access to business services, finance, infrastructure, markets, technology, education and skills programmes, social protection, justice and to rights at work and property rights.

Paragraph 22
(Point 25(a)–(e) and point 22(c) of the Conclusions)

The Office has divided point 25(c) of the Conclusions into two subparagraphs (Paragraphs 22(b) and (c)) to give more visibility to the issues they address.

As explained previously, the Office has moved point 22(c) of the Conclusions to this Part and has incorporated it into Paragraph 22(b), based on the fact that point 25(c) of the Conclusions deals with systems of inspection.

Members are invited to comment on the Office's proposal to replace the bracketed text at the end of Paragraph 22(e) by new text, in line with the wording of the Preamble. The new text would read: “, in particular, in respect of those who are in the informal economy to evade laws and regulations.”

VII. FREEDOM OF ASSOCIATION, SOCIAL DIALOGUE AND ROLE
OF EMPLOYERS' AND WORKERS' ORGANIZATIONS

For the purpose of better reflecting the content of this Part, the Office modified the title to read “Freedom of association, social dialogue and role of employers' and workers' organizations”.

Paragraph 23
(Point 26(b) of the Conclusions)

Paragraph 23 has the same wording as point 26(b) of the Conclusions.

Paragraph 24
(Point 27(b) of the Conclusions)

Paragraph 24 has the same wording as point 27(b) of the Conclusions. Point 27(a) of the Conclusions has been moved to the Preamble (20th preambular paragraph), considering its preambular nature.

Paragraph 25
(Point 26(a) of the Conclusions)

Paragraph 25 has the same wording as point 26(a) of the Conclusions.

Paragraph 26
(Point 28 of the Conclusions)

The Office draws the attention of Members to the fact that, as currently formulated, this provision excludes direct consultation with membership-based representative organizations of those in the informal economy and provides that the latter should be included in the rank of the most representative employers' and workers' organizations in order to participate in the consultation processes. The Office draws the attention of Members to the fact that the current wording of point 29 of the Conclusions and Paragraph 27 of the proposed Recommendation is more inclusive and reflects the wording initially used by the Office in the proposed Conclusions, which were set out in the second report on the item on the basis of the replies to the questionnaire, and in existing ILO standards, such as Conventions Nos 122 and 189 and Recommendations Nos 169, 193, 201 and 202.

The Office draws attention to the current practice in many developing countries, whereby governments, when designing and implementing policies and programmes, engage in consultations with membership-based representative organizations of those in the informal economy, for different reasons, including when the membership of the most representative organizations of workers and employers is not extended to those in the informal economy or to the particular sectors in which they operate.

As an alternative to the wording that currently appears in the proposed Recommendation, Members may wish to consider the following text to align the wording with that used in existing ILO instruments, such as Recommendation No. 201:

Members, in designing, implementing and evaluating policies and programmes of relevance to the informal economy, including its formalization, should consult with and promote the active participation of the most representative employers' and workers' organizations and, where they exist, representatives of membership-based representative organizations of workers and economic units in the informal economy.

Paragraph 27
(*Point 29 of the Conclusions*)

Considering the nature of this provision, the Office has reworded the Paragraph to begin as follows: "Members and employers' and workers' organizations may seek the assistance of the International Labour Office to strengthen the capacity of".

VIII. DATA COLLECTION AND MONITORING

Paragraph 28
(*Point 30(a) and (b) of the Conclusions*)

In the chapeau of the Paragraph, the Office has replaced "the social partners" by "employers' and workers' organizations" for consistency with the rest of the text.

The Office draws the attention of Members to the importance of producing on a regular basis data on the nature, extent and evolution of the informal economy to allow for the better design of policies to facilitate the transition, and of the importance of formulating and monitoring statistics more efficiently at the national and international levels.

Furthermore, in view of the need for comparable data, Members are invited to comment as to whether a reference to the most up-to-date resolution and guidelines adopted by the International Conference of Labour Statisticians should be included, as well as the reference to the guidance and support of the International Labour Office. Such an explicit reference is made in other instruments, such as Recommendation No. 202 (Paragraph 22). Such a reference would read:

In developing or revising the concepts, definitions and methodology used in the production of data, statistics and indicators on the informal economy, Members should take into consideration relevant guidance provided by the International Labour Organization, in particular, and as appropriate, the guidelines concerning a statistical definition of informal employment adopted by the 17th International Conference of Labour Statisticians in 2003.

IX. IMPLEMENTATION AND FOLLOW-UP

Paragraph 29
(*Point 31(a)–(f) of the proposed Conclusions*)

The Office proposes that, in the chapeau, the words " , as appropriate," could be moved to the end of the chapeau, which would read "by one or a combination, as appropriate, of the following means:".

The Office draws the attention of Members to the fact that, as currently formulated, this provision excludes direct consultation with membership-based representative organizations of those in the informal economy and provides that the latter should be included in the rank of the most representative employers' and workers' organizations in order to participate in the consultation processes. The Office draws the attention of Members to the fact that the current wording of point 29 of the Conclusions and Paragraph 27 of the proposed Recommendation is more inclusive and reflects the

wording initially used by the Office in the proposed Conclusions, which were set out in the second report on the item on the basis of the replies to the questionnaire, and in existing ILO standards, such as Conventions Nos 122 and 189 and Recommendations Nos 169, 193, 201 and 202.

As an alternative to the wording that currently appears in the proposed Recommendation, Members may wish to consider the following text to align the wording with that used in existing ILO instruments, such as Recommendation No. 201:

Members should give effect to the provisions of this Recommendation, as appropriate, in consultation with the most representative employers' and workers' organizations and, where they exist, representatives of membership-based representative organizations of workers and economic units in the informal economy, by one or a combination of the following means:

*Paragraph 30
(Point 32 of the proposed Conclusions)*

The Office draws the attention of Members to the fact that, as currently formulated, this provision excludes direct consultation with membership-based representative organizations of those in the informal economy and provides that the latter should be included in the rank of the most representative employers' and workers' organizations in order to participate in the consultation processes. The Office draws the attention of Members to the fact that the current wording of point 29 of the Conclusions and Paragraph 27 of the proposed Recommendation is more inclusive and reflects the wording initially used by the Office in the proposed Conclusions, which were set out in the second report on the item on the basis of the replies to the questionnaire, and in existing ILO standards, such as Conventions Nos 122 and 189 and Recommendations Nos 169, 193, 201 and 202.

The Office draws attention to the current practice in many developing countries whereby governments, when designing and implementing policies and programmes, engage in consultations with membership-based representative organizations of those in the informal economy, for different reasons, including when the membership of the most representative organizations of workers and employers is not extended to those in the informal economy or to the particular sectors in which they operate.

As an alternative to the wording that currently appears in the proposed Recommendation, Members may wish to consider the following text to align the wording with that used in existing ILO instruments, such as Recommendation No. 201:

Members should, as appropriate, undertake on a regular basis a review of the effectiveness of policies and measures to facilitate the transition to formality, in consultation with the most representative employers' and workers' organizations and, where they exist, representatives of membership-based representative organizations of workers and economic units in the informal economy.

*Paragraphs 31 and 32
(Point 33 of the Conclusions)*

The Office has divided point 33 of the Conclusions into two paragraphs for additional clarity and has inserted in Paragraph 31, after the words "should take into account", the words "the guidance provided by", to stress that the instruments to which reference is made can provide guidance when formulating policies to facilitate the transition to formality.

*Paragraph 33
(Point 34 of the Conclusions)*

The Office has merged the two clauses of point 34 of the Conclusions in Paragraph 33 of the Recommendation, as they deal substantively with the same matter.

ANNEX

There was an extended discussion in the Committee with respect to the need for an Annex that would list relevant ILO instruments and resolutions and United Nations instruments. As noted previously, the Office proposes that a reference should be made to the Annex in Paragraph 8(g) of the Part on guiding principles.

Members may wish to consider the possibility of presenting the list of relevant international labour standards in the Annex by subject matter (as grouped by the Governing Body)¹¹ instead of listing them by the date of their adoption. The footnote to the title “Annex” would remain unchanged. The Annex would read:

Instruments of the International Labour Organization and the United Nations relevant to facilitating the transition from the informal to the formal economy that may be taken into particular account by Members:

Freedom of association, collective bargaining, and industrial relations:

- Freedom of Association and Protection of the Right to Organise Convention, 1948 (No. 87);
- Right to Organise and Collective Bargaining Convention, 1949 (No. 98);
- Rural Workers’ Organisations Convention, 1975 (No. 141);
- Collective Bargaining Convention, 1981 (No. 154).

Forced labour:

- Forced Labour Convention, 1930 (No. 29);
- Abolition of Forced Labour Convention, 1957 (No. 105).

Elimination of child labour and protection of children and young persons:

- Minimum Age Convention, 1973 (No. 138);
- Worst Forms of Child Labour Convention, 1999 (No. 182).

Equality of opportunity and treatment:

- Equal Remuneration Convention, 1951 (No. 100);
- Discrimination (Employment and Occupation) Convention, 1958 (No. 111);
- Workers with Family Responsibilities Convention, 1981 (No. 156).

Tripartite consultation:

- Tripartite Consultation (International Labour Standards) Convention, 1976 (No. 144).

Labour administration and inspection:

- Labour Inspection Convention, 1947 (No. 81);
- Labour Inspection (Agriculture) Convention, 1969 (No. 129).

¹¹ ILO: *Proposed arrangements of Conventions by subject matter for reporting purposes*, Governing Body, 283rd Session, Geneva, Mar. 2002, GB.283/LILS/6.

Employment policy and promotion:

- Employment Policy Convention, 1964 (No. 122), and its Recommendation, 1964 (No. 122);
- Rehabilitation and Employment (Disabled Persons) Convention, 1983 (No. 159);
- Employment Policy (Supplementary Provisions) Recommendation, 1984 (No. 169);
- Job Creation in Small and Medium-Sized Enterprises Recommendation, 1998 (No. 189);
- Promotion of Cooperatives Recommendation, 2002 (No. 193);
- Employment Relationship Recommendation, 2006 (No. 198).

Vocational guidance and training:

- Human Resources Development Convention, 1975 (No. 142);
- Human Resources Development Recommendation, 2004 (No. 195).

Wages:

- Minimum Wage Fixing Convention, 1970 (No. 131), and its Recommendation, 1970 (No. 135).

Occupational safety and health:

- Occupational Safety and Health Convention, 1981 (No. 155);
- Safety and Health in Agriculture Convention, 2001 (No. 184), and its Recommendation, 2001 (No. 192);
- Promotional Framework for Occupational Safety and Health Convention, 2006 (No. 187).

Social security:

- Social Security (Minimum Standards) Convention, 1952 (No. 102);
- Social Protection Floors Recommendation, 2012 (No. 202).

Maternity protection:

- Maternity Protection Convention, 2000 (No. 183).

Migrant workers:

- Migration for Employment Convention (Revised), 1949 (No. 97);
- Migrant Workers (Supplementary Provisions) Convention, 1975 (No. 143).

HIV and AIDS:

- HIV and AIDS Recommendation, 2010 (No. 200).

Indigenous and tribal peoples

- Indigenous and Tribal Peoples Convention, 1989 (No. 169).

Specific categories of workers:

- Home Work Convention, 1996 (No. 177);
- Domestic Workers Convention, 2011 (No. 189), and its Recommendation, 2011 (No. 201).

and

- Universal Declaration of Human Rights, 1948;
- International Covenant on Economic, Social and Cultural Rights, 1966;
- International Covenant on Civil and Political Rights, 1966;
- International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families, 1990.

PROPOSED RECOMMENDATION CONCERNING THE TRANSITION FROM THE INFORMAL TO THE FORMAL ECONOMY

The General Conference of the International Labour Organization,

Having been convened at Geneva by the Governing Body of the International Labour Office, and having met in its 104th Session on ... June 2015, and

Recognizing that the high incidence of the informal economy in all its aspects is a major challenge for the rights of workers, including the fundamental principles and rights at work, for social protection and decent working conditions, inclusive development and the rule of law, and has a negative impact on the development of sustainable enterprises, public revenues and government's scope of action, particularly with regard to economic, social and environmental policies, the soundness of institutions and fair competition in national and international markets, and

Acknowledging that most people enter the informal economy not by choice but as a consequence of a lack of opportunities in the formal economy and in the absence of other means of livelihood, and

Noting that some economic units operate in the informal economy to evade laws and regulations, and

Recalling that decent work deficits – the denial of rights at work, the absence of sufficient opportunities for quality employment, inadequate social protection and the absence of social dialogue – are most pronounced in the informal economy, and

Noting that activities in the informal economy are often characterized by low income and low productivity, and

Considering that women, young people, migrants, older workers, indigenous and tribal peoples, the rural poor, persons affected by HIV or AIDS and persons with disabilities are especially vulnerable to the most serious decent work deficits in the informal economy, and

Recalling the Declaration of Philadelphia, 1944, the Universal Declaration of Human Rights, 1948, the ILO Declaration on Fundamental Principles and Rights at Work and its Follow-up, 1998, and the ILO Declaration on Social Justice for a Fair Globalization, 2008, and

Reaffirming the relevance of international labour standards, in particular the fundamental Conventions, namely, the Forced Labour Convention, 1930 (No. 29), and its Protocol of 2014, the Freedom of Association and Protection of the Right to Organise Convention, 1948 (No. 87), the Right to Organise and Collective Bargaining Convention, 1949 (No. 98), the Equal Remuneration Convention, 1951 (No. 100), the Abolition of Forced Labour Convention, 1957 (No. 105), the Discrimination (Employment and Occupation) Convention, 1958 (No. 111), the Minimum Age Convention,

1973 (No. 138), and the Worst Forms of Child Labour Convention, 1999 (No. 182), and, in addition, the Employment Policy Convention, 1964 (No. 122), which is one of the governance Conventions, and its Recommendation, 1964 (No. 122), the Employment Policy (Supplementary Provisions) Recommendation, 1984 (No. 169), and the Social Protection Floors Recommendation, 2012 (No. 202), as well as relevant United Nations instruments, and

Recalling the resolution and Conclusions concerning decent work and the informal economy adopted by the International Labour Conference at its 90th Session (2002), and

Noting also the Job Creation in Small and Medium-Sized Enterprises Recommendation, 1998 (No. 189), and the resolution and Conclusions concerning the promotion of sustainable enterprises adopted by the International Labour Conference at its 96th Session (2007), and

Recalling the resolution and Conclusions concerning the youth employment crisis adopted by the International Labour Conference at its 101st Session (2012), and

Recalling the resolution and Conclusions concerning the second recurrent discussion on employment adopted by the International Labour Conference at its 103rd Session (2014), and

Affirming that one objective of the transition from the informal to the formal economy is to promote decent work for all, and

Reaffirming that the transition from the informal to the formal economy is essential to achieve inclusive development, and

Recognizing the broad diversity of the informal economy and of different national circumstances, and

Acknowledging that informality has multiple causes, including governance and structural issues, and that public policies can speed up the process of transition to the formal economy, in a context of social dialogue, and

Recognizing that some workers and economic units in the informal economy can have a large entrepreneurial potential and their creativity, dynamism, productivity, skills and innovative capacities could fully develop if transition to the formal economy were facilitated, and

Recognizing the need for Members to take urgent and appropriate measures to enable the transition of workers and economic units from the informal to the formal economy, and

Recognizing that employers' and workers' organizations play an important and active role in facilitating the transition from the informal to the formal economy, and

Having decided upon the adoption of certain proposals with regard to the transition from the informal to the formal economy, which is the fifth item on the agenda of the session, and

Having determined that these proposals shall take the form of a Recommendation; adopts this ... day of June of the year two thousand and fifteen the following Recommendation, which may be cited as the Transition from the Informal to the Formal Economy Recommendation, 2015.

I. OBJECTIVES AND SCOPE

1. This Recommendation provides guidance to Members to:
 - (a) facilitate the transition of workers and economic units from the informal to the formal economy, while respecting workers' fundamental rights and ensuring opportunities for income security, livelihoods and entrepreneurship;
 - (b) promote the creation, preservation and sustainability of decent jobs in the formal economy and the coherence of macroeconomic, employment, social protection and other social policies; and
 - (c) prevent the informalization of formal economy jobs.
2. This Recommendation applies to all workers and economic units, including enterprises, entrepreneurs and households, in the informal economy.
3. Informal work can be carried out across all sectors of the economy, in both public and private spaces.
4. For the purposes of this Recommendation, the term "informal economy":
 - (a) refers to all economic activities by workers and economic units that are – in law or in practice – not covered or insufficiently covered by formal arrangements; and
 - (b) does not cover illicit activities.
5. For the purposes of this Recommendation, "economic units" in the informal economy include:
 - (a) units that employ hired labour;
 - (b) units that are owned by individuals working on own account either alone or with the help of unpaid or underpaid family members; and
 - (c) cooperatives and social and solidarity economy units.
6. For the purposes of this Recommendation, "informal employment" includes:
 - (a) those in the informal economy who own and operate economic units, including:
 - (i) own-account workers;
 - (ii) employers; and
 - (iii) members of cooperatives and of social and solidarity economy units;
 - (b) contributing family workers, irrespective of whether they work in economic units in the formal or informal economy;
 - (c) employees holding informal jobs in or for formal enterprises or in or for economic units in the informal economy, [including in subcontracting and supply chains,] or as paid domestic workers employed by households; and
 - (d) workers in unrecognized or unregulated employment relationships.

7. In giving effect to the provisions of Paragraphs 2 to 6 above, and given the diversity of the informal economy across member States, the competent authority should identify the nature and extent of the informal economy as defined in this Recommendation, and its relationship to the formal economy. This should be done through tripartite mechanisms with the full participation of the most representative employers' and workers' organizations, which should include in their rank, according to national practice, representatives of membership-based representative organizations of workers and economic units in the informal economy.

II. GUIDING PRINCIPLES

8. Members, in designing coherent and integrated strategies to facilitate the transition from the informal to the formal economy, should take into account the following:

- (a) the diversity of characteristics, circumstances and needs of workers and economic units in the informal economy, and the necessity to address such diversity by tailored approaches;
- (b) the specific national contexts and priorities for the transition to formality;
- (c) that different and multiple strategies can be applied to facilitate the transition to formality;
- (d) the need for coherence and coordination across a broad range of policy areas in facilitating the transition to formality;
- (e) the effective promotion and protection of the human rights of all those operating in the informal economy;
- (f) the fulfilment of decent work for all through respecting, in law and practice, the fundamental principles and rights at work;
- (g) the up-to-date international labour standards that provide guidance in specific policy areas (see Annex);
- (h) the promotion of gender equality and non-discrimination;
- (i) the need to pay special attention to women, young people, migrants, older people, indigenous and tribal peoples, persons affected by HIV or AIDS, persons with disabilities, [domestic workers and subsistence farmers,] who are especially vulnerable to the most serious decent work deficits in the informal economy;
- (j) the preservation and expansion, during the transition to formality, of the entrepreneurial potential, creativity, dynamism, skills and innovative capacities of workers and economic units in the informal economy;
- (k) the need for a balanced approach combining incentives with compliance measures; and
- (l) the need to prevent and sanction deliberate evasion from the formal economy in order to avoid taxation and social and labour laws and regulations.

III. LEGAL AND POLICY FRAMEWORKS

9. Members should adopt, review and enforce national laws and regulations or other measures to ensure appropriate coverage and protection of all categories of workers and economic units.

10. Members should undertake a proper assessment and diagnostics of factors, characteristics and circumstances of informality in the national context to inform the design and implementation of laws and regulations, policies and other measures aiming to facilitate the transition to formality.

11. Members should ensure that national development strategies or plans include, where appropriate, an integrated policy framework to facilitate the transition from the informal to the formal economy, taking into account the role of different levels of government.

12. This integrated policy framework should address:

- (a) an inclusive growth strategy and the generation of quality jobs in the formal economy based on decent work;
- (b) an appropriate legislative and regulatory environment;
- (c) a conducive business and investment environment;
- (d) the respect, promotion and realization of the fundamental principles and rights at work;
- (e) the organization and representation of employers and workers to promote social dialogue;
- (f) the promotion of equality and the elimination of discrimination;
- (g) the promotion of entrepreneurship, micro-, small and medium-sized enterprises, and other forms of business models and economic units, such as cooperatives and other social and solidarity economy units;
- (h) access to education, lifelong learning and skills development;
- (i) access to financial services, including through a regulatory framework promoting an inclusive financial sector;
- (j) access to business services;
- (k) access to markets;
- (l) access to infrastructure and technology;
- (m) sectoral policies;
- (n) the establishment of social protection floors where they do not exist, and the extension of social security coverage;
- (o) local development strategies, both rural and urban, including regulated access to public space [and natural resources] for subsistence livelihoods;
- (p) effective occupational safety and health;
- (q) efficient and effective labour inspections;
- (r) income security, including appropriately designed minimum wage policies;
- (s) effective access to justice; and
- (t) international cooperation mechanisms.

13. When formulating and implementing an integrated policy framework, Members should ensure coordination across different levels of government and cooperation between the relevant bodies and authorities, such as tax authorities, social security institutions, labour inspectorates, customs authorities, migration bodies and employment services, among others, depending upon national circumstances.

14. Members should recognize the importance of land and property in safeguarding the opportunities of workers and economic units for income security in transitioning from the informal to the formal economy.

IV. EMPLOYMENT POLICIES

15. In pursuing the objective of quality job creation in the formal economy, Members should formulate and implement a national employment policy in line with the Employment Policy Convention, 1964 (No. 122), and make full, decent, productive and freely chosen employment a central goal in their national development and growth strategy or plan.

16. Members should promote the implementation of a comprehensive employment policy framework, based on tripartite consultations, that may include the following elements:

- (a) pro-employment macroeconomic policies that support aggregate demand, productive investment and structural transformation, promote sustainable enterprises, support business confidence, and address inequalities;
- (b) trade, industrial, tax, sectoral and infrastructure policies that promote employment, enhance productivity and facilitate structural transformation processes;
- (c) enterprise policies that promote sustainable enterprises and, in particular, the conditions for a conducive environment, taking into account the resolution and Conclusions concerning the promotion of sustainable enterprises adopted by the International Labour Conference at its 96th Session (2007), including support to micro-, small and medium-sized enterprises, entrepreneurship and well-designed, transparent and well-communicated regulations to facilitate formalization and fair competition;
- (d) education and skills development policies that support lifelong learning, respond to the evolving needs of the labour market and new technologies, and recognize prior learning such as through informal apprenticeship systems, thereby broadening options for formal employment;
- (e) labour market policies and institutions and other measures such as cash transfers and other social protection schemes, public employment programmes and guarantees, to help low-income households to escape poverty and access freely chosen employment, and to promote effective outreach and delivery of employment services to those in the informal economy; and
- (f) comprehensive activation measures to facilitate the school-to-work transition of young people, in particular those who are disadvantaged, such as youth guarantee schemes to provide access to training and continuing productive employment.

V. RIGHTS AND SOCIAL PROTECTION

17. Members should take measures to achieve decent work and to respect, promote and realize the fundamental principles and rights at work for those in the informal economy, namely:

- (a) freedom of association and the effective recognition of the right to collective bargaining;
- (b) the elimination of all forms of forced or compulsory labour;
- (c) the effective abolition of child labour; and
- (d) the elimination of discrimination in respect of employment and occupation.

18. Members should:

- (a) take immediate measures to address the unsafe and unhealthy working conditions that often characterize work in the informal economy; and
- (b) promote and extend occupational safety and health protection to the informal economy.

19. Members should:

- (a) through the transition to the formal economy, progressively extend, in law and practice, to all workers in the informal economy, protection in respect of social security, maternity protection, decent working conditions and a minimum [living] wage, where such protection exists;
- (b) in building and maintaining national social protection floors within their social security system and facilitating the transition from the informal to the formal economy, pay particular attention to the needs and circumstances of those in the informal economy and their families;
- (c) with the aim of facilitating the transition to formality, progressively extend the coverage of social insurance to those in the informal economy and, if necessary, adapt administrative procedures, benefits and contributions, taking into account their contributory capacity; and
- (d) encourage the provision of and access to affordable quality childcare and other care services in order to promote gender equality in entrepreneurship and employment opportunities and to enable the transition from the informal to the formal economy.

[20. In the context of undeclared work, which is also a form of informal economy, where economic units wilfully avoid taxation, social and labour laws and regulations, the above provisions (... to ...) might not be appropriate, taking into account the applicable legal framework. In such cases, the following measures might be more suitable: removing disincentives and providing appropriate incentives in the tax and benefit system, improved law enforcement and the application of sanctions.]

VI. INCENTIVES, COMPLIANCE AND ENFORCEMENT

21. Members should:

- (a) reduce, where appropriate, the barriers to the transition to formality, including those relating to registration, taxation and compliance with laws and regulations; and
- (b) provide incentives to, and promote the advantages of, effective transition to formality, including improved access to business services, finance, infrastructure, markets, technology, education and skills programmes, and to property rights.

22. Members should:

- (a) put in place appropriate mechanisms or review existing mechanisms with a view to ensuring compliance with national laws and regulations [, and ensuring recognition and enforcement of formal employment relationships,] so as to facilitate the transition from the informal to the formal economy;
- (b) have an adequate and appropriate system of inspection, extend coverage of labour inspection to all workers and workplaces, and provide guidance for enforcement bodies, including on how to address working conditions in the informal economy;
- (c) take measures to ensure the effective provision of information, assistance to comply with the relevant laws and regulations and capacity building for relevant actors;
- (d) put in place efficient and accessible complaint and appeal procedures; and
- (e) provide for preventive and appropriate corrective measures to facilitate the transition to the formal economy, and ensure that the administrative, civil or penal sanctions provided for by national laws for non-compliance are adequate and strictly enforced [, especially for those escaping from the formal economy to avoid taxes and social laws].

VII. FREEDOM OF ASSOCIATION, SOCIAL DIALOGUE AND ROLE OF EMPLOYERS' AND WORKERS' ORGANIZATIONS

23. Members should ensure that those in the informal economy enjoy freedom of association and the right to collective bargaining, including the right to establish and, subject to the rules of the organization concerned, to join organizations, federations and confederations of their own choosing.

24. Members should create an enabling environment for employers and workers to exercise their right to organize and to collective bargaining and to participate in social dialogue in the transition from the informal to the formal economy.

25. Employers' and workers' organizations should consider, where appropriate, the extension of membership and services to workers and economic units in the informal economy.

26. Members, in designing, implementing and evaluating policies and programmes of relevance to the informal economy, including its formalization, should consult with and promote active participation of the most representative employers' and workers' organizations, which should include in their rank, according to national practice, representatives of membership-based representative organizations of workers and economic units in the informal economy.

27. Members and employers' and workers' organizations may seek the assistance of the International Labour Office to strengthen the capacity of the representative employers' and workers' organizations and, where they exist, representative organizations of those in the informal economy, to assist workers and economic units in the informal economy, with a view to facilitating the transition to formality.

VIII. DATA COLLECTION AND MONITORING

28. Members should, in consultation with employers' and workers' organizations, on a regular basis:

- (a) where possible and as appropriate, collect, analyse and disseminate statistics disaggregated by sex, age, workplace, and other specific socio-economic characteristics on the size and composition of the informal economy, taking into consideration, as appropriate, the guidance and support of the International Labour Office; and
- (b) monitor progress towards formalization.

IX. IMPLEMENTATION AND FOLLOW-UP

29. Members should give effect to the provisions of this Recommendation, as appropriate, in consultation with the most representative employers' and workers' organizations, which should include in their rank, according to national practice, representatives of membership-based representative organizations of workers and economic units in the informal economy, by one or a combination of the following means:

- (a) national laws and regulations;
- (b) collective agreements;
- (c) policies and programmes;
- (d) effective coordination among government bodies and other stakeholders;
- (e) institutional capacity building and resource mobilization; and
- (f) other measures consistent with national law and practice.

30. Members should, as appropriate, undertake on a regular basis a review of the effectiveness of policies and measures to facilitate the transition to formality, in consultation with the most representative employers' and workers' organizations, which should include in their rank, according to national practice, representatives of membership-based representative organizations of workers and economic units in the informal economy.

31. Members, in establishing, developing, implementing and periodically reviewing the measures taken to facilitate the transition to formality, should take into account the guidance provided by the instruments of the International Labour Organization and the United Nations relevant to the informal economy listed in the Annex.

32. Nothing in this Recommendation should be construed as reducing the protections afforded to those in the informal economy by other instruments of the International Labour Organization.

33. The Annex may be revised by the Governing Body of the International Labour Office. Any revised annex, once approved by the Governing Body, shall replace the preceding annex and shall be communicated to the Members of the International Labour Organization.

ANNEX *

Instruments of the International Labour Organization and the United Nations relevant to facilitating the transition from the informal to the formal economy that may be considered, in particular:

- Forced Labour Convention, 1930 (No. 29);
- Labour Inspection Convention, 1947 (No. 81);
- Freedom of Association and Protection of the Right to Organise Convention, 1948 (No. 87);
- Migration for Employment Convention (Revised), 1949 (No. 97);
- Right to Organise and Collective Bargaining Convention, 1949 (No. 98);
- Equal Remuneration Convention, 1951 (No. 100);
- Social Security (Minimum Standards) Convention, 1952 (No. 102);
- Abolition of Forced Labour Convention, 1957 (No. 105);
- Discrimination (Employment and Occupation) Convention, 1958 (No. 111);
- Employment Policy Convention, 1964 (No. 122);
- Labour Inspection (Agriculture) Convention, 1969 (No. 129);
- Minimum Wage Fixing Convention, 1970 (No. 131), and Recommendation, 1970 (No. 135);
- Minimum Age Convention, 1973 (No. 138);
- Rural Workers' Organisations Convention, 1975 (No. 141);
- Human Resources Development Convention, 1975 (No. 142);
- Migrant Workers (Supplementary Provisions) Convention, 1975 (No. 143);
- Tripartite Consultation (International Labour Standards) Convention, 1976 (No. 144);
- Collective Bargaining Convention, 1981 (No. 154);
- Occupational Safety and Health Convention, 1981 (No. 155);
- Workers with Family Responsibilities Convention, 1981 (No. 156);
- Rehabilitation and Employment (Disabled Persons) Convention, 1983 (No. 159);
- Indigenous and Tribal Peoples Convention, 1989 (No. 169);
- Home Work Convention, 1996 (No. 177);
- Job Creation in Small and Medium-Sized Enterprises Recommendation, 1998 (No. 189);
- Worst Forms of Child Labour Convention, 1999 (No. 182);
- Maternity Protection Convention, 2000 (No. 183);

* This Annex is to be finalized for adoption in the next discussion of the International Labour Conference on facilitating transitions from the informal to the formal economy.

- Safety and Health in Agriculture Convention, 2001 (No. 184), and Recommendation, 2001 (No. 192);
 - Promotion of Cooperatives Recommendation, 2002 (No. 193);
 - Human Resources Development Recommendation, 2004 (No. 195);
 - Promotional Framework for Occupational Safety and Health Convention, 2006 (No. 187);
 - Employment Relationship Recommendation, 2006 (No. 198);
 - HIV and AIDS Recommendation, 2010 (No. 200);
 - Domestic Workers Convention, 2011 (No. 189), and Recommendation, 2011 (No. 201);
 - Social Protection Floors Recommendation, 2012 (No. 202).
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- Universal Declaration of Human Rights, 1948;
 - International Covenant on Economic, Social and Cultural Rights, 1966;
 - International Covenant on Civil and Political Rights, 1966;
 - International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families, 1990.