



Labour Program: fair, safe and productive workplaces

Canada's Report with Respect to **International Labour Organization Instruments**

Adopted at the
103rd session (June 2014) and 104th session (June 2015) of the
International Labour Conference, Geneva, Switzerland

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1. Introduction

The purpose of this report is to bring instruments recently adopted by the International Labour Organization (ILO) to the attention of the competent authorities in Canada, as required by Article 19 of the ILO's Constitution.

This report addresses the **Protocol to the Forced Labour Convention and Forced Labour (Supplementary Measures) Recommendation, 2014**, adopted by the International Labour Conference (ILC) at its 103rd Session in June 2014 and the **Transition from the Informal to the Formal Economy Recommendation, 2015**, adopted by the ILC at its 104th Session in June 2015. The report includes a general description of these instruments and an assessment of the extent to which current Canadian law and practice comply with their provisions.

Background on the ILO

Established in 1919, the ILO became a specialized United Nations (UN) agency in 1946. It is a unique tripartite organization with representatives of governments', workers', and employers' organizations participating in the development and administration of ILO policies, programs and international labour standards. Canada was among the founding members of the ILO which currently has 187 member States.

The annual ILC, which brings together tripartite delegations from all member States, adopts international labour standards in the form of Protocols, Conventions and Recommendations.

Conventions and Protocols become binding instruments once ratified by a member State. Recommendations are non-binding and are not subject to ratification. They provide guidelines to ILO members for the development of national policy, legislation and practice or, where they accompany a Convention or Protocol, offer guidance on implementation of the provisions of the Convention or Protocol.

Under the ILO Constitution, all member States are required to bring newly adopted ILO instruments to the attention of the competent authorities, to inform the ILO that this has been done, and subsequently, to report on the position of its law and practice with respect to the matters dealt with by the instruments, when required. In Canada, this obligation is met by tabling a report in Parliament, and where the instruments address issues falling within their jurisdictions, sending copies of the report to the provincial and territorial governments.

A member State has no obligation to ratify a Convention or Protocol adopted by the ILC, but if it does ratify, it undertakes to implement the provisions of the Convention throughout its territory and to report regularly to the ILO on its implementation. Reports are subject to review by a Committee of Experts that reports annually to the ILC on the degree of compliance of member States with respect to ratified Conventions and Protocols.

Failure to implement a ratified Convention or Protocol can give rise to observations by the Committee of Experts. Based on the report of the Committee of Experts, member States

might be asked to appear before the ILC Committee on the Application of Standards and explain the reasons for non-compliance. In addition, another ratifying member State, or an organization of workers or employers, may make a representation to the ILO alleging failure to implement a ratified Convention or Protocol.

FORCED LABOUR PROTOCOL AND RECOMMENDATION (SUPPLEMENTARY MEASURES), 2014 (PROTOCOL 29 AND RECOMMENDATION 203)

2. Legislative jurisdiction

The subject matter of these instruments falls under both federal and provincial jurisdictions.

3. General description

Background

At its 101st Session in June 2012, the ILC asked the International Labour Office to conduct a detailed analysis to identify gaps in existing coverage of ILO standards in regards to the existing forced labour Conventions, namely the Forced Labour Convention, 1930 (C29) and the Abolition of Forced Labour Convention, 1957 (C105).

In March 2013, the ILO's Governing Body decided to place a standard-setting item entitled "Supplementing the Forced Labour Convention, 1930 (C29), to address implementation gaps and to advance prevention, protection, and compensation measures" on the agenda of the 103rd Session of the International Labour Conference in 2014.

Subsequently, in June 2014, at its 103rd Session, the ILC adopted the Protocol to the Forced Labour Convention (P029) and the Recommendation on Supplementary Measures for the Effective Suppression of Forced Labour (R203). The Protocol supplements the Forced Labour Convention, 1930 (C29), therefore only ILO member States, such as Canada, that have ratified C29 can ratify the Protocol. The Recommendation provides guidance on the implementation of the Protocol.

The main purpose of these new instruments is to enhance efforts to eliminate modern forms of forced labour by addressing implementation gaps in C29 and C105 with regards to the prevention of forced labour, the protection and compensation of its victims.

The Protocol reaffirms the definition of forced labour contained in C29 as "all work or service which is performed involuntarily and under coercion" but it has been updated to address contemporary forms of forced labour, such as human trafficking, domestic servitude and debt bondage.

The ILO estimates that almost 21 million individuals around the world are victims of forced labour, of which 11.4 million are women and girls and 9.5 million are men and boys. Ninety percent (18.7 million) of forced labourers are exploited in the private economy, while the remaining 10% (2.2 million) are exploited by State authorities or rebel armed forces. Forced labour generates an estimated US \$150 billion annually in illegal profits.

The Protocol

Article 1 re-establishes the definition of forced labour by linking it to human trafficking, urges ILO member States to develop a national policy for the prevention and elimination of forced labour and a plan of action to further provide protection and compensation for its victims while sanctioning the perpetrators.

Article 2 sets out measures that member States should take, with the aid of social partners, for the prevention of forced labour.

Article 3 calls on member States to take measures for the protection of forced labour victims, including identification, release, recovery and rehabilitation.

Article 4 stipulates that member States shall ensure that forced labour victims have access to remedies such as compensation and shall take the necessary measures to ensure that authorities do not prosecute victims for their involvement in unlawful activities during their time as forced labourers.

Article 5 outlines the need for cooperation between and among ILO member States to prevent and eliminate forced labour.

Article 6 recommends that ILO member States implement, after consultation with social partners, the provisions of Protocol 29 in accordance with national laws and regulations.

Article 7 notes that the provisions of Article 1, paragraphs 2 and 3, and

Articles 3 to 24 of C29 are no longer valid.

Articles 8, 9, 10, 11 and 12 contain the Protocol's provisions regarding matters of ratification; entry into force; denunciation and revision of the Protocol.

The Recommendation

The five sections of the Recommendation provide guidance on the supplementary measures needed for the implementation of the Protocol.

The Recommendation calls on ILO member States to establish or strengthen national policies and plans of action, in consultation with social partners, to achieve the suppression of forced labour. It urges national bodies such as labour inspectorates and the judiciary to ensure the development, coordination, implementation, monitoring and evaluation of national policies.

Part I sets out preventative measures that member States, in consultation with social partners, should take for the prevention of forced labour.

General measures include the respect, promotion and realization of fundamental principles and rights at work, the promotion of freedom of association, the fight against labour discrimination, the elimination of child labour and the taking of steps towards the realization of the Protocol and C29.

Preventive measures which take into account national circumstances include addressing the root causes of workers' vulnerability to forced labour, organizing targeted awareness-raising campaigns,

establishing skills training programs for at-risk population groups, ensuring that national laws and regulations concerning the employment relationship cover all sectors of the economy and are effectively enforced and ensuring basic social security guarantees in order to reduce vulnerability to forced labour.

Member States are urged to provide orientation and information for migrants, before departure and upon arrival, and to create awareness about human trafficking and forced labour.

The Recommendation encourages member States and their agencies to cooperate with international efforts to facilitate regular and safe migration and to prevent trafficking in persons.

Member States ought to provide guidance and support to employers and businesses to take effective measures to identify, prevent and mitigate the risks of forced labour in their operations or in their products or services.

Part II outlines a number of protective measures that member States, in consultation with social partners, are encouraged to take for the protection of forced labour victims.

All member States are called upon to identify and release victims of forced labour, offer them protective measures, and take the necessary measures to ensure that authorities are entitled not to prosecute victims of forced labour for their involvement in unlawful activities which they have been compelled to commit when they were subjected to forced labour.

Abuses and fraudulent practices by labour recruiters and employment agencies are to be eliminated through a series of measures. They include the elimination of recruitment fees, transparent employment contracts, accessible complaint mechanisms, adequate penalties and licensing of such services.

Both immediate assistance and long-term recovery ought to be provided to the victims of forced labour, including the protection for them and their families, adequate accommodation, health care, material assistance, protection of privacy and identity and social and economic assistance.

The Recommendation also addresses protective measures for children subjected to forced labour, taking into consideration their special needs and best interests, in conjunction with such measures provided by the Worst Forms of Child Labour Convention, 1999 (C182).

Member States, while taking into account their national circumstances, are called upon to take protective measures for migrants subjected to forced labour, irrespective of their legal status in the national territory.

Part III calls on member States to ensure that all victims of forced labour have access to justice and other appropriate remedies, such as compensation for personal and material damages. The instrument recommends that all victims of forced labour that occurred in the member States, both nationals and non-nationals, can pursue, under simplified procedural requirements, appropriate

administrative, civil and criminal remedies.

Part IV calls upon member States to strengthen the enforcement of national laws against forced labour by giving the relevant authorities the mandate, resources and training to allow them to enforce the law and to cooperate with other agencies.

National laws should provide for the imposition of penalties such as the confiscation of profits derived from forced labour in addition to penal sanctions. Efforts to identify victims should include developing indicators of forced labour for use by labour inspectors, law enforcement authorities, social workers and other relevant actors.

Part V outlines measures for international cooperation between and among member States alongside international and regional organizations for the elimination of forced labour. Such measures involve cooperation between national labour law enforcement institutions, mutual legal and technical assistance, which includes the exchange of information and the sharing of good practices in the fight against forced labour.

4. Canadian situation with respect to the Protocol and Recommendation concerning Forced Labour

Canada is committed to combatting forced labour and human trafficking at home and internationally. The issue of forced labour falls under both federal and provincial/territorial jurisdiction.

Canada was among the first countries to ratify the United Nations Protocol to

Prevent, Suppress and Punish Trafficking in Persons, especially Women and Children (Palermo Protocol) in 2002. Canada has ratified the Abolition of Forced Labour Convention, (C105) and recently the Forced Labour Convention (C29) in 2011.

Domestically, human trafficking is recognized in Canada's *Criminal Code* as an offence which can be punishable by up to 14 years imprisonment, or life imprisonment in the case of certain aggravating factors, such as kidnapping or sexual assault. In trafficking cases involving transnational movement, Canada's *Immigration and Refugee Protection Act* prohibits transnational human trafficking, prescribing a maximum penalty of life imprisonment and a fine of \$1 million.

The vast majority of Canadian workers are subject to provincial and territorial labour laws, with the federal jurisdiction covering the rest of the Canadian workforce. These labour provisions at both levels, all contribute to the prevention of human trafficking and forced labour. Services provided to victims are administered by the provinces and territories for which they may receive funding from the federal government.

Public Safety Canada (PSC) leads the Human Trafficking Taskforce, comprised of key departments, and is responsible for overseeing the implementation of the *National Action Plan to Combat Human Trafficking* (National Action Plan).

Launched in 2012, the National Action Plan consolidates ongoing efforts of the federal government to combat human trafficking and introduces aggressive

new initiatives to prevent this crime, identify victims, protect the most vulnerable, and prosecute perpetrators. The National Action Plan aims to better support organizations providing assistance to victims and it builds on the federal government's current responses and commitment to work together with provincial/territorial and social partners to prevent and combat human trafficking and forced labour in Canada.

Although the extent of forced labour in Canada is difficult to determine, evidence of this crime has come to light recently in this country. Forced labour complaints in Canada have been linked to foreign workers brought into the country to staff industries, such as food processing and technology, the service industry as well as domestic workers.

In 2013, the Government achieved its first conviction for domestic servitude, increased the number of convictions achieved under trafficking statutes compared to the previous year, and launched an RCMP anti-trafficking police unit which works closely with provincial and territorial law-enforcement partners.

Canadian authorities continue to establish strong partnerships with civil society to raise awareness of human trafficking; by increased coordination between federal, provincial, and territorial authorities; and by demonstrating transparency through National Action Plan progress reports.

The Annual Reports speak to the progress the Government has made in all four pillars of its approach: prevention, protection, prosecution, and partnerships

The combination of federal laws and regulations along with key policy and program initiatives outlined in the National Action Plan on Human Trafficking represents a set of key measures aimed at preventing forced labour, protecting its victims and prosecuting perpetrators of this crime. Thus such measures conform significantly to the Protocol's main provisions and to the Recommendation's guidelines.

TRANSITION FROM THE INFORMAL TO THE FORMAL ECONOMY RECOMMENDATION, 2015 (RECOMMENDATION 204)

5. Legislation jurisdiction

The subject matter of this instrument falls under both federal and provincial jurisdictions.

6. Background

In June 2015, at its 104th Session, the ILC adopted the Recommendation concerning the Transition from the Informal to the Formal Economy (R204). This new international labour standard is the first of its kind to focus on the informal economy in its entirety and offers for the first time policy and practical guidance to member States on how to facilitate transition from the informal to the formal economy.

According to ILO estimates, the informal economy, often marked by the denial of rights at work, inadequate social protection, the absence of quality employment, low productivity and a lack of social dialogue, absorbs more than half of the global workforce, including

more than 90% of small and medium sized enterprises. It also constitutes a significant obstacle to the development of sustainable enterprises and social justice. The share of women in the informal economy is higher than men in most countries. Other vulnerable populations are also disproportionately present in the informal economy.

The Recommendation

The Recommendation is not a legally binding instrument, but it provides an international framework for strategic and practical guidance on policies and measures on the transition from the informal to the formal economy.

The Recommendation is divided into nine sections.

Part I outlines the objectives, definitions and scope of the instrument.

The objective of the Recommendation is three-fold: to facilitate the transition of workers and economic units from the informal to the formal economy, to promote the creation and sustainability of enterprises and decent jobs in the formal economy, and to prevent the informalization of formal economy jobs.

The instrument defines the term “informal economy” as all economic activities by workers and economic units that are – in law or in practice - not covered or insufficiently covered by formal arrangements, excluding illicit activities as defined in the relevant international treaties. “Economic units” in the informal economy include units that employ hired labour, and those owned by self-employed individuals, either alone or with the help of

contributing family workers, as well as cooperatives and social and solidarity economy units.

The Recommendation’s scope of application covers all workers and economic units, including enterprises, entrepreneurs and households, in the informal economy. All sectors of the economy, both public and private, can comprise informal work.

Part II establishes the guiding principles of the Recommendation.

They include respect and consideration of the diverse characteristics and needs of workers in the informal economy, the specific national circumstances of member States transitioning to the formal economy and the need for coordination across a broad range of policy areas to facilitate such a transition. Promotion of human rights, gender equality and non-discrimination principles shall be applied by member States during the transition, as well as the respect for the up-to-date international labour standards. Special attention should be paid to those who are especially vulnerable in the informal economy including women, young people, migrants, indigenous people and persons with disabilities. During the transition to the formal economy, member States should be guided by a balanced approach which combines incentives with compliance measures. The preservation and expansion of the entrepreneurial potential of workers and economic units in the informal economy should also be taken into account during the transition period.

Part III describes the legal and policy framework the member States should

adopt and enforce in order to facilitate the transition to the formal economy.

The Recommendation provides that each member State should assess the causes and circumstances of their national informal economy prior to the design and implementation of an integrated policy framework for the transition to the formal economy. Member States should also ensure coordination across different levels of government and cooperation between the relevant authorities when formulating and implementing such a policy framework.

During the transition period, member States are encouraged to provide workers and economic units from the informal economy with income security such as the recognition of their existing property, as well as the means to formalize their property rights and access to land.

Part IV refers to employment policies with the objective of quality jobs creation in the formal economy. After consultation with the relevant social partners, member States are encouraged to formulate and implement a national employment policy based on the guiding principles of 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.

Part V deals with the rights and social protection for workers in the informal economy. States should take measures to achieve decent work and realize the fundamental principles and rights at work including freedom of association,

elimination of forced labour, child labour and discrimination with respect to employment and occupation for workers in the informal economy. Occupational safety and health protection should be promoted and extended for those in the informal economy, both employers and workers. Member States should progressively extend social security nets to encompass the needs of workers while considering relevant factors such as their domestic cost of living and the general level of wages. Social protection floors within the national social security systems should reflect the needs and circumstances of the workers and their families in the informal economy.

Part VI proposes enforcement, incentive and compliance measures that member States can adopt in order to facilitate the transition from the informal to the formal economy.

During the transition to the formal economy, member States should adopt preventive measures to address tax evasion, corruption and the avoidance of labour regulations while simultaneously providing incentives for employers and workers in the informal economy. Compliance with national laws and regulations should be reviewed and inspection coverage should be extended to all workplaces. National laws should provide adequate and strictly enforced administrative, civil or penal sanctions for non-compliance.

Part VII outlines key principles of social dialogue and freedom of association, as well as the role of employers' and workers' organizations during the transition.

Member States should ensure that workers in the informal economy enjoy freedom of association and the right to collective bargaining. Employers' and workers' organizations should, where appropriate, extend membership and services to workers and economic units in the informal economy. If needed, the International Labour Office can assist workers and economic units in the informal economy with a view to facilitate the transition.

Part VIII stipulates that member States, in consultation with social partners, should collect, analyze and disseminate data on specific socio-economic characteristics of their informal economy, as well as monitor and evaluate the progress towards formalization.

Part IX contains guiding measures for member States on how to give effect, in consultation with employers' and workers' organizations, the provisions of the Recommendation.

Member States should carry out in practice the provisions of the instrument by means of national laws and regulations; collective agreements; policies and programs, coordination among government bodies and other stakeholders; institutional capacity building and resource mobilization; and other measures consistent with national law and practice.

7. Canadian situation with respect to the Recommendation concerning Transition from the Informal to the Formal Economy.

As a significant proportion of working people throughout the world, principally

in the developing countries, work under conditions of informality, Canada supports the Recommendation concerning the transition from the informal to the formal economy.

Recognizing that addressing informality should begin by attacking the underlying causes and not just the symptoms through a comprehensive and multifaceted strategy, Canada endorses an integrated policy framework in which growth is articulated with the creation of decent and productive jobs, the improvement of working and living conditions, the protection of workers' rights, a fairer distribution of income and the building of social protection floors.

Canada supports the gender dimension of the Recommendation given the preponderance of women in the global informal economy. It also supports that special attention should be paid to vulnerable groups, including but not limited to, women, young people, migrants, older people, indigenous people, persons living with disabilities, persons living with HIV or affected by HIV or AIDS, domestic workers and subsistence farmers. Canada also recognizes the important and active role played by employers' and workers' organizations in facilitating the transition from the informal to the formal economy. The Canadian situation aligns with the principles in the Recommendation. The Recommendation contains practical provisions relevant to diverse country circumstances and provides useful guidance and flexible approaches to facilitate the transition from the informal to the formal economy.

Appendix A:
PROTOCOL CONCERNING
FORCED LABOUR, 2014

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 103rd Session on 28 May 2014, and

Recognizing that the prohibition of forced or compulsory labour forms part of the body of fundamental rights, and that forced or compulsory labour violates the human rights and dignity of millions of women and men, girls and boys, contributes to the perpetuation of poverty and stands in the way of the achievement of decent work for all, and

Recognizing the vital role played by the Forced Labour Convention, 1930 (No. 29), hereinafter referred to as “the Convention”, and the Abolition of Forced Labour Convention, 1957 (No. 105), in combating all forms of forced or compulsory labour, but that gaps in their implementation call for additional measures, and

Recalling that the definition of forced or compulsory labour under Article 2 of the Convention covers forced or compulsory labour in all its forms and manifestations and is applicable to all human beings without distinction, and

Emphasizing the urgency of eliminating forced and compulsory labour in all its forms and manifestations, and

Recalling the obligation of Members that have ratified the Convention to make forced or compulsory labour punishable as a penal offence, and to ensure that the penalties imposed by law are really adequate and are strictly enforced, and

Noting that the transitional period provided for in the Convention has expired, and the provisions of Article 1, paragraphs 2 and 3, and Articles 3 to 24 are no longer applicable, and

Recognizing that the context and forms of forced or compulsory labour have changed and trafficking in persons for the purposes of forced or compulsory labour, which may involve sexual exploitation, is the subject of growing international concern and requires urgent action for its effective elimination, and

Noting that there is an increased number of workers who are in forced or compulsory labour in the private economy, that certain sectors of the economy are particularly vulnerable, and that certain groups of workers have a higher risk of becoming victims of forced or compulsory labour, especially migrants, and

Noting that the effective and sustained suppression of forced or compulsory labour contributes to ensuring fair competition among employers as well as protection for workers, and

Recalling the relevant international labour standards, including, in particular, the Freedom of Association and Protection of the Right to Organise Convention, 1948 (No. 87), the Right to Organise and Collective Bargaining Convention, 1949 (No. 98), the Equal Remuneration Convention, 1951 (No. 100), the Discrimination (Employment and Occupation) Convention, 1958 (No. 111), the Minimum Age Convention, 1973 (No. 138), the Worst Forms of Child Labour Convention, 1999 (No. 182), the Migration for Employment Convention (Revised), 1949 (No. 97), the Migrant Workers (Supplementary Provisions) Convention, 1975 (No. 143), the Domestic Workers Convention, 2011 (No. 189), the Private Employment Agencies Convention, 1997 (No. 181), the Labour Inspection Convention, 1947 (No. 81), the Labour Inspection (Agriculture) Convention, 1969 (No. 129), as well as the ILO Declaration on Fundamental Principles and Rights at Work(1998), and the ILO Declaration on Social Justice for a Fair Globalization (2008), and

Noting other relevant international instruments, in particular the Universal Declaration of Human Rights (1948), the International Covenant on Civil and Political Rights (1966), the International Covenant on Economic, Social and Cultural Rights (1966), the Slavery Convention (1926), the Supplementary Convention on the Abolition of Slavery, the Slave Trade, and Institutions and Practices Similar to Slavery (1956), the United Nations Convention against Transnational Organized Crime (2000), the Protocol to Prevent, Suppress and Punish Trafficking in Persons, especially Women and Children (2000), the Protocol against the Smuggling of Migrants by Land, Sea and Air (2000), the International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families (1990), the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment (1984), the Convention on the Elimination of All Forms of Discrimination against Women (1979), and the Convention on the Rights of Persons with Disabilities (2006), and

Having decided upon the adoption of certain proposals to address gaps in implementation of the Convention, and reaffirmed that measures of prevention, protection, and remedies, such as compensation and rehabilitation, are necessary to achieve the effective and sustained suppression of forced or compulsory labour, pursuant to the fourth item on the agenda of the session, and

Having determined that these proposals shall take the form of a Protocol to the Convention;

adopts this eleventh day of June two thousand and fourteen the following Protocol, which may be cited as the Protocol of 2014 to the Forced Labour Convention, 1930.

Article 1

1. In giving effect to its obligations under the Convention to suppress forced or compulsory labour, each Member shall take effective measures to prevent and eliminate its use, to provide to victims protection and access to appropriate and effective remedies, such as compensation, and to sanction the perpetrators of forced or compulsory labour.
2. Each Member shall develop a national policy and plan of action for the effective and sustained suppression of forced or compulsory labour in consultation with employers' and workers' organizations, which shall involve systematic action by the competent authorities and, as appropriate, in coordination with employers' and workers' organizations, as well as with other groups concerned.
3. The definition of forced or compulsory labour contained in the Convention is reaffirmed, and therefore the measures referred to in this Protocol shall include specific action against trafficking in persons for the purposes of forced or compulsory labour.

Article 2

The measures to be taken for the prevention of forced or compulsory labour shall include:

- (a) educating and informing people, especially those considered to be particularly vulnerable, in order to prevent their becoming victims of forced or compulsory labour;
- (b) educating and informing employers, in order to prevent their becoming involved in forced or compulsory labour practices;
- (c) undertaking efforts to ensure that:
 - (i) the coverage and enforcement of legislation relevant to the prevention of forced or compulsory labour, including labour law as appropriate, apply to all workers and all sectors of the economy; and
 - (ii) labour inspection services and other services responsible for the implementation of this legislation are strengthened;
- (d) protecting persons, particularly migrant workers, from possible abusive and fraudulent practices during the recruitment and placement process;
- (e) supporting due diligence by both the public and private sectors to prevent and respond to risks of forced or compulsory labour; and

- (f) addressing the root causes and factors that heighten the risks of force or compulsory labour.

Article 3

Each Member shall take effective measures for the identification, release protection, recovery and rehabilitation of all victims of forced or compulsory labour, as well as the provision of other forms of assistance and support.

Article 4

1. Each Member shall ensure that all victims of forced or compulsory labour, irrespective of their presence or legal status in the national territory, have access to appropriate and effective remedies, such as compensation.
2. Each Member shall, in accordance with the basic principles of its legal system, take the necessary measures to ensure that competent authorities are entitled not to prosecute or impose penalties on victims of forced or compulsory labour for their involvement in unlawful activities which they have been compelled to commit as a direct consequence of being subjected to forced or compulsory labour.

Article 5

Members shall cooperate with each other to ensure the prevention and elimination of all forms of forced or compulsory labour.

Article 6

The measures taken to apply the provisions of this Protocol and of the Convention shall be determined by national laws or regulations or by the competent authority, after consultation with the organizations of employers and workers concerned.

Article 7

The transitional provisions of Article 1, paragraphs 2 and 3, and Articles 3 to 24 of the Convention shall be deleted.

Article 8

1. A Member may ratify this Protocol at the same time as or at any time after its ratification of the Convention, by communicating its formal ratification to the Director-General of the International Labour Office for registration.

2. The Protocol shall come into force twelve months after the date in which its ratification is registered and the Convention shall be binding on the Member concerned with the addition of Articles 1 to 7 of this Protocol.

Article 9

1. A Member which has ratified this Protocol may denounce it whenever the Convention is open to denunciation in accordance with its Article 30, by an act communicated to the Director-General of the International Labour Office for registration.
2. Denunciation of the Convention in accordance with its Articles 30 or 32 shall ipso jure involve the denunciation of this Protocol.
3. Any denunciation in accordance with paragraphs 1 or 2 of this Article shall not take effect until one year after the date on which it is registered.

Article 10

1. The Director-General of the International Labour Office shall notify all Members of the International Labour Organization of the registration of all ratifications, declarations and denunciations communicated by the Members of the Organization.
2. When notifying the Members of the Organization of the registration of the second ratification, the Director-General shall draw attention of the Members of the Organization to the date upon which the Protocol shall come into force.

Article 11

The Director-General on the International Labour Office shall communicate to the Secretary-General of the United Nations, for registration in accordance with article 102 of the Charter of the United Nations, full particulars of all ratifications, declarations and denunciations registered by the Director-General.

Article 12

The English and French versions of the text of this Protocol are equally authoritative.

Appendix B:

**RECOMMENDATION (N° 203) CONCERNING
FORCED LABOUR (SUPPLEMENTARY MEASURES), 2014**

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 103rd Session on 28 May 2014, and

Having adopted the Protocol of 2014 to the Forced Labour Convention, 1930, hereinafter referred to as “the Protocol”, and

Having decided upon the adoption of certain proposals to address gaps in the implementation of the Forced Labour Convention, 1930 (No. 29), hereinafter referred to as “the Convention”, and reaffirmed that measures of prevention, protection, and remedies, such as compensation and rehabilitation, are necessary to achieve the effective and sustained suppression of forced or compulsory labour, pursuant to the fourth item on the agenda of the session, and

Having determined that these proposals shall take the form of a Recommendation supplementing the Convention and the Protocol;

Adopts this eleventh day of June of the year two thousand and fourteen the following Recommendation, which may be cited as the Forced Labour (Supplementary Measures) Recommendation, 2014.

1. Members should establish or strengthen, as necessary, in consultation with employers’ and workers’ organizations as well as other groups concerned:
 - (a) national policies and plans of action with time-bound measures using a gender- and child-sensitive approach to achieve the effective and sustained suppression of forced or compulsory labour in all its forms through prevention, protection and access to remedies, such as compensation of victims, and the sanctioning of perpetrators; and
 - (b) competent authorities such as labour inspectorates, the judiciary and national bodies or other institutional mechanisms that are concerned with forced or compulsory labour, to ensure the development, coordination, implementation, monitoring and evaluation of the national policies and plans of action.
2. (1) Members should regularly collect, analyse and make available reliable, unbiased and detailed information and statistical data, disaggregated by relevant characteristics such as sex, age and nationality, on the nature and extent of forced or compulsory labour which would allow an assessment of progress made.
 - (2) The right to privacy with regard to personal data should be represented.

Prevention

3. Members should take preventive measures that include:
 - (a) respecting, promoting and realizing fundamental principles and rights at work;
 - (b) the promotion of freedom of association and collective bargaining to enable at-risk workers to join workers' organizations;
 - (c) programmes to combat the discrimination that heightens vulnerability to forced or compulsory labour;
 - (d) initiatives to address child labour and promote educational opportunities for children, both boys and girls, as a safeguard against children becoming victims of forced or compulsory labour; and
 - (e) taking steps to realize the objectives of the Protocol and the Convention.
4. Taking into account their national circumstances, Members should take the most effective preventative measures, such as:
 - (a) addressing the root causes of workers' vulnerability to forced or compulsory labour;
 - (b) targeted awareness-raising campaigns, especially for those who are most at risk of becoming victims of forced or compulsory labour, to inform them, inter alia, about how to protect themselves against fraudulent or abusive recruitment and employment practices, their rights and responsibilities at work, and how to gain access to assistance in case of need;
 - (c) targeted awareness-raising campaigns regarding sanctions for violating the prohibition on forced or compulsory labour;
 - (d) skills training programmes for at-risk population groups to increase their employability and income-earning opportunities and capacity;
 - (e) steps to ensure that national laws and regulations concerning the employment relationship cover all sectors of the economy and that they are effectively enforced. The relevant information on the terms and conditions of employment should be specified in an appropriate, verifiable and easily understandable manner, and preferably through written contracts in accordance with national laws, regulations or collective agreements;
 - (f) basic social security guarantees forming part of the national social protection floor, as provided for in the Social Protection Floors Recommendation, 2012 (No. 202), in order to reduce vulnerability to forced or compulsory labour;

- (g) orientation and information for migrants, before departure and upon arrival, in order for them to be better prepared to work and live abroad and to create awareness and better understanding about trafficking for forced labour situations;
- (h) coherent policies, such as employment and labour migration policies, which take into account the risks faced by specific groups of migrants, including those in an irregular situation, and address circumstances that could result in forced labour situations;
- (i) promotion of coordinated efforts by relevant government agencies with those of other States to facilitate regular and safe migration and to prevent trafficking in persons, including coordinated efforts to regulate, license and monitor labour recruiters and employment agencies and eliminate the charging of recruitment fees to workers to prevent debt bondage and other forms of economic coercion; and
- (j) in giving effect to their obligations under the Convention to suppress forced or compulsory labour, providing guidance and support to employers and businesses to take effective measures to identify, prevent, mitigate and account for how they address the risks of forced or compulsory labour in their operations or in products, services or operations to which they may be directly linked.

Protection

- 5. (1) Targeted efforts should be made to identify and release victims of forced or compulsory labour.
- (2) Protective measures should be provided to victims of forced or compulsory labour. These measures should not be made conditional on the victim's willingness to cooperate in criminal or other proceedings.
- (3) Steps may be taken to encourage the cooperation of victims for the identification and punishment of perpetrators.
- 6. Members should recognize the role and capacities of workers' organizations and other organizations concerned to support and assist victims of forced or compulsory labour.

7. Members should, in accordance with the basic principles of their legal systems, take the necessary measures to ensure that competent authorities are entitled not to prosecute or impose penalties on victims of forced or compulsory labour for their involvement in unlawful which they have been compelled to commit as a direct consequence of being subjected to forced or compulsory labour,
8. Members should take measures to eliminate abuses and fraudulent practices by labour recruiters and employment agencies, such as:
 - (a) eliminating the charging of recruitment fees to workers;
 - (b) requiring transparent contracts that clearly explain terms of employment and conditions at work;
 - (c) establishing adequate and accessible complaint mechanisms;
 - (d) imposing adequate penalties; and
 - (e) regulating or licensing these services.
9. Taking into account their national circumstances, Members should take the most effective protective measures to meet the needs of all victims for both immediate assistance and long-term recovery and rehabilitation, such as:
 - (a) reasonable efforts to protect the safety of victims of forced or compulsory labour as well as of family members and witnesses, as appropriate, including protection from intimidation and retaliation for exercising their rights under relevant national laws or for cooperation with legal proceedings;
 - (b) adequate and appropriate accommodation;
 - (c) health care, including both medical and psychological assistance, as well as provision of special rehabilitative measures for victims of forced or compulsory labour, including those who have also been subjected to sexual violence;
 - (d) material assistance;
 - (e) protection of privacy and identity; and
 - (f) social and economic assistance, including access to educational and training opportunities and access to decent work.
10. Protective measures for children subjected to forced or compulsory labour should take into account the special needs and best interests of the child, and, in

addition to the protections provided for in the Worst Forms of Child Labour Convention, 1999 (No. 182), should include:

- (a) access to education for girls and boys;
- (b) the appointment of a guardian or other representative, when appropriate;
- (c) when the person's age is uncertain but there are reasons to believe him or her to be less than 18 years of age, a presumption of minor status, pending age verification: and
- (d) efforts to reunite children with their families, or, when it is in the best interests of the child, provide family-based care.

11. Taking into account their national circumstances, Members should take the most effective protective measures for migrants subjected to forced or compulsory labour, irrespective of their legal status in the national territory, including:

- (a) provision of a reflection and recovery period in order to allow the person concerned to take an informed decision relating to protective measures and participation in legal proceedings, during which the person shall be authorized to remain in the territory of the member State concerned when there are reasonable grounds to believe that the person is a victim of forced or compulsory labour;
- (b) provision of temporary or permanent residence permits and access to the labour market; and
- (c) facilitation of safe and preferably voluntary repatriation.

Remedies, such as Compensation and Access to Justice

12. Members should take measures to ensure that all victims of forced or compulsory labour have access to justice and other appropriate and effective remedies, such as compensation for personal and material damages, including by:

- (a) ensuring, in accordance with national laws, regulations and practice, that all victims, either by themselves or through representatives, have effective access to courts, tribunals and other resolution mechanisms, to pursue remedies, such as compensations and damages;
- (b) providing that victims can pursue compensation and damages from perpetrators, including unpaid wages and statutory contributions for social security benefits;

- (c) ensuring access to appropriate existing compensation schemes;
- (d) providing information and advice regarding victims' legal rights and the services available, in a language that they can understand, as well as access to legal assistance, preferably free of charge; and
- (e) providing that all victims of forced or compulsory labour that occurred in the member State, both nationals and non-nationals, can pursue appropriate administrative, civil and criminal remedies in that State, irrespective of their presence or legal status in the State, under simplified procedural requirements, when appropriate.

Enforcement

13. Members should take action to strengthen the enforcement of national laws and regulations and other measures, including by:
- (a) giving to the relevant authorities, such as labour inspection services, the necessary mandate, resources and training to allow them to effectively enforce the law and cooperate with other organizations concerned for the prevention and protection of victims of forced or compulsory labour;
 - (b) providing for the imposition of penalties, in addition to penal sanctions, such as the confiscation of profits of forced or compulsory labour and of other assets in accordance with national laws and regulations;
 - (c) ensuring that legal persons can be held liable for the violation of the prohibition to use forced or compulsory labour in applying Article 25 of the Convention and clause (b) above; and
 - (d) strengthening efforts to identify victims, including by developing indicators of forced or compulsory labour for use by labour inspectors, law enforcement services, social workers, immigrations officers, public prosecutors, employers, employers' and workers' organizations, non-governmental organizations and other relevant actors.

International Cooperation

14. International cooperation should be strengthened between and among Members and with relevant international and regional organizations, which should assist each other in achieving the effective and sustained suppression of forced or compulsory labour, including by:

- (a) strengthening international cooperation between labour law enforcement institutions in addition to criminal law enforcement;
- (b) mobilizing resources for national action programmes and international technical cooperation and assistance;
- (c) mutual legal assistance
- (d) cooperation to address and prevent the use of forced or compulsory labour by diplomatic personnel; and
- (e) mutual technical assistance, including the exchange of information and the sharing of good practice and lessons learned in combating forced or compulsory labour

Appendix C:

**RECOMMENDATION (N° 203) CONCERNING
TRANSITION FROM THE INFORMAL TO THE FORMAL ECONOMY, 2015**

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 the 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 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 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.

I. Objectives and Scope

1. This Recommendation provides guidance to Members to:

- (a) facilitate the transition of workers and economic units from the informal to the formal economy, while respecting workers' fundamental rights and ensuring opportunities for income security, livelihoods and entrepreneurship;
- (b) promote the creation, preservation and sustainability of 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 members; and
 - (c) cooperatives and social solidarity 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 social and solidarity 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 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 the extend of the informal economy as described in this Recommendation, and its relationship to the formal economy. In doing so, 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.

II. 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 need 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 and 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 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.

III. 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 enforced 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 in poverty reduction strategies and budgets, taking into account, when appropriate, the role of different levels of government.
11. This integrated policy 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 economic 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 to formalized property rights and access to land.

IV. 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.

V. Rights and Social Protection

16. Members should 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;
- (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

VI. 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 anticorruption 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 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 contribution assessment and payment regimes;
 - (c) promote access to public procurement, consistent with national legislation, including labour legislation, through measures such as adapting procurement proceedings 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.

VII. 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.

VIII. 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.

IX. 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 if the International Labour Organization.

Annex

Instruments of the 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

Appendix D:

**Letters of Justice Canada Regarding
the Appropriate Legislative Jurisdiction
for the Instruments Adopted in
June 2014 and June 2015**



Department of Justice
Canada

ESDC Legal Services
140 Promenade du Portage
Phase IV, 11th Floor
Gatineau, Quebec
K1A 0J9

Ministère de la Justice
Canada

EDSC Services juridiques
140 promenade du Portage
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November 10, 2016

Mr. Rakesh Patry
Directeur général/Director General
Affaires internationales et intergouvernementales du travail /
International and Intergovernmental Labour Affairs
Programme du Travail / Labour Program
165 Hôtel-de-Ville, Phase II, 8ième étage / 8th Floor
Gatineau, Qc K1A 0J2

Dear Mr. Patry,

I refer to your Legal Request of October 27, 2016, with respect to the determination of the appropriate legislative jurisdiction for the following International Labour Organization instruments adopted respectively, at the 103rd, 2014, and 104th, 2015, International Labour Conference.

P029 - Protocol of 2014 to the Forced Labour Convention, 1930, recognizes the importance of suppressing forced or compulsory labour, and provides for measures to prevent and eliminate its use, and to provide protection and access to appropriate and effective remedies to victims.

R203 - Forced Labour (Supplementary Measures) Recommendation, 2014, recognizes the importance of addressing gaps in the implementation of the *Forced Labour Convention, 1930* (No. 29), and reaffirms that measures of prevention, protection, and remedies, such as compensation and rehabilitation, are necessary to achieve the effective and sustained suppression of forced or compulsory labour.

R204 - Transition from the Informal to the Formal Economy Recommendation, 2015, recognizes 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.

The subject matter of the above-mentioned instruments is partially within federal jurisdiction and partially within provincial jurisdiction.

Sincerely,

David Cuddemi
Counsel / Avocat
ESDC Legal Services / EDSC Services juridiques

Appendix E:

**Record of Votes Regarding
the Instruments Adopted
by the International Labour Conference
in 2014 and 2015**

Vote regarding the Protocol of 2014 to the Forced Labour Convention, 1930

Total Vote: (All voting delegates at the Conference)

For	437
Against	8
Abstentions	27

Canada

Worker	For
Employer	For
Government	For

Vote regarding the Forced Labour (Supplementary Measures) Recommendation (n° 203), 2014

Total Votes: (All voting delegates at the Convention)

For	459
Against	3
Abstentions	12

Canada

Worker	For
Employer	For
Government	For

**Vote regarding the Transition from the Informal to the Formal Economy
Recommendation (n° 204), 2015**

Total Votes: (All voting delegates at the Convention)

For	484
Against	1
Abstentions	5

Canada

Worker	For
Employer	For
Government	For

Appendix F:
Text of Article 19 of the International Labour Organization (ILO) Constitution
Regarding the Obligations of ILO Members in Respect of
Adopted Conventions and Recommendations

Article 19

Conventions and Recommendations

DECISIONS OF THE CONFERENCE

1. When the Conference has decided on the adoption of proposals with regard to an item on the agenda, it will rest with the Conference to determine whether these proposals should take the form: (a) of an international Convention, or (b) of a Recommendation to meet circumstances where the subject, or aspect of it, dealt with is not considered suitable or appropriate at that time for a Convention.

VOTE REQUIRED

2. In either case a majority of two-thirds of the votes cast by the delegates present shall be necessary on the final vote for the adoption of the Convention or Recommendation, as the case may be, by the Conference.

MODIFICATIONS FOR SPECIAL LOCAL CONDITIONS

3. In framing any Convention or Recommendation of general application the Conference shall have due regard to those countries in which climatic conditions, the imperfect development of industrial organization, or other special circumstances make the industrial conditions substantially different and shall suggest the modifications, if any, which it considers may be required to meet the case of such countries.

AUTHENTIC TEXTS

4. Two copies of the Convention or Recommendation shall be authenticated by the signatures of the President of the Conference and of the Director-General. Of these copies one shall be deposited in the archives of the International Labour Office and the other with the Secretary-General of the United Nations. The Director-General will communicate a certified copy of the Convention or Recommendation to each of the Members.

OBLIGATIONS OF MEMBERS IN RESPECT OF CONVENTIONS

5. In the case of a Convention:
 - (a) the Convention will be communicated to all Members for ratification;
 - (b) each of the Members undertakes that it will, within the period of one year at most from the closing of the session of the Conference, or if it is impossible owing to exceptional circumstances to do so within the period of one year, then at the earliest practicable moment and in no case later than 18 months

from the closing of the session of the Conference, bring the Convention before the authority or authorities within whose competence the matter lies, for the enactment of legislation or other action;

- (c) Members shall inform the Director-General of the International Labour Office of the measures taken in accordance with this article to bring the Convention before the said competent authority or authorities, with particulars of the authority or authorities regarded as competent, and of the action taken by them;
- (d) if the Member obtains the consent of the authority or authorities within whose competence the matter lies, it will communicate the formal ratification of the Convention to the Director-General and will take such action as may be necessary to make effective the provisions of such Convention;
- (e) if the Member does not obtain the consent of the authority or authorities within whose competence the matter lies, no further obligation shall rest upon the Member except that it shall report to the Director-General of the International Labour Office, at appropriate intervals as requested by the Governing Body, the position of its law and practice in regard to the matters dealt with in the Convention, showing the extent to which effect has been given, or is proposed to be given, to any of the provisions of the Convention by legislation, administrative action, collective agreement or otherwise and stating the difficulties which prevent or delay the ratification of such Convention.

OBLIGATIONS OF MEMBERS IN RESPECT OF RECOMMENDATIONS

6. In the case of a Recommendation:

- (a) the Recommendation will be communicated to all Members for their consideration with a view to effect being given to it by national legislation or otherwise;
- (b) each of the Members undertakes that it will, within a period of one year at most from the closing of the session of the Conference or if it is impossible owing to exceptional circumstances to do so within the period of one year, then at the earliest practicable moment and in no case later than 18 months after the closing of the Conference, bring the Recommendation before the authority or authorities within whose competence the matter lies for the enactment of legislation or other action;
- (c) the Members shall inform the Director-General of the International Labour Office of the measures taken in accordance with this article to bring the Recommendation before the said competent authority or authorities with

particulars of the authority or authorities regarded as competent, and of the action taken by them;

- (d) apart from bringing the Recommendation before the said competent authority or authorities, no further obligation shall rest upon the Members, except that they shall report to the Director-General of the International Labour Office, at appropriate intervals as requested by the Governing Body, the position of the law and practice in their country in regard to the matters dealt with in the Recommendation, showing the extent to which effect has been given, or is proposed to be given, to the provisions of the Recommendation and such modifications of these provisions as it has been found or may be found necessary to make in adopting or applying them.

OBLIGATIONS OF FEDERAL STATES

7. In the case of a federal State, the following provisions shall apply:

- (a) in respect of Conventions and Recommendations which the federal government regards as appropriate under its constitutional system for federal action, the obligations of the federal State shall be the same as those of Members which are not federal States;
- (b) in respect of Conventions and Recommendations which the federal government regards as appropriate under its constitutional system, in whole or in part, for action by the constituent states, provinces, or cantons rather than for federal action, the federal government shall:
 - (i) make, in accordance with its Constitution and the Constitutions of the states, provinces or cantons concerned, effective arrangements for the reference of such Conventions and Recommendations not later than 18 months from the closing of the session of the Conference to the appropriate federal, state, provincial or cantonal authorities for the enactment of legislation or other action;
 - (ii) arrange, subject to the concurrence of the state, provincial or cantonal governments concerned, for periodical consultations between the federal and the state, provincial or cantonal authorities with a view to promoting within the federal State coordinated action to give effect to the provisions of such Conventions and Recommendations;
 - (iii) inform the Director-General of the International Labour Office of the measures taken in accordance with this article to bring such Conventions and Recommendations before the appropriate federal state, provincial or cantonal authorities with particulars of the authorities regarded as appropriate and of the action taken by them;

- (iv) in respect of each such Convention which it has not ratified, report to the Director-General of the International Labour Office, at appropriate intervals as requested by the Governing Body, the position of the law and practice of the federation and its constituent States, provinces or cantons in regard to the Convention, showing the extent to which effect has been given, or is proposed to be given, to any of the provisions of the Convention by legislation, administrative action, collective agreement, or otherwise;
- (v) in respect of each such Recommendation, report to the Director-General of the International Labour Office, at appropriate intervals as requested by the Governing Body, the position of the law and practice of the federation and its constituent states, provinces or cantons in regard to the Recommendation, showing the extent to which effect has been given, or is proposed to be given, to the provisions of the Recommendation and such modifications of these provisions as have been found or may be found necessary in adopting or applying them.

EFFECT OF CONVENTIONS AND RECOMMENDATIONS ON MORE FAVOURABLE EXISTING PROVISIONS

8. In no case shall the adoption of any Convention or Recommendation by the Conference, or the ratification of any Convention by any Member, be deemed to affect any law, award, custom or agreement which ensures more favorable conditions to the workers concerned than those provided for in the Convention or Recommendation.