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Geneva

## Report V (2A)

# The transition from the informal to the formal economy



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**International Labour Conference, 104th Session, 2015**

**Report V(2A)**

# **The transition from the informal to the formal economy**

**Fifth item on the agenda**

**International Labour Office, Geneva**

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## **LIST OF ABBREVIATIONS**

### **Employers' and workers' organizations**

International organizations	IOE	International Organisation of Employers
	ITUC	International Trade Union Confederation
	UNI	UNI Global Union
Albania	BSPSH	Union of Independent Trade Unions of Albania
Angola	UNTA-CS	National Union of Angolan Workers
Argentina	CGT-RA	General Labour Confederation of the Argentine Republic
	CTA	Congress of Argentine Workers
Australia	ACCI	Australian Chamber of Commerce and Industry
	ACTU	Australian Council of Trade Unions
Austria	BAK	Federal Chamber of Labour
Bahrain	GFBTU	General Federation of Bahrain Trade Unions
Bangladesh	BFTUC	Bangladesh Free Trade Union Congress
Bolivia, Plurinational State of	CRISOL	Independent Renewal and Labour Solidarity Movement
Brazil	CNI	National Confederation of Industry
	UGT (Brazil)	General Union of Workers
	CNPL	National Confederation of the Liberal Professions
	FS	Força Sindical
Bulgaria	CITUB	Confederation of Independent Trade Unions in Bulgaria
Burkina Faso	CNPB	National Employers' Council of Burkina Faso
	USTB	Trade Union of Workers of Burkina Faso
Burundi	COSYBU	Trade Union Confederation of Burundi
Canada	CLC	Canadian Labour Congress
	CSN	Confederation of National Trade Unions
	FTQ	Quebec Federation of Labour

Colombia	ANDI	National Business Association of Colombia
	CGT (Colombia)	General Confederation of Labour
	CTC	Confederation of Workers of Colombia
	CUT	Single Confederation of Workers of Colombia
Côte d'Ivoire	CGECI	General Confederation of Enterprises of Côte d'Ivoire
Cyprus	OEB	Cyprus Employers and Industrialists Federation (OEB)
Czech Republic	SP CR	Confederation of Industry of the Czech Republic
Democratic Republic of the Congo	CSC	Trade Union Confederation of the Congo
Denmark	DA	Confederation of Danish Employers
Dominican Republic	AMUSSOL-CASC	Mutual Association of Solidarity Services
	CASC	Autonomous Confederation of Class Unions
	CNTD	National Confederation of Dominican Workers
	CNUS	National Confederation of Trade Union Unity
El Salvador	CATS	Autonomous Workers' Centre of El Salvador
Finland	EK	Confederation of Finnish Industries
	AKAVA	Confederation of Unions for Professional and Managerial Staff in Finland
	STTK	Finnish Confederation of Professionals
	SAK	Central Organization of Finnish Trade Unions
France	MEDEF	Movement of French Enterprises
	CFDT	French Democratic Confederation of Labour
	CGT-FO	General Confederation of Labour – Workers' Force
	CGT (France)	General Confederation of Labour
Germany	DGB	German Confederation of Trade Unions
Ghana	GEA	Ghana Employers' Association
	GTUC	Ghana Trades Union Congress
Guatemala	CGTG	General Confederation of Workers of Guatemala
Haiti	CTH	Confederation of Workers of Haiti
Hungary	LIGA	Democratic League of Independent Trade Unions
Iceland	ASI	Icelandic Confederation of Labour
India	SEWA	Self-Employed Women's Association
	CFTUI	Confederation of Free Trade Unions of India
	BMS	Bharatiya Mazdoor Sangh

	HMS	Hind Mazdoor Sabha
	AITUC	All India Trade Union Congress
	INTUC	Indian National Trade Union Congress
Indonesia	KSBSI	Indonesian Prosperity Trade Union Confederation
Iran, Islamic Republic of	ICEA	Iranian Confederation of Employers' Associations
Iraq	GFWU	General Federation of Workers' Unions
Ireland	ICTU	Irish Congress of Trade Unions
Italy	CGIL	Italian General Confederation of Labour
Japan	KEIDANREN	Japan Business Federation
	JTUC-RENGO	Japanese Trade Union Confederation
Jordan	JCI	Jordan Chamber of Industry
	GFJTU	General Federation of Jordanian Trade Unions
Kenya	FKE	Federation of Kenya Employers
Korea, Republic of	KEF	Korea Employers' Federation
Latvia	LBAS	Free Trade Union Confederation of Latvia
Lebanon	FENASOL	National Federation of Workers' and Employees' Unions of Lebanon
Madagascar	SEKRIMA	Christian Confederation of Malagasy Trade Unions
Mali	CNPM	National Council of Employers of Mali
	CSTM	Trade Union Confederation of Workers of Mali
Mauritania	CGTM	General Confederation of Workers of Mauritania
Mexico	CTM	Confederation of Mexican Workers
	UNT	National Union of Workers
	CONCAMIN	Mexican Confederation of Chambers of Industry
Montenegro	MEF	Montenegrin Employers' Federation
	SSCG	Confederation of Trade Unions of Montenegro
	UFTUM	Union of Free Trade Unions of Montenegro
Namibia	NEF	Namibia Employers' Federation
Nepal	GEFONT	General Federation of Nepalese Trade Unions
	ANTUF	All Nepal Trade Union Federation
Netherlands	FNV	Netherlands Trade Union Confederation
	CNV	National Federation of Christian Trade Unions
New Zealand	Business NZ	Business New Zealand
Nicaragua	CNMSN	National Committee of Women Trade Unionists of Nicaragua

Norway	NHO	Confederation of Norwegian Enterprise
	LO (Norway)	Norwegian Confederation of Trade Unions
	YS	Confederation of Vocational Unions
	UNIO	Confederations of Unions for Professionals
Oman	GFOTU	General Federation of Oman Trade Unions
Peru	CONFIEP	National Confederation of Private Business Associations
Philippines	TUCP	Trade Union Congress of the Philippines
Poland	NSZZ	Independent and Self-Governing Trade Union Solidarnosc
Portugal	CIP	Confederation of Portuguese Industry
	CCP	Confederation of Trade and Services of Portugal
	UGT (Portugal)	General Union of Workers
	CGTP-IN	General Confederation of Portuguese Workers
Senegal	CNES	National Confederation of Employers of Senegal
	CNTS	National Confederation of Workers of Senegal
	CNTS/ComFEM	National Confederation of Workers of Senegal/National Committee of Women Workers
	CNTS-FC	National Confederation of Workers of Senegal/Forces of Change
	CSA	Confederation of Autonomous Trade Unions of Senegal
	UDTS	Democratic Union of Workers of Senegal
	UNSAS	National Union of Autonomous Trade Unions of Senegal
Singapore	NTUC	National Trades Union Congress
Spain	CEOE	Spanish Confederation of Employers' Organizations
	USO	Workers' Trade Union
	CCOO	Trade Union Confederation of Workers' Committees
	UGT (Spain)	General Union of Workers
Sudan	SBEF	Sudanese Businessmen and Employers Federation
Sweden	SN	Confederation of Swedish Enterprise
	LO (Sweden)	Swedish Trade Union Confederation
	TCO	Swedish Confederation of Professional Employees
	SACO	Swedish Confederation of Professional Associations
Switzerland	UPS	Confederation of Swiss Employers
	USS	Swiss Federation of Trade Unions

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Togo	CSTT	Workers' Trade Union Confederation of Togo
Trinidad and Tobago	ECATT	Employers' Consultative Association of Trinidad and Tobago
United Kingdom	TUC	Trades Union Congress
United States	USCIB	United States Council for International Business
	AFL-CIO	American Federation of Labor and Congress of Industrial Organizations
Venezuela, Bolivarian Republic of	FEDECAMARAS	Venezuelan Federation of Chambers of Commerce and Production
	FUTRAND	United Federation of Independent Workers of Venezuela
Yemen	GFYWTU	General Federation of Yemen Workers' Trade Unions
Zambia	ZFE	Zambia Federation of Employers

#### Other abbreviations

	WIEGO	Women in Informal Employment: Globalizing and Organizing
	HRBA2J-Asia	Asian Consortium for Human Rights-based Access to Justice
Belgium	CNT	National Labour Council
Brazil	CEDAC	Centre for Community Action
Burundi	AGAKURA	Sustainable Agriculture Project <i>Jeunesse Providence Agakura</i>
Burundi	ODAG	Organization for the Development of the Archdiocese of Gitega
Dominican Republic	MOSCTHA	Socio-Cultural Movement for Haitian Workers
Greece	GSEVEE	Hellenic Confederation of Professionals, Craftsmen and Merchants
India	AREDS	Association of Rural Education and Development Service
	NDWM	National Domestic Workers' Movement
Panama	AUCPP	Union Association of Rural Workers of the Province of Panama
Philippines	PALSCON	Philippine Association of Local Service Contractors
	HOMENET	National Network of Informal Workers
	MAGCAISA	Magna Carta for the Informal Sector Alliance
	PYCW	Philippines Young Christian Workers
South Africa	NEDLAC	National Economic Development and Labour Council



## INTRODUCTION

The agenda of the 103rd Session of the International Labour Conference in 2014 included an item on facilitating transitions from the informal to the formal economy. The background to this item may be traced back to 2013, when the Governing Body of the ILO, at its 317th Session (March 2013), decided to place such an item on the agenda of the 103rd Session of the International Labour Conference in 2014 for a double discussion leading to the adoption of an autonomous Recommendation on the transition from the informal to the formal economy.<sup>1</sup> It also approved a programme of reduced intervals for the preparatory stages of the discussion.<sup>2</sup>

In preparation for the first discussion in 2014, the Office produced two reports: Report V(1)<sup>3</sup> and Report V(2).<sup>4</sup> The Conference Committee on Transitioning from the Informal Economy considered these reports and adopted its own report, which in turn was submitted to and adopted by the plenary of the Conference on 11 June 2014.<sup>5</sup> At the same sitting, the Conference also adopted the following resolution:

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.

In the light of this resolution and in conformity with article 39, paragraph 6, of the Standing Orders of the Conference, the Office prepared and communicated Report V(1)<sup>6</sup> containing the proposed Recommendation based on the conclusions adopted by the Conference at its 103rd Session. The text was formulated on the basis of the first discussion by the Conference and took into account the replies received to the questionnaire contained in Report V(2).<sup>7</sup> Pursuant to

<sup>1</sup> 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.

<sup>2</sup> 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.

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

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

<sup>5</sup> ILO: *Report of the Committee on Transitioning from the Informal Economy*, in *Provisional Record No. 11(Rev.)*, International Labour Conference, 103rd Session, Geneva, 2014, and *Provisional Record No. 16*, International Labour Conference, 103rd Session, Geneva, 2014.

<sup>6</sup> ILO: *The transition from the informal to the formal economy*, Report V(1), International Labour Conference, 104th Session, Geneva, 2015.

<sup>7</sup> ILO: *Transitioning from the informal to the formal economy*, Report V(2), International Labour Conference, 103rd Session, Geneva, 2014.

article 39, paragraph 6, of the Standing Orders, this text was communicated to governments so as to reach them not later than two months from the closing of the 103rd Session of the Conference. In accordance with the consistent practice since 1988, the report of the Committee on Transitioning from the Informal Economy appointed by the Conference to consider this item was sent to member States in its entirety, together with the record of the discussion held in the plenary session of the Conference.<sup>8</sup>

Following the publication of Report V(1),<sup>9</sup> and in accordance with article 39, paragraph 6, of the Standing Orders of the Conference, governments were invited to send, after consulting the most representative organizations of employers and workers, their suggested amendments or comments so as to reach the Office by 30 November 2014 at the latest. Governments were also requested to inform the Office, by the same date, whether they considered that the proposed text provides a satisfactory basis for discussion by the Conference at its 104th Session (June 2015) and to indicate which organizations they had consulted. It should be noted that 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 were to be reflected in the governments' replies.

At the time the present report was prepared, the Office had received replies from constituents from 94 member States, including the governments of the following 67 member States: Algeria, Argentina, Armenia, Australia, Austria, Azerbaijan, Belgium, Brazil, Bulgaria, Burkina Faso, Canada, China, Colombia, Cuba, Cyprus, Czech Republic, Denmark, Ecuador, Egypt, Finland, France, Germany, Ghana, Greece, Guatemala, Honduras, Hungary, India, Indonesia, Islamic Republic of Iran, Italy, Japan, Kazakhstan, Kenya, Republic of Korea, Kyrgyzstan, Latvia, Lithuania, Mauritius, Mexico, Republic of Moldova, Montenegro, Namibia, Netherlands, Niger, Norway, Peru, Philippines, Poland, Portugal, Romania, Russian Federation, Senegal, South Africa, Spain, Sweden, Switzerland, Tajikistan, Togo, Trinidad and Tobago, Tunisia, Turkey, United Kingdom, United States, Bolivarian Republic of Venezuela, Zambia and Zimbabwe.

Most governments indicated that their replies had been drawn up after consultation with organizations of employers and workers. Some of those governments incorporated in their replies the opinions expressed by these organizations on certain points, while 36 employers' organizations and 93 workers' organizations transmitted their observations separately. In some cases, replies were received directly from employers' and workers' organizations. The ITUC and the IOE also sent replies, as did a number of national tripartite bodies, including the CNT (Belgium), MOLSA's Tripartite Committee (Iraq) and NEDLAC (South Africa).

Replies were received from a number of other stakeholders, such as civil society organizations, including AGAKURA, AREDS, AUCPP, CEDAC, GSEVEE, HOMENET, HRBA2J-Asia, MAGCAISA, MOSCTHA, NDWM, ODAG, PALSCON, PYCW, UNI and WIEGO. Their replies have been noted but could not be included in the present report.

To ensure that both the English and French texts of the proposed Recommendation concerning the transition from the informal to the formal economy are received by governments within the time limit laid down in article 39, paragraph 7, of the Standing Orders of the Conference, Report V(2) has been published in two volumes. The present report (Report V(2A)), has been drawn up on the basis of the replies received from governments and employers' and workers' organizations and contains the essential points of their observations. It is divided into two sections: the first section comprises comments of a general nature, while the second contains

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<sup>8</sup> ILO: *Report of the Committee on Transitioning from the Informal Economy*, op cit; and *Provisional Record No. 16*, op. cit.

<sup>9</sup> ILO: *The transition from the informal to the formal economy*, Report V(1), International Labour Conference, 104th Session, Geneva, 2015 (published in 2014).

the observations of the constituents on specific provisions of the proposed Recommendation. Some observations provided interesting and useful information on specific national contexts; while this information is most useful for the work of the Office, it has not been reproduced in this report, but has inspired guidance contained in the proposed Recommendation.

In view of the restrictions on the length of Conference reports, replies have not been reproduced in full; similar suggestions have been grouped together and comments which simply supported the current text, without adding additional points, have not been reproduced. When one of the constituents, governments, employers' and/or workers' organizations had no comments reproduced on specific Paragraphs, the space for producing their comments has not been reserved. Many employers' and workers' organizations, including the IOE and the ITUC, have collaborated to furnish the same or similar observations on many provisions of the proposed Recommendation; a summary of the observations is presented as a consolidated reply. The workers' organizations that have collaborated in this way are the following: ACTU, AFL-CIO, AKAVA, ANTUF, ASI, BFTUC, BMS, CASC, CCOO, CFDT, CGIL, CGT (Colombia), CGTG, CGTM, CITUB, CLC, CNMSN, CNTD, CNTS/ComFEM, CNUS, CNV, CRISOL, CSC, CSN, CSTM, CTA, CTC, CTM, CUT, DGB, FENASOL, FNV, FS, FTQ, GEFONT, GFBTU, GFJTU, GFOTU, GFWU, GFYWTU, GTUC, HMS, ICTU, INTUC, JTUC-RENGO, KSBSI, LBAS, LIGA, LO (Norway), LO (Sweden), NSZZ, NTUC, SACO, SAK, SEWA, STTK, TCO, TUC, TUCP, UGT (Spain), UNIO, UNTA-CS, USO, USS, USTB and YS. The following employers' organizations have collaborated on observations: ANDI, Business NZ, CEOC, CIP, CNI, CNPB, DA, FKE, GEA, KEIDANREN, MEDEF, MEF, NHO, OEB, SN, USCIB and ZFE. Most comments closely followed the structure of the text of the proposed Recommendation and specified the parts of the text to which they referred. In those instances where that is not the case, the Office has, to the best of its ability, referred observations to relevant sections of the report.

The bilingual Report V(2B) contains the English and French versions of the proposed text of the Recommendation, as amended in the light of the observations made by governments and by employers' and workers' organizations and for the reasons set out in the Office commentaries.

Some minor drafting changes have also been made, in particular to ensure full concordance between the two versions of the proposed instruments. If the Conference so decides, these texts will serve as a basis for the second discussion, at the 104th Session (June 2015), with a view to developing a new instrument on the transition from the informal to the formal economy.

It should be noted that all governments and almost all employers' and workers' organizations that have replied welcomed the changes proposed by the Office, including additional elements introduced following the first general discussion, and they expressed their satisfaction with the efforts made to submit a strengthened, better organized and coherent text. They consider it to be a satisfactory basis for further discussion at the 104th Session of the Conference.



## REPLIES RECEIVED AND COMMENTARIES

### 1. GENERAL OBSERVATIONS

#### Governments

*Armenia.* Appreciates the ILO's role in the process and stresses that the new standard will play an important role in facilitating the transition to the formal economy.

*Australia.* The proposed Recommendation could provide some more concrete guidance and best practice examples for member States to consider in taking action to transition to more formalized economies. Furthermore, the ILO may wish to consider adding a recommendation to member States to make quantifiable commitments to reduce the size of the labour force in the informal economy, complementing the efforts of the G20 process this year and the post-2015 development agenda.

*Austria.* Appreciates the clear structure and effective reorganization of the content; even in developed economies with a high degree of formality it would be difficult to achieve the intended scope and coverage (self-employed, subsistence workers and non-self-employed).

*Belgium.* Would like to thank the ILO for the significant work done, resulting in a structured instrument which is clear both in its concepts and in the objectives pursued.

*Burkina Faso.* The proposed text provides a satisfactory basis for the second discussion, but it should include elements obliging the member States to focus on awareness raising and the training of workers in the informal economy.

*China.* The informal economy will be transformed due to the improvement of laws and regulations. Structural transformation, trade liberalization and decentralization will favour the development of the informal economy.

*Ecuador.* The proposed Recommendation is a valuable instrument which will contribute to the implementation of policies for improving the conditions of employment of the people in this sector.

*Germany.* Is grateful for the Office's efforts. The current draft provides a good basis for the next discussion. The Government strongly supports this proposed Recommendation and is convinced that it will help many people around the world.

*Hungary.* Appreciates the efforts of the ILO to submit a clear and coherent proposed Recommendation to the member States following the 2014 discussion. This provides good grounds for the standard-setting activity next year. However, despite the fact that during the 2014 discussion the greatest challenge was posed by the various interpretations of the terms, the definitions included in the proposed Recommendation still fail to give clear descriptions of the specific categories.

*Mexico, Namibia, Netherlands, Peru, Zimbabwe.* The proposed text provides a satisfactory basis for the second discussion by the Conference.

*Norway.* Welcomes the changes and finds the text very logical. It thanks the Office for a very instructive report. Concerns relate to recommendations that are long and repetitive.

*Russian Federation.* Highly appreciates the work on the development of a new ILO standard on the transition to the formal economy that is based on the fundamental principles at work, social dialogue and tripartism, as an important step towards the promotion of decent work.

*Senegal.* Supports overall the Office's proposed Recommendation and considers that the draft text provides a satisfactory basis for the second discussion in June 2015.

*Sweden.* The proposed Recommendation is satisfactory for the subject to be dealt with at the 104th Session of the Conference. The Committee considers that it is important for the Decent Work Agenda to be clearly reflected in the proposed Recommendation.

*Switzerland.* When the second general discussion is held, it is important that the constituents bear in mind that this proposed text must serve as a simple, operational and pragmatic point of reference.

*United Kingdom.* Broadly welcomes the changes outlined in the report designed to make the proposed Recommendation clearer. The United Kingdom takes a “light and even” approach towards employment regulation in order to deliver the level of social protection that is required without placing too onerous a burden on businesses.

*United States.* Welcomes the very significant and helpful changes made to the proposed Recommendation. In particular, it welcomes the reorganization and strengthening of the text. It does, however, feel that additional substantive changes could make the proposed Recommendation stronger. It believes that the overall goal of this proposed Recommendation should be to provide useful and practical guidance to member States on how to transition workers and employers from the informal to the formal economy.

## Employers

Consolidated reply. The proposed Recommendation that has been redrafted by the Office, taking into account the conclusions adopted during the first discussion, is a good basis for the second discussion. The Employers' group appreciates the efforts made by the Office to rearrange the text and amend the titles to ensure that the text has a more logical structure. The group also supports the efforts made by the Office to propose key policy measures aimed at facilitating the transition to the formal economy, such as measures to assist in the formalization of small and medium-sized enterprises and also the inclusion of policy measures to promote formal employment. Although these do not go far enough, the Employers' group believes they could be strengthened in order to make the document more balanced. As it stands at present, the document gives more prominence to labour rights, while it should be focusing more on specific measures to support the formalization of enterprises.

## Workers

Consolidated reply. The proposed Recommendation provides a satisfactory basis on which to resume the negotiations on the transition to the formal economy in June 2015. It provides us with important elements to address our core concerns. The proposed Recommendation is long and needs to be amended to be more succinct. The language of the document should be aligned with the recommended drafting guidance of the Office. In general, “may” should be changed to “should” and the qualifiers “as appropriate” and “according to national standards” should be avoided, since such qualification is inherent to the form of a Recommendation. The Workers' group further recommends using the words “informal economy” instead of “informality” and “formal economy” instead of “formality” throughout the document to avoid possible misunderstandings.

## OFFICE COMMENTARY

All governments and almost all employers' and workers' organizations that have replied considered that the proposed text of the Recommendation provides a satisfactory basis for the second discussion. The Office acknowledges that the great majority of replies appreciated and welcomed the reorganization of the text. Many respondents provided specific proposals to improve the text that will be reflected below. Employers' and workers' organizations and several

governments pointed out that the proposed text was too long and should be shortened. Comments and proposals from employers' and workers' organizations regarding the proposed text highlight the need to find a balanced approach between labour rights and specific measures to support the formalization of enterprises.

Several replies regarding different Paragraphs stressed the need to add "in accordance with national circumstances" or similar wording. They were not reproduced in this report, but have inspired guidance contained in the proposed text under preambular paragraph 16 and Paragraph 7(b) of the Guiding principles section, that applies to the entire proposed text.

Many replies suggested streamlining and simplifying throughout the proposed text the different formulations used, such as "transition to formality", "formalization" and "transition from the informal to the formal economy". The Office has used the formulation "transition to the formal economy" in all Paragraphs of the proposed text when this was relevant and feasible.

To align the format of the proposed text with the format of ILO instruments, the Office has, when feasible and appropriate, converted subparagraphs into Paragraphs in the text contained in Report V(2B). As a result, the numbering of the Paragraphs of the proposed text has changed as compared to the text contained in Report V(1), 2015. Replies received and Office commentaries are presented hereunder according to the new structure and Paragraph numbers of the text contained in Report V(2B).

## 2. OBSERVATIONS ON THE PROPOSED RECOMMENDATION CONCERNING THE TRANSITION FROM THE INFORMAL TO THE FORMAL ECONOMY <sup>10</sup>

### **Preamble**

#### **Governments**

*Belgium, Canada, Hungary, Italy, Lithuania, Netherlands, Norway, Poland, South Africa, Trinidad and Tobago, United States.* The Preamble is too long and needs to be made more concise. Some governments (Belgium, Canada, Hungary, Netherlands, Poland) suggested moving the references to ILO instruments, International Labour Conference (ILC) conclusions and resolutions, and other instruments to the Annex. Canada pointed out that as the Guiding principles section reiterates many of the concepts contained in the Preamble, the similar preambular paragraphs should be deleted. In addition, it is suggested that paragraphs including iterative lists should be avoided, since they risk unintentionally leaving out a particular vulnerable group and because these groups may change over time.

*Belgium.* Keep the explicit reference to social security instruments, in particular Recommendation No. 202, either in the Preamble or in the Annex, and insert a reference to the Protocol to Convention No. 29 and Recommendation No. 203, adopted at the 103rd Session of the International Labour Conference.

*Greece.* Is not opposed to a possible proposal to shorten the Preamble, although the length of the Preamble reflects all the hard efforts for cooperation between states that are at different stages of economic growth and institutional development in the field of labour rights and the social partners that protect conflicting social interests.

*Islamic Republic of Iran.* Add a preambular paragraph to read: "Recalling the resolution concerning statistics of work, employment and labour underutilization, adopted by the 19th International Conference of Labour Statisticians (ICLS) (2013), the resolution concerning statistics of employment in the informal sector adopted by the 15th ICLS and the guidelines concerning a statistical definition of informal employment endorsed by the 17th ICLS".

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<sup>10</sup> As contained in ILO: *The transition from the informal to the formal economy*, Report V(1), International Labour Conference, 104th Session, Geneva, 2015.

*Portugal.* Despite the length of the Preamble, which is likely to be shortened, it is considered essential to maintain the sense of the 16th preambular paragraph.

*Senegal.* We propose that the Preamble should state that the transition from the informal to the formal economy should be gradual and not immediate, in view of different national situations.

*Switzerland.* It would be judicious for the Recommendation to contain a general provision recognizing that existing policies and regulations should not act as an incentive to work in the informal sector.

### Employers

Consolidated reply. The Preamble should be shortened. It contains many references to international labour standards that are also listed in the Annex. The Preamble should be used to set the context of the discussion on the informal economy, noting the consequences of the prevalence of informality and the need to take action to facilitate the transition, which is the intention of the Recommendation.

Business NZ. The Preamble's length could be reduced by omitting preambular paragraphs 7–12.

### Workers

Consolidated reply. Support the current formulation of preambular paragraphs 2, 3, 5, 7, 14 and 20.

CNTS, CNTS/FC, CSA, UDTs and UNSAS. Add another preambular paragraph: “Observing the stakes and the challenges arising from the real extent and significance of the informal economy in many developing countries and even in some developed countries”.

UGT (Portugal). More emphasis should be placed on governance in the Preamble.

## OFFICE COMMENTARY

Many governments and the employers' organizations pointed out, as commented on by the Office in the previous report, that the Preamble was too long and that it could be shortened. Several governments and employers' organizations suggested different ways to shorten the Preamble. Canada and the United States, for example, suggested avoiding the enumerative lists to improve the readability of the proposed Recommendation and reduce its length. Several other governments proposed deleting specific preambular paragraphs and/or merging some of them. Several governments and employers' organizations stressed that since ILO and UN instruments are already listed in the Annex a decision could be taken to place them either in the Preamble or in the Annex. Some other comments proposed adding preambular paragraphs. The Office notes that since the specific suggestions for shortening the Preamble do not converge, it will refer the final decision on the need and ways to shorten the Preamble to the Committee.

### Preambular paragraph 2

#### Governments

*Belgium.* Add “structural” after “environmental”. Informality can lead to structural changes and structural policies can play an important role in achieving the transition to the formal economy.

*Colombia.* Also mention that informality reduces growth, stability and competitiveness and affects the prospects of future generations.

*South Africa.* All changes are accepted apart from the removal of the word “structural”. “Structural” should be maintained.

*United States.* Delete “in all its aspects”, “and” before “decent working”, “and” before “the rule of”, and delete the end of the sentence after “scope of action” to avoid being too descriptive or a run-on sentence.

## Employers

Consolidated reply. The phrase “and government’s scope of action, particularly with regard to economic, social and environmental policies” should be deleted.

## Workers

Consolidated reply. The current formulation is pertinent.

### OFFICE COMMENTARY

In the light of the replies, the text remains unchanged.

### **Preambular paragraph 3**

## Governments

*Colombia.* It is not always “not by choice”: some workers and enterprises choose informality.

*Switzerland.* Add at the end “…, even though abuses are also found”.

## Workers

Consolidated reply. The current formulation is pertinent.

### OFFICE COMMENTARY

In the light of the replies, the text remains unchanged.

### **Preambular paragraph 4**

## Governments

*Argentina.* Insert “wholly or partially” after “operate”.

### OFFICE COMMENTARY

In the light of the replies, the text remains unchanged.

### **Preambular paragraph 5**

## Governments

*Norway.* Delete this preambular paragraph since it is already contained in preambular paragraph 2.

## Employers

Consolidated reply. The words “the denial” should be replaced by “lack”.

## Workers

Consolidated reply. The current formulation is pertinent.

### OFFICE COMMENTARY

In the light of the replies, the text remains unchanged.

## **Preambular paragraph 6**

### **Governments**

*Argentina.* Insert “or wages” after “income”.

*Guatemala.* The characteristics of an activity in the informal economy should be described in more detail, for example lack of legal certainty regarding the tenure of land and other property.

*Indonesia.* Delete “and” after the words “low income” and add the words “and lack of protection” after “low productivity”.

*Namibia.* Sufficient proof exists to counter the mentioned claim about low productivity in the informal economy.

*United States.* Delete the preambular paragraph as the previous paragraph recognizes that decent work deficits are pervasive in the informal economy.

### **Employers**

*ICEA.* Low productivity and low income may not be true for some informal enterprises.

## **OFFICE COMMENTARY**

In the light of the replies, the text remains unchanged.

## **Preambular paragraph 7**

### **Governments**

*Argentina.* We do not agree with the change made to preambular paragraph 7. The idea of specifying “other vulnerable groups” was to leave it open to new highly vulnerable groups other than those enumerated in the document.

*Canada.* Delete as it duplicates Paragraph 7(i).

*Guatemala.* Re-insert “and other especially vulnerable groups” followed by “with disabilities” and add “urban areas”, followed by “rural areas”.

*India.* Delete “, persons affected by HIV or AIDS”.

*Poland.* Delete this preambular paragraph as those vulnerable groups represent almost the whole of society.

*Trinidad and Tobago.* Better not to list specific vulnerable groups.

### **Workers**

Consolidated reply. The current formulation is pertinent.

*CNPL.* Domestic workers and subsistence farmers should be added to the list of vulnerable groups.

*SEWA.* Domestic workers, subsistence farmers and home-based workers should be added to the list of vulnerable groups.

## **OFFICE COMMENTARY**

The Office draws attention to the comments stating that iterative lists of vulnerable groups run the risk of inadvertently excluding some groups or not capturing the fact that the composition of vulnerable groups may change over time.

In the light of the replies, the text remains unchanged; except a slight rewording (that is, the replacement of “older workers” by “older people” to align the text with the text of Paragraph 7(i).

### **Preambular paragraph 9**

#### **Governments**

*Bulgaria, Togo.* Considering that there are other ILO instruments that are equally relevant but are not taken into account, the participants have added the following to the list: Recommendation No. 135 and Conventions Nos 81, 102, 129, 131, 177, 183 and 189.

*Brazil.* Include Conventions Nos 81 and 129 in the list of relevant Conventions, and also other instruments relating to labour inspection.

*Canada.* Delete the preambular paragraph as all international labour standards are listed in the Annex and referenced in Paragraph 7(g).

*Norway.* Change to read “Reaffirming the relevance of international labour standards” with a reference to the Annex if the Annex is kept. Suggest adding the Labour Inspection Convention, 1947 (No. 81).

*Philippines.* Insert Conventions relating to occupational health and safety after the Employment Policy Convention, 1964 (No. 122).

*South Africa.* Reference to the fundamental Conventions and Protocols is sufficient; it is not necessary to list them all. Reference to other instruments, however, should be retained.

*United States.* Delete the reference to the fundamental principles and rights at work, which are mentioned in the previous preambular paragraph and repeated throughout the text. They can be listed in the Annex if needed. This should not be misinterpreted as the Government not fully supporting the fundamental principles and rights at work since we are aspiring to have a Recommendation that is succinct and helpful without being repetitive.

#### **Workers**

Consolidated reply. Apart from those already listed, the following ILO instruments should be included: the Labour Inspection Convention, 1947 (No. 81), the Social Security (Minimum Standards) Convention, 1952 (No. 102), the Labour Inspection (Agriculture) Convention, 1969 (No. 129), the Minimum Wage Fixing Convention, 1970 (No. 131), and its accompanying Minimum Wage Fixing Recommendation, 1970 (No. 135), the Home Work Convention, 1996 (No. 177), the Maternity Protection Convention, 2000 (No. 183), the Domestic Workers Convention, 2011 (No. 189).

*UGT (Spain).* The Migration for Employment Convention (Revised), 1949 (No. 97), and the Migrant Workers (Supplementary Provisions) Convention, 1975 (No. 143), should be added.

### **OFFICE COMMENTARY**

As commented by the Office under general observations, some replies suggested shortening and/or consolidating the list of instruments and making reference to the Annex for further detail, while others proposed adding additional instruments to the Preamble. The Office draws the attention of Members to the concern expressed about the length of the Preamble and to the fact that all proposed instruments are referenced in the Annex. Therefore this preambular paragraph remains unchanged and the decision on whether or how to shorten the Preamble is referred to the Committee.

### **Preambular paragraph 11**

#### **Governments**

*Norway.* Delete and move to the Annex.

#### **OFFICE COMMENTARY**

In the light of the replies, the text remains unchanged.

### **Preambular paragraph 12**

#### **Governments**

*Norway, United States.* Move preambular paragraphs 12 and 13 to the Annex.

#### **OFFICE COMMENTARY**

In the light of the replies, the same comment as in the previous preambular paragraph applies and the text remains unchanged.

### **Preambular paragraph 14**

#### **Governments**

*Argentina.* Combine preambular paragraphs 14 and 15 into one preambular paragraph covering both objectives: “Affirming that the promotion of decent work and inclusive development are essential objectives of the transition from the informal to the formal economy”.

*Namibia.* Is disappointed to read only one objective as if the mentioned objective outweighs all the other objectives.

*Norway.* Delete because it is contained in the second preambular paragraph.

#### **Workers**

Consolidated reply. The current formulation is pertinent.

#### **OFFICE COMMENTARY**

In the light of the replies, the text remains unchanged.

### **Preambular paragraph 15**

#### **Governments**

*Canada, Norway.* Delete as this is already mentioned in preambular paragraph 2.

*Guatemala.* Since “inclusive development” is a broad term, it is suggested that a proviso be inserted along the lines of Article 3(c) of Convention No. 182, as follows: “[as defined by] the terms of national and international legislation”.

*India.* Replace “is essential to achieve” by “is one of the essential components to achieve”.

#### **Employers**

MEF. The words “and sustainable” should be added after “inclusive”.

## Workers

Consolidated reply. The transition to the formal economy is essential to achieve much more than inclusive development and the wording needs to be aligned with paragraph 2 of the Conclusions concerning decent work and the informal economy adopted by the ILC at its 90th Session (2002). This preambular paragraph should be modified to read “Reaffirming that the transition from the informal to the formal economy is essential to achieve inclusive development, poverty eradication, and to realize fundamental principles and rights at work.”

### OFFICE COMMENTARY

In the light of the replies, the text remains unchanged.

### **Preambular paragraph 16**

#### Governments

*India.* Add at the end “in terms of definition, composition and structure, and”.

*Mexico.* Add “the circumstances of workers and economic units involved in” after “diversity of”.

*United States.* Delete. Does not disagree with the above and, while accurate, feels as though it is stating the obvious.

### OFFICE COMMENTARY

In the light of the replies, the text remains unchanged.

### **Preambular paragraph 17**

#### Governments

*Colombia.* Mention should also be made of causes such as: economic growth without an institutional framework for quality employment, labour conditions, demand for labour, productive inclusion directed towards external markets and globalization, labour market flexibility measures, and cultural aspects.

### OFFICE COMMENTARY

In the light of the replies, the text remains unchanged.

### **Preambular paragraph 18**

#### Governments

*Canada.* Delete. Repeated in Paragraph 7(j).

*Colombia.* Not to mention also the increase in terms of income for the State via tax payments, and also scenarios and dynamics that give dignity to those jobs.

*Kenya.* Rework preambular paragraph 18 after the words “potential and”.

*United States.* Delete as it is repeated in Paragraph 7(j).

#### Employers

Consolidated reply. The word “some” should be removed.

ANDI. Replace with “there is substantial entrepreneurial potential, creativity and dynamism in the informal economy, which should be fostered to enable the transition to the formal economy”.

#### OFFICE COMMENTARY

In the light of the replies, the text remains unchanged.

### **Preambular paragraph 19**

#### **Governments**

*Canada.* The words “urgent and” should be removed.

*Indonesia.* Delete “urgent and” and add the word “gradually” after “formal economy”.

#### **Employers**

ANDI. Include the indication that measures need to be financially viable to ensure the sustainability of social security systems.

#### **Workers**

SEWA. Add at the end “... bearing in mind that this is not an event but an ongoing process of incrementally incorporating informal workers and economic units into the formal economy”.

#### OFFICE COMMENTARY

In the light of the replies, the text remains unchanged.

### **Preambular paragraph 20**

#### **Governments**

*Colombia.* Measures which must be financially viable and which ensure the sustainability of social security systems. Areas or clusters of the informal economy in the major cities of the country need to be identified, with a view to providing education and support for informal employers in their transition to formality.

*India.* Replace “play” by “can play”.

*South Africa.* Insert “governments” together with “employers’ and workers’ organizations”.

#### **Employers**

Consolidated reply. Insert the word “can” after “workers’ organizations”.

#### **Workers**

Consolidated reply. The current formulation is pertinent.

#### OFFICE COMMENTARY

In the light of the replies, the text remains unchanged.

## I. OBJECTIVES AND SCOPE

### **Paragraph 1 (chapeau)**

#### **Governments**

*Austria.* The Office proposal is acceptable if changes are made to Paragraph 7(a) and (b) as described in the comments on the mentioned subparagraphs.

*Bulgaria, Togo.* Add the following subparagraph: “promote, respect and implement fundamental rights and principles at work and also the relevant regulations applicable to persons operating in the informal economy”.

*Colombia.* The ILO should define and conceptualize formal work in more detail, since this facilitates the formulation of policies, programmes and projects, otherwise the conceptual framework is limited in scope and lacks clear results and impacts.

#### **Workers**

Consolidated reply. The proposed list of objectives in Paragraph 1 is incomplete. The protection of workers’ rights in the informal economy needs to be clearly identified as a stand-alone objective of this Recommendation. The identification of protection of those in the informal economy as the objective of the current standard setting is rooted in the 2002 ILC Conclusions concerning decent work and the informal economy (paragraphs 1, 9 and 37(b)). A new clause should be added to read “respect, promote and realize fundamental principles and rights at work as well as relevant related standards for those in the informal economy.”

*SEWA.* Add one more objective to read “preserve livelihoods and ensure they are not destroyed in the process of promoting the transition from the informal to the formal economy”.

## OFFICE COMMENTARY

Many workers’ organizations and two governments suggested adding another objective related to fundamental principles and rights at work. The Office draws Members’ attention to the fact that fundamental principles and rights are covered in preambular paragraphs 9 and 10, in Part II (Guiding principles), Paragraph 7(f), and Part V (Rights and social protection), Paragraph 16, and are referenced in the Annex. The text remains unchanged.

### **Paragraph 1(a)**

#### **Governments**

*Brazil.* Delete “fundamental”. The document should contribute to the protection of all workers’ rights, not just fundamental rights.

*Colombia.* The transition should be gradual, through a series of steps involving various elements and support instruments, and should ensure the sustainability of social security systems.

*Indonesia.* Add the word “gradually” after the words “formal economy”.

#### **Employers**

SBEF. Replace “while” by “with”.

## Workers

CNTS, CNTS/FC, CSA, UDTs and UNSAS. Delete the phrase after “fundamental rights”.

### OFFICE COMMENTARY

In the light of the replies, the text remains unchanged.

#### **Paragraph 1(b)**

## Governments

*Colombia.* Also incorporate analysis of economic cycles that affect employability trends.

*Mexico.* Add at the end “and social programmes which act as a disincentive to work in the informal sector and foster the capacities and productive inclusion of persons in vulnerable situations”.

*United Kingdom.* There should be acknowledgement of “freely chosen” jobs.

*United States.* Delete the end of the sentence after “formal economy”. The purpose of this Recommendation is not to provide guidance to Members on promoting the coherence of different types of policies. Also, there are numerous other types of policies that are not mentioned or covered by “other social policies” that Members should consider when implementing or developing an integrated policy framework.

## Employers

Consolidated reply. Replace “sustainability” by “sustainable enterprises and”. This improves precision because we cannot have jobs without sustainable enterprises.

CGECI and CNI. Replace “promote” by “facilitate”.

### OFFICE COMMENTARY

In the light of the replies, the text remains unchanged.

#### **Paragraph 1(c)**

## Governments

*Namibia.* This action cannot be expected from any member State in a democratic set-up, as businesses are started and closed down or continued in different forms by individuals. The Government could perhaps advocate, or provide incentives that would realize the intent of the statement.

## Employers

Business NZ. Replace “prevent” by “avoid”.

MEF. Add “and formal enterprises” after “formal economy jobs”.

### OFFICE COMMENTARY

In the light of the replies, the text remains unchanged.

## **Paragraph 2 (chapeau)**

### **Governments**

*Namibia.* Does not agree with putting the entire Paragraph under the heading “Objectives and scope”. It suggests a different heading, such as “Definitions and concepts”.

### **Employers**

*KEF.* The definition of “formal economy” is required for the chapeau vis-à-vis “informal economy” so as to avoid ambiguity.

*NEF.* Some examples of what exactly is meant by “formal arrangements” are needed in order to clarify the definition of “informal economy”.

### **Workers**

*CNTS, CNTS/FC, CSA, UDTs and UNSAS.* Move Paragraph 4 in Report V(1), 2015, to after Paragraph 1 to become Paragraph 2 to ensure chronological coherence between Paragraphs 2 and 4 in Report V(1), 2015, since Paragraph 4 describes the scope of application of the proposed Recommendation.

### **OFFICE COMMENTARY**

With respect to the scope, the Office draws attention to the fact that in the light of the replies received suggesting further need for clarification, the Office has restructured Paragraphs 2 to 6 in the text contained in Report V(1), 2015, into Paragraphs 2 to 5 in the new text contained in Report V(2B). The main objective is to ensure a more logical structure and better flow of descriptions and explanations of scope without changing the understanding reached. As a result, Paragraphs 2 and 3 start now by describing the terms “informal economy” and “economic units” (Paragraphs 4 and 5 in Report V(1)). These are followed by Paragraphs 4 (Paragraphs 2 and 6 in Report V(1)) and 5 (Paragraph 3 in Report V(1)), which determine the scope of application.

In the light of the replies, the text in Paragraph 2 remains unchanged.

## **Paragraph 2(a)**

### **Governments**

*Republic of Korea.* Without a clear definition of formal economy, there may be some confusion in applying the Recommendation, especially with regard to labelling workers and economic units that are not sufficiently covered by formal arrangements as “informal”.

*Switzerland, United Kingdom.* Clarify the term “formal arrangements”.

### **Employers**

*CNES.* Clarify the nature of arrangements, such as social legislation, tax/customs legislation, etc.

### **OFFICE COMMENTARY**

The Office draws attention to the fact that the term “formal arrangements” was agreed upon in the 2002 ILC Conclusions concerning decent work and the informal economy. In the light of the replies, the text remains unchanged.

### **Paragraph 2(b)**

#### **Governments**

*Austria.* Replace with new wording to read “in particular the production and trafficking of goods and the supply and trade of services whose production, sale, usage or possession” and delete at the end “as defined in the relevant international treaties”.

*Belgium.* The inclusion of a list of examples gives national legislators tangible incentives to avoid the exclusion of certain workers from the scope of the proposed Recommendation.

*Brazil.* Include the qualifying phrase “of a criminal sort, which by their very nature cannot be regulated under labour law”, with a view to limiting the exclusion established by this clause to only criminal activities, so that the Recommendation still covers the sectors of the informal economy which are subject to administrative (not criminal) offences for partial non-compliance with labour or tax legislation.

*Burkina Faso.* Include in the text an exhaustive list of activities defined as illicit by international conventions so as to harmonize statistics among member States.

*Ghana.* The term “illicit activities” has not been defined and that allows for several interpretations – it is not exhaustive.

*Guatemala.* Establish a proviso along the lines of Article 3(c) of Convention No. 182, as follows: “[as defined by] the terms of national and international legislation”. In addition, the proposed paragraph should be included in the draft amendments.

*Greece.* Proposes the deletion of this provision in view of the lack of agreement on the content of “illicit activities”. As a compromise it would not object to the adoption of the text proposed by the ILO.

*Hungary.* The term “illicit activities” handles the differences that exist in this respect between national legislation and the practices of ILO Members in an appropriate manner.

*Iraq.* Add “especially production of goods and services that are forbidden by law and international treaties, or selling it or possessing it”.

*Kenya.* Agrees with the Office alternative wording, with the addition of “and related activities as may be” after “money laundering”.

*Mexico.* Add “..., in accordance with international treaties and national legislation”.

*Netherlands.* Agrees with the Office, with the addition of “and working situations in which the labour as such is not allowed”.

*Philippines.* Supports the alternative wording proposed by the Office, with the addition of “use of worst forms of child labour” after “trafficking in persons”.

*Poland.* There is a need for some clarification.

*South Africa.* This text will not do justice as each member State has activities that it classifies as illegal and this text will not mention all of them.

*Sweden.* Replace by “illicit activities according to relevant international treaties.”

*Switzerland.* The proposed Recommendation should be as simple as possible. For that reason we reject the Office’s proposal.

#### **Employers**

Consolidated reply. Support the alternative wording proposed by the Office.

CONCAMIN. In many cases it is difficult to establish the difference between illegal and illicit activities, the difference being very subtle. If the aim is to create possibilities for incorporating informal activities in the formal economy, unless there is clear differentiation, it might be a case of enabling activities of illegal origin to be classified as formal.

### Workers

Consolidated reply. The lack of an international definition of the term “illicit activities” may lead to the exclusion of a significant number of workers and economic units and some activities in the informal economy from the scope of the proposed Recommendation. Meanwhile, neither the current wording in the proposed Recommendation nor the alternative wording proposed by the Office addresses this risk adequately. The term “illicit activities” should be removed from clause (b) and this clause should be modified to read “(b) does not cover criminal activities, such as the production and smuggling of illegal drugs, the illicit manufacturing of and trafficking in firearms, trafficking in persons and money laundering, as defined in the relevant international treaties.” In addition, all international treaties that currently define criminal activities should be inserted in the above suggested modification after “relevant international treaties” by following with “such as”.

CTM. In the alternative wording proposed by the Office, include: “commercial sexual exploitation of children and the worst forms of child labour”. Suggest incorporating a definition of illicit activities, as follows: “(b) does not cover illicit activities, which are defined as all labour activities forbidden by law”.

UGT (Portugal). Consideration should be given to the possibility of including other relevant instruments, not just the relevant international treaties.

### OFFICE COMMENTARY

Several countries and workers’ and employers’ organizations stressed the need to define more precisely the meaning of “illicit activities” and most support the alternative wording proposed by the Office. In the light of comments received, the Office retains its proposal with some light linguistic changes for additional clarity. The new wording and examples given are based on multilateral international treaties dealing with specific types of transnational illicit activities. Such treaties include the United Nations Convention against Illicit Traffic in Narcotic Drugs and Psychotropic Substances (with annex), 20 December 1988; the United Nations Convention against Transnational Organized Crime, 15 November 2000; and the Protocol against the Illicit Manufacturing of and Trafficking in Firearms, Their Parts and Components and Ammunition, supplementing the United Nations Convention against Transnational Organized Crime, 31 May 2001.

### Paragraph 3

#### Governments

*Namibia.* Does not agree with putting the entire Paragraph under the heading “Objectives and scope”. It suggests a different heading, such as “Definitions and concepts”.

*Switzerland.* Delete the Paragraph (including subparagraphs 3(a), (b) and (c)). Redundancies between Paragraphs 3, 4 and 5.

### OFFICE COMMENTARY

In the light of the replies, the text remains unchanged. This Paragraph is former Paragraph 5 in Report V(1), 2015.

### **Paragraph 3(b)**

#### **Governments**

*Argentina, Finland, Iraq, Norway, Trinidad and Tobago.* Support the alternative wording proposed by the Office.

*Belgium.* Concern at the inclusion of all cases of informality in the scope of the proposed Recommendation.

*Germany.* After the word “account” delete the words “either alone or with the help of unpaid or underpaid family members”.

*Philippines.* Delete “underpaid”.

#### **Employers**

Consolidated reply. Support the alternative wording proposed by the Office.

KEF. The words “either alone or” after “on own account” should be deleted.

### **OFFICE COMMENTARY**

In the light of the replies supporting the alternative wording proposed by the Office, the term “underpaid family workers” has been replaced by “contributing family workers” which is usually used for that category. The word “their” has been inserted before “own account” for greater clarity.

### **Paragraph 3(c)**

#### **Governments**

*Indonesia.* Delete the words “cooperatives and”.

*Trinidad and Tobago.* Delete this reference.

*United States.* Delete reference to “social and solidarity economic units” which are types of cooperatives. The different types of cooperatives that exist should not be described in greater detail.

#### **Employers**

UPS. Delete this subparagraph.

#### **Workers**

CTH. The words “, agriculture and” should be added after “cooperatives”.

### **OFFICE COMMENTARY**

In the light of the replies, the text remains unchanged. Regarding the suggestions to delete the reference to social and solidarity economy and only to keep a reference to cooperatives, the Office recalls that the social and solidarity economy is a concept which is much broader than that of cooperatives as it refers to enterprises and organizations, in particular cooperatives, mutual benefit societies, associations, foundations and social enterprises, which specifically produce goods, services and knowledge while pursuing economic and social aims and fostering solidarity.

## **Paragraph 4 (chapeau)**

### **Governments**

*Argentina.* It is proposed to add “employers” after “households” to indicate that reference is being made to households that employ workers (domestic work).

*Austria.* Add “Homeworkers”.

*Bulgaria.* “Informal employment” should not be used.

*India.* Add at the end “and the informal workers in the formal economy”.

*United States.* Delete “including enterprises, entrepreneurs and households”. Economic units are already defined in Paragraph 3. It will confuse the reader if the Recommendation defines the term “economic units” differently in two separate places.

### **Employers**

*Business NZ.* Replace “includes” by “may include” because all workers and employers are covered by employment legislation in New Zealand and there is no “unrecognized and unregulated employment relationship”.

### **Workers**

Consolidated reply. “Informal employment” should not be used in the chapeau as definitions adopted for the purpose of gathering statistics are not always appropriate to construct definitions for the purpose of establishing labour standards.

*BAK.* “Homeworkers” should be included in the scope.

### **OFFICE COMMENTARY**

With respect to the Workers’ comment to remove the term “informal employment”, the Office draws attention that this issue has been addressed. Some light linguistic changes have been made in the chapeau.

This Paragraph is former Paragraphs 2 and 6 in Report V(1), 2015.

## **Paragraph 4(a)**

### **Governments**

*Greece.* Has reservations regarding the inclusion of own-account workers in the definition of the informal economy, since the provisions of the national labour law cover only dependent working relationships.

### **Employers**

*KEF.* Delete as it leads to confusion.

### **OFFICE COMMENTARY**

In the light of the replies, the text remains unchanged.

### **Paragraph 4(a)(iii)**

#### **Governments**

*Indonesia.* Delete the words “cooperatives and”.

#### **OFFICE COMMENTARY**

In the light of the replies, the text remains unchanged.

### **Paragraph 4(b)**

#### **Governments**

*Austria.* Change to original text “contributing family workers irrespective of type of enterprise”, which is better formulated as not every contributing family worker is informal.

*Germany.* Delete.

*Turkey.* The interpretation of “contributing family workers” in the proposed text is not compatible with national legislation.

#### **Employers**

*KEF.* Delete. Family workers cannot be in employment relationships since in practice the workers share the income with the business owners.

#### **Workers**

*BAK.* Contributing family workers in the formal economy should not be included. The original wording as agreed in the ILC discussion is preferred.

#### **OFFICE COMMENTARY**

In the light of the replies, the text remains unchanged.

### **Paragraph 4(c)**

#### **Governments**

*Argentina.* We support the text in square brackets on subcontracting and value chains taking into account the importance of the organization of production in labour relations. We call for this subject to be incorporated into the Recommendation and for recognition to be given to the fact that it has received the consensus of the Governments and the Workers’ group.

*Austria.* Subparagraphs (c) and (d) should not be merged unless there is agreement on text in brackets which should be kept as it stands now.

*Belgium, Brazil, Bulgaria, Netherlands, Sweden.* Keep the text in square brackets.

*Brazil.* It is necessary to progress in regulation of the sector, assigning responsibility to the upper part of supply chains, which hold the initiative with regard to price regimes and the deadlines which give rise to violations. However, where there is informal work at the base of the supply chain, responsibility cannot be limited to the lower levels, since it is the enterprise at the upper end of the chain which is the direct beneficiary of the service or product.

*Greece.* The proposed merging of subparagraphs (c) and (d) should not occur. A distinction should be made between own-account workers in unrecognized or unregulated employment relationships and workers holding informal jobs in/for formal enterprises or in/for economic units in the informal economy.

*Hungary, India, Republic of Korea, Trinidad and Tobago.* Delete the part in brackets.

*Netherlands.* The bracketed text should be a fully fledged part of the text. For this proposed Recommendation it is not relevant whether one works for the main contractor, subcontractors or deep in supply chains.

### Employers

Consolidated reply. Support the current wording, however, strongly oppose the bracketed text. In addition, it is not clear what is meant by an informal job “for” a formal enterprise as “for” is extremely broad and undefined, and should thus be deleted.

### Workers

Consolidated reply. The bracketed text should be kept, as it is crucial to adequately capture where these forms of work are in the informal economy. The alternative wording to merge subparagraphs (c) and (d) proposed by the Office receives support. However, it is suggested to replace the word “employees” by “workers”.

## OFFICE COMMENTARY

In the light of the replies, the text remains unchanged with the terms “including in subcontracting and supply chains” in brackets. While some governments preferred to keep the bracketed text, others suggested deleting it. Most employers’ organizations opposed the inclusion of the bracketed text and the majority of workers’ organizations supported its inclusion. It remains open for the Committee to reconsider this issue on the basis of amendments that may be submitted.

## Paragraph 4(d)

### Governments

*Argentina.* We also agree with the formulation proposed by the Office to merge subparagraphs 4(c) and 4(d).

*Belgium.* Draws attention to this point and in particular expresses its concern at the inclusion of all cases of informality in the scope of the proposed Recommendation.

*Germany.* After the word “relationships” add “not covering illicit activities”.

*South Africa.* Remove “unrecognized or”.

## OFFICE COMMENTARY

In the light of the replies, the text remains unchanged.

## Paragraph 5

### Governments

*Lithuania.* Further explanation on the concept of “informal work” is needed.

*Poland.* This Paragraph is unclear.

*South Africa.* This could be in the Preamble.

## Employers

**ICEA.** The informal economy can exist in the public and private sectors and it is necessary to define “informal work” in a separate Paragraph.

## Workers

**CATS.** Add that lawful work should not be prohibited, since vendors and workers in the informal economy are currently unable to work in public spaces.

**CGT-RA.** Replace “in both public and private spaces” by “in both public and private spaces and in the public and private sectors”.

## OFFICE COMMENTARY

Some governments found that this Paragraph was not clear and asked for further explanation on the concept of “informal work”. The Office has slightly changed the wording for greater clarity. The phrase “can be carried out” has been replaced by “may be found”. This Paragraph is former Paragraph 3 in Report V(1), 2015.

## Paragraph 6

### Governments

*Argentina, Austria, Bulgaria, Netherlands.* Agree on replacing “as defined” with “as described”.

*Brazil.* The Brazilian Government thinks that the term “membership-based [representative] organizations” may result in organizations not deriving from the association of workers and not directed by workers being able to represent them. It is proposed to remove the words “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”. The same comments apply to Paragraphs 34, 38 and 39.

*Burkina Faso.* In view of the diverse forms that the informal economy can assume in the member States, the competent authority should identify the nature and extent of the informal economy as described in this Recommendation, in consultation with the representative organizations in the informal economy.

*Colombia.* Agree with the comment by the CGT that reference is made in various Paragraphs of the text to participation, consultation and representation, specifically in Paragraphs 6, 38 and 39.

*Cyprus.* Compromise wording could be reached about consultation to better reflect the situation in developing countries.

*Finland.* Replace “as defined” by “as described”. While Finland accepts the alternative wording, it is also open to the current wording.

*France, Kenya, Netherlands, Philippines, Poland, Romania, Switzerland, Trinidad and Tobago.* Support the alternative wording proposed by the Office.

*France.* Need for a more inclusive approach, which better reflects the spirit of previous instruments, for example the Social Protection Floors Recommendation, 2012 (No. 202).

*Greece.* It would be essential to put a restriction on the right of national authorities regarding the general principles for the protection of free competition.

*Hungary.* Proposes amending the text to make it clear that legislation is the responsibility of governments and that the social partners may participate on a consultative basis.

*India.* Delete the end of the sentence after “employers’ and workers’ organizations”.

*Mexico.* Remove “which should include in their rank”.

*Switzerland.* Add “the factors, characteristics and circumstances” after “extent”.

*United States.* Delete “full” before “participation”. It is not possible for any country or social partner to guarantee “full” participation.

### Employers

Consolidated reply. Support the alternative wording proposed by the Office.

*ACCI.* The inclusion of membership-based representatives of the informal sector is not supported at the expense of the most representative social partners.

*ICEA.* Keep the current wording “through tripartite mechanisms”.

*UPS.* We support the current wording and the text “which should include in their rank ... economic units in the informal economy” should be deleted.

### Workers

Consolidated reply. Support the Office’s suggestion to replace the words “as defined” by “as described” and support keeping the current wording “through tripartite mechanisms”, which demands a more recognized structure than just consultation and captures the needs and challenges of workers in the informal economy agreed by the Workers’ and Employers’ groups at the ILC discussion in 2014.

## OFFICE COMMENTARY

This Paragraph is former Paragraph 7. In the light of the replies, the Office has replaced “defined” by “described” as the proposed Recommendation provides a description rather than a definition of the informal economy. The Office has also slightly reworded the text for greater clarity. The phrase “This should be done through” has been replaced by “In so doing, the competent authority should make use”. The Office draws attention that there are diverging views about the current wording of the Paragraph. Several governments suggested to replace the current wording with the alternative wording proposed by the Office; so as most employers’ organizations. Meanwhile some governments suggested keeping the current wording or to delete the reference to membership-based representative organizations of workers and economic units in the informal economy. Workers strongly supported the current wording. It remains open for the Committee to reconsider the issue on the basis of amendments that may be submitted during the second discussion and in the light of the wording of existing ILO instruments.

## II. GUIDING PRINCIPLES

### Paragraph 7

#### Governments

*Bulgaria, Togo.* Add new clause (m) “full respect for collective bargaining and freedom of association for all workers”.

*China.* Add another guiding principle to read “the emphasis on the balance of productivity and fairness on improving economic activities and employment”.

*Colombia.* A follow-up and monitoring component should be included, since it is important to be able to evaluate the results of policies, programmes and projects implemented with a view to the transition from the informal to the formal economy, which will enable the respective adjustments and thereby maximize the resources and efforts of the various entities.

*Namibia.* The discussion is biased towards the workers, while the employer is the most pivotal person who needs to be convinced, assisted and worked with to realize the transition.

*Peru.* The adoption of the proposals will help the transition to the formal economy to take place in the best possible way, taking account of not only the needs of each country in its context, but also the particular characteristics, circumstances and needs of workers and economic units, all of this taking account of standards relating to human and fundamental rights, and international standards.

*South Africa.* Add a new clause “promotion of social dialogue amongst stakeholders, especially informal economy players”.

*Tunisia.* Add “The need for transition strategies to be designed associating representatives of the informal economy in order to respect the principle of consent and ensure support and ownership and avoid confrontational approaches”.

## Workers

Consolidated reply. In order to emphasize the importance of references to freedom of association and consultation rights in Part II Guiding principles, such as in Recommendation No. 202, it is proposed to add a new clause to read “full respect for collective bargaining and freedom of association for all workers”.

*SEWA.* Another clause should be added to read “Members should form/create such structure/policies/legislations which facilitate/support the transition from the informal to the formal economy”.

## OFFICE COMMENTARY

In the light of the replies, the text remains largely unchanged, apart from moving the word “Members” to before “should take into account”. Many workers’ organizations and one government suggested adding a new clause to read “full respect for collective bargaining and freedom of association for all workers”. The Office draws the attention of Members to the fact that this concern is already addressed in Paragraph 7(f).

## Paragraph 7(a)

### Governments

*Argentina.* We recommend merging subparagraphs (a) and (c), adding “and multiple strategies” after “tailored approaches” at the end of clause (a).

*Austria.* Add “their different needs of protection” after “informal economy” to take into account that different units in the informal economy have different needs.

*Belgium.* Add “the multiplicity of causes” before “the diversity of characteristics”.

*Colombia.* We also consider that these analyses must be undertaken in terms of economic sectors and population groups.

*Sweden.* Add “including the causes of informality” after “informal economy”.

## OFFICE COMMENTARY

In the light of the replies, a minor linguistic change to replace the word “by” by “with” has been made.

### **Paragraph 7(b)**

#### **Governments**

*Austria.* Add “, legislation” after contexts.

*Bulgaria.* Add the references to the laws.

*United States.* Delete. Both (b) and (c) are captured by (a) since “tailored approaches” implies that “different and multiple strategies” are necessary.

#### **Workers**

Consolidated reply. Add the references to the laws and insert it to read “the specific national context, laws and priorities for the transition to the formal economy”.

*KSBSI.* Add “policies” after “priorities”.

#### **OFFICE COMMENTARY**

In the light of the replies, the text remains largely unchanged.

### **Paragraph 7(c)**

#### **Governments**

*Colombia.* An integrated approach is required which has an impact on the different causes of informality referred to previously.

#### **OFFICE COMMENTARY**

In the light of the replies, the text remains largely unchanged. The words “the fact” have been added at the beginning of the Paragraph for linguistic reasons.

### **Paragraph 7(d)**

#### **Governments**

*Argentina.* Agree with the introduction to clause (d).

*Colombia.* We recommend mentioning the importance of institutional coordination to achieve the best results. This transition must, as far as possible, include the positions of informal employees and employers, and also of government representatives to ensure the legitimacy of any agreements reached.

*Islamic Republic of Iran.* Add at the end “in conformity with pertaining coherent and integrated strategies” as different and multiple strategies can also be applied to facilitate the transition to formality according to clause (c).

#### **OFFICE COMMENTARY**

In the light of the replies, the text remains largely unchanged.

### **Paragraph 7(e)**

#### **Governments**

*Colombia.* Support measures for entrepreneurs and entrepreneurship must be included, since this plays a crucial role in terms of job creation, innovation and, in general, economic impetus for a country.

*India.* Replace “the human rights” by “workers’ rights”.

*United States.* Delete. It is already captured in clause (f). Also, it is not possible to effectively promote, but it is possible to effectively protect.

#### **OFFICE COMMENTARY**

In the light of the replies, the text remains unchanged.

### **Paragraph 7(f)**

*Indonesia.* Add the words “might be applied progressively” before the word “through”.

#### **OFFICE COMMENTARY**

In the light of the replies, minor changes to move the words “in law and practice” to the end and the subsequent addition of the word “for” after “through respect” have been made for linguistic reasons.

### **Paragraph 7(h)**

#### **Governments**

*Sweden.* In subparagraphs (h) and (i) it is important to also include an “intersectional perspective”, in other words to recognize that several grounds of discrimination can interact and create different conditions, in order to increase the chances of designing measures and strategies that are fit for purpose.

#### **Employers**

UPS. Clause (h) should be deleted.

#### **OFFICE COMMENTARY**

In the light of the replies, the text remains unchanged.

### **Paragraph 7(i)**

#### **Governments**

*Argentina.* With regard to clause (i), the reference to women should be removed in order to avoid repetition of clause (h). In addition, as already pointed out, we do not agree to removing the original phrase that was agreed upon regarding the explicit reference to “other vulnerable groups”. Lastly, we endorse the text in square brackets.

*Austria, Bulgaria, Finland.* Include the bracketed text.

*Greece.* Subsistence farmers are excluded from the application of the national labour law that applies to forms of dependent employment relationships. For domestic workers the application of the labour law is

not unconditional, mainly because inspections regarding the application by the competent authorities are hindered by constitutional and other provisions on the right to respect for the home and the family.

*Hungary.* Add “rural poor” and delete the reference to “subsistence farmers” in brackets.

*India.* Delete bracketed text and add “and all those” before “who are especially vulnerable”.

*Norway.* Sufficient to talk about vulnerable groups, but not name them.

*Philippines.* Keep the bracketed text and add “fisher folks” after subsistence farmers.

*Senegal.* Add “children of working age who engage in work”.

*Sweden.* Delete the bracketed text.

*Switzerland, Trinidad and Tobago.* Replace by “the need to pay special attention to groups who are especially vulnerable to the most serious decent work deficits in the informal economy.”

## Employers

*CNES.* Delete “indigenous and tribal peoples”.

*CNI.* Keep the terms in brackets, especially “subsistence farmers”.

## Workers

Consolidated reply. It is important to uphold the bracketed reference to domestic workers and subsistence farmers.

*CATS.* The term “domestic workers” should be replaced by “homeworkers” and “itinerant vendors” should be inserted after “subsistence farmers”.

## OFFICE COMMENTARY

In the light of the replies, the text remains unchanged, including the bracketed text. The Office draws Members’ attention to the fact that some governments expressed concern, as for the seventh preambular paragraph, about a non-exhaustive list of vulnerable groups. An exhaustive list runs the risk of excluding groups. Concerning the text in brackets, several governments supported its inclusion, while some others opposed it. Meanwhile, the majority of workers’ organizations preferred to include the bracketed text. It remains open for the Committee to rediscuss this issue on the basis of amendments that may be submitted.

## Paragraph 7(l)

### Governments

*Belgium.* Add “dissuade” between “prevent” and “sanction”.

*Colombia.* Measures of inspection, supervision and monitoring of compliance with labour policies and standards should be included, since this is an element in favour of formal employment”.

*Norway.* Delete this clause as it is already contained in Part VI.

*Switzerland.* Delete “... taxation ...” and “... social and labour ...”.

*Trinidad and Tobago.* It can be expressed in a positive manner: “the need to promote and encourage the contribution and compliance with taxation and social and labour laws and regulations.”

## OFFICE COMMENTARY

In the light of the replies, the text remains unchanged except a slight rewording to replace “in order to” by “the purpose of” and to add the words “the application of” before “social and labour law” for greater clarity.

### III. LEGAL AND POLICY FRAMEWORKS

#### Paragraph 8

##### Governments

*Argentina.* Members should adopt, review and enforce national laws and regulations or other measures to ensure, through the transition to the formal economy, appropriate coverage and protection of all categories of workers and economic units.

*Indonesia.* Add the words “take necessary measures” before “to adopt”.

*Iraq.* Move “enforce national laws and regulations” to Part VI (Incentives, compliance and enforcement).

*Poland.* Keep the word “appropriate”.

*Portugal.* Agree that national labour law should ensure appropriate coverage of all workers and economic units, but not by recognizing categories that are specific to the sphere of the informal economy, which are covered, as such, by specific protection and regulations.

*South Africa.* Add “develop” after “Members should”.

##### Employers

Consolidated reply. The word “implement” should be inserted after the word “review” since implementation is a key aspect.

*CCP.* Disagree with the fact that the national legislation covers informal workers. The objective should be the passage of workers from informality to the formal economy, and the legislation should play a role in this scenario.

##### Workers

*GEFONT.* Since in most developing countries, for the majority of workers, the transition to the formal economy is achieved by imposing labour laws on enterprises with more than five, ten or 20 workers, the phrase “without minimum threshold for application of labour laws and social protection laws” should be inserted at the end of the Paragraph.

*UGT (Portugal).* A reference to collective bargaining should be made apart from appropriate coverage and protection.

## OFFICE COMMENTARY

In the light of the replies, the text remains unchanged. Many employers’ organizations suggested adding the word “implement” before the word “review”. The Office draws Members’ attention to the fact that the notion of “implementation” is already covered by the word “enforce”.

## **Paragraph 9**

### **Governments**

*Indonesia.* Add “in gradual process” at the end of the Paragraph.

*Kenya.* Replace the word “aiming” by “with the aim of facilitating the transition to formality”.

*Netherlands.* Add the following line “unless such an assessment and diagnostics already took place”.

### **Employers**

*MEF.* Replace “factors” by “causes” and “to inform the design and implementation” by “in order to design and implement”.

### **Workers**

Consolidated reply. Use the words “informal economy” instead of “informality”, and “formal economy” instead of “formality”, to ensure clarity and consistency.

## **OFFICE COMMENTARY**

In the light of the replies, the text remains unchanged.

## **Paragraph 10**

### **Governments**

*Argentina, Turkey.* We agree with the Office’s interpretation that “where appropriate” should come before “[in] national [development] strategies or plans”.

*Austria, Bulgaria.* The term “where appropriate” indicates that not every country should have an integrated policy framework for transition. This is not acceptable. Every country should have one.

*Belgium.* The words “where appropriate” cannot refer to the need to have, or not have, an integrated policy framework, but the wording of the sentence remains ambiguous.

*Islamic Republic of Iran.* Delete end of the sentence “taking into account the role of different levels of government”.

*Togo.* Remove “where appropriate” from the sentence.

### **Workers**

Consolidated reply. The current reference in Paragraph 10 to the inclusion of an integrated policy framework on transition from the informal to the formal economy in the framing of national development strategies or plans could be interpreted as limiting the scope of required action and relevance. In some countries development strategies or plans do not exist. The intention should be integration in all relevant policies, programmes and plans, including national development strategies, national poverty eradication strategies and decent work strategies, as the Office’s explanation reiterates, in all circumstances. Also, it would be unacceptable to interpret that the phrase “where appropriate” could be linked to the need for an integrated policy framework. It should be clear that governments are expected to put in place an integrated policy framework for the transition to the formal economy. For clarity, it is suggested that Paragraph 10 should read “Members should adopt an integrated policy framework to facilitate the transition from the informal to the formal economy, taking into account, where appropriate, the role of different levels of government.”

## OFFICE COMMENTARY

The Office has reformulated this Paragraph in the light of the replies from several governments and the Workers, who were concerned about a possible confusion as to what the term “where appropriate” apply to in that provision. The structure of the sentence was also changed to highlight the core role of integrated policy frameworks in facilitating the transition to formality as a component of development and poverty reduction strategies. Some suggestions from the Workers regarding Paragraph 10 and a new Paragraph after Paragraph 11 were considered in that process.

### Paragraph 11

#### Governments

*Argentina, Belgium, Finland.* Agree that “favour” can replace “address” in the chapeau of Paragraph 11.

*Bulgaria.* Does not support the use of the words “aim at”.

*India.* Add “national” before “policy frameworks” and add a new clause to read: “promoting compliance through effective use of technology”.

*Switzerland.* Add a new subparagraph: “access to land and property”.

#### Employers

Consolidated reply. Support the Office’s proposal for the chapeau.

#### Workers

Consolidated reply. Do not support the Office’s suggestion to replace the word “address” by the words “aim at” because the word “address” adequately captures the intention sought. For the same reasons stated in the comments on Paragraph 10, it is suggested to add a new Paragraph after Paragraph 11 to read “Members should integrate their policies and programmes on transition from the informal to the formal economy into other relevant national strategies, policies and programmes, including national development strategies, national poverty eradication strategies and decent work strategies.”

*UGT (Spain).* Add subparagraph(s) after “effective access to justice”: “, including migrant workers in an irregular administrative situation”; new subparagraph: “labour migration policies in such a way as to guarantee workers’ rights and address the vulnerability faced especially by workers in an irregular situation”.

## OFFICE COMMENTARY

The Office draws attention to the fact that its proposal to replace the word “address” by “aim at” was to strengthen and add emphasis to the chapeau and to the goals to be achieved in the various policy areas listed. However, in the light of the replies received and the lack of agreement on the meaning of wording, the text remains unchanged. Regarding the suggestion from the Workers to add a new Paragraph after Paragraph 11, some aspects have been integrated into the reworded Paragraph 10. The beginnings of the subparagraphs below were reworded, when required, for linguistic reasons.

### **Paragraph 11(a)**

#### **Governments**

*Bulgaria.* Include consideration of environmental policy in relation to growth and sustainable development.

*Norway.* Use “decent jobs” instead of “quality jobs”.

*Senegal, Togo.* Add “and sustainable development” after “inclusive [growth strategy]”.

#### **Employers**

Consolidated reply. The words “sustainable enterprises and” should be inserted after “the generation of”, the word “quality” should be replaced with “decent” and the words “based on decent work” should be removed.

#### **Workers**

Consolidated reply. Include the consideration of environmental policy in relation to growth and sustainable development, to read “an inclusive growth and sustainable development strategy and the generation of …”. Such wording will be consistent with the second preambular paragraph.

### **OFFICE COMMENTARY**

The wording of this clause has been modified to take account of the suggestion by the Government of Norway and many employers’ organizations to replace “quality jobs” by “decent jobs”. The clause now starts with the wording “the promotion of” to better tie in with the wording “should address” in the chapeau.

### **Paragraph 11(b)**

#### **Governments**

*Azerbaijan.* Replace “environment” by “basis”.

*Netherlands.* Add “the promotion of” before “an appropriate legislative and regulatory environment”.

#### **Employers**

NEF. Insert “flexible” before “regulatory environment”.

### **OFFICE COMMENTARY**

The clause now starts with the wording “the establishment of” to better tie in with the wording “should address” in the chapeau. The word “environment” was replaced by “framework” to reflect the title of Part III.

### **Paragraph 11(c)**

#### **Employers**

Consolidated reply. The phrase “including efficient government services, secure property rights and freedom from corruption” should be inserted after “investment environment”.

#### OFFICE COMMENTARY

In the light of the replies, the text remains largely unchanged. The clause now starts with “the promotion of” to better tie in with “should address”.

#### **Paragraph 11(d)**

#### OFFICE COMMENTARY

For linguistic reasons, the words “for and” have been inserted after “respect” and the word “the” at the beginning has consequently been deleted.

#### **Paragraph 11(e)**

##### **Workers**

CNTS, CNTS/FC, CSA, UDTs and UNSAS. Replace “promote social dialogue” by “promote quality social dialogue”.

#### OFFICE COMMENTARY

In the light of the replies, the text remains unchanged.

#### **Paragraph 11(f)**

##### **Governments**

*Bulgaria.* Insert the words “and sexual harassment” at the end.

*Colombia.* As mentioned previously, support is required for entrepreneurs and entrepreneurship. Support measures for entrepreneurs and entrepreneurship must be included, since this plays a crucial role in terms of job creation, innovation and, in general, economic impetus for a country.

*United States.* Delete. Equality and the elimination of discrimination are covered by the fundamental principles and rights at work, which are captured in clause (d) and repeated throughout the proposed Recommendation.

##### **Employers**

Business NZ. Add “of opportunity” after “equality”.

UPS. Delete clause (f).

##### **Workers**

Consolidated reply. Insert the words “and sexual harassment” at the end.

CTH. Insert “all kinds of” before “discrimination”.

#### OFFICE COMMENTARY

In the light of the replies, the text remains unchanged.

### **Paragraph 11(g)**

#### **Governments**

*Canada.* At the end of the clause add “to address barriers to their growth and achieving formality.”

*Trinidad and Tobago.* Delete “social and solidarity economy units”.

*United States.* Delete. The intent of (g) is already captured in (c). Given that this list is too long, we suggest its deletion.

#### **OFFICE COMMENTARY**

In the light of the replies, the text remains unchanged.

### **Paragraph 11(h)**

#### **Governments**

*China.* Replace “skills development” by “vocational and skills training”.

#### **OFFICE COMMENTARY**

In the light of the replies, the text remains unchanged.

### **Paragraph 11(i)**

#### **Governments**

*Argentina.* We agree with the introduction at the end of the sentence of “including through a regulatory framework promoting an inclusive financial sector”.

*Austria.* Suggests keeping former wording: “access to finance and credit”.

*Kenya.* Replace “promoting” by “that promotes”.

*United States.* Add “markets, business services and” before “financial services”.

#### **OFFICE COMMENTARY**

In the light of the replies, the text remains unchanged.

### **Paragraph 11(j)**

#### **Governments**

*Norway.* Delete (j), (k), (l) and (m), as they can be found elsewhere.

*South Africa.* Add “support” to read “access to business support services”.

*United States.* Delete (j) and (k) to shorten this list.

#### **OFFICE COMMENTARY**

In the light of the replies, the text remains unchanged.

### **Paragraph 11(k)**

#### **Governments**

*Azerbaijan.* Clarify and be more specific.

#### **OFFICE COMMENTARY**

In the light of the replies, the text remains unchanged.

### **Paragraph 11(m)**

#### **Governments**

*Kenya.* Replace by “addressing specific sectoral needs and policies”.

*Senegal.* Add “…, taking account of the question of the transition to the formal economy”.

*United States.* Delete. “Sectoral policies” as listed seems like an afterthought that is not linked to anything.

#### **OFFICE COMMENTARY**

In the light of the replies, the clause now starts with “the promotion of” to better tie in with “should address”.

### **Paragraph 11(n)**

#### **Governments**

*Bulgaria.* Add “to those in the informal economy” at the end.

#### **Workers**

Consolidated reply. The current wording does not specify to whom social security should be extended and should include “to those in the informal economy” at the end.

#### **OFFICE COMMENTARY**

In the light of the replies, the text remains unchanged.

### **Paragraph 11(o)**

#### **Governments**

*Bulgaria.* Include the bracketed text.

*Namibia.* The issue of natural resources can only be supported if regulated access is the guiding principle.

#### **Employers**

Consolidated reply. Necessary to make clear that the bracketed text “natural resources” only refers to public natural resources and does not call for access to private property or resources.

#### **Workers**

Consolidated reply. Strongly recommend including the bracketed reference to natural resources.

## OFFICE COMMENTARY

In the light of the replies, the clause now starts with “the promotion of” to better tie in with “should address”. It remains open for the Committee to rediscuss the issue of natural resources in brackets on the basis of amendments that may be submitted.

### **Paragraph 11(p)**

#### **Governments**

*Bulgaria.* Add the word “policies” at the end.

#### **Workers**

Consolidated reply. Add the word “policies” at the end.

## OFFICE COMMENTARY

This clause has been modified to insert the word “policies” at the end for greater clarity, taking into account a suggestion from workers’ organizations and the Government of Bulgaria.

### **Paragraph 11(q)**

#### **Governments**

*India.* Add at the end “following objective policy-based criteria for inspection”.

*Islamic Republic of Iran.* Add at the end “monitoring mechanisms”.

#### **Employers**

CGECI. It is proposed to add “labour legislation and” after “efficient and effective” and “equipped with adequate resources for controls” after “labour inspections”.

MEF. Insert “and consistent” after “effective”.

#### **Workers**

CTH. Add “regular” before “labour inspections”.

## OFFICE COMMENTARY

In the light of the replies, the text remains unchanged.

### **Paragraph 11(r)**

#### **Governments**

*India.* Delete “income security, including” at the beginning.

*Switzerland.* Delete this subparagraph.

## OFFICE COMMENTARY

In the light of the replies, the text remains unchanged.

### **Paragraph 11(s)**

#### **Governments**

*Germany.* The expression “effective access to justice” is unclear. Alternative formulation suggested “access to effective judicial remedy”.

*United States.* Delete. While we do not oppose (s) and (t), this list is far too lengthy.

#### **OFFICE COMMENTARY**

In the light of the replies, the text remains unchanged.

### **Paragraph 11(t)**

#### **Governments**

*Togo.* Insert “regional” before “cooperation”.

#### **OFFICE COMMENTARY**

In the light of the replies, the text remains unchanged.

### **Paragraph 12**

#### **Governments**

*Austria.* Does not support the cut suggested by the Office. Add after “... and employment services” the words “... while respecting data protection”.

*Belgium, Finland.* Keep the text as it is.

*Bulgaria, Turkey.* Support the Office’s proposal.

*Burkina Faso.* We propose keeping the list of bodies and authorities that can be involved in formulating an integrated policy framework, while wishing to see this list expanded at the second discussion in June 2015.

*Colombia.* Emphasis should be placed on the importance of establishing bodies or forums for horizontal and vertical coordination between entities, in line with the integrated approach proposed regarding the transition from informality to formality.

*Hungary.* Delete the Paragraph.

*Philippines.* Agree to delete “such as” and the list of bodies and authorities. However, add “that are responsible for the policy areas listed in Paragraph 11” after “relevant bodies and authorities”.

#### **Employers**

Consolidated reply. Support the current wording.

*ICEA.* Replace the list of relevant bodies and authorities by “effective institutions”.

#### **Workers**

Consolidated reply. Support the suggestion by the Office. However, the proposed change does not remedy the problem. It is suggested to replace the list of authorities by the word “multisectoral” and this Paragraph should read “When formulating and implementing an integrated policy framework, Members

should ensure coordination across different levels of government and multisectoral cooperation between the relevant bodies and authorities”.

CGT-RA. Insert “This framework of specific policies should be implemented in conjunction with other policy strategies and national programmes, including those for development, poverty eradication and decent work strategies” at the end.

SEWA. Replace “across different levels of government and cooperation” by “at national, state and local government levels, and multisectoral cooperation”.

#### OFFICE COMMENTARY

In the light of the replies, the text remains unchanged.

### Paragraph 13

#### Governments

*Namibia.* More should be said about access to land.

*Poland.* Should be more precise.

*Switzerland.* Delete, rephrase and include as a new clause in Paragraph 11.

#### Employers

ANDI. Replace “economic units” by “employers”.

#### Workers

CNTS, CNTS/FC, CSA, UDTs and UNSAS. Replace “recognize the importance of land and property” with “favour the promotion of access to property and land”.

#### OFFICE COMMENTARY

In the light of the replies, the text remains largely unchanged.

## IV. EMPLOYMENT POLICIES

### Paragraph 14

#### Governments

*Bulgaria.* Supports the addition of the Paragraph.

*Indonesia.* Add the words “take necessary measures to” before “formulate”.

*Poland.* Merge Paragraphs 14 and 15.

*Switzerland.* Replace “... and make full, decent, productive and freely chosen employment a central goal” with “... and create parameters conducive to the creation of full, decent, productive and freely chosen jobs”.

*Trinidad and Tobago.* Delete “and growth strategy or”.

#### Employers

Consolidated reply. Support the reformulation and addition of the Paragraph.

CNES. This Paragraph does not make any reference to the informal economy.

## Workers

Consolidated reply. Support the addition of the Paragraph.

### OFFICE COMMENTARY

In the light of the replies, the text remains unchanged. Almost all governments supported or had no specific comment about the inclusion of Paragraphs 14 and 15 in Part IV (Employment policies). All workers' and employers' organizations supported it.

## Paragraph 15

### Governments

*Argentina.* As regards the inclusion of specifications and practices, we agree with the policies enumerated by the Office. We propose the introduction of “where appropriate” in the chapeau.

*Azerbaijan.* Add a new clause to read “promoting employment of people with disabilities as well as other vulnerable groups of population”.

*Brazil.* The current wording of Paragraph 15 means that all employment policies which are to constitute the comprehensive framework in this matter must be subject to consultation. Consultation of the social partners in labour matters is already practised in a number of ILO member States but it would be difficult to implement it in areas as diverse as, for example, education, infrastructure, finance, taxation, industry and commerce. Accordingly, the Brazilian Government suggests the inclusion of “where appropriate” after “tripartite consultations”.

*Bulgaria.* Supports the addition of the Paragraph.

*Burkina Faso.* Add the following clause “establish and boost channels to raise the awareness of workers in the informal economy regarding measures taken by governments that concern them”.

*Hungary.* Replace “should promote” by “may promote”.

*India.* Add a clause to read “to promote an efficient labour market information system to facilitate demand and supply equations for informed policy discourse”.

*United States.* It is worth noting that of all these subparagraphs, labour and employment ministries can only act on (e). We would welcome additional language on labour policies that have served as best practices from countries that have successfully reduced informality.

### Employers

Consolidated reply. Support the reformulation and addition of the Paragraph.

*CGECI.* Would like the question of identification of actors in the informal economy to be taken into account because it would contribute towards ensuring the traceability of actors and their activities, all of which would create greater visibility for the various support measures adopted with a view to formalization of this economy.

### Workers

Consolidated reply. Support the addition of the Paragraph.

*CTM.* Add another clause to read “measures to boost sustainable development and green jobs”.

## OFFICE COMMENTARY

In the light of the replies, the text remains largely unchanged. On the basis of comments by the Government of India to add a reference to labour market information and the Government of Portugal in respect of measures for long-term unemployed persons, and taking into account the fact that the ILC 2014 resolution and Conclusions concerning the second recurrent discussion on employment included these points, the Office has included two new subparagraphs, (g) and (h), under Paragraph 15.

### **Paragraph 15(a)**

#### **Governments**

*Azerbaijan.* Add “the development of small and medium entrepreneurship”.

*Bulgaria.* The references to “structural transformation” should be understood as relevant to the transition to the formal economy.

*India.* Add at the beginning “demand responsive”.

*Indonesia.* Add the words “and inclusive growth” before “policies”.

#### **Employers**

*Business NZ.* Replace “address” by “reduce” or “lessen”.

#### **Workers**

Consolidated reply. The references to “structural transformation” should be understood as relevant to the transition from the informal to the formal economy. This ties in with the transformation of economies based on agricultural production and low value-added production into a more diversified and industrialized economy, with higher value-added production of goods and services and higher wage sectors. The term should not be confused with the totally different concept of “structural adjustment”.

## OFFICE COMMENTARY

The Office confirms that the workers’ organizations’ understanding of the concept of “structural transformation” – not to be confused with the concept of “structural adjustment” – is the correct one. This concept was clearly explained in the background document for the ILC 2014 recurrent discussion and the Conclusions of this discussion.<sup>11</sup> Paragraph 15 is based on these conclusions. Other publications relating to the role of “structural transformation” as an important component of an inclusive development strategy further clarify this concern.<sup>12</sup>

### **Paragraph 15(b)**

#### **Governments**

*Australia.* Would be administratively difficult in advanced economies that have complex taxation laws.

*Bulgaria.* Supports the Office’s proposed text.

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<sup>11</sup> ILO: *Employment policies for sustainable recovery and development*, Report VI, and *Report of the Committee for the Recurrent Discussion on Employment*, in *Provisional Record No. 12(Rev.)*, International Labour Conference, 103rd Session, Geneva, 2014.

<sup>12</sup> See, for example, J. Salazar-Xirinachs, I. Nübler and R. Kozul-Wright (eds): *Transforming economies – Making industrial policy work for growth, jobs and development* (Geneva, ILO-UNCTAD, 2014).

*Trinidad and Tobago.* The term “structural transformation processes” requires clarification in the context of this discussion.

### Workers

Consolidated reply. Strongly support the Office’s proposed text.

*CNTS, CNTS/FC, CSA, UDTs and UNSAS.* Add “agro-pastoral” and “artisanal” to the list of policy areas.

### OFFICE COMMENTARY

In the light of the replies, the text remains unchanged.

### Paragraph 15(c)

#### Governments

*Bulgaria.* Clause (c) could be more clearly linked to the transition to the formal economy.

*United States.* Delete reference to the 2007 resolution and Conclusions concerning the promotion of sustainable enterprises that are already mentioned in the Preamble.

#### Employers

*MEF.* Suggests inserting “and predictable” after “well-communicated” and replacing “regulations” by “regulatory framework”.

#### Workers

Consolidated reply. Could be framed more concisely and more clearly linked to the transition to the formal economy and the reference to the resolution and Conclusions concerning the promotion of sustainable enterprises made in the Preamble. For instance, the 11th preambular paragraph and this clause should be rephrased to read “an enabling environment for sustainable enterprises, including support for micro-, small and medium-sized enterprises as one of the engines of job creation and promotion of entrepreneurship and well-designed, transparent and well-communicated regulations to facilitate transition to the formal economy and fair competition”.

*UGT (Spain).* Add the phrase “... also adopting measures applicable to domestic work scenarios where the employer is not an enterprise but an individual person” at the end.

### OFFICE COMMENTARY

In the light of the replies, the text remains unchanged. One government and the Workers highlighted that the reference to the 2007 resolution and Conclusions concerning the promotion of sustainable enterprises is already mentioned in the Preamble and could be deleted here.

### Paragraph 15(d)

#### Governments

*Azerbaijan.* Add “increase in a quality of labour force”.

*China.* Replace “skills development” by “vocational and skills training”.

*India.* Add at the end “and effective gap training”.

*Indonesia.* Add the words “national qualification framework and” before “prior learning”.

*Philippines.* Delete “informal” before “apprenticeship”.

## Workers

CTH. Add “innovative” before “education”.

### OFFICE COMMENTARY

In the light of the replies, the text remains largely unchanged, apart from the insertion of the word “to” before “new technologies” for linguistic consistency.

### Paragraph 15(e)

## Governments

*Azerbaijan.* Add “strengthening social protection of unemployed and jobseekers”.

*Bulgaria.* Insert a reference to wage policies including minimum wages.

## Workers

Consolidated reply. Insert “such as appropriately designed wage policies including minimum wages” for more clarity and this clause should read “labour market policies and institutions such as appropriately designed wage policies including minimum wages; linked to other policies including social protection; public employment programmes and guarantees; support to low-income households to escape poverty and access freely chosen employment; as well as to promote effective outreach and delivery of employment services to those in the informal economy; and”.

### OFFICE COMMENTARY

The Office has added a reference to wage policy including minimum wages, as proposed by the Government of Bulgaria and the Workers, as this formulation is consistent with the agreed 2014 ILC resolution and conclusions concerning the second recurrent discussion on employment and the provision on “labour market policies and institutions” contained in that resolution. For greater clarity, the end of the clause has been edited and rearranged.

### Paragraph 15(f)

## Governments

*India.* Replace “youth” by “employment” and add “and vocational training programmes” before “to provide access”.

*Indonesia.* Add the words “or entrepreneurship” before “of young people” and add the words “business skills” after “training”.

*Portugal.* Add at the end “and measures to promote the transitions from unemployment or inactivity to work, in particular, for long-term unemployed, women and other disadvantaged groups”.

### OFFICE COMMENTARY

In the light of the replies, the text remains unchanged.

### **Paragraph 15(g)**

#### **OFFICE COMMENTARY**

The word “persons” has been inserted after “long-term unemployed” for greater clarity.

## **V. RIGHTS AND SOCIAL PROTECTION**

### **Paragraph 16 (chapeau)**

#### **Governments**

*Belgium.* Add “the establishment of social protection floors and strategies for extending social security coverage as quickly as possible to the greatest possible number of persons”.

*Hungary.* Strong reservations about the idea that the rights and social security ensured for employers in national legislation should be extended without limits to cover all those acting in the informal economy.

*Indonesia.* Add the word “necessary” before “measures”.

*Netherlands.* Add “the elimination of all forms of discrimination, as they pertain to employment and occupation”.

*United States.* Delete “namely:” and following subparagraphs (a), (b), (c) and (d) as the fundamental principles and rights at work are mentioned repeatedly throughout the text.

#### **OFFICE COMMENTARY**

In the light of the replies, the text remains unchanged.

### **Paragraph 16(a)**

#### **Governments**

*Colombia.* The transition should be gradual, through a series of steps involving various elements and support instruments, and should ensure the sustainability of social security systems.

*Portugal.* The recognition of these rights can be considered an incentive to maintain the informal economy, as such.

*Romania.* In view of the national regulations on industrial relations, certain problems might arise regarding the approach to rights deriving from an employment relationship, particularly for persons engaging in atypical forms of work or on their own account.

#### **Employers**

*KEF.* Add “the effective recognition of” at the beginning and delete the text after “freedom of association”.

#### **OFFICE COMMENTARY**

In the light of the replies, the text remains unchanged.

### **Paragraph 16(c)**

#### **Workers**

CNTS, CNTS/FC, CSA, UDTs and UNSAS. Replace “the effective abolition of child labour” by “combating the worst forms of child labour”.

CTM. Proposes to modify clause (c) to read “effective abolition of child labour and the worst forms thereof and the protection of young workers”.

#### **OFFICE COMMENTARY**

In the light of the replies, the text remains unchanged.

### **Paragraph 16(d)**

#### **Employers**

KEF. Delete clause (d).

#### **Workers**

CTH. Insert “and sex” at the end.

#### **OFFICE COMMENTARY**

In the light of the replies, the text remains unchanged.

### **Paragraph 17(a)**

#### **Governments**

*Austria.* Replace the word “address” by “suppress”.

*Indonesia.* Replace the word “immediate” by “appropriate”.

#### **OFFICE COMMENTARY**

In the light of the replies, the text remains unchanged.

### **Paragraph 17(b)**

#### **Governments**

*Austria.* Even in highly developed economies own-account and self-employed workers are often not covered, so it would be far too much to request this from less developed economies.

*Belgium.* This clause clarifies the objective, which is to promote occupational safety and health protection in the informal economy but by directly addressing the actors concerned.

*Brazil.* Extending occupational safety and health protection to the informal economy is not feasible as long as the latter retains its informal nature. The following wording is suggested for clause (b): “promote and extend occupational safety and health protection by means of formalization”.

*Poland.* Need clarification about the Office’s proposal to extend that protection to employers; risk of overlaps between (a) and (b).

## Employers

Consolidated reply. Support the alternative wording proposed by the Office.

## Workers

Consolidated reply. The current wording of the proposed Recommendation neither gives sufficient emphasis to occupational safety and health nor to the link to the need for public labour inspection to support and ensure an effective transition.

## OFFICE COMMENTARY

A reference to “employers and workers in” before “the informal economy” was added as it appears consistent with the approach taken elsewhere in the proposed instrument and, in particular, in Paragraph 4.

## Paragraph 18

### Governments

*Argentina, Bulgaria.* Include the bracketed word “living”.

*Austria.* The word “dependent” should be added before the word “workers”.

*Bulgaria.* Delete “where such protection exists”.

*Finland, India, Japan, Kenya, Mexico, Philippines, Portugal.* Prefer to delete the bracketed word “living”.

*Hungary.* Add new Paragraph “Members should promote the dissemination of information about workers’ rights to those vulnerable to informal employment.”

*Netherlands.* Clarification needed as to what part of the preceding sentence the words “where such protection exists” refer to.

*Poland.* Clarify “where such protection exists”.

*United Kingdom.* The United Kingdom minimum wage is not considered to be a “living wage”. There should be a clear distinction in the text.

## Employers

Consolidated reply. Strongly oppose the bracketed text “living” as the ILO Conventions refer to “minimum wage” rather than “minimum living wage”, which is undefined.

UPS. Delete this Paragraph.

## Workers

Consolidated reply. Strongly support the inclusion of the bracketed reference to the minimum living wage as this reference is key to developing guidance on ensuring measures for providing income security to meet the needs of workers and their families in the informal economy. Paragraph 3(d) of the Declaration of Philadelphia, which is recalled in the Preamble, contains this concept, as does the 2014 ILC General Survey on minimum wage fixing. Meanwhile, they suggest deleting the words “where such protection exists” at the end because such a formulation would lead to divisions between countries, where some would establish minimum protection rules and extend them to the informal economy and others would be exempted from doing so when the rule regarding such protection does not exist.

CATS. The text “minimum [living] wage” should be replaced by “fair and equitable wage”.

FS. Add “create or” before “extend”.

## OFFICE COMMENTARY

In the light of the replies, the text remains unchanged. There was no consensus about the bracketed word “living”. Several governments and the employers’ organizations suggested its deletion. The Workers strongly supported the reference to a minimum living wage, as did one government (Argentina). It remains open for the Committee to re-examine the bracketed text on the basis of amendments that may be submitted during the second Committee discussion in June 2015.

In addition, taking into account the fact that some replies pointed to a lack of background information on the concept of “minimum living wage”, the Office offers the following comments. The Preamble to the ILO Constitution of 1919 calls for an urgent improvement of conditions of labour, in particular through “the provision of an adequate living wage”. The Declaration of Philadelphia of 1944, and more recently the ILO Declaration on Social Justice for a Fair Globalization of 2008, recall the obligation of the Organization to further among the nations of the world programmes which will achieve, *inter alia*, “a minimum living wage to all employed and in need of such protection”. The Minimum Wage Fixing Convention, 1970 (No. 131), does not make express reference to the notion of a minimum living wage but requires ratifying States to take into consideration, when determining the level of minimum wages, the needs of workers and their families, taking into account the general level of wages in the country, the cost of living, social security benefits, and the relative living standards of other social groups.

Convention No. 131 and its accompanying Recommendation No. 135 were the subject of a General Survey of the ILO Committee of Experts on the Application of Conventions and Recommendations (CEACR) that was submitted to the 103rd Session (2014) of the ILC. The CEACR noted that “the concept of a living wage … refers both to the existence of a minimum level of remuneration and to an acceptable standard of living” and described a number of initiatives launched at the national level to promote the adoption of a living wage.<sup>13</sup>

Some governments requested clarification regarding the wording “where such protection exists”. The Office notes that this wording refers to “minimum (living) wage”; it has rearranged the sentence for greater clarity.

### Paragraph 19

#### Governments

*Canada.* Delete the word “particular”.

## OFFICE COMMENTARY

In the light of the replies, the text remains largely unchanged, apart from the addition of “Members should” before “pay particular attention” for linguistic reasons.

### Paragraph 20

#### Governments

*Germany.* Replace “to those in the informal economy” by “to dependent workers in the informal economy”.

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<sup>13</sup> See ILO: *Minimum wage systems*, General Survey of the reports on the Minimum Wage Fixing Convention, 1970 (No. 131), and the Minimum Wage Fixing Recommendation, 1970 (No. 135), International Labour Conference, 103rd Session, 2014, Report III (Part 1B), paras 52–57 and 283–285.

*India.* Add “through appropriate convergence between social security measures and creating linkages to formal financial institutions” after “in the informal economy”.

*Indonesia.* Add the word “gradually” before “extend”.

*Montenegro.* This stipulation could be considered somewhat conditional.

*Poland.* May be discussed again.

### Employers

*KEF* and *UPS*. Delete the text “progressively extend the coverage of social insurance to those in the informal economy and,.”.

### Workers

*CNTS*, *CNTS/FC*, *CSA*, *UDTS* and *UNSAS*. Replace “insurance” by “protection”.

### OFFICE COMMENTARY

In the light of the replies, the text remains largely unchanged, apart from the addition of the words “Members should” before “progressively extend” for linguistic reasons.

### Paragraph 21

#### Governments

*South Africa.* Replace “enable” by “facilitate”.

### OFFICE COMMENTARY

In the light of the replies, the text has been slightly changed to insert “Members should” at the beginning of Paragraph 21 for linguistic reasons.

### Paragraph 22

#### Governments

*Argentina, Belgium, Bulgaria, Norway, Philippines.* Agree with the Office’s suggestion.

*Austria.* It will be essential for Part V to contain a clarification that people who wilfully avoid social, labour and tax systems will not be entitled to social rights, but non-compliance should be avoided.

*Belgium.* Add “while taking care to preserve the social rights of the workers concerned” after “social and labour regulations”. Move this Paragraph to Part IV (Employment policies).

*Bulgaria, Norway.* Better to be placed in Part VI.

*Burkina Faso.* Reformulate as follows: “Members should take appropriate measures, including the provision of adequate incentives and accessible channels of information, awareness raising and training in this regard, law enforcement and the application of sanctions, in order to prevent evasion of taxation and of social and labour regulations”.

*Cyprus.* Maintains its scepticism regarding addressing undeclared work in the same way as other forms of the informal economy.

*Finland, France, Germany, Greece, Hungary, Italy, Netherlands.* Replace by “In cases of avoidance of taxation, social and labour regulations and laws, specific measures might be more suitable, taking into

account the applicable legal framework. Such measures may include: removing disincentives and providing appropriate incentives in the tax and benefit system, improving law enforcement and the application of sanctions.” Keep the text in Part V (Rights and social protection).

*India.* Delete “social and” and add “national” before “legal framework”.

*Italy.* Keep the Paragraph in Part V as this issue is not only a concern for the European Union (EU), but for many other countries in other geographical groups that struggle to establish sustainable redistributive systems.

*Kenya.* Replace the text starting from “taxation” by “and violations of social and labour regulations and related laws”.

*Philippines.* Move the Paragraph with alternative wording to Part VI, where it should replace Paragraph 30.

*Romania.* Add a reference to the consolidation of the work of the labour inspectorate through expanded competencies and appropriate instruments for the exercise of those competencies.

*Trinidad and Tobago.* This Paragraph should be deleted.

*United States.* Delete Paragraph. The issue of “undeclared work” was thoroughly discussed in June 2014 and it was determined that undeclared work falls under “illicit activities” mentioned in Paragraph 2(b). This Paragraph contradicts that notion and therefore we are suggesting its deletion.

## Employers

Consolidated reply. Support the Office’s proposal to replace the EU’s amendment.

## Workers

Consolidated reply. Support the replacement of currently bracketed wording by the text suggested by the Office and it should be placed in Part VI to replace Paragraph 30, instead of in Part V.

*CGT (France) and CGT-RA.* Delete this Paragraph.

## OFFICE COMMENTARY

Several governments and most workers’ and employers’ organizations supported the alternative wording proposed by the Office. Many EU and other governments suggested alternative wording. Some governments suggested deleting this bracketed Paragraph. Taking these comments into account, Paragraph 22 has been reworded to reflect more clearly the sense of the discussion in the Committee at the 103rd Session of the ILC (2014) and it aims at providing a consensus text. The Office draws Members’ attention to the fact that this provision is complementary to Paragraphs 7(k), 7(l) and 30.

Many replies suggested moving this Paragraph to Part VI, while several EU governments preferred to keep it in Part V. The Office draws Members’ attention to the fact that this Paragraph, which deals with incentives and compliance issues, could be best placed as the opening Paragraph of Part VI, which currently lacks an opening Paragraph. The Paragraph has been kept in Part V. It remains open to the Committee to consider moving it on the basis of amendments that may be submitted.

## VI. INCENTIVES, COMPLIANCE AND ENFORCEMENT

### Paragraph 23

#### Governments

*Brazil.* Is of the view that the changes proposed in Part VI are not in line with the results of the 103rd Session of the ILC, when it was agreed that any benefit or public incentive must be tied to a commitment from the enterprise to formalize itself and formalize its workers. It should be noted that even policies for the transfer of income to vulnerable population groups are efficient when they are tied to some kind of obligation.

*Bulgaria.* Suggests deleting the words “and compliance with laws and regulations” to avoid the misinterpretation of reducing compliance with laws and regulations.

*Colombia.* It should be recommended that governments should work through mechanisms that facilitate social security affiliation, such as “single-window systems”, to facilitate business and labour formalization procedures, and also single forms for affiliation, thereby reducing the time and cost of affiliation to the social security system.

*Hungary.* Add new clause “promote the dissemination of information about workers’ rights to those vulnerable to informal employment.”

#### Employers

CNES. Supports current wording and proposes deleting “compliance with laws and regulations”.

#### Workers

Consolidated reply and BAK. Strongly suggests deleting the words “and compliance with laws and regulations”. The current wording can be read as a reference to reducing compliance with laws and regulations as a measure to reduce barriers to transition to the formal economy. This interpretation is unacceptable, especially when the laws and regulations relate to the rights of workers. Improving compliance with laws and regulations should be a part of the process of supporting the transition.

### OFFICE COMMENTARY

In the light of the replies, the text remains unchanged. With respect to the concern raised by the Workers and the Government of Bulgaria, the Office draws Members’ attention to the fact that this provision is about reducing barriers to compliance and not reducing compliance.

### Paragraph 24

#### Governments

*Brazil.* It is proposed to include the expression “subject to compliance with the legislation by its beneficiaries” after “incentives”.

*Bulgaria.* Replace this Paragraph by the new Paragraph proposed by the Office as stated under comments on Paragraph 25.

*China.* Replace “skills” by “vocational and skills training”.

*Poland.* Oppose Office’s proposal to add text.

*South Africa.* Add the word “support” as follows “including improved access to business support services”.

*Sweden.* Add “justice and the right to work,” before “and property rights”.

## Employers

Consolidated reply. Prefer the current text.

*Business NZ.* Delete “skills and education programmes”.

*CGECI.* Supports current wording and suggests deleting the text “and to property rights”.

## Workers

Consolidated reply. As stated in the comments on Paragraph 25, it is suggested to replace this Paragraph by the new Paragraph proposed by the Office.

### OFFICE COMMENTARY

The Office draws Members’ attention to the fact that the Employers and some governments suggested keeping the current wording, while several governments suggested replacing it by the alternative wording proposed by the Office. The Workers, as stated above, suggested replacing the Paragraph by the new Paragraph proposed by the Office in Part IV “Employment policies”. The Office has now included it as Paragraph 25 of Part VI as suggested by both employers’ and workers’ organizations.

### Paragraph 25 (new Paragraph)

#### Governments

*Austria.* Supports the current new Paragraph but suggests deleting in (b): “such as those combining income tax, value added tax and social insurance contributions in a single periodic payment”.

*Belgium.* Consideration should, however, be given to whether this added Paragraph might not be incorporated in a more relevant place in the proposed Recommendation.

*Bulgaria.* Supports the Office’s proposal to add a new Paragraph and place it in Part VI to replace Paragraph 24.

*Germany.* In the chapeau the word “including” should be replaced by “that may include”, as not all of the mentioned measures are suitable for all country contexts.

*Greece.* Proposes redrafting as follows: “Undertaking business entry reforms by reducing registration costs or the length of the procedure; supporting entrepreneurship and well-designed, transparent and well-communicated regulations to facilitate formalization and fair competition”. Proposes the addition of two new subparagraphs: “enhancing the role and regulating the involvement of local and regional authorities in the initiatives towards the development of micro and small enterprises” and “mainstreaming of female and youth entrepreneurship”.

*Hungary.* Replace “should adopt” by “should consider adopting”.

*Kenya.* Replace clause (a) from the word “reducing” up to the end by “the cost of registration and length of the procedure” and add the word “specific” before the word “quotas”. This improves on clarity and focus.

*Netherlands.* Change the wording to “Members may (or “could”) adopt measures”.

*Norway.* Supports a new Paragraph on micro- and small enterprises.

*Poland.* Better to be included in Paragraphs 14 and 15 to avoid lengthy text.

*Portugal.* Change “incentive” to “incentives”. At the end of (a) add “and any other red tape”.

*Sweden.* The current wording would entail a breach of the principle of tax according to means and would result in an unfair competitive disadvantage for those who are above the threshold and have to pay tax on their actual income. This would also risk violating the European Union's value added tax Directive. The fact that the proposal may entail a longer accounting period also means an increased risk of undeclared work and, consequently, an increase in the informal economy.

*Switzerland.* We are not in favour of this Paragraph being introduced. A reference to micro-, small and medium-sized enterprises is already made in Paragraph 15(c), and the proposed measures already appear in Paragraph 11.

### Employers

Consolidated reply. Strongly support the proposal by the Office to insert this new Paragraph after Paragraph 15. However, the proposed new Paragraph should be moved to Part VI since it covers many of the same issues discussed in Paragraphs 23 and 24. Furthermore, this new Paragraph should also address property rights and an additional clause should be inserted to read "reducing the costs and length of procedures to obtain legal titles to land, homes and other property".

NEF. Insert a clause to read "reducing of aspects of the statutory labour law requirements for small enterprises below a certain threshold size, e.g. Sunday and public holiday work restrictions, ordinary hours of work, overtime and labour market inflexibility regarding termination of employment".

### Workers

Consolidated reply. Support the Office's proposal to add a new Paragraph. However, it is more appropriate to place this new Paragraph in Part VI, replacing Paragraph 24.

## OFFICE COMMENTARY

Many governments and almost all workers' and employers' organizations support the inclusion of this new Paragraph proposed by the Office. Taking into account the fact that both employers' and workers' organizations stressed that it should be moved to Part VI (Incentives, compliance and enforcement), the Office has moved the text in Paragraph 25 of the new proposed text to Part VI. However, it would not appear appropriate to replace, as suggested by the Workers, the existing Paragraph 24 under Part VI. So both Paragraphs have been retained in Part VI.

The Office draws Members' attention to the fact that some governments and the employers' organizations suggested new wording for some subparagraphs or suggested adding new subparagraphs. It remains open for the Committee to discuss the proposals on the basis of amendments that may be submitted during the discussion.

## Paragraph 26

### Governments

*Argentina.* This Paragraph received explicit majority support and constitutes an important component of the design of integrated strategies that combine incentives with sanctions for those who do not comply with the law.

*Austria, Bulgaria, Netherlands.* The text in brackets is supported.

*Brazil.* Proposes a new Paragraph as follows: "provide for measures and appropriate incentives tied to the transition to the formal economy". In this way the agreement reached during the 103rd Session of the ILC to tie incentives to formalization would be respected.

*India.* Delete "or review existing mechanisms".

*Kenya, Switzerland.* Delete the bracketed text.

## Employers

CNI. The Employers do not envisage any impact for Brazil from the proposal in square brackets.

## Workers

Consolidated reply. Strongly support the inclusion of the bracketed text.

CGT-RA. Suggests adding another Paragraph to read “adopt appropriate measures, such as the provision of suitable incentives, enforcement of the legislation and application of sanctions, in order to prevent evasion of taxation and contributions, social and labour regulations and other laws.”

## OFFICE COMMENTARY

In the light of the replies, the text remains unchanged, including the text that remains in brackets. It remains open for the Committee to rediscuss the issue addressed in the brackets on the basis of amendments that may be submitted.

## Paragraph 27

### Governments

*Austria.* No alternative suggested but the concern is that current Austrian law does not foresee labour inspection for the self-employed.

*Bulgaria.* Insert the words “Consistent with the Conventions on labour inspection ...” at the beginning.

*Germany.* Replace “to all workers and workplaces” by “to all dependent workers and to those places of work where such dependent workers are employed”.

*Greece.* Reservations with regard to the applicability of the said provision, with which we agree in principle. The inspection role of the various administrative mechanisms can be performed only under the conditions laid down in national law, and informal employment is often offered in places where access is constitutionally protected.

*Hungary.* It is important to clarify the areas where labour inspection can be carried out, considering that pursuant to our national legislation the authorities only perform this task in the field of organized work.

*Mauritius.* The extension of labour inspection to cover the informal economy will be difficult to implement as it is subject to the availability of adequate human resources within the inspection system.

*Romania.* Add a reference to the usefulness of the unequivocal regulation of competence for determining that work which is in fact wholly or partially informal has been disguised as formal, in order to apply sanctions and call for the ensuing measures.

*Togo.* Add at the beginning “in accordance with the Labour Inspection Convention”.

## Workers

Consolidated reply. Insert the words “Consistent with the Conventions on labour inspection” at the beginning.

CNTS, CNTS/FC, CSA, UDTD and UNSAS. Insert “and adequate resources” after “guidance”.

SEWA. Insert “tripartite” after “appropriate system of inspection”.

UGT (Spain). Insert “, including domestic workers and households where they perform their work” after “to all workers and workplaces”.

## OFFICE COMMENTARY

In the light of the replies, the text remains unchanged.

### Paragraph 29

#### Governments

*India.* Replace “complaint and appeal procedures” by “comprehensive grievance redress mechanisms”.

## OFFICE COMMENTARY

In the light of the replies, the text remains unchanged.

### Paragraph 30

#### Governments

*Argentina, Austria, Italy, Netherlands, Philippines.* We agree with the modification proposed by the Office.

*Belgium.* Add “dissuasive” between “preventive” and “corrective measures” and at the end of the Paragraph add “while ensuring the protection of the social rights of the workers concerned”.

*Bulgaria.* Delete this Paragraph and replace it with the new text for Paragraph 22.

*Burkina Faso.* We suggest that the initial formulation be kept.

*Canada.* Replace “adequate” by “appropriate”.

*France.* Replace “especially for those escaping from the formal economy to avoid taxes and social laws” by “including with regard to those deliberately avoiding compliance with social and tax-related regulations”.

*Greece.* Proposes adding the phrase “and labour” before “laws” at the end of the Paragraph.

*India.* Replace end of the sentence from “and ensure that the administrative, civil or penal sanctions ...” by “under national legal framework”.

*Indonesia.* Open the brackets and keep the current wording.

*Montenegro.* Need to pay attention to educational activities and provide guidelines for implementation of the law.

*Namibia.* Delete the end of the sentence after “strictly enforced”.

*Poland.* Keep wording in brackets.

*Senegal.* Review the relevance of including this Paragraph, in conjunction with Paragraph 22.

*South Africa.* Bracketed text to be left as it is and proposed text is rejected. Use “evade” instead of “avoid”.

*Trinidad and Tobago.* The language should be rephrased more positively.

*United States.* Delete bracketed text. It would be helpful if the preventive and appropriate corrective measures were spelled out.

## Employers

Consolidated reply. Support the alternative wording proposed by the Office.

## Workers

Consolidated reply. This Paragraph should be deleted and replaced by the new text for Paragraph 22.

UGT (Portugal). Supports the current wording and suggests adding a reference to labour law and collective bargaining.

## OFFICE COMMENTARY

Many governments supported the current formulation of Paragraph 30. Several governments and the employers' organizations did not support the current formulation. Some governments suggested deleting the bracketed text. Some workers' organizations suggested replacing this clause by new Paragraph 22. Considering that the bracketed text is already stressed as one of the guiding principles under 7(l) and also under Paragraph 22, the Office has deleted it.

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

### Paragraph 31

#### Governments

*Bulgaria.* Suggests ending this Paragraph after "collective bargaining" and adding the words "the right to" after the word "enjoy".

*Montenegro.* If there is no formalized work, this principle is impossible to apply. This can reduce the drive for companies/workers to enter the formal economy and it is not fair to the members of the employers'/workers' associations in the formal economy.

*Senegal.* Replace "enjoy freedom of association" by "enjoy the right to freedom of association".

*Switzerland.* Replace "ensure" by "provide".

#### Employers

*Business NZ.* For governments to ensure "that those in the informal economy enjoy freedom of association" there would have to be some recognition of such organizations and this could be seen as government support for the informal economy.

*KEF.* Delete "and the right to collective bargaining" after "freedom of association".

#### Workers

Consolidated reply. Freedom of association and collective bargaining include not only the right to establish and, subject to the rules of the organization concerned, to join organizations, federations and confederations of their own choosing, but also other rights reflected in ILO Conventions Nos 87 and 98 and in the broad jurisprudence of the relevant ILO supervisory mechanisms. Therefore, it is suggested to end this Paragraph after collective bargaining and add the words "the right to" after the word "enjoy". Consequently this Paragraph should read "Members should ensure that those in the informal economy enjoy the right to freedom of association and the right to collective bargaining."

*CGT-RA.* Insert "the right to" after "enjoy".

SEWA. Insert “including the self-employed” after “informal economy” and “with appropriate counterparts, including local government” at the end of this Paragraph.

#### OFFICE COMMENTARY

The Office recalls that in ILO instruments the term “freedom of association” is used in Convention No. 189 (Article 3(3)) and Recommendation No. 201 (Paragraph 2) with the verb “enjoy”, while Convention No. 87 and the Global Jobs Pact (paragraph 14(1)(ii)) refer to “freedom of association”. The ILO Declaration on Fundamental Principles and Rights at Work and its Follow-up (paragraph 2) refers to “principles concerning the fundamental rights which are the subject of those Conventions, namely: freedom of association”, and the Preamble of the ILO Declaration on Social Justice for a Fair Globalization refers to “fundamental rights, namely: freedom of association”. In the light of the above, the text remains unchanged.

### Paragraph 32

#### Governments

*United States.* Delete the end of the sentence “in the transition from the informal to the formal economy”. Members should create an enabling environment regardless of the stage in their transitioning process.

#### Employers

KEF. Delete “employers and workers to exercise their right to organize and to collective bargaining and” because stating only “employers and workers” conflicts with the reality where various types of employment exist.

#### OFFICE COMMENTARY

In the light of the replies, the text remains largely unchanged, apart from replacing the word “bargaining” by “bargain” and moving it to before “collectively” for linguistic reasons.

### Paragraph 33

#### Employers

UPS. Delete this Paragraph.

#### OFFICE COMMENTARY

In the light of the replies, the text remains largely unchanged, other than the replacement of the word “extension” by “extending” for linguistic reasons.

### Paragraph 34

#### Governments

*Argentina, Austria, Burkina Faso, Finland, France, Ghana, Guatemala, Hungary, Philippines, Portugal, Romania, Switzerland.* Agree with the Office proposal.

*Brazil.* Same comments as for Paragraphs 6, 38 and 39.

*Hungary.* The text proposed by the Office provides a clearer description of the role of employees' and employers' organizations in the development and implementation of programmes and policies concerning the informal economy.

*India.* Delete end of the sentence after "employers' and workers' organizations".

*Mexico.* Delete "which should include in their rank" and add "According to national practice, these might include" before "representatives".

*Montenegro.* Organized, formal business entities of all sizes are the engine of the economy and the business environment in any country, and no other actor can have more knowledge about the challenges in the business world that prevent individuals and companies from entering the formal flows.

*Romania.* In order to draw on the practical experience of workers/economic units in the informal economy during consultations on themes that are directly connected with measures of transition to the formal economy and the implementation of these measures.

*Senegal.* Delete "according to national practice".

*South Africa.* The fact that established representative employers' and workers' organizations are not proactively going out to assist the workers and economic units in the informal economy as they are not in the same league constitutes a challenge. The formation of and support for representative bodies of informal economy players must be encouraged.

*Sweden.* The text could be strengthened by adding "to foster social dialogue".

## Employers

Consolidated reply. Support the Office's proposal.

*CNI.* Delete the text after "active participation of the most representative employers' and workers' organizations" in the alternative wording proposed by the Office.

*MEF.* Delete the word "representative" before "organizations of workers and economic units in the informal economy" since there are no legal or practical instruments to determine representativeness of organizations in the informal economy.

*UPS.* Keep the current wording and delete the text "which should include in their rank ... workers and economic units in the informal economy".

## Workers

Consolidated reply. Support the current wording. During the Tripartite Meeting of Experts in 2013 and in the ILC discussion in 2014, the current text was debated and agreed upon with the Employers' group. Although the desire to maintain consistency with the formulation used in other standards is understandable, wording differs depending on the characteristics and realities of the issues being dealt with in the standard-setting process.

## OFFICE COMMENTARY

Many governments and the Employers supported the Office's alternative proposal based on other ILO instruments, while the Workers preferred to maintain the text as agreed in the first discussion. Some replies suggested adding or deleting wording. The Office draws Members' attention to the different issues raised and concerns expressed in the replies: the need for broad-based inclusive consultations, with the participation of those that are at the frontline in the informal economy; the situations when established employers' and workers' organizations do not take a proactive approach to include or assist workers or economic units in the informal economy; and the established rights and practice of the most representative employers' and workers' organizations to participate in tripartite mechanisms. In the light of the replies and in order to facilitate consensus on this important issue in order to reconcile these different concerns, the text

remains unchanged except for the word “Members”, which is moved to after “including its formalization.”. It remains open for the Committee to reconsider the matter on the basis of amendments that may be submitted during the second discussion. This commentary also applies to Paragraphs 6, 38 and 39.

### **Paragraph 35**

#### **Governments**

*Bulgaria.* This Paragraph should rather recommend to Members that governments should support strengthening the capacity of representative workers’ and employers’ organizations.

*Ghana.* Delete “and” between “Members” and “employers” and replace the phrase “of the representative employers’ and workers’ organizations … the transition to formality” by “thereof”.

#### **Employers**

*MEF.* Delete “representative” from the phrase “representative organizations of those in the informal economy”.

#### **Workers**

Consolidated reply. This Paragraph should rather recommend to Members that governments should support strengthening the capacity of representative workers’ and employers’ organizations. A reference to ILO support for capacity building seems unnecessary as such support is subject to the regulation of technical cooperation and, as the Office points out, is available to all tripartite constituents.

### **OFFICE COMMENTARY**

In the light of the replies, the text remains unchanged.

## **VIII. DATA COLLECTION AND MONITORING**

### **Paragraph 36**

#### **Governments**

*Argentina.* We agree on the need to include a reference to the most up-to-date resolutions and guidelines adopted by the International Conference of Labour Statisticians and with the formulation put forward by the Office, as proposed by the Office.

*Austria, Bulgaria.* Support the Office’s proposal to include the statistical reference.

*Burkina Faso.* We suggest that mention be made of all the necessary instruments adopted by the International Conference of Labour Statisticians and also of the guidelines and assistance provided by the ILO to enable coherence in the comparability of statistical data on the informal economy.

*Greece.* Difficulty faced by the member States to fulfil their obligation to collect data on the informal economy, when the resources of the national statistical authorities are limited.

*Hungary.* Does not support the idea of prescribing too strict responsibilities for the member States, since the capacities of the national statistical systems must be taken into consideration during data collection.

*Indonesia.* Add the words “the most representative” before “employers”.

*Republic of Korea.* Add a new clause to read: “(c) in the process of data collection and monitoring, employers’ and workers’ organizations shall make efforts to apply a fair and objective methodology, through mutual consultations”. Considering difficulties in collecting data and monitoring in respect of the informal economy, an additional clause may be necessary.

*Mauritius.* Notes that informal employment statistics are currently not available from survey data. The labour force questions in the labour force module will have to be reviewed and more questions added to identify informal jobs.

*Netherlands.* There should be maximum flexibility regarding what data should be collected, also depending on the capacity of the national statistical system.

*Portugal.* This Paragraph should be understood and formulated with the greatest flexibility possible, according to the respective capacity and framework of national statistical systems.

*Romania.* Owing to the lack of obligation by representative organizations to produce data, practical implementation may prove problematic.

## Employers

ACCI. Data collection on the distribution and sectoral nature of enterprises should be included.

CGECI. The formulation of this Paragraph only covers data relating to employment, which appears insufficient to achieve greater formalization of the informal economy.

MEF. Insert “the most representative” after “in consultation with” in the chapeau.

## Workers

Consolidated reply. Support the alternative wording proposed by the Office.

CTM. Add another clause to read “establish in the member States an Observatory to follow up on actions relating to the transition from the informal to the formal economy”.

## OFFICE COMMENTARY

Several governments expressed their concern about the need for flexibility regarding the data to be collected depending on the capacity of national statistical systems. The Office draws Members’ attention to the fact that the wording “where possible and as appropriate” used to start Paragraph 36(a) responds to that concern. In the Office Commentary to Report V(1), 2015, the Office had suggested adding a new clause to provide guidance to Members on developing or revising concepts, definitions and methodology, with a reference to the 17th International Conference of Labour Statisticians, held in 2003. Some governments and both employers’ and workers’ organizations support this proposal. As a result the Office has introduced a new Paragraph 37 as proposed in Report V(1).

## Paragraph 36(a)

### Governments

*Austria.* Has some doubts about the possibility of collecting additional information about the informal economy via household surveys. It does, however, support the idea of collecting additional information, probably through estimation models.

*Belgium.* It is important to retain in the proposed Recommendation statistics disaggregated by sex relating to the size and composition of the informal economy.

*China.* Add “proportion” before “size and composition”.

*Islamic Republic of Iran.* Add “and integrate this information into the labour market information systems” before “taking into consideration”.

*Philippines.* Add a reference to the most up-to-date resolution and guidelines.

*South Africa.* Proposed reference is supported and should be included.

### Employers

Consolidated reply. Clause (a) needs to be expanded to include data on the informal economy instead of covering only data related to informal employment. Therefore, two phrases: “on the size and composition of the informal economy, including the number and type of economic units, the number of workers, estimated income from informal activities” and “and the amount and market value of land, homes and other property held informally” should be inserted after “disseminate statistics” and “socio-economic characteristics” respectively.

### Workers

*UGT (Spain).* Add the word “nationality” after “age”.

## OFFICE COMMENTARY

In the light of the replies, the text remains unchanged. The Office draws Members’ attention to the suggestion by the employers’ organizations to include data on the informal economy instead of covering only data related to informal employment. It remains open for the Committee to discuss the issue on the basis of amendments that may be submitted during the discussion.

### Paragraph 36(b)

#### Governments

*India.* Replace “monitor” by “assess”.

#### Employers

Consolidated reply. The alternative wording suggested by the Office in Report V(1) is acceptable but the words “informal economy” after “indicators on the” should be replaced by “informal employment”.

#### Workers

*CTH.* Suggests adding “technical” before “formalization”.

## OFFICE COMMENTARY

In the light of the replies, the text remains unchanged.

## IX. IMPLEMENTATION AND FOLLOW-UP

### Paragraph 38

#### Governments

*Argentina, Austria, Bulgaria, Burkina Faso, Finland, Ghana, Philippines, Romania, Switzerland.* Agree with the Office proposal.

*Brazil.* Same comments as for Paragraphs 6, 34 and 39.

*India.* Delete end of the sentence after “employers’ and workers’ organizations”.

*Iraq.* Delete “according to national practice” as it was mentioned as a principle in Part II (Guiding principles).

*Mexico.* Same comments as for Paragraph 34.

*Netherlands.* Not in favour of strong obligations on reporting, also in view of the fact that this proposed Recommendation is a non-binding instrument.

### Employers

Consolidated reply. Support the Office’s proposal.

CNI. Amend the text to read as follows: “Members should give effect to the provisions of this Recommendation, in consultation with the most representative employers’ and workers’ organizations, by one or a combination of the following means, as appropriate.”.

UPS. Keep current wording and delete the text “which should include in their rank … workers and economic units in the informal economy”.

### Workers

Consolidated reply. Strongly support the proposal from the Office for Paragraph 38, and the words “, as appropriate,” could be moved to the end of the chapeau. Meanwhile, add a new clause “sectoral strategies, with particular attention to sectors with high prevalence in the informal economy”.

CASC, CNTD and CNUS. Delete “as appropriate” in the chapeau.

CGT-RA. In the chapeau, replace “in consultation” with “through tripartite mechanisms”.

CNTS/FC. Replace “consultation” by “through tripartite mechanisms”, which calls for a clearer structure than consultation alone in the chapeau.

CTM. In the chapeau, after “Recommendation”, replace “as appropriate” by “always”.

## OFFICE COMMENTARY

The Office refers Members to its commentary under Paragraph 34. In the light of the replies, the text remains unchanged. It remains open for the Committee to rediscuss the issue on the basis of amendments that may be submitted during the discussion and in the light of the wording of existing ILO instruments.

### Paragraph 38(b)

#### Governments

*Austria.* It should be borne in mind that governments cannot force collective agreements and collective bargaining, they can only provide the respective legal framework.

#### Workers

CTH. Add “and recommendations of the ILO supervisory bodies” at the end.

## OFFICE COMMENTARY

In the light of the replies, the text remains unchanged.

### Paragraph 38(c)

#### Governments

*Bulgaria.* Replace it with the text “national and workplace policies and programmes of action”.

## Workers

Consolidated reply. Replace with the text “national and workplace policies and programmes of action”.

### OFFICE COMMENTARY

In the light of the replies, the text remains unchanged.

### Paragraph 38(f)

## Governments

*Bulgaria.* Delete this Paragraph.

## Workers

Consolidated reply. Delete since the flexibility of measures sought is already covered by the amended text of the chapeau.

### OFFICE COMMENTARY

In the light of the replies, the text remains unchanged.

### Paragraph 39

## Governments

*Argentina, Burkina Faso, Finland, Ghana, Kenya, Philippines, Romania, Switzerland.* Agree with the Office proposal.

*Brazil.* Same comments as for Paragraphs 6, 34 and 38.

*Mexico.* Same comments as for Paragraphs 34 and 38.

*Senegal.* Replace “representatives of membership-based representative organizations of workers and economic units in the informal economy” with “representatives of organizations of workers and economic units in the informal economy”.

*South Africa.* The text is not accepted and should be part of monitoring and evaluation.

## Employers

Consolidated reply. Support the alternative wording proposed by the Office.

*CNI.* This Paragraph should be modified to read “Members should review on a regular basis, as appropriate, the effectiveness of policies and measures to facilitate the transition to the formal economy, in consultation with the most representative employers’ and workers’ organizations”.

## Workers

Consolidated reply. Support the current text regarding consultation with the most representative organizations for the same reason as given in comments on Paragraphs 6 and 38.

*CGT-RA.* Insert “through tripartite mechanisms” after “the transition to formality”.

*CTM.* Modify to read as follows: “Members should review on a regular basis the effectiveness ...”.

## OFFICE COMMENTARY

In the light of the replies, the text remains unchanged except for a linguistic change that moves the phrase “undertake on a regular basis a review of” and reformulates it as “review on a regular basis” aiming to improve clarity. The Office draws Members’ attention to its commentary on Paragraphs 6, 34, 38 and 39. It remains open for the Committee to rediscuss the issue on the basis of amendments that may be submitted during the discussion and for consistency with existing ILO instruments.

### **Paragraph 40**

#### **Governments**

*India.* Delete “and the United Nations”.

*Indonesia.* Add the words “in accordance with national circumstances” at the end.

## OFFICE COMMENTARY

In the light of the replies, the text remains largely unchanged, apart from moving the word “Members” to before “should take into account” for linguistic reasons.

### **Annex**

#### **Governments**

*Belgium, Bulgaria, Burkina Faso, Greece, Italy, Kenya.* Support the alternative format proposed by the Office.

*Philippines.* Add 1. Convention on the Rights of Persons with Disabilities, 2. Convention on the Elimination of All Forms of Discrimination Against Women, 3. Convention on the Rights of the Child.

#### **Employers**

Consolidated reply. The Employers’ group strongly felt during the first discussion that the Annex providing a list of ILO and UN instruments relevant to facilitating the transition from the informal to the formal economy was not necessary, and a number of governments also felt the same. However, the proposed Office text in the Report V(1), 2015, indicating that these are instruments that “may be taken into particular account” addresses the Employers’ concerns and we believe that this wording is acceptable.

#### **Workers**

Consolidated reply. Support the suggestion by the Office to present the international labour standards in the Annex by subject matter.

*CGT-RA, CTC and UNT.* The Private Employment Agencies Convention, 1997 (No. 181), should be added.

## OFFICE COMMENTARY

The title of the Annex containing a list of international instruments has been simplified to bring it into line with the Organization’s practice in this field (see, for example, the Annex to Recommendation No. 197). In line with this practice, any reference to the attention to be given by Members to the said instruments can be made in the text of the Recommendation. In this case, Paragraph 40 of the proposed Recommendation provides that “Members 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”.

The structure of the list of instruments in the Annex has also been reviewed in order to distinguish clearly between ILO instruments and UN instruments. Furthermore, the structure of the Annex now reflects the distinction that is usually made within the Organization between fundamental Conventions, governance Conventions and other ILO instruments, presented thematically.