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Assessment and Perspectives on Policies for Employment Formalization in Argentina

Conclusions from the IV Seminar on the Informal Economy in Argentina

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Assessment and Perspectives on Policies for Employment Formalization in Argentina¹

Informality is one of the most important problems facing the Argentine labor market. As the period from 2003 to 2014 evidences, a context of steady and high economic growth favors a reduction in informality as well as the effectiveness of policies geared to that reduction. High levels of economic growth do not in themselves, however, guarantee a reduction in informality.

Lower levels of unregistered employment in Argentina in the last twelve years reversed a steady increase in that indicator starting in the mid-seventies. Nevertheless, informality is still at historically high levels: one of three salaried workers is not unregistered. Likewise, a drop in the growth of formal employment brought a degree of stagnation in the drop in informal employment.

A variety of factors have affected recent performance, particularly pursuant to the international *financial crisis*. A lower rate of economic growth, the resurgence of foreign exchange restraints, and the persistence of a heterogeneous productive structure are all factors that limit the expansion of production and the creation of quality employment. Other factors include the concentration of informal workers in certain critical segments that are resistant to formalization due to their productive, economic, and social characteristics (sectors like domestic work, the self-employed, agrarian rural work, and salaried employment in construction and commerce).

In this scenario, specific interventions are required to further labor formalization in Argentina, among them: simplification of the registration process and reduction in

1. This document was elaborated by Fabio Bertranou, Tomás Lukin, Mariana Sebastiani y Luis Casanova.

fiscal and social security costs to smaller businesses; productive support to small and medium-sized businesses; workplace inspection and the coordination of the various institutions involved in it. Law N° 26.940 for the Promotion of Registered Employment and the Prevention of Labor Fraud (**Ley de Promoción del empleo registrado y prevención del fraude laboral**), which was passed in 2014, made progress along these lines by establishing a series of incentives and penalties designed to encourage employers to hire salaried workers according to the conditions required by the regulations and to discourage unregistered employment.

While a number of visions are put forth in the book *“Roads towards Labor Formalization in Argentina”* (*Caminos hacia la formalización laboral en Argentina*) there is agreement that a dynamic labor market is necessary to further reduce informal employment. In addition to the strengthening of employment institutions, a comprehensive strategy to formalize the informal economy must take into account as well macroeconomic policy design and the strengthening of the productive structure. Public officials, union leaders, businessmen, and specialists all agreed on this approach at the *IV Seminar on the Informal Economy in Argentina*. Policies for Labor Formalization, organized by the ILO country office for Argentina and held in the city of Buenos Aires on August 13 and 14, 2015.

Labor Informality in Argentina: Long-term Tendencies and Characteristics

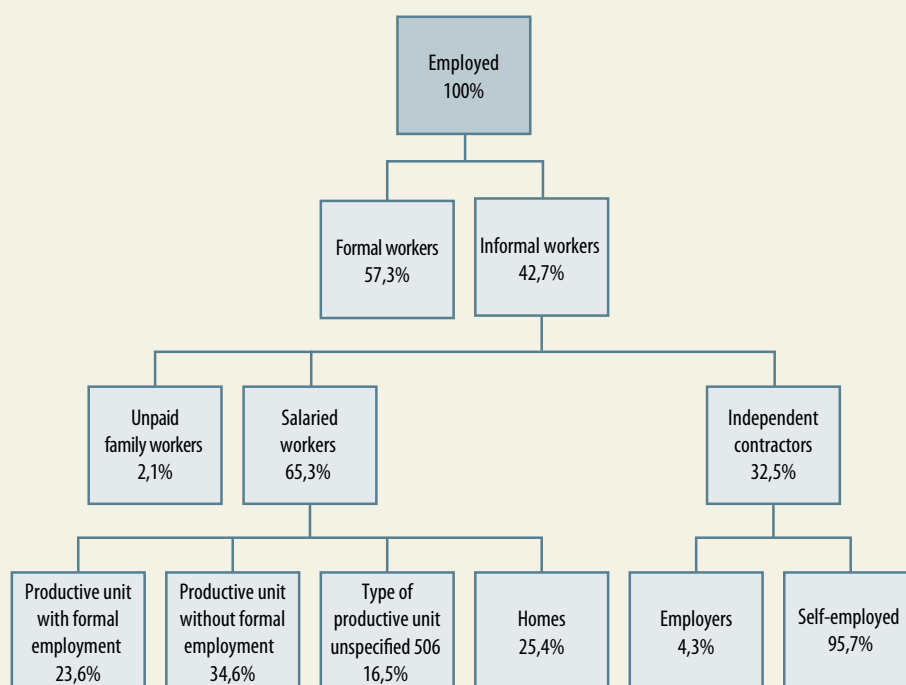
From 2003 to 2014, the creation of formal jobs along with economic growth in the 2000s and a battery of specific labor policies meant a palpable reduction in unregistered employment. After reaching a historical peak of 49% in 2003, the level of employment informality dropped to 34.3% in late 2014. While there are few comparable drops around the world and the scope of the problem is smaller in Argentina than in most Latin American countries, the levels of informality are still high in historical terms.

With a few minor modifications, the segments with the highest levels of informality remain the same as almost a decade ago: work performed in private homes, the self-employed, agrarian labor in a rural setting, and salaried work in the construction and commerce segments (in the case of these last two, the phenomenon is particularly intense in micro-businesses). Informal employment is significant, if not as significant, in other segments as well, such as the garment industry within the manufacturing sector.

The Nationwide Survey on Social Protection and Social Security (ENAPROSS, for the acronym in Spanish), carried out in 2011, provides a detailed map of employment informality in Argentina. The ENAPROSS complements the source traditionally used

to track unregistered salaried employment, mainly the Permanent Household Survey (EPH, for the acronym in Spanish). As chart 1 shows, 57.3% of all employed workers are registered, which means that the level of employment informality is 42.7% of all workers.

Makeup of the Employed Population Total urban areas surveyed relevadas - ENAPROSS 2011



Source: Bertranou and Casanova (Coords.), (2015), Paths towards Labor Formalization in Argentina, ILO. Buenos Aires.

Informal salaried workers, which constitute over 65% of all informal workers, are the largest category within this universe. Nearly 35% of those workers are concentrated in productive units without a single registered worker; just over 25% perform their jobs at homes, and most of them are women earning low wages.

Independent workers constituted some 32.5% of all informal workers, most of them self-employed. While this is a heterogeneous group, one of its distinctive characteristics is low-skill and poorly compensated jobs. Though the rate of informal employment may be much lower for this group of workers, it is vulnerable to problems associated with fiscal and employment slowdowns.

An analysis of the socio-demographic characteristics of informal workers reveals that the groups most affected are women, young people, and those with low educational levels. The close association of informality and low income is confirmed by the fact that a majority of informal workers form part of households with the lowest per capita family income. From 1995 to 2011, gaps in income between formal and informal salaried workers ranged from 15% to 31%.

Lastly, regional disparities in terms of productive structure, socioeconomic factors, and, in some cases, institutional networks are manifested in varying levels of informal employment: the gap in rates of unregistered salaried employment between different cities in the country is as high as forty percentage points.

Why does informal employment persist?

The heterogeneity of informal employment explains, in part, how hard it is to remedy. Factors include macroeconomic performance, productive structure, labor institutions, and social tolerance of informality. The diagnosis presented in “Roads towards Labor Formalization in Argentina” (ILO, 2015) was enriched by the input of the government officials, workers’ and employers’ representatives, and specialists that participated in the IV Seminar on the Informal Economy in Argentina.



Photo: Noemí Rial, Secretary of Labor, Ministry of Labor, Employment, and Social Security (MTESS, for the acronym in Spanish) and Pedro Américo Furtado de Oliveira, Director of the ILO country office for Argentina. Conference “Policies for the Promotion of Registered Work. Advances and Challenges”. IV Seminar on the Informal Economy in Argentina (Buenos Aires, August 13 and 14, 2015).

Macroeconomic Performance

Before the international crisis (2003-2009), the process of labor formalization was based on the creation of registered employment. Economic growth, the macroeconomic approach, public policies—especially labor policies—and social investment played a decisive role in this process. Since then (specifically, in 2010 and 2011), that virtuous dynamic in the labor market experienced a slowdown and then came to a standstill (2012-2014). The external factors that hindered further reduction in informality included, in that second stage, slower economic growth on the part of essential commercial partners (Brazil and China). At the same time, a set of domestic macroeconomic factors have hindered greater reduction in informality, mainly problems related to currency exchange rate and trade that have restricted foreign trade; issues like relative prices and access to financing are also pertinent to understanding the current macroeconomic dynamic.

On this basis, the public officials, trade union leaders, representatives of employers' organizations, and specialists that participated in the event agreed on the need to restore the path to economic growth. As a number of players pointed out on various occasions, a context of sustained high growth tends to favor formalization and to facilitate the effectiveness of policies designed to that end. Economic growth in and of itself is not enough, however. Indeed, informality has increased steadily since the mid-seventies regardless of a large growth in the GDP in the early nineties.

Workers' representatives affirmed that it is possible for the macro-economy to resume growth pursuant to public investment, among other things. The employers' representatives, on the other hand, demanded stability and new industrial policy instruments aimed at increasing investment and productive innovation.

Productive Structure

From 1964 to 1974, the manufacturing sector in Argentina experienced sustained growth at levels higher than other sectors; this period also witnessed significant jumps in employment rates, salaries, and productivity. In the mid-seventies, a sudden shift in economic policy took place when a military dictatorship seized power; it implemented free-trade policies and deregulated financial markets. The breakup of the industrial infrastructure was aggravated by the neoliberal policies of the nineties. As representatives of the business sector explained, key links on the production chain were destroyed along with learning processes and productive capacity. Those structural transformations tended to worsen gaps in relation to advanced nations as well within the country, heighten pre-existing structural heterogeneity.

Increases in the various expressions of informal employment—unregistered work, false outsourcing, precarious employment, etc.—are, in the view of all the players, intrinsic to the current stage of capitalism. The development model implemented by each country plays a key role in how labor is extended and reproduced. From this perspective, new global value chains constitute an additional structural obstacle to tackling informality.

Despite some progress in the reduction of productive heterogeneity and major efforts in the field of social investment, the productive structure has changed only slightly. This, along with other factors such as increased foreign exchange restriction in recent years, has limited productive expansion and the ability to generate quality employment in productive chains that yield greater added value but require imported goods. The structural heterogeneity in production is mirrored by territorial heterogeneity—another factor that affects formalization.

Labor Institutions

Unlike other recessions in the late 20th and early 21st centuries that tended to hit Argentina hard, the most recent international crisis did not lead to massive destruction of jobs or poorer working conditions. As representatives of workers (specifically, the General Confederation of Labor and the Argentine Workers' Central Union, CGT and CTA respectively for the acronyms in Spanish) pointed out, collective bargaining and the minimum wage played a key role in avoiding those pitfalls. Significant as well was workplace inspection.

Thanks to the strength of labor institutions in the country and the important role played by the leaders of those institutions, it was possible to design specific and novel policies on informality despite growing domestic and foreign tensions. In addition to greater fiscalization and economic incentives for regularization, the cost of failure to comply with labor regulations increased both quantitatively and qualitatively. On the one hand, penalties for noncompliance increased and, on the other, the Public Register of Employers with Labor Sanctions (REPSAL, for the acronym in Spanish) was created. Law 26.940 does not operate in isolation, but in concert with other specific tools geared to certain areas, mainly the farming sector, by means of the Trade Union Co-Responsibility Agreements.

Crucially, the instruments devised in Law N° 26.940 include measures to strengthen workplace inspection. As officials at the Ministry of Labor, Employment and Social Security point out, however, differences between jurisdictions in terms of labor administration and inspection represent a major obstacle to reducing informality. This territorial component is furthered by legal restrictions that public entities face in their

attempts to carry out inspections in certain segments of the labor market such as textile workshops and homes where much domestic labor is performed. Representatives of the business sector stated that the new tools alone are not enough to fiscalize the informal economy.

Despite existing obstacles and in view of traditional neoliberal labor market policies, workers' representatives affirmed that labor rights cannot be used as bargaining chips in attempts to reduce informality.

Social Tolerance

Some of the segments with high levels of informality are riddled with behavioral norms and intrinsic traits that explain, to a large extent, the ongoing elevated levels of informality. This is the case with domestic work, construction, and the rural sector in particular. In those realms, the standard behavior of workers and employers is conducive to informal arrangements rather than to compliance with labor and social security regulations.

Yet, social tolerance of the reproduction of informality is not limited to those segments that traditional tools fail to reach. The information produced by REPSAL—the tool created by Law 26.940—evidences that, during the first six months of 2015, employment informality existed in large companies as well. The Ministry of Labor, Employment, and Social Security has pointed out the relative importance of large companies listed in this new registry; to date, nearly 100 firms with over 100 workers have been sanctioned (the total number of companies sanctioned is around 1400). Significantly, five of those companies have over 1000 employees.



Photo: Fabio Bertranou, Director of the Decent Work Team at the ILO office for the Southern Cone of Latin America; Diego Schleser, Director General of Labor Studies and Statistics, Undersecretariat of Technical Programming and Labor Studies, MTESS; Guillermo Zuccotti, Secretary of International Affairs, CGTRA; and Diego Coatz, Chief Economist, the Argentine Industrial Union (UIA, for the acronym in Spanish) Study Center. Presentation of the book "Roads towards Labor Formalization in Argentina". IV Seminar on the Informal Economy in Argentina (Buenos Aires, August 13 and 14, 2015).

Policy Alternatives

A successful strategy to combat employment informality necessarily requires a diverse set of policies that heeds the wide range of characteristics and factors the phenomenon entails. Fabio Bertranou, the Director of the Decent Work Team at the ILO office for the Southern Cone of Latin America, summed up a threefold vision when he stated that *"there is no silver bullet that can solve the problem of labor informality; what is required, rather, is a comprehensive strategy."* Thus, the discussion of regulatory and labor policy instruments to combat informality must form part of a global approach geared to transforming the underlying productive structure. It is also essential that actions not only be undertaken by the State alone, but also be supported and abetted by organizations of workers and employers. In this framework, Fabio Bertranou presented the guidelines of Recommendation N° 204 on the transition from an informal to a formal economy and its importance to the formulation of comprehensive strategies for formalization.



Photo: Marta Novick, Undersecretariat of Technical Programming and Labor Studies, MTESS; Fabio Bertranou, Director of the Decent Work Team at the ILO office for the Southern Cone of Latin America; Guillermo Zuccotti, Secretary of International Affairs, CGTRA; and Raúl Massarini, Executive Director of the Statistics and Registration Institute of the Construction Industry (IERIC, for the acronym in Spanish) Conference "Facilitating the Transition to the Formal Economy. ILO Recommendation N° 204 (2015)". IV Seminar on the Informal Economy in Argentina (Buenos Aires, August 13 and 14, 2015).

An international consensus to facilitate transition to the formal economy: ILO Recommendation N° 204 on the transition from the informal to the formal economy

On the basis of a vision that recognizes the multiple causes and heterogeneous nature of labor informality, the International Labor Conference adopted Recommendation N° 204 on the transition from the informal to the formal economy. The construction of a shared body of aims, processes, and mechanisms conducive to facilitating the passage to formality on the part of companies and workers constitutes a significant advance.

"Recommendation N° 204 is a roadmap to progress in labor formalization—a complex process that is by no means new in the Argentine case since many of the points made have already been implemented," explained Pedro Américo Furtado de Olivera, Director of the ILO country office for Argentina. Informality has been identified by ILO constituents as one of the main challenges facing the labor market and, hence, it is a priority in the Decent Work Programs for Argentina. Indeed, in recent

years, especially after Law N° 26.940 was passed, the country has implemented a number of the measures endorsed by the resolution.

Workers' representatives understand that, while progress has been made, this Recommendation leaves room for improvement in policy design. Unions also understand that, on international and local levels, putting the Recommendation into effect is by no means a seamless process; implementing the instruments suggested entails major fiscal effort. Unions acknowledge that "leveling upwards" in terms of rights necessarily entails redistribution. Finally, they regret the vagueness of the Recommendation's wording in relation to the problem of global value chains.

In his presentation, Carlos Tomada, the Minister of Labor, Employment, and Social Security, spoke of ongoing *"challenges to furthering the progress that has been made towards strengthen labor institutions and improving the quality of employment in terms of formalization."* Daniel Funes de Rioja, the president of UIA's Department of Social Policy, also recognized the material and regulatory progress that has been made in Argentina. The representative of the employers' sector emphasized the need to tackle the sectoral and territorial heterogeneity of the productive structure by means of public policies that facilitate the development of sustainable businesses. He called for addressing issues related to, among other things, value chains in order to generate conditions that favor productive development, decent work, and fairness. Along those lines, the CGT's Press Secretary, Héctor Daer, and the Secretary of the CTA, Claudio Marín, called for specific measures to combat fraudulent outsourcing. Workers' representatives agreed that, to fight precarization further down the value chain, new and specific regulatory frameworks are required. They stated that progress along these lines must include labor unions and the State in, for instance, better and more inspections.

Minister Tomada affirmed that it is important *"to strengthen the detection of workers not registered in the social security system"* as well as *"noncompliance with other labor laws, such as maximum workday length, overtime pay, and collective bargaining agreements in terms of salary and working conditions."*

In agreement with a number of representatives of the private sector who participated in the event, Tomada asserted that it is possible *"to improve inspection and to expand the impact of employment market policies by increasing systematic use and coordination of the government's different sources of information."* He went on, *"this will make it possible to improve inspection planning and to detect employment fraud like, for instance, declaring full-time workers as part time, noncompliance with minimal wage laws, and the use of outsourcing as a means of fraud."* He emphasized that this strategy *"would help increase both the impact and breadth of labor institutions and*

policies, allowing them to reach segments of the labor market where some current actions have come up against operational obstacles.” In addressing the specific issue of fiscalization, Noemí Rial, the Secretary of Labor, pointed to four specific topics: i) increasing the number of inspectors; ii) incorporating new technologies; iii) improving the coordination of the relevant public (and private) organizations; and iv) fostering greater political commitment on the part of some jurisdictions—cities and provinces—that have been lax when it comes to combating informality. In some sectors, Rial affirmed, active cooperation with unions is required. All of these concerns were shared by workers’ representatives, who requested the unification of the databases of the different organizations involved in performing inspections.



Photo: (from left to right) Daniel Funes de Rioja, President of the Department of Social Policy, UIA; Pedro Américo Furtado de Oliveira, Director of the ILO country office for Argentina; Carlos Tomada, Minister of Labor, Employment, and Social Security, MTESS; Héctor Daer, Press and Communication Secretary for the CGT; and Claudio Marín, Secretary, CTA. High-level tripartite roundtable entitled “Achievements and Challenges for Labor Formalization: A Future Vision”. IV Seminar on the Informal Economy in Argentina (Buenos Aires, August 13 and 14, 2015).

Since 2014, when Law N° 26.940 was passed, Argentina has had new and powerful tools to combat the hard core of informality. Public officials claim that many micro-firms and small businesses are still unaware of the benefits of formalization implemented by that law. One of the proposals put forth by the Ministry of Labor and supported by the business sector is to increase the “educational role” played by inspectors in order to encourage and facilitate registration when irregularities are detected. The possibility of new mass media advertising campaigns was also discussed as a way to ensure the communication of the benefits of regularizing labor relationships as well as the risks of

failure to comply with regulations (such as fees and restricted access to the benefits of public policies, such as subsidies).

The need to constantly update and adjust fiscalization policy does not mean a failure to recognize some of the limitations of that strategy. Workers' organizations maintained that inspections are not enough to induce formalization in some sectors among the self-employed and in what is called the social economy, for instance. They demanded specific public policy measures. Representatives of employers' organizations, meanwhile, warned that Law N° 26.940 in itself would not suffice in the struggle against unregistered work and *"formal companies face unfair competition from unregulated sales in public spaces."* They argued that the main causes of informality include *"high labor costs, judicial insecurity, an excess of regulation and frequent changes in regulations,"* all of which should be tackled in conjunction with professional organizations.

Both workers' and employers' representatives agreed on the importance of investment, both public and private, as the engine of the transformation in the productive structure required to make significant advances in the reduction of poverty, inequality, and vulnerability. The UIA commented that the Argentine productive structure is heterogeneous; more highly skilled jobs are concentrated in sectors characterized by high productivity and weak backward employment linkage. Hence, they affirmed that *"economic policy must not move forward on the basis of any type of industrialization, but rather of an industrialization in which the country's economic and social conditions are coordinated with awareness of the challenges formulated in terms of local integration of value chains and intelligent strategies for insertion into foreign markets of sectors with the greatest added value and potential for technological development. An industrial policy of that sort is, according to the representatives of the business sector, the only comprehensive approach to the problem, "which is why [industrial policy] should not be limited to the promotion of innovative areas, but also prioritize those that require more supplies from other areas of the domestic economy—backward linkages—as well as those that act as intermediate goods for other economic sectors—forward linkages."*

Labor Department officials asserted that the ability to overcome obstacles to reductions in informality in the productive structure does not depend solely on domestic economic policy decisions. Successful experiences in industrial development have had room to maneuver that, from the government's viewpoint, is simply not the case today. Without ignoring the need for new and better industrial policy tools, these officials spoke of the difficulties faced by a strategy for industrial development geared to generating dynamic enterprises with less precarious outsourcing, enterprises that are more in keeping with domestic needs. They pointed out that innovative firms geared to the domestic market have been the most dynamic in terms of employment and wages; growth in productivity at those firms closer to the international market has been much

higher than growth in wages. Furthermore, trade union representatives warned that workers' rights must not be relegated for the sake of productive transformation.

Lastly, in this space of social dialogue on actions to be taken in order to further efforts to formalize employment in Argentina, Pedro Américo Furtado de Oliveira emphasized that the ILO country office for Argentina will continue to support major players in the areas they consider priority by facilitating technical cooperation for the design and implementation of policies for the formalization of the informal economy, as well as debate on those policies.