

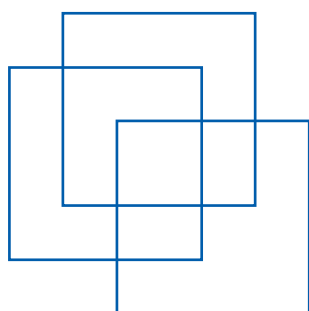


International
Labour
Office



Transition from the Informal to the Formal Economy Recommendation, 2015 (No. 204)

Workers' Guide



ACTRAV
Bureau
for Workers'
Activities

**Transition from the Informal to
the Formal Economy Recommendation,
2015 (No. 204)**

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Foreword

Tackling the decent work deficits associated with employment in the informal economy has long been a priority for the ILO's Bureau for Workers' Activities (ACTRAV), but the issue has gained renewed impetus following the adoption of the Transition from the Informal to the Formal Economy Recommendation (No. 204) by the International Labour Conference in 2015. For the 2016–17 biennium, ACTRAV is unrolling a number of initiatives aimed at ensuring the implementation of the Recommendation.

As one of these initiatives, a policy brief on *Organizing Workers in the Informal Economy* was published in September 2016, showing why it is important to organize informal economy workers, identifying the challenges, and offering recommendations for action. The brief is available on our website alongside other useful resources.¹

Accompanying the policy brief, this Workers' Guide serves as a valuable reference to workers' organizations on the provisions of the Recommendation. It offers examples as well as concrete suggestions on supporting the transition to formality.

The Guide was tested at several subregional and regional events throughout 2016, as well as at the Global Workers' Academy on the Transition from the Informal to the Formal Economy, held in Turin, Italy, from 5 to 16 September 2016. Participants in these events provided useful insights on its content, which have been reflected in the text and for which we are very grateful.

Credit is due to Raghwan Raghwan and Roxáni Roushas for developing the Guide. Many thanks also go to ACTRAV colleagues at headquarters and in the field who provided valuable input and support, and to Lene Olsen for coordinating the work.

I hope you will find the Guide a useful resource and urge you to take action on this important issue.

Maria Helena André

Director, Bureau for Workers' Activities (ACTRAV)

¹ The brief is available in English, French, Spanish, Arabic, Russian, and Portuguese.



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1. Introduction to the Guide

The *Transition from the Informal to the Formal Economy Recommendation, 2015 (No. 204)*, adopted by the International Labour Conference (ILC) in June 2015, is the first international instrument dealing specifically with the informal economy. It provides guidance to the tripartite constituents (governments, workers' and employers' organizations) of the International Labour Organization (ILO) on how to facilitate the transition from the informal to the formal economy, and was developed with the aim of ensuring decent work for all. The Recommendation follows a rights-based approach to formalization.

This Workers' Guide was prepared with the objective of encouraging and assisting workers' organizations at all levels to protect and promote the rights and working conditions of workers in the informal economy and to implement Recommendation No. 204. The Guide follows the structure of the Recommendation. Each section contains an excerpt from the Recommendation², followed by a summary of the key issues raised by workers' representatives during the two-year ILC debate (2014–15) that led to its adoption. Examples illustrate how the Recommendation can be implemented in practice.



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² Bold text has been used to highlight specific parts of the Recommendation that were of particular interest to the Workers' group during discussions. Bold formatting is not used in the original text of the Recommendation.



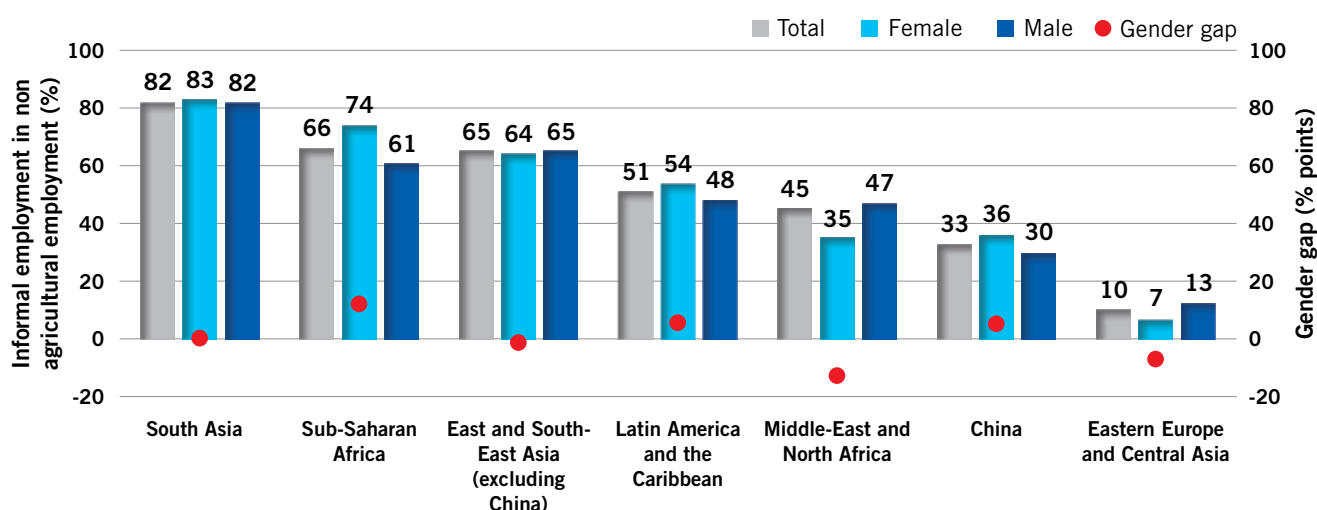


2. The informal economy in numbers

Approximately 2.5 billion people, or half of the global workforce, are employed in the informal economy. As shown in **Figure 1**, below, the non-agricultural informal economy accounts for as much as 82 per cent of total employment in South Asia, as compared with 10 per cent in Eastern Europe and Central Asia.

These averages mask vast intraregional disparities. For instance, within sub-Saharan Africa the numbers range from 33 per cent in South Africa to 82 per cent in Mali, as shown in **Table 1**. These differences can partly be explained by the fact that different operational criteria were used to measure informal employment.

FIGURE 1: INFORMAL EMPLOYMENT AS A PERCENTAGE OF TOTAL NON-AGRICULTURAL EMPLOYMENT BY SEX (BASED ON THE MOST RECENT STATISTICS AVAILABLE, WHICH RELATE TO DIFFERENT YEARS IN DIFFERENT REGIONS)³



Note: The regional groupings differ from those used in the ILO's official regional classification. The regional estimates of employment in the informal economy combine direct estimates from survey data (40 countries) with indirect estimates for countries that lack direct estimates (80 countries). The estimates for urban China are based on six cities: Fuzhou, Guangzhou, Shanghai, Shenyang, Wuhan, and Xi'an. Since the data for China only cover six cities, they are not comparable in terms of geographic coverage to the national data used to prepare the regional estimates. The gender gap is the difference between the percentage of women and the percentage of men in informal employment in sectors other than agriculture.

Table 1: Intraregional disparities⁴

Latin America	Uruguay	40	Bolivia	75
Sub-Saharan Africa	South Africa	33	Mali	82
Southern and Eastern Asia (excl. China)	Thailand	42	India	83.5
Middle East and North Africa	Turkey	30.5	West Bank and Gaza	58.5

Informal employment as a percentage (%) of total non-agricultural employment

³ Figure adapted from J. Vanek et al: *Statistics on the Informal Economy: Definitions, Regional Estimates and Challenges* (Cambridge, WIEGO, WIEGO Working Paper No. 2, 2014).

⁴ Adapted from Vanek et al. (op. cit.)

In three out of the six regions presented in Figure 1, as well as in China, informal employment is a greater source of non-agricultural employment for women than for men. In sub-Saharan Africa, for example, 74 per cent of women's employment is informal, in contrast to 61 per cent of men's employment.⁵

ILO data indicate that informality is not only present in developing countries. It is estimated that the informal

economy accounted for 18.4 per cent of gross domestic product (GDP) in the European Union (EU-27) in 2013, and 8.6 per cent on average in Australia, Canada, Japan, New Zealand and the United States.⁶

It is difficult to determine the extent of unionization among informal economy workers, but we do know that trade unions face a multiplicity of challenges, both internal and external, in organizing workers in the informal economy.



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5 ILO–WIEGO: *Women and men in the informal economy: A statistical picture* (Geneva, 2002 and 2013). As cited in Vanek et al. (op. cit.)

6 F. Schneider: *Size and development of the shadow economy of 31 European and 5 other OECD countries from 2003 to 2012: Some new facts.*



3. Background to the Recommendation

The ILO has long been the leading agency in addressing the challenges relating to the informal economy, having first introduced the term “informal sector” into the development policy debate in a 1972 report.⁷ That report played a seminal role in the analysis of the employment situation and development challenges in developing countries.

In 1991, the International Labour Conference (ILC) emphasized that the dilemma of informality should be addressed by tackling its underlying causes and not just its symptoms through a comprehensive and multifaceted strategy. In 1999, the ILO’s Bureau for Workers’ Activities (ACTRAV) held a Symposium on Trade Unions and the Informal Sector in order to discuss the challenges that confront trade unions in the informal sector and develop a strategy to address these. In 2001, the Director-General’s report to the Conference once again returned to the theme of informality, indicating that although the majority of the world’s workers are employed in the informal economy, almost all of them lack adequate social security protection, organization and a voice at work. Considering that the principles of decent work are as important in the informal as in the formal economy, he called for a way to be found to extend rights to everyone.

The 2002 ILC general discussion on decent work and the informal economy is now widely recognized as a breakthrough in analysis which broadened understanding of informality and provided a comprehensive framework for addressing it across the ILO’s Decent Work Agenda. While recognizing the resilience and dynamism of workers and entrepreneurs in the informal economy, the ILO’s tripartite constituents reached a broad consensus on the need to address their vulnerabilities. The 2002 Resolution concerning decent work and the informal economy was a milestone in the ILO’s approach to informality. In recognition of the scale, dimensions and heterogeneity

of the phenomenon, it marked a significant move away from the narrower terminology of “informal sector” and coined the new term “informal economy”.⁸

More recently, ILC discussions in 2014–15 resulted in the adoption of the *Transition from the Informal to the Formal Economy Recommendation, 2015 (No. 204)*. This new standard constitutes a historic landmark for the world of work, and is the first international standard that provides guidance to assist workers and economic units in the transition from the informal to the formal economy. It is of significance not only to ILO constituents but to all those who are concerned with promoting inclusive development, eradicating poverty, and reducing inequality.

The Recommendation covers the following key points among others:

- It recognizes the high incidence of the informal economy and its impact on the rights of workers.
- It recognizes that most people do not enter the informal economy by choice, and that informality has multiple causes.
- It defines the informal economy and identifies the actors within it.
- It provides guidance on the design of coherent and integrated policies to facilitate the transition.
- It outlines a legal and policy framework to facilitate the transition.
- It recognizes the importance of a comprehensive employment policy framework and enumerates a number of elements that could form part of it.
- It outlines the measures that should be taken to guarantee rights and social protection for informal economy workers.
- It provides guidance on the incentives, compliance and enforcement mechanisms that should be put in place.

⁷ ILO: *Employment, incomes and equity: a strategy for increasing productive employment in Kenya* (Geneva, 1972).

⁸ ILO: *Report V (1): Transitioning from the informal to the formal economy* (Geneva, 2013).

- It recognizes that freedom of association, social dialogue and workers' and employers' organizations play a key role in the transition from informality to formality.
- It emphasizes the importance of data collection and monitoring.

The Recommendation was the result of intense discussions among the tripartite constituents, with the Workers' group pushing for the inclusion of particular concepts and terminology. Their main arguments concerning each section of the Recommendation are examined below, along with relevant examples (where applicable) and recommendations for action.



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4. Preamble

The General Conference of the International Labour Organization,

Having been convened at Geneva by the Governing Body of the International Labour Office, and having met in its 104th Session on 1 June 2015, and

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

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

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

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

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

Reaffirming the relevance of the eight ILO fundamental Conventions and other relevant international labour standards and United Nations instruments as listed in the Annex, and

Recalling the resolution and Conclusions concerning decent work and the informal economy adopted by the International Labour Conference at its 90th Session (2002), and other relevant resolutions and Conclusions as listed in the Annex, and

Affirming that the transition from the informal to the formal economy is essential to achieve inclusive development and to realize decent work for all, and

Recognizing the need for Members to take urgent and appropriate measures to enable the transition of workers and economic units from the informal to the formal economy, while ensuring the preservation and improvement of existing livelihoods during the transition, and

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

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

Having determined that these proposals shall take the form of a Recommendation;

adopts this twelfth day of June of the year two thousand and fifteen the following Recommendation, which may be cited as the Transition from the Informal to the Formal Economy Recommendation, 2015.

Key issues raised by Workers' representatives during ILC discussions (2014–15)

“... the informal economy in all its aspects is a major challenge for the rights of workers, including the fundamental principles and rights at work, and for social protection, decent working conditions, inclusive development and the rule of law ...”

It was particularly important for the Workers' group that the Recommendation recognize the challenges in terms of rights protection associated with the informal economy. This extract prioritizes the issues of fundamental rights at work and non-discrimination, while adding language consistent with the ILO's Decent Work Agenda. The acknowledgement that informality affects the application of the rule of law was opposed by some Governments, who argued that this brought national sovereignty into question and pushed for “rule of law” to be changed to “enforcement of law”. For the Workers' group this was important, given that informal economy workers – particularly street vendors – often face abuse and harassment by local government administrators and law enforcement agents.

“... environmental policies ...”

The Recommendation recognizes that informality can negatively affect governments' scope of action with regard to economic, social and environmental policies. Formalization can help promote the three pillars of sustainable development, including environmental development, and therefore efforts to transition to the formal economy should also seek to maximize environmental benefits among others through the creation of green jobs. The contribution of waste pickers is a good example. It would be important to ensure that these workers do not lose their jobs as a result of competition with more organized collection services in the transition to a greener formal economy.

“... most people enter the informal economy not by choice ...”

The acknowledgement that most workers enter the informal economy as a consequence of a lack of opportunities in the formal economy, and not by choice, was of great importance to the Workers' group. The paragraph was opposed by some Governments, who argued that the Recommendation should also focus on those who “chose” to enter the informal economy. However, the Workers' group insisted that the absence of decent jobs and social protection floors were the main reasons.

“... informality has multiple causes, including governance ...”

The Employers' group, as well as some Governments, had opposed specifying governance as a cause of informality, arguing that there were many other causes and that the text should be replaced by “a lack of a conducive environment for formalization”. In response, the Workers' group argued that although there was a strong body of international instruments, labour standards and national laws, there were also gaps in compliance in all countries and at all levels. Good governance and job-centred macroeconomic policies that would enable the creation of formal jobs in formal enterprises were essential, especially because of the deregulation of labour markets which had led to increased informality. In particular, it was important to have an effective legal framework and strengthened enforcement mechanisms, including labour inspection.

Examples relevant to this section

In Uruguay, the **Union of Urban Solid Waste Sorters (UCRUS)**, an affiliate of the Inter-Union Assembly of Workers–National Convention of Workers (PIT–CNT), has permanent relations with the National Environment Directorate (DINAMA) and the National Agency for Housing and the Environment (ONVMA). The union has assumed its obligations on environmental matters and participates in a project to selectively collect and sort waste in which some union members are employed as salaried workers.⁹

⁹ ITUC and CSA–TUCA: *Procesos de Autorreforma Sindical en Las Américas: Avances del Grupo de Trabajo sobre Autorreforma Sindical (GTAS) en 2012–2013.*



Recommendations for trade union action

- ✓ Ensure full understanding of the provisions of Recommendation No. 204 and other relevant instruments, including but not limited to those listed in its Annex (reproduced in Annex A to this Guide), and in particular the ILO's fundamental Conventions regarding freedom of association, collective bargaining and the right to organize (Nos 87 and 98). Promote the ratification of these instruments.
- ✓ Consider obtaining a translation of the Recommendation into local languages.¹⁰
- ✓ Mount national- or regional-level campaigns – perhaps in collaboration with the media – to promote Recommendation No. 204 and raise awareness of gaps in its implementation. This can also be done in collaboration with other stakeholders, and informal economy representatives in particular.
- ✓ Call for the informal economy to be included among the issues to be kept under review by tripartite structures and ensure tripartite participation in any discussions on the transition.



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¹⁰ The Recommendation is available in English, French, Spanish, Arabic, Russian, and Chinese. ILO country or regional offices may have commissioned additional translations. Unions may consider hiring a translator used by the ILO. A disclaimer can be included stating that: "The English and French versions are the authentic texts of the Recommendation duly adopted by the General Conference of the International Labour Organization during its One hundred and fourth Session, which was held at Geneva and declared closed the thirteenth day of June 2015."



5. Objectives and scope

1. This Recommendation provides guidance to Members to:
 - a) facilitate the transition of workers and economic units from the informal to the formal economy, while respecting workers' fundamental rights and ensuring opportunities for income security, livelihoods and entrepreneurship;
 - b) promote the creation, preservation and sustainability of enterprises and decent jobs in the formal economy and the coherence of macroeconomic, employment, social protection and other social policies; and
 - c) prevent the informalization of formal economy jobs.
2. For the purposes of this Recommendation, the term "informal economy":
 - a) **refers to all economic activities by workers and economic units that are – in law or in practice – not covered or insufficiently covered by formal arrangements;** and
 - b) **does not cover illicit activities**, in particular the provision of services or the production, sale, possession or use of goods forbidden by law, including the illicit production and trafficking of drugs, the illicit manufacturing of and trafficking in firearms, trafficking in persons, and money laundering, as defined in the relevant international treaties.
3. For the purposes of this Recommendation, "economic units" in the informal economy include:
 - a) units that employ hired labour;
 - b) units that are owned by individuals working on their own account, either alone or with the help of contributing family workers; and
 - c) cooperatives and social and solidarity economy units.
4. This Recommendation applies to all workers and economic units – including enterprises, entrepreneurs and households – in the informal economy, in particular:
 - a) those in the informal economy who own and operate economic units, including:
 - i. own-account workers;
 - ii. employers; and
 - iii. members of cooperatives and of social and solidarity economy units;
 - b) contributing family workers, irrespective of whether they work in economic units in the formal or informal economy;
 - c) employees holding informal jobs in or for formal enterprises, or in or for economic units in the informal economy, including but not limited to **those in subcontracting and in supply chains**, or as paid domestic workers employed by households; and
 - d) **workers in unrecognized or unregulated employment relationships.**
5. Informal work may be found across all sectors of the economy, in both public and private spaces.
6. In giving effect to the provisions of Paragraphs 2 to 5 above, and given the diversity of the informal economy across member States, the competent authority should identify the nature and extent of the informal economy as described in this Recommendation, and its relationship to the formal economy. In so doing, the competent authority should make use of tripartite mechanisms with the **full participation of the most representative employers' and workers' organizations, which should include in their rank, according to national practice, representatives of membership-based representative organizations of workers and economic units in the informal economy.**

Key issues raised by Workers' representatives during ILC discussions (2014–15)

During discussions on the Recommendation's objectives and scope, the tripartite constituents spent a considerable amount of time debating a number of issues, including the definition of the informal economy; the scope of the term "economic units"; whether subcontracted and supply chain workers should be included; and whether the informal economy was present in both the private and public spheres.

"... refers to all economic activities by workers and economic units that are – in law or in practice – not covered or insufficiently covered by formal arrangements ..."

As previously mentioned, the Conclusions of the 2002 ILC discussion had clarified that informality was present in *all* sectors – whether private or public – and that therefore "informal economy", rather than "informal sector", should be the term of choice. This was endorsed during the 2014–15 discussions. In seeking to define the informal economy, it was important for the Workers' group that informality be conceived as all economic activities that are not covered, or are insufficiently covered, by formal arrangements. In order to include informal economy actors that are not generally considered to be enterprises (such as households), the Workers proposed use of the term "economic units", which was opposed by the Employers' group. The Office referred to the report of the 15th International Conference of Labour Statisticians (1993) and the Conclusions of the 2002 ILC, which had employed the above definition, including the term "economic units".

"... does not cover illicit activities ..."

The Recommendation does not cover "illicit" activities. The Workers' group felt that if this clause were not restricted properly, it could be used against workers in the informal economy in the sense that their activities could be arbitrarily deemed "illicit" and therefore suppressed despite not being illegal under international law. The final text, which clarifies what activities may be

considered "illicit", was based on language used in other international instruments.

"... those in subcontracting and in supply chains ..."

The Workers' group identified growing informalization in the formal economy as a key challenge, particularly in respect of subcontracting and supply chains. Recalling the 2013 Rana Plaza tragedy in Bangladesh, the group argued that rapid growth of global supply chains, in which subcontracting ties were numerous and complex, could pose a threat to formal work. Many of those who had died when the building collapsed did not have proper contracts. They were employed daily, with no agreement on hours of work, overtime pay, sick leave or compensation for injury or death. Others who had died had been wage workers but had not been covered by any labour laws. The factory authorities had been unable to account for the dead as they did not have a record of people who had been employed in the factory at the time. The victims' families had been unable to claim any compensation for the loss of their breadwinners. That daily reality for workers in the informal economy was unacceptable.

The specific mention of workers in subcontracting and supply chains was one of the most controversial matters discussed during the ILC, with the Employers arguing that the question of supply chains was scheduled for discussion at the ILC in 2016, that supply chains and subcontracting were separate issues, and that the Recommendation should be globally applicable and an instrument that all could support. However, the Workers' group emphasized that over 60 per cent of global trade depended on subcontracting and supply chains and that it was necessary to ensure that the exploitation of informal workers did not underlie that trade.

"... workers in unrecognized or unregulated employment relationships."

Linked to the previous point, the Workers' group insisted that consideration should be given to employment relationships and the nature of contracts and subcontracting. Informal work in formal establishments deprived workers of formal benefits by failing to recognize the employment



relationship.¹¹ Furthermore, many employers ignored or avoided their responsibilities to workers in global supply chains reaching from global consumer brands to home-based workers. It was important to talk about a wide range of actors in the informal economy, including members of cooperatives and other forms of solidarity economy enterprises and wage-dependent workers who operated outside formal employment structures. It was also essential for non-wage workers to be able to bargain with local, state and national authorities, other decision-makers and contractors as a foundation for change. The right to organize and to bargain collectively and the right to freedom of association were essential elements of the transition to formality.

“... full participation of the most representative employers’ and workers’ organizations, which should include in their rank, according to national practice, representatives of membership-based representative organizations of workers and economic units in the informal economy.”

Two points were important for the Workers’ group in this paragraph (as well as in subsequent paragraphs where consultation and participation of employers’ and workers’ organizations are requested, namely paragraphs 34, 38, and 39):

1. to ensure that the “most representative” workers’ organizations can participate through tripartite mechanisms; and
2. to ensure that the views of informal economy representatives are taken into consideration.

With regard to the first point, some Governments opposed the reference to “the most representative”

¹¹ The guidelines of the 17th International Conference of Labour Statisticians state that: “Employees are considered to have informal jobs if their employment relationship is, in law or in practice, not subject to national labour legislation, income taxation, social protection or entitlement to certain employment benefits (advance notice of dismissal, severance pay, paid annual or sick leave, etc.) for reasons such as: the jobs or the employees are not declared to the relevant authorities; the jobs are casual or of a limited duration (e.g. through on-call arrangements); the hours of work or wages are below a specified threshold (e.g. below that qualifying for social security contributions); the workers are employed by unincorporated enterprises or by persons in households; the employee’s place of work is outside the premises of the employer’s enterprise (e.g. outworkers without an employment contract); or regulations are not applied, not enforced or not complied with for any reason.”

workers’ and employers’ organizations, arguing that failure to allow less representative organizations to take part in social dialogue could be tantamount to a breach of freedom of association. The Workers’ group cautioned against bringing tripartism into question, referencing the Tripartite Consultation (International Labour Standards) Convention, 1976 (No. 144), which states in Article 1 that “the term ‘representative organisations’ means the most representative organisations of employers and workers enjoying the right of freedom of association”.

With regard to the second point, the Workers’ group spoke to the importance of incorporating the views of informal economy representatives. Their inclusion was crucial to ensuring respect for their rights to freedom of association and collective bargaining, and helped make sure that different national realities were taken into consideration. However, it was important informal economy representatives be involved through membership-based organizations in the ranks of the most representative workers’ organizations.

Examples relevant to this section

In 2014, the **United Independent Albanian Trade Unions (BSPSH)** salvaged the jobs of 1,000 taxi and bus drivers whom the Government had attempted to stop working under the pretext that they were informal workers and therefore illegal. The union brought the situation under control. Following some strikes and protests, a tripartite agreement was reached through which the drivers were able to resume their work. Social dialogue was crucial in this situation.¹²

Recommendations for trade union action

- ✓ Undertake research and data collection to understand the characteristics, circumstances and needs of informal economy workers and economic units. This might include desk research, surveys, consultations, interviews and site visits, and should involve a range of stakeholders.

¹² Information provided by the BSPSH.

- ✓ Map existing organizations of informal economy workers in order to assess their objectives, strengths, weaknesses, and so forth.
- ✓ Identify (based on research findings) workers who are in a particularly vulnerable situation and define target groups, sectors, and policy areas. This can help determine an approximate timeframe for the formalization process and the choice of organizing strategy.
- ✓ Analyse and potentially review the union's constitution, structures and programmes with a view to opening membership to informal economy workers.
- ✓ Set up trade union platforms for knowledge sharing at national, regional and international levels.
- ✓ Foster partnerships with informal economy associations, cooperatives, and other stakeholders on the national, regional, and international levels. Take measures to prevent the informalization of the formal economy and to create decent jobs in the formal economy.



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6. Guiding principles

7. In designing coherent and integrated strategies to facilitate the transition to the formal economy, Members should take into account the following:
 - a) the diversity of characteristics, circumstances and needs of workers and economic units in the informal economy, and the necessity to address such diversity with tailored approaches;
 - b) the specific national circumstances, legislation, policies, practices and priorities for the transition to the formal economy;
 - c) the fact that different and multiple strategies can be applied to facilitate the transition to the formal economy;
 - d) the need for coherence and coordination across a broad range of policy areas in facilitating the transition to the formal economy;
 - e) the effective promotion and protection of the human rights of all those operating in the informal economy;
 - f) the fulfilment of decent work for all through respect for the fundamental principles and rights at work, in law and practice;
 - g) the up-to-date international labour standards that provide guidance in specific policy areas (see Annex);
 - h) the promotion of gender equality and non-discrimination;
 - i) **the need to pay special attention to those who are especially vulnerable to the most serious decent work deficits in the informal economy, including but not limited to women, young people, migrants, older people, indigenous and tribal peoples, persons living with HIV or affected by HIV or AIDS, persons with disabilities, domestic workers and subsistence farmers;**
 - j) the preservation and expansion, during the transition to the formal economy, of the entrepreneurial potential, creativity, dynamism, skills and innovative capacities of workers and economic units in the informal economy;
 - k) the need for a balanced approach combining incentives with compliance measures; and
 - l) the need to prevent and sanction deliberate avoidance of, or exit from, the formal economy for the purpose of evading taxation and the application of social and labour laws and regulations.

Key issues raised by Workers' representatives during ILC discussions (2014–15)

“... the need to pay special attention to those who are especially vulnerable to the most serious decent work deficits in the informal economy, including but not limited to women, young people, migrants, older people, indigenous and tribal peoples, persons living with HIV or affected by HIV or AIDS, persons with disabilities, domestic workers and subsistence farmers ...”

Workers in the informal economy differ widely in terms of income, employment status, sector, type and size of enterprise, location, social protection, and employment protection. Nevertheless – as highlighted in the Recommendation – certain groups are particularly vulnerable to the most serious decent work deficits in the informal economy, including among others women, young people, migrants, older people, indigenous and tribal peoples, persons living with HIV or affected by HIV or AIDS, persons with disabilities, domestic workers, and subsistence farmers. In discussions, the Employers and some

Governments had opposed the inclusion of subsistence farmers as a vulnerable group. The Workers' group explained that subsistence farmers deserved special attention in national policies and programmes aiming to facilitate the transition to the formal economy. This did not mean that they should be paid the minimum wage, that their production should be taxed or that labour inspectors should visit them to monitor compliance with the legally mandated working hours. It did mean, however, that they should be taken into account in building social security floors and that they should have access to credit and financial advice in order to increase production for market. They and their children should have access to skills development programmes, health and safety protection and education, particularly in light of their exclusion from coverage under the Safety and Health in Agriculture Convention, 2001 (No. 184).

Examples relevant to this section

Domestic workers are identified in the Recommendation as particularly vulnerable to decent work deficits. In Lebanon, domestic workers, whether national or migrant, are excluded from Lebanese labour law and are therefore highly vulnerable to rights violations. Between May 2012 and January 2014, the ILO, the International Trade Union Confederation (ITUC) and a number of human rights non-governmental organizations assisted the **National Federation of Employees' and Workers' Unions in Lebanon (FENASOL)** to develop the capacity of a group of migrant domestic workers in Lebanon by raising their awareness of trade union rights, labour law and international labour standards; by improving their leadership skills to enable them to reach out to and recruit more domestic workers; and by creating synergies with the global domestic workers' movement. As a result, a Founding Committee for a Domestic Workers' Union was established within the structure of FENASOL. At the Founding Congress for the Union, held in January 2015, the Union's leadership was elected.¹³ The Domestic Workers' Union is an excellent example of workers of various nationalities coming together in a restrictive legislative context.

¹³ *Domestic Workers' Union in Lebanon*, ILO, 2015, http://www.ilo.org/dyn/migpractice/migmmain.showPractice?p_lang=en&p_practice_id=138 [accessed 10 June 2016].

The above example illustrates the fact that certain occupational sectors, in this case domestic work, require particular attention because they tend to attract groups of workers who are in a vulnerable situation by virtue of multiple characteristics (in this case women migrants). The fruit picking industry in Australia offers another example of this. The **National Union of Workers (NUW)**, an affiliate of the Australian Council of Trade Unions (ACTU), is assisting Pacific Island workers who come to Australia on temporary work visas, mainly to work as fruit pickers. These workers are often subjected to abuse and exploitation by employers, in part because they work on farms that are far from urban centres. Seasonal workers in Australia face a number of difficulties: they are paid less than their stated wages, they do not receive superannuation, they have to sign employment contracts that are not compliant with Australian law, and they lack knowledge of workers' rights. The NUW began organizing these workers in 2015. It has signed agreements with unions in their countries of origin (including Samoa and Vanuatu) on protecting migrant workers and providing information to them before departure and upon arrival.

Recommendations for trade union action

- ✓ Ensure that policies are developed and implemented based on the national situation. Take into consideration the diversity of characteristics, circumstances and needs of workers and economic units in the informal economy. Organizing strategies should be context-specific.
- ✓ Develop synergies between efforts to combat child labour and efforts towards the formalization of the informal economy, in recognition of the prevalence of child labour in informal work settings.
- ✓ Take into consideration the existence of multiple forms of discrimination, as well as additional sources of vulnerability beyond those listed in the Recommendation, such as faith, marital status, or sexual orientation. For instance, where access to social protection is tied to marital status, women may find themselves in a precarious situation following divorce.
- ✓ Take particular note of international instruments protecting groups of workers who are in vulnerable situations, for example: the Worst Forms of



Child Labour Convention, 1999 (No. 182); the Equal Remuneration Convention, 1951 (No. 100); the Discrimination (Employment and Occupation) Convention, 1958 (No. 111); the Workers with Family Responsibilities Convention, 1981 (No. 156); the Migration for Employment Convention (Revised), 1949 (No. 97); the Migrant Workers (Supplementary Provisions) Convention, 1975 (No. 143); the International Convention on the Protection of the

Rights of All Migrant Workers and Members of their Families, 1990; the HIV and AIDS Recommendation, 2010 (No. 200); the Domestic Workers Convention (No. 189) and Recommendation (No. 201), 2011; the Safety and Health in Agriculture Convention (No. 184) and Recommendation (No. 192), 2001; and the Indigenous and Tribal Peoples Convention, 1989 (No. 169).



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7. Legal and policy frameworks

8. Members should undertake a proper assessment and diagnostics of factors, characteristics, causes and circumstances of informality in the national context to inform the design and implementation of laws and regulations, policies and other measures aiming to facilitate the transition to the formal economy.
9. Members should adopt, review and enforce national laws and regulations or other measures to ensure appropriate coverage and protection of all categories of workers and economic units.
10. **Members should ensure that an integrated policy framework** to facilitate the transition to the formal economy is included in national development strategies or plans as well as in poverty reduction strategies and budgets, taking into account, where appropriate, the role of different levels of government.
11. This integrated policy framework should address:
 - a) the promotion of strategies for sustainable development, poverty eradication and inclusive growth, and the generation of decent jobs in the formal economy;
 - b) the establishment of an appropriate legislative and regulatory framework;
 - c) the promotion of a conducive business and investment environment;
 - d) respect for and promotion and realization of the fundamental principles and rights at work;
 - e) the organization and representation of employers and workers to promote social dialogue;
 - f) the promotion of equality and the elimination of all forms of discrimination and violence, including gender-based violence, at the workplace;
 - g) the promotion of entrepreneurship, micro, small and medium-sized enterprises, and other forms of business models and economic units, such as cooperatives and other social and solidarity economy units;
 - h) access to education, lifelong learning and skills development;
 - i) access to financial services, including through a regulatory framework promoting an inclusive financial sector;
 - j) access to business services;
 - k) access to markets;
 - l) access to infrastructure and technology;
 - m) the promotion of sectoral policies;
 - n) the establishment of social protection floors, where they do not exist, and the extension of social security coverage;
 - o) the promotion of local development strategies, both rural and urban, including **regulated access for use of public space and regulated access to public natural resources for subsistence livelihoods**;
 - p) effective occupational safety and health policies;
 - q) efficient and effective labour inspections;
 - r) income security, including appropriately designed minimum wage policies;
 - s) effective access to justice; and
 - t) international cooperation mechanisms.
12. **When formulating and implementing an integrated policy framework, Members should ensure coordination across different levels of government and cooperation between the relevant bodies and authorities**, such as tax authorities, social security institutions, labour inspectorates, customs authorities, migration bodies and employment services, among others, depending on national circumstances.
13. **Members should recognize the importance of safeguarding the opportunities of workers and economic units for income security in the transition to the formal economy by providing the means for such workers or economic units to obtain recognition of their existing property as well as by providing the means to formalize property rights and access to land.**

Key issues raised by Workers' representatives during ILC discussions (2014–15)

“Members should ensure that an integrated policy framework ...”

The Workers' group highlighted the importance of a national integrated policy framework which would enable the creation of decent work in the formal economy while supporting law enforcement and compliance in the transition to the formal economy. Policies on the informal economy should not be developed in isolation from other development policies, and should be adapted to the particular drivers of informality in different labour markets. Paragraph 11 of the Recommendation enumerates a number of policy areas that should all be addressed as part of an integrated policy framework. For instance, labour market discrimination can push groups of workers in vulnerable situations, such as women and migrants, into the informal economy. Policies tackling discrimination could therefore also facilitate formalization.

“... regulated access for use of public space and regulated access to public natural resources for subsistence livelihoods ...”

The inclusion of this text was important as many activities in the informal economy, such as sea-salt extraction and fishing, require access to natural resources. Similarly, securing access for use of public space is important for millions of informal economy workers, such as market vendors, who usually work in public areas.

“When formulating and implementing an integrated policy framework, Members should ensure coordination across different levels of government and cooperation between the relevant bodies and authorities ...”

For the Workers' group it was important to ensure that any policy changes are coordinated across levels of government and other relevant bodies. For instance, regulations at the municipal level can directly affect informal economy workers and should therefore also be geared towards assisting the transition to formality.

“Members should recognize the importance of safeguarding the opportunities of workers and economic units for income security in the transition to the formal economy by providing the means for such workers or economic units to obtain recognition of their existing property as well as by providing the means to formalize property rights and access to land.”

The Employers' group argued that the issue of land and property rights was essential for the transition to the formal economy. The Workers' group concurred that property and land rights were crucial for economic units and workers in the informal economy, and pushed for the text to specifically call for the income security of these units and workers to be safeguarded by providing them with the means to obtain recognition of their existing property.

Examples relevant to this section

The promotion of cooperatives is one of the elements suggested for inclusion in the integrated policy framework. As illustrated in the two examples below, cooperatives can have a crucial role in organizing workers and fostering formalization.

In New York City, **Cooperative Home Care Associates (CHCA)**, a worker-owned home care (elderly care) agency and the largest worker cooperative in the United States, employs 2,200 inner city homecare workers in the South Bronx and generates an annual income of over US\$40 million. Originally established in 1985 with the support of the New York Community Service Society, CHCA is now owned by 1,700 low-income women from immigrant, African American and Latin American backgrounds. Trainee members undertake a four-week training programme on clinical and interpersonal skills that leads to a certificate. They are then placed in permanent unsubsidized jobs within the cooperative and continue to receive vocational training. By improving home care jobs, CHCA has transformed the challenges faced by these women into sustainable opportunities for economic independence.¹⁴

In India, the **Self-Employed Women's Association (SEWA)** is both a registered national trade union and a grassroots organization that works to provide employment

¹⁴ ILO COOP: *Cooperating out of isolation: Domestic workers' cooperatives* (Cooperatives and the world of work No. 2, 2014).



through creating cooperatives owned and run by its 2 million women members. SEWA has helped establish health care, home care, midwifery and child care cooperatives among others. According to SEWA, through these cooperatives “workers obtain continuous work and income in a non-exploitative manner with better bargaining position, and are transformed into worker-owners”.¹⁵

SEWA has also campaigned for the right of street vendors to access public space, another key element of the integrated policy framework as described above. Street vendors in India are routinely harassed by local authorities and evicted from their vending sites. With the help of SEWA, vendors have been actively campaigning for “two baskets’ worth of space”, licences and identity cards, as well as representation on urban boards, which formulate policies and laws on vendors and urban development in general. The campaign has been strengthened by nationwide and international alliances, such as the National Alliance of Street Vendors in India (NASVI).¹⁶ While new legislation was passed by the Indian Parliament in 2004 that seeks to ensure vendors’ access to space, much remains to be done in terms of its implementation in practice.

In Colombia, the **Central Union of Workers (CGT)**, faced with the privatization of beaches on the Atlantic coast, reached agreements with employers to improve working conditions at beach kiosks. The same has been achieved for beach vendors and lifeguards who were in constant dispute with hotels: agreements have been reached with the private sector to improve working conditions and secure the right to access public space.¹⁷

In yet another example, the **Association of Informal Sector Workers of Aragua State (ASOTRACEN)** in Venezuela has succeeded in encouraging a local government to build six public markets to relocate vendors who used to trade in the street. In total, 2,000 workers have been relocated and now have formal spaces in which to operate. Alliances have been promoted with public and private banks to secure credit for these workers.¹⁸

¹⁵ Ibid.

¹⁶ P. S. Ahn: *Organizing for Decent Work in the Informal Economy: Strategies, Methods and Practices* (2007).

¹⁷ ITUC and CSA-TUCA: *Experiencias sindicales de formalización mediante organización sindical y diálogo social en América Latina y el Caribe* (2016).

¹⁸ Information provided by ASOTRACEN.

Recommendations for trade union action

- ✓ Analyse and possibly review legislation, regulations and policies on the regional, national and local levels to identify protection gaps, including in terms of implementation. This should include consideration of legislation and policy across all areas relevant to the informal economy (for instance, waste management or environmental policies).
- ✓ Ensure that governments apply an integrated strategy when developing policies and programmes for the transition. The strategy should be based on an understanding of the underlying causes of informality in the national context.
- ✓ Demand access to public space and natural resources.
- ✓ Initiate and engage in national level (tripartite) discussions on including issues related to the informal economy in national Decent Work Country Programmes (DWCPs) and United Nations Development Assistance Frameworks (UNDAFs). Seek participation in efforts to implement the Sustainable Development Goals (SDGs), and in particular Goal 8 (“Promote sustained, inclusive and sustainable economic growth, full and productive employment and decent work for all”), which includes a target (8.3) on formalization. Goals 1 (poverty eradication), 3 (good health and well-being), 5 (gender equality), 10 (reducing inequalities), and 16 (inclusive societies and effective and accountable institutions) are also highly relevant.
- ✓ Consider representing informal economy workers in court on a pro-bono basis.
- ✓ Take particular note of international labour standards relevant to this section of the Recommendation: the Occupational Safety and Health Convention, 1981 (No. 155); the Safety and Health in Agriculture Convention (No. 184) and Recommendation (No. 192), 2001; the Promotional Framework for Occupational Safety and Health Convention, 2006 (No. 187); the Social Security (Minimum Standards) Convention, 1952 (No. 102); and the Social Protection Floors Recommendation, 2012 (No. 202).



8. Employment policies

14. In pursuing the objective of quality job creation in the formal economy, Members should **formulate and implement a national employment policy in line with the Employment Policy Convention, 1964 (No. 122)**, and make full, decent, productive and freely chosen employment a central goal in their national development and growth strategy or plan.
15. Members should promote the implementation of a comprehensive employment policy framework, based on tripartite consultations, that may include the following elements:
 - a) pro-employment macroeconomic policies that support aggregate demand, productive investment and structural transformation, promote sustainable enterprises, support business confidence, and address inequalities;
 - b) trade, industrial, tax, sectoral and infrastructure policies that promote employment, enhance productivity and facilitate structural transformation processes;
 - c) enterprise policies that promote sustainable enterprises and, in particular, the conditions for a conducive environment, taking into account the resolution and Conclusions concerning the promotion of sustainable enterprises adopted by the International Labour Conference at its 96th Session (2007), including support to micro, small and medium-sized enterprises and entrepreneurship, and well designed, transparent and well-communicated regulations to facilitate formalization and fair competition;
 - d) labour market policies and institutions to help low-income households to escape poverty and access freely chosen employment, such as appropriately designed wage policies including minimum wages, social protection schemes including cash transfers, public employment programmes and guarantees, and enhanced outreach and delivery of employment services to those in the informal economy;
 - e) **labour migration policies that take into account labour market needs and promote decent work and the rights of migrant workers;**
 - f) education and skills development policies that support lifelong learning, respond to the evolving needs of the labour market and to new technologies, and recognize prior learning such as through informal apprenticeship systems, thereby broadening options for formal employment;
 - g) comprehensive activation measures to facilitate the school-to-work transition of young people, in particular those who are disadvantaged, such as youth guarantee schemes to provide access to training and continuing productive employment;
 - h) measures to promote the transition from unemployment or inactivity to work, in particular for long-term unemployed persons, women and other disadvantaged groups; and
 - i) relevant, accessible and up-to-date labour market information systems.

Key issues raised by Workers' representatives during ILC discussions (2014–15)

“... formulate and implement a national employment policy in line with the Employment Policy Convention, 1964 (No. 122) ...”

The employment policy framework proposed in this section of the Recommendation is based on the Employment Policy Convention, 1964 (No. 122). The Convention calls for the adoption of active policies designed to promote full, productive and freely chosen employment with the aim of ensuring “work for all who are available for and seeking work” (Article 1). It also requires governments, when formulating and implementing employment policies, to consult the representatives of employers and workers with a view to taking into account their views and experience (Article 3).

“... labour migration policies that take into account labour market needs and promote decent work and the rights of migrant workers ...”

Given the particular vulnerability of migrant workers to informality and decent work deficits, the Workers' group insisted on the inclusion of rights-based labour migration policies as an element of the proposed employment policy framework.

Examples relevant to this section

There are many examples of labour migration policies that have facilitated formalization by opening channels for regular migration. For instance, since 2009 the MERCOSUR Residence Agreement has allowed any national of an implementing country (Argentina, Bolivia, Brazil, Chile, Colombia, Ecuador, Paraguay, Peru and Uruguay) to reside and work for a period of two years in a host State. After two years, the temporary residence permit may be converted into a permanent one. The Agreement also lays down a number of rights, including equal civil rights and social, cultural and economic liberties; the right to equal treatment in the labour market; the right to family reunion; the right to transfer remittances; and the right of children to access education. The Agreement was pushed for by the **Coordinating Committee of Southern Cone Trade Unions (CCSCS)**, which assisted

in its elaboration and implementation through existing participatory mechanisms.¹⁹

With regard to education and skills development policies, the national **Federation of Autonomous Sector Workers (FENATSEA)**, an affiliate of the Central Movement of Costa Rican Workers (CMTC), has entered into an agreement with the National Apprenticeship Institute (INA) on training its members in customer service, food handling, and jewellery making.²⁰

In Nicaragua, the **Confederation of Own-Account Workers (CTCP)**, an affiliate of the National Workers Front (FNT), runs several educational programmes in collaboration with the National Agrarian University (UNA) and the National Autonomous University of Nicaragua (UNAN). These include a literacy programme which uses the “Yo Sí Puedo” methodology, basic and technical Bachelor's programmes, and a formal education programme.²¹

Recommendations for trade union action

- ✓ Take particular note of and understand the provisions of the Employment Policy Convention, 1964 (No. 122), and the Employment Relationship Recommendation, 2006 (No. 198).
- ✓ Encourage governments to develop employment policies to facilitate transition and ensure that trade unions are consulted in the process. Policies should form part of an integrated framework that takes into account the elements enumerated in Recommendation No. 204.
- ✓ Unions may wish to identify and push for elements they may consider particularly important, such as facilitating school-to-work transition through provision of adequate training opportunities for young people.

¹⁹ Interview with the Secretary General of the CCSCS, Antonio Jara (2016).

²⁰ ITUC and CSA-TUCA: *Experiencias sindicales de formalización mediante organización sindical y diálogo social en América Latina y el Caribe* (2016).

²¹ Ibid.



9. Rights and social protection

16. **Members should take measures to achieve decent work and to respect, promote and realize the fundamental principles and rights at work for those in the informal economy, namely:**
 - a) **freedom of association and the effective recognition of the right to collective bargaining;**
 - b) the elimination of all forms of forced or compulsory labour;
 - c) the effective abolition of child labour; and
 - d) the elimination of discrimination in respect of employment and occupation.
17. **Members should:**
 - a) **take immediate measures to address the unsafe and unhealthy working conditions that often characterize work in the informal economy; and**
 - b) **promote and extend occupational safety and health protection to employers and workers in the informal economy.**
18. **Through the transition to the formal economy, Members should progressively extend, in law and practice, to all workers in the informal economy, social security, maternity protection, decent working conditions and a minimum wage that takes into account the needs of workers and considers relevant factors, including but not limited to the cost of living and the general level of wages in their country.**
19. In building and maintaining national social protection floors within their social security system and facilitating the transition to the formal economy, Members should pay particular attention to the needs and circumstances of those in the informal economy and their families.
20. Through the transition to the formal economy, Members should progressively extend the coverage of social insurance to those in the informal economy and, if necessary, adapt administrative procedures, benefits and contributions, taking into account their contributory capacity.
21. Members should encourage the provision of and access to affordable quality childcare and other care services in order to promote gender equality in entrepreneurship and employment opportunities and to enable the transition to the formal economy.

Key issues raised by Workers' representatives during ILC discussions (2014–15)

“Members should take measures to achieve decent work and to respect, promote and realize the fundamental principles and rights at work for those in the informal economy, namely: (a) freedom of association and the effective recognition of the right to collective bargaining ...”

It was important for the Workers' group that the Recommendation specifically reference the need to

promote the right to freedom of association and collective bargaining. The absence of these rights is the primary cause of informality in many countries, and they are crucial to extending decent working conditions to informal economy workers. As such, the extension of these rights in law and practice and the ratification of Conventions Nos 87 and 98 should be among the first steps in the process of formalization.

“Members should: (a) take immediate measures to address the unsafe and unhealthy working conditions that often characterize work in the informal economy;

and (b) promote and extend occupational safety and health protection to employers and workers in the informal economy.”

The Workers' group insisted that appropriate safety and health provisions should be extended to workers in the informal economy and that it was important to include this text in the Recommendation. They argued that informal economy workers suffered from the worst forms of unsafe and unhealthy working conditions. While other provisions of the Recommendation could be extended progressively, this was an issue on which immediate action was needed.

“Through the transition to the formal economy, Members should progressively extend, in law and practice, to all workers in the informal economy, social security, maternity protection, decent working conditions and a minimum wage that takes into account the needs of workers and considers relevant factors, including but not limited to the cost of living ...”

The Workers' group pushed for the Recommendation to call for the provision of a minimum living wage for informal economy workers, arguing that a basic minimum wage in itself does not guarantee a decent living standard. The Preamble of the ILO Constitution refers to “the provision of an adequate living wage”, while Article III(d) of the Declaration of Philadelphia recognizes the obligation of the ILO to advance programmes in member States seeking to achieve “policies ... calculated to ensure ... a minimum living wage to all employed and in need of such protection”. Similar wording has been used in the ILO Declaration on Social Justice for a Fair Globalization (2008) and the ILO's Global Jobs Pact. The Employers' group and several Governments nevertheless opposed any reference to a minimum “living” wage, and the text was amended as above.

This paragraph of the Recommendation also specifically refers to maternity protection. Extending this social security right in law and practice is crucial to ensuring the protection of women workers, and should progressively be extended to all women workers in the informal economy.

Examples relevant to this section

Paragraph 17b of the Recommendation calls on Members to “promote and extend occupational safety and health protection to employers and workers in the informal economy”. In addition to encouraging governments to extend occupational safety and health (OSH) protection, workers' organizations can be directly involved in improving health and safety, for example through training activities. OSH training and awareness raising tends to be well received by both workers and employers because safety and health hazards impact both incomes and productivity. This can therefore be used as a starting point for organizing.

In India, the **Hind Mazdoor Sabha (HMS)** union has successfully organized workers in the ship-breaking industry, which is one of the most hazardous and least protected sectors. It is tightly controlled by business organizations and most workers are migrants without identity papers, making the task of organizing particularly challenging. Through the Mumbai Port Trust Dock and General Employees' Union, HMS began by providing drinking water and first aid training to workers, and negotiated with St John Ambulance and the Red Cross for there to be an ambulance on site at all times. Workers were provided with union membership cards, which also serve as identity documents. As a result of this intervention, ship-breaking workers are better organized and represented and appear to have greater trust in their union.²²

Another major focus of this part of the Recommendation is the extension of social protection to workers in the informal economy. On this front too, workers' organizations can play a key role through their organizing activities. The **Sierra Leone Labour Congress (SLLC)** has registered ten trade unions for workers in the informal economy, with a declared number of 279,856 members from various sectors, such as trade, transport, agriculture, fishing, services, and entertainment. The SLLC has intervened to protect the interests of informal economy workers on a number of occasions and has agreed, in principle, with the National Social Security and Insurance Trust (NASSIT) that social security and insurance coverage are to be extended to informal economy workers. Through their unions, workers can now also access low interest loans

²² ILO: *The informal economy and decent work: A policy resource guide supporting transitions to formality* (Geneva, 2013).



and benefit from training programmes provided by the SLLC.²³

In the Dominican Republic, under the framework of a new social security system introduced in 2001, the **Autonomous Confederation of Workers' Unions (CASC)** created the Mutual Association of Solidarity Services (AMUSSOL) in 2004. AMUSSOL functions as a “virtual employer” in representing own-account workers to the Social Security Treasury, completing registration forms and processing the payment of contributions. In 2013, coverage extended to almost 30,000 workers and their family members.²⁴

In Uruguay, since 1992 the **Inter-Union Assembly of Workers – National Convention of Workers (PIT–CNT)** has run the Workers' Representation Team (ERT) in the Social Security Bank (BPS), which enabled the adoption in 2001 of a single tax regime (the *Monotributo* scheme) that was subsequently expanded in 2007 and 2011. The ERT also promoted the creation of the Uruguay Inter-Union Street Vendors Plenary (PIVCU), which is composed of organizations that are not integrated into the trade union movement.²⁵

Other initiatives, while promising in theory, have failed to guarantee rights and social protection in practice. The **Mahatma Gandhi National Rural Employment Guarantee Act (MGNREGA)**, adopted in 2005, is an Indian labour law that aims to enhance the security of livelihoods in rural areas by guaranteeing at least 100 days of wage employment per year in unskilled manual labour on projects such as road construction, building drinking water wells, and constructing water, sanitary and other related facilities for schools and community centres. The scheme has not been properly implemented in practice. Workers are not represented, they are not paid the minimum wage, and working conditions are difficult, with women over the age of 65 engaging in hard labour such as digging drains and building roads.²⁶ This example demonstrates the need for workers' organizations to be

involved both in the design and implementation of programmes.

Recommendations for trade union action

- ✓ Promote and push for a decent living wage at national level.
- ✓ Advocate for the extension of fundamental rights, occupational health and safety protection, and social protection to workers in the informal economy, and ensure that any such measures are properly implemented.
- ✓ Promote and implement training and awareness-raising activities as an entry point to organizing workers, such as in the example of Hind Mazdoor Sabha (HMS) presented above.
- ✓ Take particular note of international labour standards relevant to this section of the Recommendation: the standards related to occupational safety and health (OSH) and social security listed above under “Recommendations for trade union action” in section 7 of this Guide, the provisions of the Minimum Wage Fixing Convention (No. 131) and Recommendation (No. 135), 1970, and the Maternity Protection Convention, 2000 (No. 183).



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23 LO/FTF Council: *Paving the way for formalisation of the informal economy: Experiences and perspectives from ITUC–Africa and trade unions across Africa* (Copenhagen, 2015).

24 ITUC and CSA–TUCA: *Experiencias sindicales de formalización mediante organización sindical y diálogo social en América Latina y el Caribe* (2016).

25 Ibid.

26 C. Nathan and J. Pannirselvam: *A report of the Study and Documentation of Karnataka “labour groups” (8-17 September 2014)* (2014).



10. Incentives, compliance and enforcement

22. Members should take appropriate measures, including through a combination of preventive measures, law enforcement and effective sanctions, to address tax evasion and avoidance of social contributions, labour laws and regulations. **Any incentives should be linked to facilitating the effective and timely transition from the informal to the formal economy.**
23. Members should reduce, where appropriate, the barriers to the transition to the formal economy and take measures to promote anti-corruption efforts and good governance.
24. Members should provide incentives for, and promote the advantages of, effective transition to the formal economy, including improved access to business services, finance, infrastructure, markets, technology, education and skills programmes, and property rights.
25. With respect to the formalization of micro and small economic units, Members should:
 - a) undertake business entry reforms by reducing registration costs and the length of the procedure, and by improving access to services, for example, through information and communication technologies;
 - b) reduce compliance costs by introducing simplified tax and contributions assessment and payment regimes;
 - c) promote access to public procurement, consistent with national legislation, including labour legislation, through measures such as adapting procurement procedures and volumes, providing training and advice on participating in public tenders, and reserving quotas for these economic units;
 - d) improve access to inclusive financial services, such as credit and equity, payment and insurance services, savings, and guarantee schemes, tailored to the size and needs of these economic units;
 - e) improve access to entrepreneurship training, skills development and tailored business development services; and
 - f) improve access to social security coverage.
26. Members should put in place appropriate mechanisms or review existing mechanisms with a view to **ensuring compliance with national laws and regulations, including but not limited to ensuring recognition and enforcement of employment relationships**, so as to facilitate the transition to the formal economy.
27. Members should have an adequate and appropriate system of inspection, extend coverage of labour inspection to all workplaces in the informal economy in order to protect workers, and provide guidance for enforcement bodies, including on how to address working conditions in the informal economy.
28. Members should take measures to ensure the effective provision of information, assistance in complying with the relevant laws and regulations, and capacity building for relevant actors.
29. Members should put in place efficient and accessible complaint and appeal procedures.
30. Members should provide for preventive and appropriate corrective measures to facilitate the transition to the formal economy, and ensure that the administrative, civil or penal sanctions provided for by national laws for non-compliance are adequate and strictly enforced.

Key issues raised by Workers' representatives during ILC discussions (2014–15)

“Any incentives should be linked to facilitating the effective and timely transition from the informal to the formal economy.”

In the ILC committee discussions, the Workers' group pointed to the fact that employers who were already violating laws by keeping workers in informal employment should not be offered advantages such as tax breaks. For instance, workers in supply chains or export processing zones should already be covered by labour laws and proper employment contracts. Instead of being granted incentives, employers should be held accountable.

“... ensuring compliance with national laws and regulations, including but not limited to ensuring recognition and enforcement of employment relationships ...”

As a result of subcontracting and the use of employment agencies, employment relationships have become increasingly unclear and blurred. In this regard, the Workers' group argued for the Recommendation to call for proper recognition and enforcement of employment relationships. Reference was made to the provisions of the Employment Relationship Recommendation, 2006 (No. 198).

Examples relevant to this section

Regarding the recognition of employment relationships, Article 12 of the **Portuguese Labour Code** establishes a rebuttable presumption that an employment contract has been concluded: “The existence of an employment contract is presumed when, in the relationship between a person who provides an activity and another (or others) who benefit from it, some of the following characteristics are present:

- a) the activity is carried out in a place that belongs to the beneficiary or in a place determined by him;
- b) the equipment and tools belong to the beneficiary;
- c) the provider complies with a specific start time and end time, as determined by the beneficiary;

- d) a fixed amount is paid to the provider at fixed intervals in return for the activity performed;
- e) the provider performs management or leadership functions in the company.”²⁷

Workers' organizations have used ingenious methods to ensure that labour law – including minimum wage provisions – is applied to informal economy workers. The Unite London Hotel Workers branch of **Unite the Union**, a British and Irish trade union, seeks to organize agency workers in the hotel/hospitality sector in London using the union branch rather than the workplace as the basis for collective organizing, enabling workers to wield associational power. This initiative has employed a mix of strategies that includes branch officers assuming the role of shop stewards, using the right of workers to union representation in grievance and disciplinary hearings, and visible and vocal campaigning on key issues affecting hospitality workers. The union has also adopted a campaigning approach and introduced the positions of branch chair and secretary with a view to focusing on campaigning and organizing. These branch officers run weekly advice sessions for workers who have problems at their workplace, which helps to build workplace networks. At the same time, the union provides union training and political workshops, organizes the leafleting of hotels, holds one-to-one meetings and phone calls with workers, and runs English language classes. The union also seeks to build broader solidarity across hotel brands, rather than taking each workplace as an individual employer, and to apply pressure on particular brands, especially those that have signed global framework agreements or have corporate social responsibility statements. These strategies draw on the organizational power of the union. Institutional power resources have also been utilized. The union has used section 10 of the Employment Relations Act 1999 to represent members in individual and collective grievances. This allowed it to access the workplace, enabling it to represent workers, build collective organization and train workers on their rights. The use of the collective grievance process has likewise become a mechanism for informal bargaining as formal bargaining is very difficult not only in the hotel sector but across sectors and industries in the UK. In addition, the union has

²⁷ Article 12, Labour Code (Law No. 7/2009 of 12 February 2009 as amended).



used the minimum wage legislation and the independent tripartite Low Pay Commission to shine a light on abuses in the hotel sector and to increase compliance with the minimum wage.²⁸

In Chile, the **National Union of Independent Itinerant Transport and Allied Workers (SINTRALOC)**, an affiliate of the Workers' United Centre (CUT), managed to have a regulation on the exercise of commercial and artistic activities on board urban public transport vehicles passed in 2009. This involves workers registering with the Internal Revenue Service, and various ways have been provided for them to pay tax.²⁹

Recommendations for trade union action

- ✓ Engage with governments on developing policies and legislation for the recognition and enforcement of employment relationships.
- ✓ Push for public labour inspection services to be adequately resourced and properly trained on labour rights issues. Local and municipal government authorities should also be involved in labour inspection.
- ✓ Investigate workplace violations and create avenues for reporting such violations to labour inspectors.
- ✓ Take particular note of international labour standards relevant to this section: the Labour Inspection Convention, 1947 (No. 81), and the Labour Inspection (Agriculture) Convention, 1969 (No. 129).



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²⁸ M.R. Serrano and E. Xhafa: *From 'precarious informal employment' to 'protected employment': the 'positive transitioning effect' of trade unions* (Global Labour University (GLU) working paper, ILO, Geneva, 2016).

²⁹ ITUC and CSA-TUCA (2016), *Experiencias sindicales de formalización mediante organización sindical y diálogo social en América Latina y el Caribe*.



11. Freedom of association, social dialogue, and role of employers' and workers' organizations

31. Members should ensure that **those in the informal economy enjoy freedom of association and the right to collective bargaining**, including the right to establish and, subject to the rules of the organization concerned, to join organizations, federations and confederations of their own choosing.
32. Members should create **an enabling environment** for employers and workers to exercise their right to organize and to bargain collectively and to participate in social dialogue in the transition to the formal economy.
33. Employers' and workers' organizations should, where appropriate, extend membership and services to workers and economic units in the informal economy.
34. **In designing, implementing and evaluating policies and programmes of relevance to the informal economy, including its formalization, Members should consult with and promote active participation of the most representative employers' and workers' organizations, which should include in their rank, according to national practice, representatives of membership-based representative organizations of workers and economic units in the informal economy.**
35. Members and employers' and workers' organizations may seek the assistance of the International Labour Office to strengthen the capacity of the representative employers' and workers' organizations and, where they exist, representative organizations of those in the informal economy, to assist workers and economic units in the informal economy, with a view to facilitating the transition to the formal economy.

Key issues raised by Workers' representatives during ILC discussions (2014–15)

"... those in the informal economy enjoy freedom of association and the right to collective bargaining ... an enabling environment ..."

It was important for the Workers' group to ensure that reference was made to the ratification and implementation of ILO Conventions Nos 87 and 98 in order to create an enabling environment for workers' organizations, collective bargaining and social dialogue.

"In designing, implementing and evaluating policies and programmes of relevance to the informal economy, including its formalization, Members should consult with and promote active participation of the most representative employers' and workers' organizations,

which should include in their rank, according to national practice, representatives of membership-based representative organizations of workers and economic units in the informal economy."

As under the Recommendation's "Objectives and Scope", the Workers' group insisted that workers' organizations should involve informal economy representatives in designing policies and plans for the transition.

"... workers' organizations may seek the assistance of the International Labour Office ..."

The Workers' group was of the view that governments, employers' and workers' organizations would require the Office's assistance in preparing for and implementing the transition.

Examples relevant to this section

A good example of a workers' organization that has extended membership and services to informal economy workers is the **Fiji Trades Union Congress (FTUC)**, which empowered small-scale farmers, primarily in the sugar cane industry, by establishing the National Farmers Union (NFU) in 1978. The union is now an affiliate of the FTUC.³⁰ Organizing small-scale farmers has enabled the NFU to negotiate the price of cane with the management of sugar mills (which are mostly government-owned), to represent its members in disputes and to provide other related services. The NFU now represents its members in Fiji's sugar industry tripartite body.

Beyond organizing activities, it should not be forgotten that social dialogue can be crucial to successfully designing and implementing the transition to formality. The **Trade Union Congress of Ghana (TUC)** and the **Ghana Employers Association (GEA)** are currently collaborating on a bipartite project to develop a roadmap for the transition through a pilot scheme and a common position paper. The project seeks to promote shared understanding of the issue.³¹

In 2008 in Uruguay, through the leadership of the **Sole Union of Domestic Workers (SUTD)**, domestic workers took part in collective bargaining with the League of Housewives, Consumers and Users as their counterparty. The resulting agreement provides for: a minimum wage and adjustment procedures; a one-off bonus; a seniority bonus; compensation for "partial redundancy" when a worker's hours are cut; supplementary pay for tasks carried out outside the workplace; decent working conditions including freedom from harassment and respect for privacy; appropriate rest breaks; and a weekly rest of 36 uninterrupted hours, including all of Sunday and part of Saturday or Monday.³²

Another example is that of the **Domestic Workers Union in Argentina (UPACP)**, an affiliate of the General Confederation of Labour (CGTRA). Following the country's

30 Note that the NFU is registered as an association as it is not formally recognized as a trade union under Fiji's Trade Unions Act.

31 LO/FTF Council: *Paving the way for formalisation of the informal economy: Experiences and perspectives from ITUC-Africa and trade unions across Africa* (Copenhagen, 2015).

32 G. Mazzuchi: *Las relaciones laborales en el Uruguay: De 2005 a 2008* (ILO, 2009).

ratification of the Domestic Workers Convention, 2011 (No. 189), and the adoption of new national legislation on domestic work, the first collective agreement for domestic workers was concluded in 2015 as one of the objectives of the legislation. To this end, the Government convened a tripartite National Commission on Domestic Work, which includes UPACP and employers' representatives, which has reached agreements on wages and occupational categories. Through a permanent review mechanism, the Commission will also examine issues related to health and safety.³³

In Peru, the **Federation of Dockers and Manual Transport Workers (FETTRAMAP)**, an affiliate of the Peruvian Trade Union Confederation (CUT), has concluded collective agreements with the Association of Corn Wholesalers, whose members require the services of day labourers both in markets and on other sites. The agreements were concluded with the support of the Ministry of Labour and Promotion of Employment. FETTRAMAP has also concluded agreements with the authorities of the Lima Wholesale Market regarding working conditions. It is worth noting that over the past 20 years, FETTRAMAP has developed a comprehensive occupational safety and health policy, including:

1. Ratification of ILO's Maximum Weight Convention, 1967 (No. 127), and the application of its provisions with regard to the maximum weight and characteristics of transport loads throughout the agricultural chain; and
2. Promoting agreements with various employers on the issues of social security, pensions, holidays, and overtime compensation.³⁴

Recommendations for trade union action

- ✓ As illustrated in the examples throughout this Guide, there is no one-size-fits-all approach to organizing informal economy workers into trade unions. Workers' organizations have employed a range of strategies, and have variously chosen to focus on particular sectors (such as transport), groups of workers in

33 L. Benitez de Gomez and C.L. Brassesco: *La acción sindical frente a la informalidad en el trabajo del hogar en Argentina* (2016), unpublished.

34 ITUC and CSA-TUCA: *Experiencias sindicales de formalización mediante organización sindical y diálogo social en América Latina y el Caribe* (2016).



vulnerable situations (such as migrants), or issue areas (such as occupational safety and health or social protection). See Annex C for a basic list of suggested steps in the organizing process, which can be adapted to specific target groups.

- ✓ Representatives of the informal economy should be included in the organization's structures and programmes.
- ✓ Collaboration with workers' organizations in other countries can be helpful, particularly when working on cross-border issues such as migration.
- ✓ If possible, workers' organizations should engage in social dialogue throughout the process of planning and implementing the transition. Where existing mechanisms are inadequate they should cooperate

with employers to actively push governments to create consultative bodies for developing policies, reviewing labour law and facilitating and monitoring the transition.

- ✓ Do not hesitate to request assistance from the ILO, and ACTRAV in particular.
- ✓ Take particular note of international labour standards relevant to this section of the Recommendation: the Freedom of Association and Protection of the Right to Organise Convention, 1948 (No. 87), the Right to Organise and Collective Bargaining Convention, 1949 (No. 98), and the Tripartite Consultation (International Labour Standards) Convention, 1976 (No. 144).



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12. Data collection and monitoring

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

- a) where possible and as appropriate, **collect, analyse and disseminate statistics disaggregated by sex, age, workplace, and other specific socio-economic characteristics** on the size and composition of the informal economy, including the number of informal economic units, the number of workers employed and their sectors; and
- b) monitor and evaluate the progress towards formalization.

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

Key issues raised by Workers' representatives during ILC discussions (2014–15)

During discussions, the Workers' group pointed to the lack of adequate data on the informal economy. It particularly called on member States to collect data disaggregated by sex, age, workplace, and other specific socio-economic characteristics in consultation with the social partners. It argued that strategies and policies could be applied more appropriately if such data were readily available.

Examples relevant to this section

In Paraguay, the **Authentic Single Confederation of Workers (CUTA)** and the **Federation of Labour Unions (CNT)** presented a project to the Government in 2012 that aimed to create a “unionization observatory” for collecting statistics and with a focus on informality. The two unions proposed that they would guide the project in collaboration with representatives from the Ministry of Labour and a national university.³⁵

³⁵ Ibid.

Recommendations for trade union action

- ✓ Workers' organizations should flag any data gaps to national governments, and should assist in the collection, analysis, and dissemination of data.
- ✓ Where national level data do not reflect reality due to weaknesses in data collection and analysis, workers' organizations should inform the ILO with a view to correcting such practices and improving informal economy statistics on the global level.
- ✓ Workers' organizations should also be involved in monitoring and evaluating progress towards formalization, in particular through gender-disaggregated data on the proportion of informal employment in non-agricultural employment. This is the indicator put forward by the United Nations Statistical Commission for target 8.3 of the Sustainable Development Goals (“Promote development-oriented policies that support productive activities, decent job creation, entrepreneurship, creativity and innovation, and encourage the formalization and growth of micro, small and medium-sized enterprises, including through access to financial services”). The ILO's Decent Work Indicators should also be consulted, as they provide guidance on measuring the extent of informal employment.



13. Implementation

38. Members should give effect to the provisions of this Recommendation, in consultation with the most representative employers' and workers' organizations, which should include in their rank, according to national practice, representatives of membership-based representative organizations of workers and economic units in the informal economy, by one or a combination of the following means, as appropriate:
- a) national laws and regulations;
 - b) collective agreements;
 - c) policies and programmes;
 - d) effective coordination among government bodies and other stakeholders;
 - e) institutional capacity building and resource mobilization; and
 - f) other measures consistent with national law and practice.
39. 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, 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.
40. In establishing, developing, implementing and periodically reviewing the measures taken to facilitate the transition to the formal economy, 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.**
41. Nothing in this Recommendation should be construed as reducing the protections afforded to those in the informal economy by other instruments of the International Labour Organization.
42. The Annex may be revised by the Governing Body of the International Labour Office. Any revised Annex so established, once approved by the Governing Body, shall replace the preceding annex and shall be communicated to the Members of the International Labour Organization.

To accompany the Recommendation, the 2015 ILC adopted the *Resolution concerning efforts to facilitate the transition from the informal to the formal economy*. The Resolution outlines suggestions for the implementation of the Recommendation and for follow-up action. In particular, it calls for regular discussion of the issue at Regional Meetings of the ILO and the use of the supervisory mechanisms (in particular General Surveys) to follow up on the implementation of the Recommendation

(see Annex B for the full text of the Resolution). At its 325th Session in November 2015, the ILO Governing Body endorsed a follow-up strategy to give effect to the Resolution over the period 2016–21. The strategy is articulated around four interrelated components, namely: a promotional awareness-raising and advocacy campaign; capacity building of tripartite constituents; knowledge development and dissemination; and international cooperation and partnerships.

Key issues raised by Workers' representatives during ILC discussions (2014–15)

“... 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.”

It was important for the Workers' group that the Recommendation refer to all relevant international instruments. Moreover, it argued that the ILO Governing Body should periodically review and update the list of instruments provided in the Annex (available in Annex A of this Guide).

Examples relevant to this section

As reflected in Paragraph 38 of the Recommendation, collective agreements are in themselves a means of formalization. In Israel, there has been a marked growth of non-standard forms of employment in recent decades, especially in the public sector where 20 per cent of all workers employed by the Government are agency workers or are employed through service contractors (rates of employment of such workers vary from 8 to 35 per cent across the various departments). Mass protests calling for social justice took place in Israel in the summer of 2011 which allowed **Histadrut, the General Federation of Labour**, to frame the issues affecting workers in non-standard forms of employment in terms of social justice and to link the labour dispute to the wider social protests. Thus, following a series of failed negotiations, Histadrut declared a labour dispute in October 2011 covering all types of non-standard employment in all sectors. In choosing to pursue a labour dispute, the union took into consideration the complex nature of non-standard forms of employment in Israel, the variety of employment patterns, the difficulty of organizing workers spread over a multitude of establishments and the need to negotiate with multiple parties. The national labour dispute aimed to extend the coverage of existing Collective Bargaining Agreements (CBAs) in the public sector to workers employed through individual employment contracts and to discuss with the Government all forms of non-direct employment in the public sector. As a result,

CBAs were concluded in both the public and private sector.³⁶

As mentioned above, the Resolution that was adopted in parallel to the Recommendation requests that the ILO's supervisory mechanisms be used in the process of following up on the Recommendation's implementation. Workers' organizations should be able to trigger these mechanisms in pushing for the transition to formality. Two examples are provided below of how trade unions have brought these mechanisms into play.

One important mechanism for unions is the Committee on Freedom of Association (CFA). In 2012, the **International Trade Union Confederation (ITUC) and Building and Wood Workers' International (BWI)** filed a complaint with the CFA concerning the violation of trade union rights in Qatar. Approximately 1.2 million migrant workers are employed in Qatar, a large number of them in the construction of facilities for the 2022 FIFA World Cup. These workers are denied the right to form unions and bargain collectively, and suffer poor and unsafe working conditions which frequently result in fatal accidents. In examining the case, the CFA urged the Government of Qatar to eliminate any restrictions placed on the freedom of association of migrant workers. Subsequently, other ILO supervisory mechanisms (namely the representation procedure and the complaint procedure) were used against Qatar in relation to the situation of migrant workers. In particular, in 2014, workers' delegates to the ILC filed a complaint under Article 26 of the ILO Constitution alleging violation by Qatar of the Forced Labour Convention, 1930 (No. 29), and the Labour Inspection Convention, 1947 (No. 81). As no progress was made, in November 2015 the ILO Governing Body decided to send a High-Level Tripartite Delegation to Qatar to assess the situation. The delegation visited the country in March 2016. During its 329th Session in March 2017, the Governing Body will consider appointing a commission of inquiry, should the Government's follow-up to the findings of the tripartite delegation be considered unsatisfactory.

³⁶ M.R. Serrano and E. Xhafa: *From 'precarious informal employment' to 'protected employment': the 'positive transitioning effect' of trade unions* (Geneva, ILO, Global Labour University (GLU) working paper, 2016).



Millions of migrant workers work in Thailand, including approximately 2 million workers from Myanmar. Many of them are in an irregular situation and are not entitled to the same accident compensation as other workers. In response, **Thai unions** brought the matter to the ILO Committee of Experts on the Application of Conventions and Recommendations (CEACR), claiming non-observance of the Equality of Treatment (Accident Compensation) Convention, 1925 (No. 19). In its observations, the CEACR recalled that migrant domestic workers, seasonal workers and workers in agriculture and fisheries were fully covered by the Convention and were therefore entitled to equal treatment with national workers. It noted that while documented workers were registered and protected by the Social Security Fund (SSF) on the same terms as national workers, undocumented foreign workers with no proof of their nationality were not entitled to benefits.

These persons were, however, eligible to receive work-related compensation at the same rate as national workers from the Workmen's Compensation Fund (WCF) under section 50 of the Workmen's Compensation Act, allowing the Social Security Office (SSO) to order the employer to pay compensation. Employers are also responsible for paying the health insurance contributions of undocumented workers.

Recommendations for trade union action

- ✓ Make use of the ILO's supervisory mechanisms to ensure the proper implementation of the Recommendation.
- ✓ Ensure that issues related to the informal economy are discussed at ILO Regional Meetings.



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Annexes

Annex A: Text of the Annex to Recommendation No. 204

Instruments of the International Labour Organization and the United Nations relevant to facilitating the transition from the informal to the formal economy

INSTRUMENTS OF THE INTERNATIONAL LABOUR ORGANIZATION

Fundamental Conventions

- Forced Labour Convention, 1930 (No. 29), and Protocol of 2014 to the Forced Labour Convention, 1930
- Freedom of Association and Protection of the Right to Organise Convention, 1948 (No. 87)
- Right to Organise and Collective Bargaining Convention, 1949 (No. 98)
- Equal Remuneration Convention, 1951 (No. 100)
- Abolition of Forced Labour Convention, 1957 (No. 105)
- Discrimination (Employment and Occupation) Convention, 1958 (No. 111)
- Minimum Age Convention, 1973 (No. 138)
- Worst Forms of Child Labour Convention, 1999 (No. 182)

Governance Conventions

- Labour Inspection Convention, 1947 (No. 81)
- Employment Policy Convention, 1964 (No. 122)
- Labour Inspection (Agriculture) Convention, 1969 (No. 129)
- Tripartite Consultation (International Labour Standards) Convention, 1976 (No. 144)

Other instruments

Freedom of association, collective bargaining and industrial relations

- Rural Workers' Organisations Convention, 1975 (No. 141)
- Collective Bargaining Convention, 1981 (No. 154)

Equality of opportunity and treatment

- Workers with Family Responsibilities Convention, 1981 (No. 156)

Employment policy and promotion

- Employment Policy Recommendation, 1964 (No. 122)
- Vocational Rehabilitation and Employment (Disabled Persons) Convention, 1983 (No. 159)
- Employment Policy (Supplementary Provisions) Recommendation, 1984 (No. 169)
- Private Employment Agencies Convention, 1997 (No. 181)
- Job Creation in Small and Medium-Sized Enterprises Recommendation, 1998 (No. 189)
- Promotion of Cooperatives Recommendation, 2002 (No. 193)
- Employment Relationship Recommendation, 2006 (No. 198)

Vocational guidance and training

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

Wages

- Labour Clauses (Public Contracts) Convention (No. 94) and Recommendation (No. 84), 1949
- Minimum Wage Fixing Convention (No. 131) and Recommendation (No. 135), 1970

Occupational safety and health

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

Social security

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

Maternity protection

- Maternity Protection Convention, 2000 (No. 183)

Migrant workers

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

HIV and AIDS

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

Indigenous and tribal peoples

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

Specific categories of workers

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

Resolutions of the International Labour Conference

- Resolution and Conclusions concerning the promotion of sustainable enterprises adopted by the International Labour Conference at its 96th Session (2007)
- Resolution and Conclusions concerning the youth employment crisis adopted by the International Labour Conference at its 101st Session (2012)
- Resolution and Conclusions concerning the second recurrent discussion on employment adopted by the International Labour Conference at its 103rd Session (2014)

UNITED NATIONS INSTRUMENTS

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



Annex B: Text of the “Resolution concerning efforts to facilitate the transition from the informal to the formal economy”

The General Conference of the International Labour Organization, meeting at its 104th Session, 2015,

Having adopted the Transition from the Informal to the Formal Economy Recommendation, 2015,

Recognizing the crucial role of transition to the formal economy for inclusive, social, economic and environmental development and for realizing decent work for all,

Mindful that the success of the Recommendation will depend upon its effective promotion and implementation,

Acknowledging the specific national contexts and priorities for the transition to the formal economy;

1. Invites governments, employers and workers jointly to give full effect to the Transition from the Informal to the Formal Economy Recommendation.
2. Invites the Governing Body of the International Labour Office to request the Director-General to develop a strategy and action plan for promoting and supporting the implementation of the Recommendation, including through:
 - a) allocation of resources within the existing and forthcoming programmes and budgets and mobilization of extra-budgetary resources to carry out the work with the tripartite constituents to give effect to the Recommendation;
 - b) awareness-raising initiatives, promotional materials and appropriate technical assistance to constituents in giving effect to the policies and measures of the Recommendation including through Decent Work Country Programmes;
 - c) the introduction of a new regular discussion point, as appropriate, in the agenda of the next cycles of ILO Regional Meetings and other ILO forums on action taken by the Office and ILO constituents to implement the Recommendation with a view to updating and facilitating the sharing of knowledge, information and good practices on the transition from the informal to the formal economy;
 - d) building the capacity of governments and employers’ and workers’ organizations to enable them to design, implement and evaluate national policies and programmes to facilitate the transition to the formal economy;
 - e) supporting national dialogue processes on the design, implementation and monitoring of national integrated policy frameworks to facilitate the transition to the formal economy; and
 - f) promoting cooperation and partnerships with relevant international organizations to support the development of policies and initiatives to facilitate the transition from the informal to the formal economy.
3. Invites the Governing Body to request regular reports from member States under Article 19 of the Constitution of the International Labour Organisation as part of the existing reporting mechanisms, in particular General Surveys, and to review the progress made in the implementation of this Recommendation.

Annex C: Example of possible steps for organizing informal economy workers in the transport sector

1. Conduct a situational analysis

- ✓ Identify the groups of informal economy workers in the transport sector that you want to approach. Obtain concrete knowledge of their situation, problems, and needs. These might include space-related needs (for example, the availability of rest spaces), difficulties with licensing, occupational safety and health concerns (for instance, stress or respiratory problems due to exhaust fumes), or discrimination-related issues. Think how these needs could be addressed (e.g. provision of adequate facilities, easier licensing procedures, medical coverage, etc.)
- ✓ Map any existing organizations for transport workers and assess their strengths and weaknesses as well as potential for collaboration.

2. Understand the legal context

- ✓ Review regional, national and local legislation across all relevant policy areas. What protection gaps do transport workers face? Does the law limit their rights to freedom of association and collective bargaining?
- ✓ Understand the provisions of Recommendation No. 204 and the ILO's fundamental Conventions. Identify other international labour standards that are of particular relevance, such as the Hours of Work and Rest Periods (Road Transport) Convention, 1979 (No. 153). Know how to make use of the ILO's supervisory mechanisms if necessary.

3. Carry out an internal review and prepare an action plan

- ✓ Identify and carry out any changes to your organization's constitution, structures and programmes that are necessary in order for the organizing process to begin.
- ✓ Prepare an action plan for organizing, and allocate sufficient financial and human resources to its realization. Suggested action points are listed below.

4. Implement the action plan

- ✓ Initiate a national level campaign, possibly in collaboration with the media, to promote Recommendation No. 204 and raise awareness of the challenges facing informal transport workers.
- ✓ Encourage your government to enact or revise legislation and policies in line with the Recommendation, and monitor their enforcement. Governments should also be encouraged to ratify core labour standards and other instruments that you have identified as relevant.
- ✓ Select appropriate and innovative strategies for reaching out to informal transport workers, such as education and training on occupational safety and health issues.
- ✓ After initial organizing activities have taken place, collective bargaining and social dialogue processes should be set up to secure rights and better working conditions. Representatives of transport workers themselves should take part in these processes.

5. Establish partnerships

- ✓ Seek the support and advice of the ILO through the Bureau for Workers' Activities (ACTRAV).
- ✓ Foster ties with the International Transport Workers' Federation and other stakeholders on the national, regional and international levels.



Annex D: Further resources

- 📖 Transition from the Informal to the Formal Economy Recommendation, 2015 (No. 204).
- 📖 Resolution concerning efforts to facilitate the transition from the informal to the formal economy.
- 📖 International Labour Office (ILO). 2013. *The informal economy and decent work: A policy resource guide supporting transitions to formality* (Geneva).
- 📖 International Labour Office (ILO). 2014. *Transitioning from the informal to the formal economy*, Report V (1), International Labour Conference, 103rd Session, Geneva, 2014 (Geneva).
- 📖 International Labour Office (ILO). 2014. *Report of the Committee on Transitioning from the Informal Economy*, International Labour Conference, 103rd Session, Geneva, 2014 (Geneva).
- 📖 International Labour Office (ILO). 2015. *Reports of the Committee on the Transition from the Informal to the Formal Economy: Summary of proceedings*, International Labour Conference, 104th Session, Geneva, 2015 (Geneva).
- 📖 International Labour Office (ILO). 2015. *Formalization of the informal economy: Follow-up to the resolution concerning efforts to facilitate the transition from the informal to the formal economy*, Governing Body, 325th Session, Geneva, 2015 (Geneva).
- 📖 International Labour Office, ACTRAV (ILO). 2016. *Organizing Workers in the Informal Economy: Trade union strategies to extend membership, services and organizing activities to workers in the informal economy and facilitate transition from the informal to the formal economy*, (Geneva).

