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International
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Organization

Productive development, transition to formality and labour standards

PRIORITARY AREAS OF WORK
FOR THE ILO IN LATIN AMERICA
AND THE CARIBBEAN



Regional Office for Latin America and the Caribbean

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The document on Priority Area 1 was coordinated and drafted by José Manuel Salazar-Xirinachs, with input from consultant Jorge Cornick. The document on Priority Area 2 was drafted and coordinated by Juan Chacaltana, Regional Specialist on labour economics. The document on Priority Area 3 was drafted and coordinated by Gerardina González, Deputy Regional Director.

Comments on the preliminary versions of the three documents were requested, and they benefited from extensive reflection by working groups on each issue during the meeting of regional directors and specialists, as well as with department directors and other colleagues at headquarters. That meeting was held in Lima, Peru, on 7 to 9 December 2015 to enhance and better define at least three elements of the respective issues: (a) identification of challenges; (b) substantive work being undertaken on the issue; and (c) strategic areas and opportunities for greater effectiveness and better positioning of the ILO's work on the region, in accordance with programmatic frameworks and mandates.

The working group on Priority Area 1 consisted of Efraín Quicaña, Olga Orozco, Roberto Villamil, Juan Hunt, Carmen Benítez, Dagmar Walter, Anne Posthuma, Alvaro Ramírez, Fabio Bertranou, Leonardo Ferreira, Hassan Ndahi, Gerson Martínez, Oscar Valverde, Azita Berar, Jorge Cornick, Fernando Vargas, Fernando Casanova, Walter Romero and Patricia Villegas.

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Preface

When I became Regional Director of the ILO for Latin America and the Caribbean in June 2015, I believed it was important to define a small number of priority issues to better align the Organization's various mandates with the region's needs.¹ Although Latin America and the Caribbean is a highly diverse region, it also has a series of common challenges. The intention was to capture in a few overarching issues the consolidated vision and the narrative of the main regional challenges to which the ILO team is dedicated. After a series of consultations and sessions, we arrived at the definition of the following three major priorities:

Priority 1: “Productive Development Policies (PDP) for inclusive growth and more and better jobs.” This objective is aligned with Goal #8 of the Sustainable Development Goals and Result 1 of the ILO Programme and Budget. The innovation under this priority is the emphasis on PDPs as the policy area where the most powerful instruments reside for influencing structural transformation, productivity, and the qualities or characteristics that growth should have (sustained, inclusive, sustainable) to gain greater traction in labour markets and create quality jobs. With average productivity that is less than half that of the leading countries, with a growing gap; with a productive development that is still highly dependent on the export of a few primary goods, and is relatively undiversified and based little on productivity growth and investment in innovation; and with a great predominance of “*cuentapropismo*” (self-employment) and micro-enterprise, instead of medium-size and large enterprises, the promotion of quality employment in the region requires a special focus and renewed effort on issues related to productivity, productive development and human talent.

Priority 2: promoting “Transition to formality.” Despite a four-point reduction during the “golden decade” of high growth, from 2003 to 2013, 47 per cent of all employment is still informal employment. This means that nearly half the region's

¹ The ILO's mandate is broad and complex: it includes the promotion of full and productive employment and decent work for all; a variety of regulatory issues to ensure compliance with and effective application of international labour standards; and the promotion of social security, all based on social dialogue. There is also a series of mandates on specific issues emerging from the annual International Labour Conference, Governing Body meetings and regional meetings held every four years. The last American Regional Meeting was held in Lima in October 2014 and led to the Lima Declaration. Finally, the basic instrument for prioritizing issues of ILO cooperation with mandates in each country are the Decent Work Country Programmes.

work force labours under conditions characterized by this complex, heterogeneous and persistent phenomenon of low-quality jobs, very low productivity, and no coverage of social security or labour rights, known as informal employment. In the past two years, the Regional Office had prioritized this issue and crystallized this priority in the FORLAC Programme (Programme for Promoting Formalization in LAC). This now-mature programme has documented a series of experiences and instruments for promoting formalization, including important policy innovations, such as the regime for self-employed or small taxpayers (monotributo). This remains a priority, of course, given the predominance of informality in the region.

Priority 3: Promoting “Respect for and application of International Labour Standards (ILS) and labour legislation.” The region's countries have ratified a relatively large number of ILO conventions, and the trend toward ratification has been steady for a long time. Major regulatory challenges persist, however: there are gaps because of a lack of adaptation of labour legislation to ILS in some countries; there are difficulties and violations in respect for and application of the fundamental rights, especially regarding freedom of association and collective bargaining; the unacceptable levels of child labour and forced labour; and the discrimination on various grounds, especially including gender. There are also challenges related to prior consultation of indigenous peoples and the implementation of Convention 169, and in labour administration and inspection. All of these issues are related to a weak culture of social dialogue. This list of sub-topics therefore contains precisely the key issues that the ILO is addressing in the region through Priority 3.

This publication contains three documents, one for each of the priorities. Each document provides a brief analysis of the situation and trends in the region's countries in each area and explains how it aligns with the ILO's mandates and global priorities and its contribution to the implementation of the organization's programme and budget; it also outlines the main strategic directions for work in the region on each issue.

This publication also constitutes a Regional Office response to the priorities identified by our constituents and the way in which they are being addressed. This is reflected in the programmatic content in each of the documents.

I am convinced that having these few top priorities offers a series of advantages, including: (1) helping to ensure a shared, joint vision of the ILO's work in the region, among both colleagues in the offices and tripartite constituents, beyond the specific characteristics of each geographic sub-area or country; (2) facilitating the

identification of common challenges, despite the diversity; (3) grouping the lists of the ILO's multiple mandates into clusters of issues, increasing opportunities for influence and impact; (4) giving the ILO a clearer institutional profile in a context of multiple international and regional organizations, inside and outside the United Nations System; and (5) facilitating better mobilization of support and cooperation among departments at ILO headquarters and in the region.

We hope that our constituents, the United Nations System, the wide variety of international bodies and other partners with which we work, and the general public, will find in these pages a clear explanation of the three priority areas of the ILO's work in the region and our basic analysis and work in each, and that this helps facilitate cooperation and, above all, helps increase the impact that can be made collectively to address these diverse and important challenges.

José Manuel Salazar-Xirinachs

ILO Regional Director
for Latin America and the Caribbean



Priority Area 1

PRODUCTIVE DEVELOPMENT
POLICIES FOR INCLUSIVE
GROWTH AND MORE AND
BETTER JOBS



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1. Introduction: Motivation, structure and objective of this document

After significant economic and social progress in the boom decade of 2002 to 2013, Latin America and the Caribbean have entered a new economic cycle characterized by deceleration of growth, which threatens to stall or even reverse progress made on social issues and employment in the previous decade.

This new recessive cycle has also revealed that the region cannot bet indefinitely on growth based on cyclical peaks in prices of raw materials, but must decisively address the economic challenges of productive diversification, increased productivity, structural heterogeneity and informality, as well as the social challenges of inequality, exclusion, poverty and labour and civil rights.

The progress made in the decade of 2002-2013 was neither sufficient nor irreversible. That was a winning decade for many countries in terms of innovative and effective social policies, but a lost decade for productive development and quality employment.

Half of the region's employment is still informal, and an estimated seven out of every ten jobs created in the region in the past 15 years are informal, mainly in micro-enterprises and self-employment.

The region's structural transformation has not moved enough workers out of low-productivity into high-productivity sectors, and some indications suggest that the shift has been in the opposite direction.

Average productivity in Latin America and the Caribbean is half that of the United States, and most countries are not closing the gap; instead, it is increasing. The IDB has called this "Latin America's tragedy".¹

The low increase in productivity is unquestionably the Achilles' heel of the region's growth process and one of the key indicators that Latin America could be caught in the "middle-income trap". In many cases, exports remain concentrated in a

1 IDB. 2010. The Age of Productivity, Washington D.C.

few basic products. The region shows huge gaps in innovation, education and labour skills.²

To escape this trap and begin a process of sustained, inclusive and sustainable growth, it is necessary to develop a broad and diversified base of economic sectors and activities marked by increasing productivity and high added value, able to generate the volume of high-quality jobs needed to gradually but systematically reduce informality and enable the economy to function at levels close to full employment.³

Because of the persistence of a pattern of economic and social growth with high volatility, inadequate economic and social inclusion, little traction in labour markets, and inadequate outcomes in the areas of environment and labour rights, the concept of ***sustained, inclusive and sustainable economic growth, with the generation of full and productive employment and decent work for all*** is highly relevant and has become, in recent years, the main focus of development efforts and of discussion of development and has entered fully as Goal 8 of the **2030 Agenda for Sustainable Development**. Its relevance and urgency for the countries of Latin America and the Caribbean could not be greater.

But what policies and policy instruments would make it possible to change patterns of growth and employment in the desired direction?

It does not seem overly bold to state that Productive Development Policies and the instruments that accompany them are the main tool for achieving this change, although their success demands concurrent policies in macroeconomics, human resources training, social security and labour rights.

These policies, which fell by the wayside during the time of the "Washington Consensus", are now the subject of renewed interest, which is not surprising in light of the region's poor performance in diversification and productivity.

Given the central role of PDPs as instruments for creating productive, quality employment, the ILO cannot remain on the sidelines of the discussion and treat them as a topic only for "ministries of production". Rather, it must treat them as an

² OECD, CAF, ECLAC. 2015. *Perspectivas Económicas de América Latina: Educación, Competencias e Innovación para el Desarrollo*, OECD, United Nations, CAF.

³ For a discussion of the concept of sustained, inclusive and sustainable growth, see Salazar-Xirinachs (2015) "Políticas de Desarrollo Productivo para el Crecimiento Inclusivo con Más y Mejores Empleos", twenty-first Bradford Development Lecture, University of Bradford, 18 June 2015. <http://www.brad.ac.uk/social-sciences/bcid/bdl/21st-bdl/>



indispensable ingredient for achieving success in its decent employment goals. For that reason, the ILO Regional Office in Latin America and the Caribbean has made "Productive Development Policies for inclusive growth and more and better jobs" the first of the three priority work areas for the region.

This priority is aligned with #Goal 8 of the 2030 Agenda, as well as the goal set by most of the region's countries to shift their model of development and growth toward one that is more sustained, inclusive and sustainable.

This work area is also highly relevant for influencing the reduction of inequality and enhancing social justice (Goal 10 of the SDGs), because inequalities are rooted in a highly heterogeneous pattern of growth and productivity that combines a few sectors and territorial areas of high productivity and high wages with a large majority of sectors, activities and territorial areas of low productivity and low wages.

This means that major inequalities cannot be addressed solely with social policy instruments. Something more fundamental must change. In addition to innovative social policies, the region's countries should strengthen their efforts to implement more innovative and effective PDPs, which, together with labour market policies, contribute to the creation of formal jobs and promote the transition from low-productivity and low-wage sectors to those of high productivity and high wages. In other words, social inclusion and productive and labour inclusion are two complementary sides of the same coin.

The purpose of this document is to outline strategic areas and some concrete actions for the ILO's work in the area of "PDPs for inclusive growth and more and better jobs", which is done in Section 4. Readers who are familiar with the assessment and would like to read only the strategy can skip directly to Section 4.

The document begins with a review of the reasons for renewed interest in industrial and productive development policies (Section 1), followed by an analysis of how the issue is framed within the ILO's mandate and the SDGs, particularly the concept of sustained, inclusive and sustainable growth (Section 2). This is followed by a summary of the results of a mapping of current discussion of PDP, particularly the visions and approaches of the main international agencies operating in the region (IDB, World Bank, CAF and ECLAC).

This document also draws on extensive discussions by a working group on the topic at the Regional Meeting of Directors and Specialists, as well as the meeting

with department heads and other colleagues from ILO headquarters in Geneva.⁴ That meeting was held in Lima from 7 to 9 December 2015 to better define at least three elements: (a) identification of challenges; (b) the substantive work being done on this issue; and (c) the strategic areas and opportunities for greater effectiveness and better positioning of the ILO in the region, in accordance with our programmatic frameworks.

2. Renewed interest in industrial and productive development policies

2.1 The Latin American economy after the crisis of the 1980s and the productive development imperative

After the debt crisis of the 1980s, Latin America implemented more or less deep structural adjustment programmes that were meant to re-establish macroeconomic stability and lay the groundwork for accelerated and sustained growth of the region's economies. The main concepts guiding those programmes were summarized in the various versions of the Washington Consensus.

Although the countries of the region eventually, and in varying degrees, overcame the crisis and regained macroeconomic stability, from the standpoint of growth and productivity the results of structural adjustment were disappointing. Instead of a new era of accelerated growth, Latin America experienced a "lost decade" first, followed by a long period of growth that could barely be considered moderate, and which was far below that of converging economies.

After three decades of reform, the gap between Latin America and converging economies and developed economies has widened. The following two graphs illustrate this phenomenon.

⁴ The working group consisted of Efraín Quicaña, Olga Orozco, Roberto Villamil, Juan Hunt, Carmen Benítez, Dagmar Walter, Anne Posthuma, Alvaro Ramírez, Fabio Bertranou, Leonardo Ferreira, Hassan Ndahi, Gerson Martínez, Oscar Valverde, Azita Berar, Jorge Cornick, Fernando Vargas, Fernando Casanova, Walter Romero and Patricia Villegas.



Figure 1 shows the evolution of per capita GDP in the region and compares it with that of the United States, Germany and Korea. Clearly, the gap is wide.

Figure 2 shows data only for Latin America and the Caribbean. After the crisis of the 1980s, as the graph shows, growth is weak for an entire decade, and not until 1993 does the region again reach the per capita GDP level it had in 1980.

Although growth has accelerated in the past 10 years, the impetus mainly comes from the increase in prices of raw materials, which benefits some of the region's largest economies, and not from economic diversification or the region's ascent within the global value chains in which it participates.

2.2 Trends in productivity

What is the cause of this slow per capita GDP growth in Latin America?

An initial wave of reforms assumed that the main obstacles were macroeconomic imbalance and state interventionism. However, once both were significantly (although unequally) reduced throughout the region, the expected acceleration in growth did not occur.

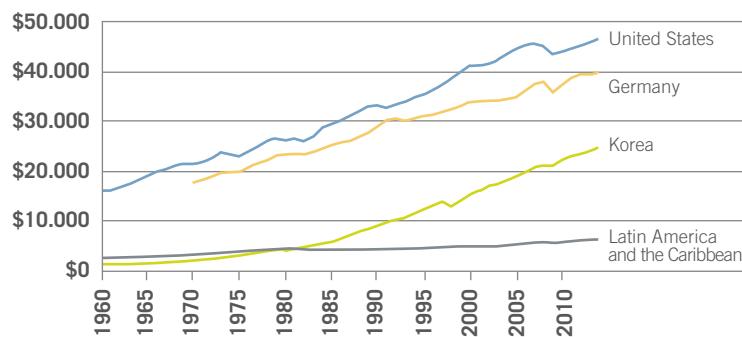
A second wave of reforms emphasized the strengthening of institutions,⁵ but the desired (sustained) acceleration of growth continued to elude the region.

This led several international agencies to shift their attention to productivity. And although this measure also poses challenges and generates debate, the evidence appears to indicate that slow growth in productivity is the key factor explaining Latin America's growing lag compared to converging and developed economies.

Figure 3 illustrates this situation.

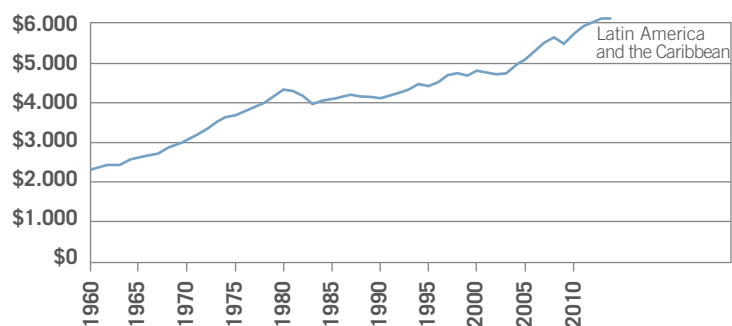
⁵ This is much more difficult to measure than the budget deficit, which also make it difficult to determine how much progress was made on this second issue.

Figure 1. Per capita GDP of selected countries and Latin America 1960 - 2014, Constant 2000 U.S. dollars



Source: Google Public Data Explorer, based on World Bank data.

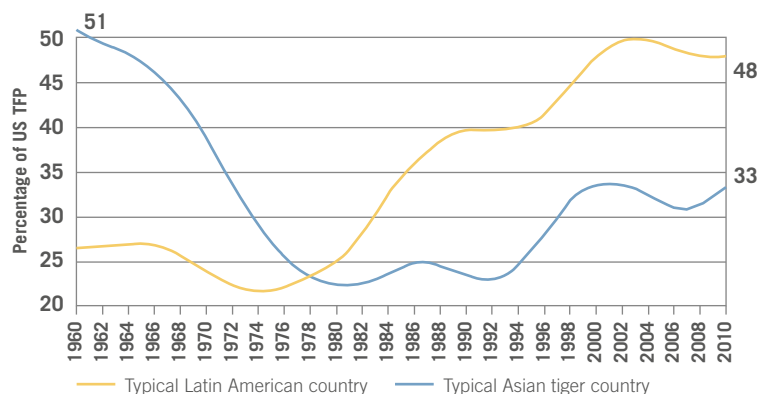
Figure 2. Per capita GDP in Latin America, 1960 - 2014, in constant 2000 U.S. dollars



Source: Google Public Data Explorer based on World Bank data.



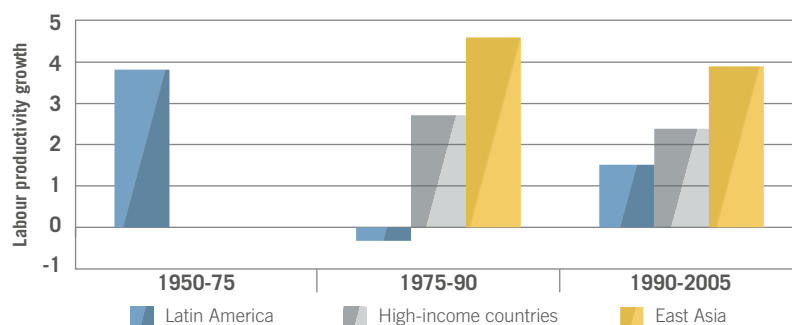
Figure 3. Productivity gap compared to USA. Typical Latin American country and typical Asian tiger country



Source: Inter-American Development Bank, 2015, p. 5.

Figure 4 illustrates the same phenomenon from another standpoint. It compares growth in labour productivity by region for three different periods. Three issues are clear: the fastest growth in labour productivity in Latin America occurred when the region implemented an import-substitution industrialization strategy; during the structural adjustment years, that growth was negative; and, although growth became positive again as of 1990, during both that period and the preceding one, it is well below that of East Asia and high-income countries.

Figure 4. Average annual growth in labour productivity by region and period, 1950 - 2005



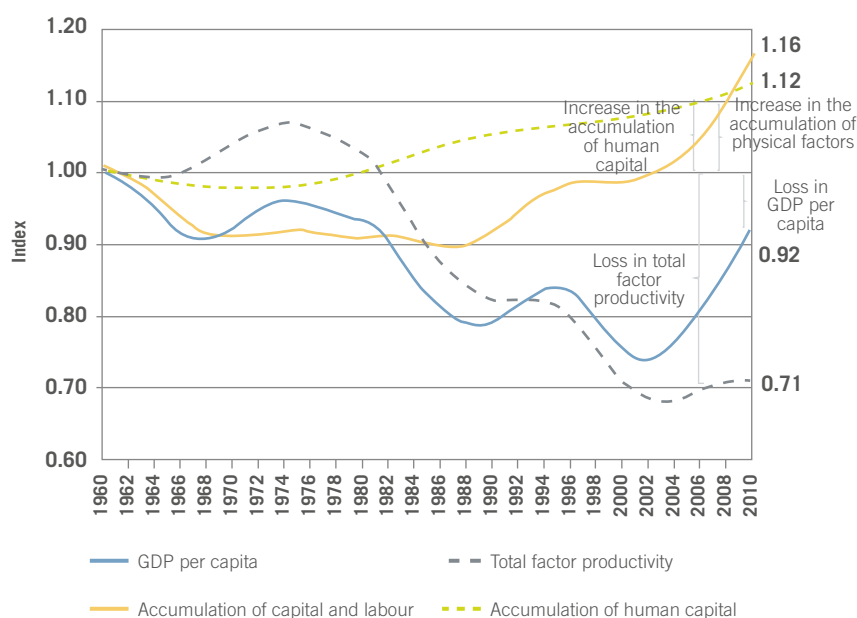
Source: Inter-American Development Bank, 2010, p. 56.

Figure 5 offers one last illustration of the causes of the relative deterioration of per capita income in Latin America. As the graph shows, in terms of accumulation of human capital and total accumulation of factors, Latin America has slightly

closed the gap with the United States. Nevertheless, the income gap widened because of the deterioration of the region's relative position in terms of total factor productivity.

Other sources and indicators could be cited, but the overall message would not change: the income gap between Latin America and emerging and developed economies is widening despite the economic reforms of the past 30 years, and the trend in total factor productivity appears to be the cause.⁶

Figure 5. Breakdown of per capita GDP, typical Latin American country vs. United States, 1960 - 2010



Source: Inter-American Development Bank, 2015, p. 5.

⁶ Measurement of total factor productivity is not without controversy. See, for example, Pritchett (2000). The comparison of data for income, investment in human capital and investment in physical capital, which is less controversial, would suggest a similar conclusion: something is not entirely right about the way in which the region uses its productive resources.

2.3 The return of industrial or productive development policies

This lag in productivity and growth was a key reason why institutions that played an important role in structural adjustment policies, such as the IDB and World Bank, decided to re-examine the debate over industrial and productive development policies, while others, such as ECLAC, found evidence in Latin America's poor post-crisis performance that they had always been right to support those policies.

Several factors contributed to this re-examination and reassessment of industrial policies in the region and in the world:⁷

- (1) A better, evidence-based understanding that the developmentalist East Asian countries have used various forms of industrial policy successfully to promote learning, absorb and develop technology, diversify their productive structures and create jobs. Industrial policies played a prominent role in all of those cases,⁸ and it would be difficult to argue that in all cases the countries were successful despite having adopted those policies.
- (2) Evidence that policies that were limited to seeking macroeconomic stability and the elimination of price distortions achieved little in the way of productive diversification.
- (3) Public demand for more effective government action to address the multiple crises that have affected economies in finance, food, health, the environment and climate change. The development of renewable energy has been one of the most active areas of industrial policy in the past decade.
- (4) Evidence of the success of selective policies to develop industries and promote innovation in both developed and developing countries. Examples include clean-technology products, renewable energy (solar, wind), 3D printing, biotechnology, long-life batteries and many others.

⁷ See Salazar-Xirinachs et al. 2014. Chapter 1.

⁸ Efforts to interpret the "Asian miracle" as an example of development mainly driven by market forces are unconvincing. See Amsden (1994).

- (5) The desire of developing countries to connect effectively and beneficially with global value chains.
- (6) In some cases, the renewed interest has also been associated with the risk of the "middle-income trap", or the danger that some emerging economies, even after enjoying a period of high growth, have stalled because of a lack of reforms and changes in their productive, business and innovation structures, which are necessary for dynamic and sustained growth.
- (7) The report by the World Bank Commission on Growth and Development, which concludes that economists lack sufficient understanding of the growth process, particularly the connection between education, training and technologies on the one hand, and growth on the other; and that countries' institutions and collective capacities differ, and they therefore must be able to experiment with different ways of developing their comparative advantages.
- (8) The crisis of 2008-2009, which was a reminder that unregulated markets, combined with weak states, provide a very poor institutional environment for transforming economies, promoting inclusive growth and creating opportunities for innovation and experimentation with policies, particularly productive development policies.
- (9) Recent contributions to development economics by economists such as Dani Rodrik, Ricardo Hausmann and others who, because of their insistence on points such as those above, on the need for policy experimentation and on conceiving development as a process of "discovery", and their renewed attention to productive capabilities and sources of accumulation of "know how", which determine degrees of "economic complexity", have had a decisive influence on the debate in economics about productivity and productive development.

Fortunately, the renewed interest in industrial policies does not ignore past errors or the hazards inherent to this type of policy. Rather, it adds new layers of analysis: greater attention to the political economy of industrial policies, the importance of policy development and the issue of institutional capabilities. These issues are examined in Section 3 of this document.



Technological changes and the realities of productive processes have also led to some blurring of classical distinctions between industry, agriculture and services; many economists now prefer to talk of productive development policies, rather than exclusively of industrial policies. This document and the ILO's work in the region adopt that position.

2.4 Theoretical and institutional approaches

With a mandate and purpose related to the world of work, the ILO has addressed the issue of productive development policies with a review of theoretical approaches in economics and a series of country case studies. Various significant contributions have been made on these issues by colleagues within the organization, including Iyanatul Islam and David Kucera, Irmgard Nubler, Anne Posthuma, Christoph Ernst, Janine Berg and others.⁹

A book prepared jointly with UNCTAD (Salazar-Xirinachs, JM, I. Nubler, R. Kozul-Wright (eds), 2014), contains a review of theoretical approaches as well as eight case studies. The main theoretical approaches to analysis and design of PDPs are neoclassical economics, structuralism, evolutionary theory and institutional economics.

The purpose of this document is not to describe these approaches; rather, it is to explain how the ILO has addressed and mapped these issues at all levels, from conceptual discussions to a series of practical experiences, as well as a wide range of methodologies of its own at the enterprise, sector, value chain and environment levels.

As noted above, the Regional Office for LAC also recently commissioned the preparation of an overview of what the main institutions in the Americas (IDB, ECLAC, World Bank, CAF) have done and are doing in this policy area in terms of research, approaches and knowledge generation.

⁹ See, for example, Islam, I.; Kucera, D. (eds). 2014. *Beyond macroeconomic stability: Structural transformation and inclusive growth* (Geneva and Basingstoke, ILO and Palgrave Macmillan); Nübler, I. Forthcoming. *Capabilities, productive transformation and development: A new perspective on industrial policies* (Geneva, ILO); Ernst, C. 2014. "Creating productive capacities, employment and capabilities for development: The case of infrastructure investment", in I. Islam and D. Kucera (eds), (2014) op. cit.

3. The ILO, its mandate, programmatic frameworks and productive development policies

3.1 PDPs and Goal 8 of the 2030 Agenda

Latin America and the Caribbean have entered a new phase of the economic cycle, characterized by deceleration of growth, the threat of stagnation and the danger of losing ground, economically and socially, compared to the "golden decade" (2002-2013).¹⁰

The region's countries also face longer-term structural problems that have characterized them for decades: inadequate productive diversification, productivity gaps between and within countries, deficiencies in human capital, high rates of informality and poverty, the historical legacy of high inequality and exclusion, and persistent gaps in respect for and exercise of labour rights.

It is precisely because of the persistence of a pattern of economic and social growth with high volatility, inadequate economic and social inclusion, little traction in labour markets, and deficient environmental results that the concept of **sustained, inclusive and sustainable economic growth, with full and productive employment and decent work for all** is so relevant and has entered fully as Goal 8 of the **2030 Agenda for Sustainable Development**. In contrast to the MDGs, which focused on social issues, the public sector and those who were sidelined from the economy and employment, the SDGs are much more balanced, with a strong presence of the world of work, the productive sector and its actors: sustainable enterprises, employers and workers. Their relevance and urgency for the countries of Latin America and the Caribbean could not be greater.

We understand inclusive growth as a model of growth with the following characteristics:¹¹

¹⁰ See Jose Antonio Ocampo. 2015. "Tiempos de Incertidumbre", in Finanzas y Desarrollo, Vol 52, No. 3, September.

¹¹ See Salazar-Xirinachs. 2015. "Productive Development Policies for Inclusive Growth and More and Better Jobs", twenty-first Bradford Development Lecture, University of Bradford, 18 June 2015. <http://www.brad.ac.uk/social-sciences/bcid/bdl/21st-bdl/>

- (1) It is sustained over several decades.
- (2) It has a broad and diversified base of economic sectors.
- (3) It creates productive employment that respects workers' rights.
- (4) It reduces poverty.
- (5) It reduces income inequality.
- (6) It improves access to education and health.
- (7) It offers basic social protection for all citizens.

And to be sustainable, as well as inclusive, it must respect the environment.

Achieving each of these characteristics requires certain policy packages that are essential for outcomes in the respective dimension; there also are strong synergies and complementarities among these various dimensions or policy areas.

The characteristic of being sustained over several decades has marked all successful experiences in high-performance countries such as Japan, Korea, Ireland, and so on.

In contrast, and unfortunately, the current economic deceleration shows that Latin American countries have not managed to escape the classic cycle of volatility in their growth.

The causes of the lack of sustained growth are both external and internal. External factors clearly have an influence, but achievement of the goal of sustained and inclusive growth is only possible with strong internal drivers based on productive diversification, innovation, investment in human capital and growth in productivity, with a stable macroeconomic environment and a climate of trust that is favourable to enterprises and private investment.

That is why productive development policies are a key element in the promotion of Goal 8 of the 2030 Agenda, to expand and diversify economic activities and gain more traction in demand for quality jobs. The PDPs are an important and urgent tool in the region at this time. It is not fortuitous that there is renewed interest in them on the part of governments and international bodies, and it is important for the ILO and tripartite constituents to occupy an appropriate space in the discussion and to influence policies.

3.2 The scope of PDPs and the role of government

It is important to define the scope of PDPs. There are many definitions, based on different approaches. One fairly comprehensive one defines PDPs as: "Deliberate interventions to increase the overall productivity of the economy, or of certain sectors or regions, to influence the pattern of growth, change the product's sectoral composition, or enter new industries or new markets".

The PDPs can be powerful instruments for influencing patterns of employment, in both quality and quantity.

The different types of PDPs can be classified in various ways. One common classification distinguishes micro or enterprise level, meso or sectoral level, and the macroeconomic level or the level of the overall economy. The following lists, one for each level, provide examples of intervention instruments, with the caveat that some programmes and instruments have dimensions that are relevant to all three levels:

Micro or enterprise level

- ▶ policies for improving enterprise productivity (e.g. the ILO's SCORE methodology), including improvement of working conditions and cooperation of workers and employers within the enterprise
- ▶ variety of business development services
- ▶ labour relations
- ▶ variety of support and services for micro-, small and medium-size enterprises
- ▶ attention to business ecosystems, particularly the formation and growth of start-ups and support in the form of incubators, mentoring, credit and business services

Meso, sector or value chain level

- ▶ promotion of clusters and competitive initiatives in priority sectors
- ▶ sector-based job-training policies
- ▶ instruments for economic and social upgrading of value chains

- ▶ instruments to encourage innovation and the use of technology in certain sectors
- ▶ instruments to promote the development and use of renewable energy sources

Macro level and cross-cutting policies

- ▶ environment conducive to sustainable enterprises (e.g. EESE methodology using ILO definition, investment climate, and so on)
- ▶ policies for developing entrepreneurship
- ▶ education and job-training policies (e.g. occupational training institutes, CINTERFOR)
- ▶ policies for innovation, science and technology
- ▶ infrastructure development
- ▶ credit policies (development bank)

PDPs in Latin America and the Caribbean have traditionally fallen under ministries related to production (industry, agriculture, science and technology, and so on) and specialized agencies (to promote exports, to attract investment, for financing, and so on), but they have had two weaknesses: first, the policies and interventions in these areas have been fragmented by divisions of labour between government agencies and lack of coordination and integrated approaches; and second, these policies have generally paid inadequate attention to employment issues in terms of number and quality of jobs, labour rights and other social dimensions.

The ILO's involvement in PDPs for inclusive growth and more and better jobs, especially insofar as its constituents develop a common vision in social dialogue about these issues, can help advance several practical goals, which can in turn yield various concrete benefits:

- (1) One is to promote a more integrated approach within governments and better coordination in an area that necessarily requires greater coordination and integration between the public sector entities, as well as among the public and private sector, the labour sector and all stakeholders and interested and relevant groups, to design and implement policies that accelerate growth and make it more inclusive.

- (2) Another is to promote a more balanced and integrated approach in economic and social dimensions, where PDPs are most relevant for the creation of quality jobs, and to include the employment dimension more explicitly in policies.
- (3) A third, which is highly relevant in the region, is to bring a pragmatic approach to what has usually been an ideologized debate. Consider the following reflection by Stephen Cohen and Bradford DeLong, in a recent review of policies for growth and productive development in the United States: *In successful economies, economic policy has been pragmatic, not ideological. It has been concrete, not abstract. And so it has been in the United States. From its very beginning, the United States again and again enacted policies to shift its economy onto a new growth direction – toward a new economic space of opportunity. These redirections have been big. And they have been collective choices. They have not been the emergent outcomes of innumerable individual choices aimed at achieving other goals. They have not been the unguided results of mindless evolution. They have been intelligent designs. And they have been implemented by government, backed and pushed by powerful and often broad-based political forces, held together by a common vision of how the economy ought to change. (Cohen and DeLong, 2016. p 1.)* It is also important for ILO constituents to develop concrete national visions of what these "intelligent designs" could look like for their countries in terms of the future of productive development, productivity and inclusive growth, which is also largely a conversation, vision and design for the future of work in their countries.

3.3 PDPs and the ILO mandate

As an international organization focusing on the world of work and production, the ILO has traditionally approached the challenges of productive transformation, productivity, enterprise development and skills development from various standpoints.

A complete list of the instruments developed in a tripartite manner in this area would be too long to include here, but some basic guidelines developed by tripartite agreement include:

- ▶ Conclusions concerning the Promotion of Sustainable Enterprises, ILC, 2007.
- ▶ Recommendation on job creation in small and medium-size enterprises, 1998, No. 189.
- ▶ Tripartite declaration of principles concerning multinational enterprises and social policy.
- ▶ Resolution concerning small and medium-size enterprises and the creation of decent and productive employment, ILC, 2015.
- ▶ Conclusions of the second recurrent discussion on employment.
- ▶ Lima Declaration, October 2014.

In the conclusions of the Second Recurrent Discussion on employment, the mandate states, among other elements:

Each member State should promote 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 growing inequalities;*
- b) *Trade, industrial, tax, infrastructure and sectoral policies that promote employment, enhance productivity and facilitate structural transformation processes;*
- c) *Enterprise policies, in particular an enabling environment for sustainable enterprises as set out in the 2007 International Labour Conference conclusions, including support to micro-, small and medium-sized enterprises as one of the engines of job creation, and promotion of entrepreneurship;*
- d) *Education policies that underpin lifelong learning and skills development policies that respond to the evolving needs of the labour market and to new technologies, and broaden options for employment, including systems for skills recognition.*

And in the Lima Declaration, constituents ask the ILO for technical assistance to work on the following elements, among others:

3. Policies that promote an enabling environment for the creation and development of enterprises, in accordance with the resolution concerning the promotion of sustainable enterprises adopted by the International Labour Conference in 2007, including the principles of sustainable enterprises, free enterprise and respect for the right to private property

...

5. Policies to diversify production based on industrial transformation towards products with a higher value added.

...

14. Policies aimed at upgrading workers' and employers' skills in order to eliminate the gap between their skills and the needs of the labour market, with emphasis on micro-, small and medium-sized enterprises

...

19. Promoting issues of tripartite interest that make up the post-2015 development agenda.

Finally, the proposed priority work related to PDPs for inclusive growth and more and better jobs aligns well with various 2016-2017 Programme and Budget outcomes, particularly Outcome 1.

In conclusion, successful productive development policies are essential for meeting the ILO's strategic objectives related to promotion of inclusive growth, productive employment and decent work for all. Because of its extensive experience in tripartite dialogue, the ILO can also make a particularly significant contribution to the success of productive development policies.

There is an opportunity to create a virtuous circle that goes from successful productive development policies to the creation of more and better jobs and respect for labour rights, using tripartite dialogue as a tool, and returning to enhanced productive development policies that can adapt to the changing circumstances and needs of the development process, and the ILO is ideally positioned to take advantage of it.



4. Toward an ILO knowledge agenda: The new debate and identification of orphan issues

In July 2015, the Regional Office mapped the current discussion of PDPs, particularly among the main bodies operating in the region (IDB, World Bank, CAF and ECLAC).¹²

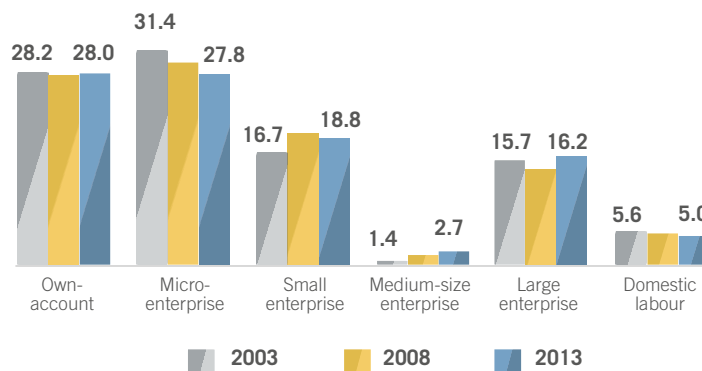
The purpose of this map was to identify key issues – for both the region's development and fulfilment of the ILO's Mission and Strategic Objectives – that have not yet received in-depth examination, despite the richness of recent discussion, or have not been addressed at all. This document refers to these as "orphan issues".

The goal is to help identify issues, within the vast field of PDPs, on which the ILO has opportunities to contribute in line with its mandate and comparative advantages.

An initial indicator of the magnitude of employment-related challenges, and their relationship to the region's inadequate productive development, stems from examination of the percentage of workers employed, by size of the enterprise in which they work. Figure 6 presents this information for 2003, 2008 and 2013. As the graph shows, in 2013, 56 per cent of workers in the region were self-employed (28 per cent) or worked in microenterprises (27.8 per cent). These are typically jobs with low productivity and income, which reflect inadequate job creation in more productive formal enterprises and, to a certain extent, the inability of workers to obtain jobs in those enterprises because they lack the necessary qualifications. The proportion of workers in medium-size enterprises is very low.

¹² See Cornick, 2016.

Figure 6. Latin America: Employment structure, by enterprise size, 2003, 2008 and 2013



Source: ILO estimates based on information from household surveys in 18 countries.

Figure 7 illustrates the same problem from a slightly different perspective. It compares the distribution of enterprises and employment, by enterprise size, for the United States, Mexico and Peru. In the former, 42 per cent of enterprises have between one and four workers, but those companies create barely five per cent of total employment. In contrast, in Mexico and Peru, microenterprises represent 85 per cent and 89 per cent of all enterprises, respectively, but more importantly, they create 20 per cent and 38 per cent of employment. If enterprises with five to 19 workers are added, the figures increase to 48 per cent of employment in Mexico and 54 per cent in Peru.

Given these figures, one option is to try to help micro- and small enterprises become more productive and create better-paying jobs. Comparisons with developed economies (the case of the United States is typical, not exceptional) suggest instead that the road to development involves a transition in the labour market and a gradual increase in the percentage of wage earners compared to self-employed workers, and in the percentage of wage earners who work in medium-size and large enterprises rather than micro- and small enterprises.

This transition represents a simultaneous challenge for productive development policies and policies for employment and training of human resources. In other words, it represents a key intersection between productive development policies and policies aimed at creating more and better jobs. This is precisely the territory that falls strictly within the work areas that are indispensable for fulfilment of the ILO's strategic objectives, and which has received relatively little study.

It is a territory of "orphan issues" on which the ILO can and must make a significant contribution.

The following section, although not exhaustive, outlines some of the issues that fall within this extensive territory.

4.1 The relationship between productive development policies and job creation

The relationship between productive development policies and job creation has received practically no detailed study.

In most cases, productive development policies have not explicitly included job-creation goals, even though they have a direct impact on the number and quality of jobs created in an economy.

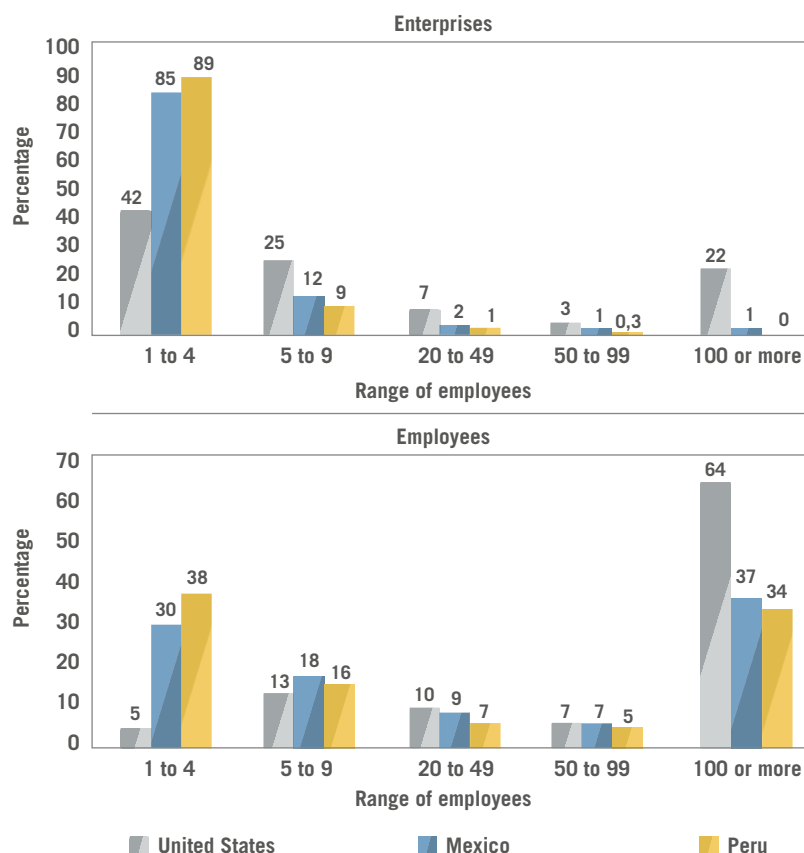
Countries do not necessarily have to choose, from the outset, between industries that are labour intensive but not knowledge intensive and industries that are knowledge intensive but not labour intensive. The case of South Korea shows clearly that both can be encouraged during an extensive transition period, until expansion of the more modern sector and training of the workforce allow most employment to be created in the sector that is more modern, productive and knowledge intensive. Some specific questions that would require further research:

- ▶ Is it possible to "fine tune" or "adjust" the design of productive development policies to create more quality jobs without a negative impact on goals related to productivity or exports? Should the changes necessary for that occur within the sphere of production policies, per se, or in related areas, such as regulations related to the labour market, social security, and training of human resources, or others?
- ▶ Concern has frequently been expressed that growth in modern, high-productivity sectors creates relatively few jobs. Are the binding constraints found only on the labour demand side, however, or might they also be found on the labour supply side? One outstanding trait of the Korean and Taiwanese experiences is the close coordination and alignment between productive development policy and policy for training of human resources. It is worth examining whether the lack of such coordination might constitute a constraint on job growth in

Latin America and the Caribbean, and whether the highest-productivity sectors would grow more rapidly and create more quality jobs if there were a more abundant supply of labour with the qualifications and skills that those sectors demand.

- ▶ Some studies suggest that one of the most important sources of creation of new jobs in developed and converging economies is new enterprises with high growth potential, but newly established enterprises in Latin America tend to be smaller than in countries with a similar level of development and to grow less after they are created. What obstacles must be removed in order for the region to increase the number of high-potential enterprises and facilitate their growth, with the consequent creation of new jobs? How can enterprise ecosystems be upgraded in the region?

Figure 7. Distribution of enterprises and employment in selected countries, by enterprise size (various years)



a/ United States, 2011; Mexico, 2009; Peru, 2008.

b/ In the case of Mexico's Economic Census, only permanent or semi-permanent economic units are used as units of observation. These do not include mobile economic units or those not permanently attached to the ground, or homes where a productive activity is conducted for family consumption or where services are offered that are performed elsewhere. In the case of Peru's National Economic Census, the unit of observation is the enterprise, excluding employment in the home and undifferentiated in-home production of goods and services for household consumption.

Source: Taken from Corporación Andina de Fomento, 2013, p.24. Compiled by authors based on U.S. Census Bureau Business Dynamics Statistics Data (2012), Economic Census of Mexico (INEGI, 2009) and National Economic Census of Peru (INEI, 2008).

- Finally, it is worth examining how to design job-related PDPs that can take advantage of a country's initial comparative advantage in workforce (abundant, low-cost and with low productivity, in some cases), while

simultaneously laying the groundwork for a comparative advantage based on accumulation of skills, capacity for learning and labour productivity.

4.2 Workers' participation in public–private cooperation

In most studies of public–private alliances for productive development policies, the emphasis is on dialogue between enterprises and the public sector. Experiences of dialogue that include workers are less frequent and have been less studied. Nevertheless, in extra-regional experiences, workers have been an integral part of such dialogues, and their inclusion can be particularly necessary and useful in a region with frequent labour conflicts.

- ▶ What can the region learn from regional and extra-regional experiences of successful labour participation in the development of policies for productive development and productivity?
- ▶ What actions would be needed to promote more frequent and more successful participation of the labour sector in development of policies for productive development and productivity in Latin America?

4.3 Technical, operational and policy capabilities of employer and worker organizations

There has been a certain degree of research on public agencies' TOP (technical, operational and political) capabilities in the areas of industrial policies and productive development. The issue has been the subject of intense discussion, although our current knowledge about it is fairly limited.

But if the PDP process is to be bipartite or tripartite, the other participants' capabilities are obviously of equal importance.

- ▶ It is important that both business and labour leaders have knowledge of PDPs and their instruments, as well as their connection with employment issues, so as to participate more positively in social dialogue about these matters. This contributes to both technical capabilities and policies. These aspects could be integrated into training activities.



- ▶ It is also important that employers' and workers' organizations have specific capabilities for PDPs and industrial policies. What is the state of these capabilities in employers' and workers' organizations in the region?
- ▶ What is the map of labour- and enterprise-related think tanks in the region? The ILO has made progress on this issue and has created a network of enterprise-related think tanks, but the mapping of labour-related think tanks has not begun.
- ▶ What critical actions would be needed to achieve greater dissemination of existing capabilities and increase the stock of available capabilities?
- ▶ The forms of state organization and coordination required for successful productive development policies have received attention and discussion, although the state of our knowledge is still precarious.¹³ But if productive development policies must necessarily include elements of public–private cooperation between the enterprise and labour sectors, the organization of these two sectors is just as important as that of the public sector, and for similar reasons. The issue has not been studied in depth. There is extensive experience with Competitiveness or Productivity Councils or Sectoral Committees to promote skills. It is important to document and better understand these experiences, their strengths and weaknesses, and the lessons that can be learned.

4.4 Collaboration between employers and plant workers

The contribution of plant workers has played a key role in later industrialization processes, characterized, during an initial and extensive phase, by efforts to appropriate and learn from imported technologies (Amsden, 1989). This issue has been absent from the discussion of industrial policies in the region, but the ILO has conducted a series of studies and has the well-known SCORE project, which has enabled it to accumulate a considerable amount of knowledge. This

¹³ For an excellent recent review of experiences, see Ross-Schneider, B. 2015. *Designing Industrial Policy in Latin America: Business-State Relations and the New Developmentalism*, Palgrave.

issue is indispensable for discussion of industrial policies, but has not yet received sufficient attention or scaling up.

4.5 Development policies for non-tradables

Internationalization has been one of the factors for success in the economic transition of converging countries. The international market makes it possible to take advantage of economies of scale and forces countries to meet world-class standards of quality and efficiency.

Nevertheless, an important part of production and employment takes place in the non-tradables sector, which therefore cannot be abandoned from the standpoint of either productivity or employment. In this case, what are the mechanisms that encourage the private sector to reach high levels of quality and efficiency? Some producers of non-tradables are suppliers to producers of tradables, so the global market continues to function as a disciplinary mechanism, although indirectly. For the rest of the sector, this is an open question.

4.6 Insertion in global value chains

Productive development policies have traditionally sought to increase the efficiency of a certain sector or industry operating in a specific country, or to raise productivity and increase economic diversification in a specific national or sub-national territory.

The emergence of global value chains, however, implies a transformation of the geography of production: strictly speaking, it cannot be stated that Boeing airplanes are manufactured in Seattle or that iPads are manufactured in China. The chains of suppliers, including advanced design functions, are distributed around the world.

This transformation of the geography of production has important consequences for productive development policies, and especially for the intersection between these policies and the creation of more and better jobs in a particular territory. This is yet another issue that is just beginning to be studied and understood.



4.7 Skills development and human capital

The review of efforts by the main international bodies working in the region found a lack of attention to the six issues listed here so far. There are also well-established issues that continue to receive attention, but on which there are opportunities for a greater contribution. One that stands out is the role of education and training for work, and ways of improving public–private cooperation to better connect the world of education with the world of work.

In the CINTERFOR network, the region, and specifically the ILO, has an extremely important asset in one of the key areas for productive development, growth of productivity and jobs.

There are very significant opportunities to reposition this network and the ILO's work in the region in general on skills development and related issues.

4.8 The new paradigm for formulation and implementation of policies

The old public administration paradigm was based on a strict separation between policy design and planning, implementation and evaluation. It assumed that it was technically possible to assess problems and design solutions, and that the two main problems therefore were the correct design of policies and the creation of mechanisms to ensure that the bureaucracies responsible for implementing them did so correctly.

A new, still-emerging paradigm recognizes that it is impossible for a centralized technocracy to have all the information necessary to diagnose problems and create solutions. Moreover, it acknowledges that often the "best solution" is not something pre-existing that must be used, but something unknown that must be discovered; it also recognizes that the autonomy of the civil servant responsible for implementation is not only inevitable, but also desirable: instead of seeking full control over the bureaucrat's every action and rigid compliance with processes, the emphasis should be placed on achieving outcomes and creating feedback mechanisms that turn experimentation into an effective learning method.

Do Latin America and the Caribbean have examples of this new type of public management? What have been the outcomes? Can lessons be learned for other public agencies and organizations?

4.9 Public sector productivity

Discussion of productivity is generally assumed to be discussion of private sector productivity, or at least more about the private sector than about public enterprises.

This omits the enormous impact that productivity of the public sector, as a service provider, can have on private sector productivity. This should be obvious when considering the public sector as a provider of physical infrastructure (energy, transportation, water), but it is also a service provider in other areas, such as education, training and regulation of public services. Of these three, the first two have a direct impact on workers' employability and future productivity and on the growth potential of knowledge-intensive sectors and economic activities.

Nevertheless, public sector productivity has not been addressed with the same intensity as private sector productivity. This is another issue in which the ILO should become involved in the future, in areas directly related to the creation of productive jobs and decent work for all.

5. Regional strategy for promoting “Productive development policies for inclusive growth and more and better jobs”

Within current mandates and programmatic frameworks, and in line with Goal 8 of the SDGs, this ILO work priority will implement actions under the following programmatic areas of action for change.

- a) Generation of knowledge and information. This component will initially be the most prominent, because it involves addressing an issue that is relatively new for the ILO in the region.
- b) Technical assistance
- c) Actions to reinforce the capabilities of interlocutors (employers' and workers' organizations) and partnerships
- d) Mobilization of resources

The strategy for insertion in this issue will be careful and deliberate, so that it complements, rather than competing with, work already being done by other organizations (some with research resources that considerably exceed those of the ILO), and will focus on points on which the ILO can have or already has a comparative advantage and the possibility of making a substantive contribution in areas and on issues in which we have strengths –as well as a mandate– that are difficult to find in other organizations.

5.1 Research and generation of knowledge

In Section 4, the following list of items was identified, with a brief rationale for each and a preliminary indication of possible research questions for each:

- (1) The relationship between PDPs and job creation
- (2) Workers' participation in public–private cooperation
- (3) The technical, operational and policy capabilities of enterprise and labour organizations for PDPs and their relationship with employment
- (4) Collaboration between employers and plant workers for productivity and other goals of common interest
- (5) Development policies for non-tradables
- (6) Policies for promoting beneficial insertion in global value chains
- (7) Development of skills and human capital
- (8) The new paradigm for policy formulation and implementation
- (9) Public-sector productivity in areas that affect workers' employability and productivity.

Work will be done to define in greater detail the type of research and partnerships that can be developed for each of these issues.

The research agenda also includes the following possibilities of interest:

- A. "Mapping" of the regional PDP scenario
- B. The impact of international labour standards on productive and inclusive development

- C. Case studies that provide a better understanding of the issues listed above
- D. The identification and study of extra-regional experiences in which one or more of these issues has been addressed successfully¹⁴
- E. Development of a conceptual framework that enables us to address seriously the overarching issue of the relationship between productive development policies and the creation of more and better jobs, and to make an original contribution to this discussion, building on the ILO's particular experience and strengths.

It also is important to conduct an inventory, initially descriptive, of the PDPs in which the ILO is participating in the countries in the region. In various countries, the ILO is already participating or has participated in discussions of productive development policies, or has supported constituents in the development of knowledge necessary to participate successfully in such discussions. For example, in Costa Rica, the San José Office contributed with a study for the creation of the Agency for Support of Micro- and Small Enterprises, Innovation and Added Value (*Agencia de Apoyo a las PYMES, la Innovación y el Valor Agregado*); it is currently collaborating with the Chamber of Industries on an industrial policy proposal. There was similar involvement in El Salvador. In Argentina, the Unión Industrial Argentina (UIA) launched a study of industrial policy in Argentina with support from the ILO. These experiences should be analysed to extract lessons for the future work of the ILO in countries in the region.

Finally, it is important to align the work of generating knowledge in this priority area with SDG Goal 8. One top priority is the need to develop a methodology for monitoring Goal 8 using the agreed-upon indicators, an area with great potential for offering technical assistance to countries.

5.2 Technical assistance

The ILO offers a relatively extensive array of technical assistance and a series of methodologies in two well-defined areas related to PDPs: services for promoting sustainable enterprises, and services for promoting professional training for

¹⁴ Unsuccessful extra-regional experiences are of less interest, because failures tend to be idiosyncratic, while successful experiences tend to have many elements in common. The reasons are similar to those that led Tolstoy to note that happy families are all alike, but every unhappy family is unhappy in its own way.

productivity and employment. Work in these two areas will continue, but the strategy in the priority of PDPs for inclusive growth and more and better jobs will allow a supply of more integrated services more closely tied to discussion of policies around Goal 8. The ILO's main services in each of these two areas include the following:

Services for promoting sustainable enterprises:

- ▶ Evaluation of enabling environments for the development of sustainable enterprises (ESEE Methodology)
- ▶ Promotion of entrepreneurship and youth employment (Conozca de Empresa – CODE, *Start and Improve your Business* – IMESUN – and others)
- ▶ Promotion of collaboration between employers and plant workers to improve productivity and working conditions in micro- and small enterprises (SCORE, SIMAPRO)
- ▶ Intervention in value chains to promote better working conditions (Better Work)
- ▶ Specific support in the formulation of policies for developing entrepreneurship or improving business services to micro- and small enterprises
- ▶ Measurement methodologies to link wage increases to increases in productivity
- ▶ Studies of business development services
- ▶ Handbooks for implementing Corporate Social Responsibility (CSR) policies
- ▶ Handbooks on tripartite dialogue for sectoral strategies.

Services for promoting professional training for productivity and employment (CINTERFOR):

- ▶ Anticipation of demand for skills, technological planning
- ▶ Professional training for the rural sector
- ▶ Certification and skills frameworks

- ▶ Educational technologies
- ▶ Strengthening of institutions – assessment of vocational training institutes
- ▶ Support for countries on continuing education strategies
- ▶ Strengthening of stakeholders in the world of work to participate in professional training policies
- ▶ Task assessment: updating of occupational structures, valuing of positions (useful for collective bargaining)
- ▶ Skills for Trade and Employment (STED)
- ▶ Technical guidance on dual training and best practices.

Based on this inventory of existing products, and incorporating the results of the research and knowledge generation component, in the coming months, and especially in 2017, the office's technical assistance can be strengthened in several directions:

- ▶ More ambitious interventions in the area of value chains, following the conclusions of the 2016 ILC and the action plan defined by the Governing Body in November 2016
- ▶ Policies for promoting clusters, based on partnerships with authorities and agencies of the Basque Country and others
- ▶ Strengthening of work in the area of entrepreneurship and the role of incubators and mentoring
- ▶ Development of a more integrated vision of the impact and complementarity of this extensive portfolio of services, both for better implementation by regional experts with support from headquarters and for better understanding by constituents of the services offered by the ILO in this area
- ▶ Strengthening of CINTERFOR's work, both in positioning its work in the broader context of PDPs for more and better jobs in the region and in relation to several specific intervention methodologies, and to increase its use by the members of the network

- ▶ Enter into tripartite governance processes in the area of PDPs. This could be a particularly fertile work area for our organization, given its long history with tripartite dialogue, which is unequalled by any other regional organization.
- ▶ Develop practical applications for quantitative evaluation of the connections between PDPs and job creation
- ▶ Accompaniment of monitoring and policy packages related to the indicators of SDG Goal 8
- ▶ Prepare evaluations of various institutional schemes for promoting PDPs and ways of improving them
- ▶ Based on the significant work done at headquarters on pro-employment macroeconomic frameworks, the ILO can provide technical assistance on macroeconomic policies conducive to employment, which support aggregate demand, productive investment and structural transformation, and which promote sustainable enterprises and financial inclusion. Significant work in this area is under way in Costa Rica.

Some work on these and other issues could be conducted in partnership with institutions such as the IDB, World Bank, CAF and ECLAC.

5.3 Training of constituents

The knowledge and skills agenda outlined so far suggests a rich and wide range of areas in which the ILO can implement activities for training constituents, in association with the Turin Centre and other relevant agencies in the region. A sample list could include:

- ▶ Institutional experiences for strengthening the role of tripartitism in institutional processes and mechanisms related to the PDPs
- ▶ Specific training for employers' and workers' organizations to strengthen their TOP (technical, operational and policy) skills for PDPs
- ▶ Programmes to improve understanding of theoretical, practical and instrumental discussions of PDPs and their relationship to job creation, including issues such as restructuring production toward products

with greater technological content, greater value added and higher productivity

- ▶ Training on specific topics and lessons about dual inclusion, social and productive, of growth models
- ▶ Courses on productivity
- ▶ Academy for skills development and professional training, and training on policies for enhancing workers' and employers' professional skills to eliminate the gaps between their qualifications and the needs of the labour market
- ▶ Training on macroeconomic policies conducive to employment, which support aggregate demand, productive investment and structural transformation and promote sustainable enterprises.

5.4 Mobilization of human and financial resources

Given the known constraints on resources, action in this priority area requires:

- a) Participation of specialists and directors from the region and specialists from the technical departments at headquarters to implement coordinated action
- b) Proposals for technical cooperation projects and a search for funding. This effort must involve both specialists from the region and headquarters and the Programming Units in the region, PROGRAM and PARDEV at headquarters.
- c) Exploration of partnerships with institutions such as the IDB, World Bank, CAF, ECLAC and OECD.

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Priority Area 2

TRANSITION TO FORMALITY



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1. Background

The transition to the formal economy is a priority in the work of the International Labour Organization (ILO) worldwide, and in Latin America and the Caribbean in particular. Although levels of informal employment have decreased in the past decade, they remain high, accounting for nearly half the jobs in the region (ILO, 2014a).

The issue of informal employment and policies for formalization have always been a key focus of labour discussions and in the ILO. Since July 2013, activities related to the Transition to the Formal Economy have been conducted as part of the Programme for the Promotion of Formalization in LAC, FORLAC, which was defined by the ILO Regional Office for Latin America and the Caribbean as a regional priority within the framework of the Areas of Critical Importance (ACIs) and the Programme and Budget outcomes for 2016-2017.

The FORLAC programme has four components:

- ▶ Generation of knowledge
- ▶ Technical assistance in countries
- ▶ Strengthening of workers' and employers' organizations
- ▶ Dissemination of outcomes.

This programme has had a high impact and has been implemented in close collaboration with the sub-regional and country offices in the region, the Bureau for Workers' Activities (ACTRAV) and the Bureau for Employers' Activities (ACT/EMP); it has also received generous support from the technical departments at headquarters, particularly the Conditions of Work and Equality Department, the Employment Policy Department and the Department of Statistics.

This document updates discussion of the transition from the informal economy to the formal economy in light of the ILO's most recent instruments, such as Recommendation 204 concerning the transition from the informal economy to the formal economy. It also identifies issues addressed by FORLAC and lessons learned in its years of operation. Finally, it proposes a regional strategy for future action that draws on extensive discussion by a working group that addressed this



issue during the Regional Meeting of Directors and Specialists in the region and with department directors and other colleagues based at headquarters.¹

2. Transition to the formal economy in Latin America and the Caribbean

Much of the discussion of policies for transitioning from the informal to the formal economy is rooted in the use of different concepts and different indicators for measurement. This section describes the evolution of concepts and ways of measuring informal employment, and analyses the recent behaviour of this phenomenon in Latin America and the Caribbean.

2.1 Informality: From “informal sector” to “informal employment”

The concept of informality was coined by the British economist Keith Hart in 1970 (Hart, 1970), based on his work in Ghana, and spread rapidly after a mission report on Kenya prepared by the ILO in 1972 (ILO, 1972); Hart was a member of that mission. The report found that poor people managed to survive by way of jobs, activities and tasks conducted on a small scale, which, although not criminal activities, were often at the margins of current laws.² The mission found that the “informal sector” includes a wide range of activities, from those related to survival to profitable businesses, but the activities were often not recognized, not registered, not protected and not regulated (ILO, 2013a and ILO, 2013b).

¹ The strategy takes into account guidelines and proposals from the working group on Priority Area 2, “Formalization of the informal economy” of the Meeting of Directors and Specialists in the region and colleagues from headquarters, held in December 2015. The working group consisted of Ernesto Abdala, María Arteta, Azita Berar Awad, Cybele Burga, Pablo Casali, Juan Chacaltana, María José Chamorro, Claudia Coenjaerts, Enrique Deibe, Rafael Díez de Medina, Thais Farias, Julio Gamero, Katia Gil, David Glejberman, Florencio Gudiño, Jorge Illingworth, Bárbara Ortiz, Alejandra Pángaro, Lorenzo Peláez, Bolívar Pino, Claudia Ruiz, Kelvin Sergeant, Manuela Tomei, Sergio Velasco and Thomas Wissing.

² A fuller discussion of the conceptual evolution can be found in Tokman (2004).

Since then, there has been intense discussion about the concept of informality, as well as the ways in which it is measured. In practice, the meaning of the term "informality" has been evolving and becoming more precise.³

One view links it essentially with economic factors.⁴ In the Latin American and Caribbean region, the concept of "informal sector" quickly took centre stage in the conceptual debate. This concept was used and promoted by the ILO's Regional Programme of Employment in Latin America and the Caribbean (*Programa Regional de Empleo en América Latina y el Caribe*, PREALC) – particularly by its director, the Argentinian economist Victor Tokman – which had been focused on studying it since the 1970s. According to PREALC, the informal sector consisted of own-account workers (not counting professionals and technicians), unpaid family workers, workers and employers in micro-enterprises with five employees or fewer, and domestic workers. Conceptually, this view associates the informal sector with the functioning of labour markets and the degree of country development. In the Latin American and Caribbean region, it is associated particularly with the heterogeneous incorporation of technical progress, which did not reach the economic strata that operate with low productivity but which concentrate many jobs; this gives rise to a fracture in the productive sphere as well as constituting the basis of phenomena such as inequality and informality (Infante and Sunkel, 2012).

The work of Cuban-American economist Alejandro Portes also deserves mention in this same line of thought. According to Portes, informality is integrated into modern sectors, but through processes of national and international decentralization. The informal sector is seen as subordinate to modern sectors, through a mindset of exploitation, with the goal of reducing the costs of larger enterprises and increasing their competitiveness (Portes *et al.*, 1989).

In the mid-1980s, three Peruvian researchers – Hernando de Soto, Enrique Ghersi and Mario Ghibellini – presented an alternative interpretation of the informal sector, associating it with legal or institutional factors. In that view, the informal sector consists of small enterprises with little capital, which face long, complicated procedures that cost them time and money. As a result, they are

³ WIEGO (2012) presents a classification of the various existing approaches.

⁴ There were, of course, earlier discussions at the international level, at least since the mid-twentieth century, and in various disciplines. In economics, these views range from a neoclassical approach that links informality with a lack of sustained growth, through structuralist interpretations, to the work of Lewis (1954), Todaro (1970) or Doeringer and Piore (1971), who emphasize, with some differences, dual behaviour in labour markets.



forced to operate informally (De Soto et al., 1986). In a subsequent study, De Soto (2000) highlighted the role of extending property rights to informal entrepreneurs, in order to convert their accumulated non-tradable capital into real, marketable capital.

A variation on this view holds that informality stems from a voluntary decision or choice. Fields (1990) carried out initial work in this area, but it received more attention with the work of Maloney (1999) and especially Perry *et al.* (2007). With some variants, this view holds that many choose to operate or work informally after comparing the benefits and costs of formality, in terms of paying registration fees, taxes, wages, insurance, and so on. Levy (2008) argues that contributory or non-contributory social protection systems play a role in the choice of informality. Debates over this view are now frequent in academic and political discussion in the region.⁵

At the institutional level, although from a different starting point, Kanbur (2009) stresses the need to place greater emphasis on effective enforcement of regulations, a highly relevant issue in Latin America and the Caribbean, where often laws are approved but there is a lag in enforcement.⁶

All of these concepts have aspects that remain vague and need grounding from an empirical standpoint, through measurement. And here, as Kanbur (2009) notes, each has used a different operational definition. This is a very important point, and protracted discussion could sometimes be avoided if it were clear which indicator of informality was being used.

Because of the need to introduce methodological detail in the persistent phenomenon of informality, in 1993, during the 15th International Conference of Labour Statisticians (ICLS), a definition of "informal sector" was adopted.⁷ There are two important operational definitions: "enterprises in the informal sector" and "employment in the informal sector". Informal sector enterprises have some key characteristics: they are not *incorporated* (they do not have a legal identity separate from that of the proprietors and do not do accounting);

5 There is also empirical debate. In some cases, evidence is based on surveys of perceptions of why work is performed formally or informally. More recent studies attempt to approach the issue from an econometric standpoint. Using data for men in Brazil, Dávalos (2012) finds that 70 per cent of those who are informal do not choose it and only 30 per cent do. Similarly, using data from Peru, Tello (2015) finds that most do not choose it.

6 There is extensive literature about this. See, for example, Marinakis (2014).

7 This is a simplified summary of these discussions and concepts. For detailed discussion, see ILO (2013a).

produce marketable goods and services; have few workers (often fewer than five); and are not registered. "Employment in the informal sector" is the employment offered in these enterprises. It should be noted that the concept of enterprise includes both units that employ workers and own-account workers. Certain activities are excluded from this definition, such as agriculture, production for family consumption, caregiver work, paid domestic labour and voluntary service to the community.⁸

This definition was clearly a step forward in the homogenization of indicators of informality. Various academic and political sectors, however, commented that outside of what was now measured as "employment in informal sector enterprises", there was also employment with characteristics of informality. In particular, employment with characteristics of informality (without protection, without right to association, among others) can and does exist in formal-sector enterprises for various reasons. There is also, and much more frequently, informal employment in the domestic work sector.

These issues were discussed at the 17th International Conference of Labour Statisticians in 2003, which resulted in the incorporation of the concept of "informal employment", which in practice consists of three categories: informal employment in the informal sector, informal employment in the formal sector and informal employment in the household sector. Box 1 contains a breakdown of the definition of informal employment.

The union of the two concepts gave rise to what is called the "informal economy". This concept was initially introduced at the International Labour Conference in 2002 and was ratified at the International Labour Conference in 2015, leading to Recommendation 204 on the Transition from the Informal Economy to the Formal Economy.⁹

⁸ It should be noted that the definition of "informal sector enterprise" was subsequently included in the United Nations System of National Accounts (SNA) at the recommendation of the United Nations Statistical Commission. In some countries, satellite accounts have been estimated for the informal sector estimation, based on national accounts.

⁹ Every year, the International Labour Conference (ILC) brings together the tripartite constituents of all ILO member countries. The International Conference of Labour Statisticians (ICLS) also brings the member countries together, but the meetings are held every five years.



The informal economy, according to ILO Recommendation 204, "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".

Box 1. Statistical definition of informal employment

The 17th ICLS defined "informal employment" as the total number of informal jobs held in formal-sector enterprises, informal sector enterprises or households, during a certain reference period.

It consists of:

- Own-account workers and employers who work in their own informal sector enterprises
- Contributing family workers, irrespective of whether they work in formal or informal sector enterprises
- Employees holding informal jobs, whether employed by formal -sector enterprises, informal-sector enterprises, or as paid domestic workers by households
- Members of informal producers' cooperatives
- Own-account workers engaged in the production of goods exclusively for own final use by their household

ILO (2013a) includes an analytical framework useful for understanding the various concepts involved.

Units of production, by type	Trabajos por situación en el empleo								
	Own-account workers		Employers		Auxiliary family workers	Wage earners		Members of producer cooperatives	
	Informal	Formal	Informal	Formal	Informal	Informal	Formal	Informal	Formal
Formal-sector enterprises									
Informal-sector enterprises									
Households									

In the diagram, the light grey boxes refer to formal jobs. The dark grey boxes refer to jobs that, by definition, do not exist in the type of unit of production in question. The unshaded boxes represent the various types of *informal employment*.

The diagram also illustrates the differences between different indicators:

Informal employment is captured in boxes 1 to 6 and 8 to 10.

(continues...)

Employment in the informal sector is captured in boxes 3 to 8, which include formal jobs in informal sector enterprises (box 7).

Informal employment outside of the informal sector is captured in boxes 1, 2, 9 and 10.

Source: ILO (2013a).

Recommendation 204 is considered a milestone, because it is the first international instrument that focuses on informality. Among its provisions, member countries acknowledge that workers in the informal economy work informally mainly out of need and not by choice. Its greatest contribution is probably its recognition that the transition to the formal economy requires actions in various policy areas and various authorities and institutions that must cooperate and coordinate consistent, integrated strategies. An integrated approach is therefore required to achieve the transition.

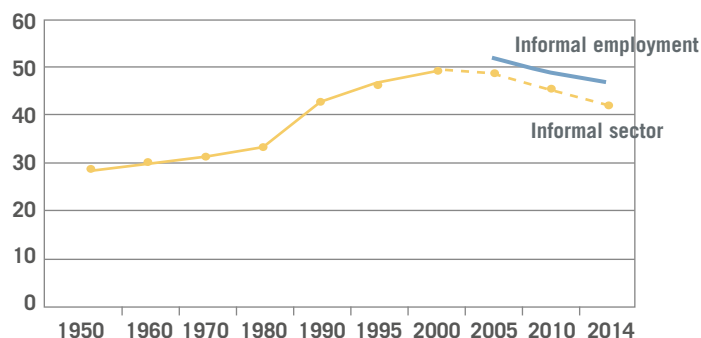
2.2 Recent trends in informal employment in Latin America and the Caribbean

For decades, the ILO Regional Office for Latin America and the Caribbean has produced information about the structure of the labour market that made it possible to monitor the concept of "informal sector" over time. Data from Tokman (2004) show accelerated growth in the sector, especially between the 1980s and the 2000s (Figure 1). Various factors can explain this growth, among them the period of crisis that began in the region in the 1980s, the fact that during that period the effects of demographic growth in previous decades began to be felt, the change in the model of accumulation and natural phenomena. (Tokman 2004).

The ILO Regional Office has also begun to produce information about "non-agricultural informal employment" and since 2005 it has observed a downward trend in the region (ILO 2014a). Although there is not a long series for informal employment, there has been a change in the trend; until the end of the last century, the evidence indicated an increase in informality, measured by the concept of informal sector.



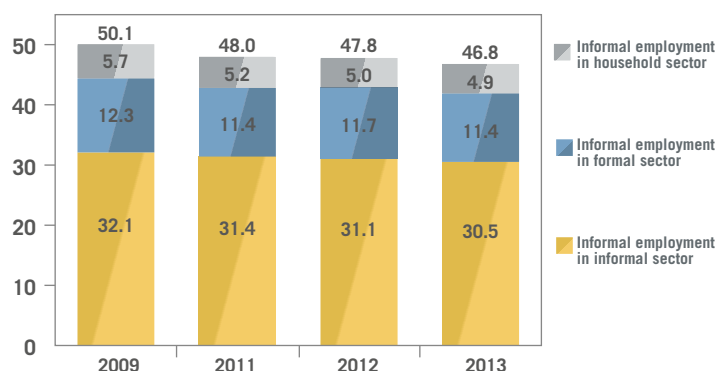
Figure 1. Latin America and the Caribbean (14 countries): Informal sector and non-agricultural informal employment, 1950 - 2013 (percentages)



Source: Compiled by authors with information from Tokman, 2004 to the year 2000. For later data, the sources are ILO, 2014a and ILO, 2015a.

Between 2009 and 2013, non-agricultural informal employment decreased from 50.1 per cent to 46.8 per cent. This reduction in informality has occurred in all components of non-agricultural informal employment. Employment in the informal sector decreased from 32.1 per cent to 30.5 per cent; informal employment in the formal sector decreased from 12.3 per cent to 11.4 per cent, and informal employment in the household sector decreased from 5.7 per cent to 4.9 per cent. Even so, a 46.8 per cent informal employment rate means that about 130 million workers in the region have informal jobs, and that there are notable gaps both in productivity and in working conditions and representation.

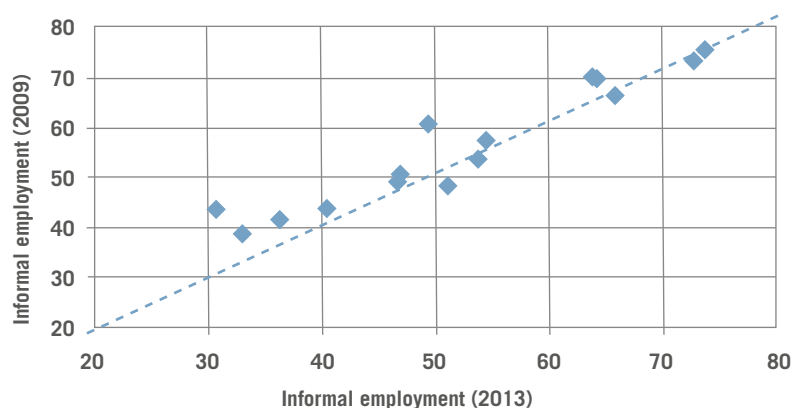
Figure 2. Latin America and the Caribbean (14 countries): Trend in non-agricultural informal employment, 2009-2013 (percentages)



Source: ILO, 2014a.

The reduction has occurred in most of the countries considered, although with widely diverse situations. Data from 2009 to 2013 (Figure 3) show that most countries are above the 45-degree line (which reflects equality in both years). This indicates that the countries had higher rates of informal employment in 2009 than in 2013; the reverse is true for countries below the 45-degree line. The reduction in informality has therefore affected most of the region's countries.

Figure 3. Latin America and the Caribbean (14 countries): Trends in non-agricultural informal employment at the country level, 2009 and 2013 (percentages)



Source: Compiled by authors based on data from ILO, 2014a.

The data show that the decrease in informal employment between 2009 and 2013 may be associated with an increase in wage employment as part of total employment. For private wage earners in enterprises of all sizes, the percentage of informal employment decreased from 36.2 per cent to 32.9 per cent. A significant decrease was also seen among household wage earners (domestic workers), from 80.1 per cent to 77.5 per cent, as well as among own-account workers (from 85 per cent to 82.3 per cent), despite their high proportion of informal employment.



Table 1. Latin America and the Caribbean (14 countries): Trends in informal employment, by occupational category. 2009 and 2013 (percentages)

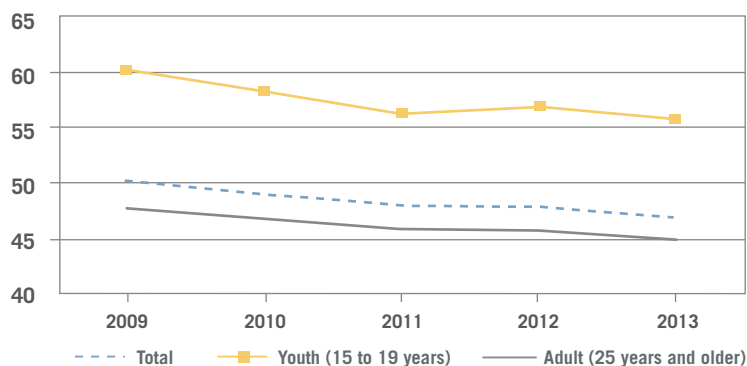
Occupational category	2009		2013	
	Percentage of informal employment in each category	Composition of informal employment	Percentage of informal employment in each category	Composition of informal employment
Total non-agricultural employees	50.1	100.0	46.8	100.0
Wage earners (including employers)	36.9	54.1	33.7	52.7
Public sector	15.7	4.2	15.9	4.3
Private enterprises	36.2	38.2	32.9	38.1
1 to 10 workers	61.4	27.3	58.6	27.8
More than 10 workers	17.2	10.1	14.4	9.4
Households	80.1	11.7	77.5	10.3
Own-account	85.0	39.8	82.3	40.9
Auxiliary family workers	100.0	6.1	100.0	5.3
Other	94.9	0.8	96.7	1.0

Source: ILO, 2014a and estimates from SIALC-ILO.

Despite these improvements, more than 80 per cent of informal employment is still in the categories of own-account worker, domestic worker (household wage earner), workers in micro- and small enterprises (between one and ten workers) and contributing family workers (without remuneration). These groups also have the highest rates of informality. In 2013, the rate of informality for domestic workers was 77.5 per cent, while the rate was 82.3 per cent for own-account workers and 100 per cent among contributing family workers.

Young people are also a group typically associated with informal employment. Although there was also a decrease in informality rates in this group in recent years (from 60.2 per cent in 2009 to 55.7 per cent in 2013), more than half of young workers worked in informal jobs in Latin America and the Caribbean in 2013. The incidence of informality in this age group systematically exceeds that of adults in 13 of 14 countries analysed (ILO, 2015e).

Figure 4. Latin America (14 countries): Non-agricultural informal employment rate, by age group, 2009-2013 (percentages)



Source: ILO, 2015e. Note: 2010 is an estimate.

2.3 Some explanatory factors and the role of formalization policies

What gives rise to this process? Through the FORLAC Programme, the ILO analysed the experience of various countries that showed decreases in informal employment indicators. An initial observation is that these decreases occurred very close together in time, since the beginning of the last decade. A second observation is that the decrease in informal employment takes time, dropping at best by between 10 and 15 percentage points per decade.

**Table 2. Latin America and the Caribbean: Trend in informal employment for selected countries**

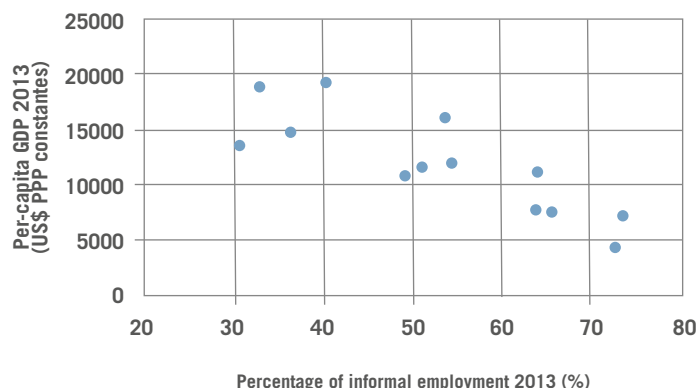
COUNTRY	INDICATOR	PERIOD	Trend
Argentina	Unregistered salaried employment (% salaried employment)	2003 - 2012	↓ 14.5
Brazil	Employment without <i>carteira assinada</i> (% total employment)	2002 - 2012	↓ 13.9
Colombia	Informal employment (% total employment)	2009 - 2013	↓ 3.0
Dominican Republic	Urban informal employment	2005 - 2010	↓ 10.7
Ecuador	Informal employment (% total employment)	2009 - 2012	↓ 10.8
Jamaica	Informal employment (% total employment)	2008 - 2012	↓ 3.1
Mexico	Informal employment (% total employment)	2010 - 2013	↓ 0.7
Paraguay	Informal employment (% total employment)	2001 - 2011	↓ 5.8
Peru	Informal employment (% total employment)	2004 - 2012	↓ 6.6
Uruguay	Employment not registered in Social Security	2004 - 2012	↓ 15.1

Source: ILO, 2014b.

The experiences of these countries are diverse. One common element, however, is that in all of them the reduction in informal employment has occurred in a context of economic growth and a decrease in the unemployment rate, which dropped from more than 11 per cent in 2003 to 6 per cent in 2013 and 2014, the lowest rate in ILO records in the region.

There is a question regarding the role of growth in formalization processes. It should be noted that economic growth is a necessary but insufficient condition for formalization. This can be seen in Figure 5, which correlates per capita GDP and non-agricultural informal employment in the region, showing a clear negative relationship. This implies that the level of economic development is very important for promoting the transition to the formal economy. Nevertheless, more detailed observation reveals that at each level (or threshold) of per capita GDP there is a dispersion of levels of informality. At the per capita GDP threshold of US\$ 10,000, for example, there are countries with an informal unemployment rate of 50 per cent and others with 65 per cent.

Figure 5. Latin America and the Caribbean: Correlation between per capita Gross Domestic Product and non-agricultural informal employment, 2013



Source: Compiled by authors based on ILO data, 2014a.

This means that there must be other explanatory factors in addition to growth, undoubtedly including factors associated with public policies.¹⁰ This dispersion is certainly lower at the lowest levels of per capita GDP. In fact, a number of studies agree that policies have played an important though variable role, depending on the country.

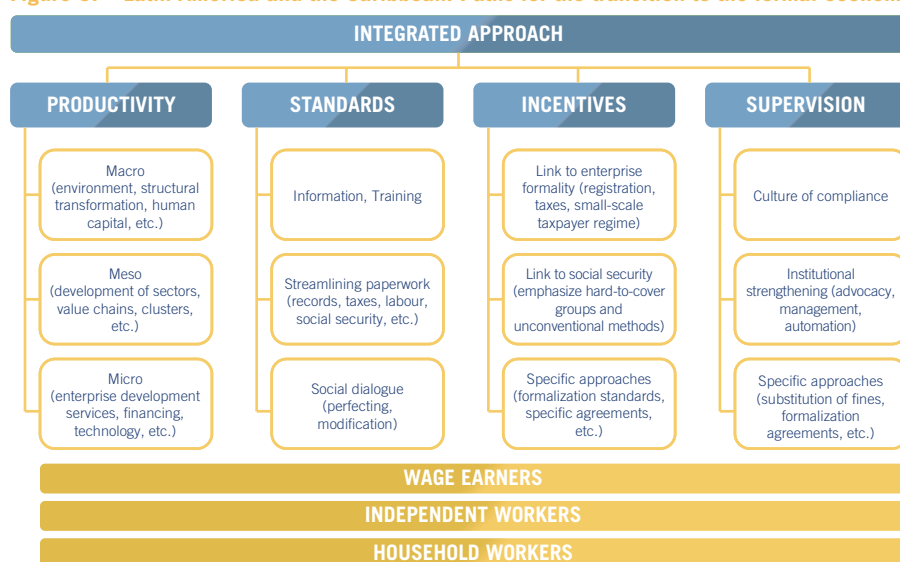
What types of policies have the countries of the region implemented? There is a wealth of experience in the region, especially through public policy initiatives, and ILO constituents in the region demonstrate a clear will and interest in the issue. In public policies, although the emphasis varies depending on the country (Berg, 2010; Bertranou, 2014; Chacaltana, 2016), a study by the FORLAC Programme (ILO, 2014b) found that countries in the region have taken at least four paths toward formalization. Figure 6 shows that they have explored different forms of leverage or strategies to influence formalization. The main ones are associated with the promotion of productivity, regulatory work, incentives and strengthening of supervision. In some countries, efforts have been made in various dimensions within each of these strategies. The chart also shows the need for specific approaches to groups such as wage earners, own-account (independent) workers and domestic workers (household wage earners), although in practice there have been fewer experiences in these areas.

¹⁰ There appears to be no symmetrical relationship between growth and informality. That is, when there is no growth, informality increases, but increased growth does not always imply a decrease in informality.



Specific initiatives are diverse and include instruments associated with formalization, measures aimed at strengthening the inspection system, programmes to support the productivity of micro-and small enterprises (MSEs), and local or sectoral strategies. The FORLAC Programme has systematized many of these important lessons and experiences, which can be found in the report of the Regional Forum on formalization in Latin America and the Caribbean (ILO, 2015b).

Figure 6. Latin America and the Caribbean: Paths for the transition to the formal economy



Source: ILO, 2014a.

Social stakeholders have identified this issue as a priority, and in 2015 a global tripartite consensus was reached approving Recommendation 204 on the transition from the informal economy to the formal economy, which guides policies for achieving this goal. In the region, both employers' and workers' organizations also began studies and discussions on the subject.

3. The transition to the formal economy as an ILO priority: Strategic guidelines for action

The transition from the informal economy to the formal economy is a priority for ILO constituents, who have placed the issue at the top of their agenda at various levels of authority. The ILO Regional Office for Latin America and the Caribbean has defined three priority areas:

- ▶ Productive development for inclusive growth and more and better jobs.
- ▶ Promotion of the transition from the informal economy to the formal economy.
- ▶ Promotion of respect for and application of international labour standards and labour legislation.

Four documents in particular help establish guidelines for work areas for the next two years in the area of formalization in the region. In chronological order, they are:

- ▶ The Lima Declaration, approved at the American Regional Meeting in October 2014 in Lima.
- ▶ The ILO Programme and Budget for 2016-2017, approved in June 2015.
- ▶ The 2030 Agenda, adopted by consensus in the United Nations General Assembly in September 2015.
- ▶ Recommendation 204 on the transition from the informal economy to the formal economy and its plan of action, approved by the Governing Body in November 2015.

The guidelines set out in these documents are described below.

3.1 Lima Declaration¹¹

Representatives of governments, employers and workers of the Americas, meeting at the 18th American Regional Meeting of the ILO (13-16 October 2014 in Lima, Peru), approved the Lima Declaration, which states that the ILO should assist its constituents, among other things, through: “Coherent and integrated strategies to facilitate the transition from the informal to the formal economy, consistent with the outcome of the debate that will take place in the 104th Session of the International Labour Conference (2015)”.

The policy action measures particularly mention the need to “[s]upport an integrated framework of policies for formalization and boost and strengthen the Programme to Promote Formalization in Latin America and the Caribbean (FORLAC) intended for the constituents to guide and support countries’ efforts in the transition from the informal to the formal economy” (paragraph c).

3.2 ILO Programme and Budget for 2016-2017

The ILO Programme and Budget for 2016-2017 is based on outcomes. Outcome 6 specifically refers to the Transition to Formality. The expected outcome is that “[t]ripartite constituents are better equipped to facilitate the transition from the informal to the formal economy”.

The main changes expected in the member countries are:

- ▶ Improved and comprehensive national legal and policy frameworks that facilitate the transition to formality, guided by the instrument on formalization to be examined by the International Labour Conference at its 104th Session (2015).
- ▶ Strengthened awareness and capacity of constituents to facilitate the transition to formality, drawing on an expanded knowledge base.
- ▶ Gender equality and the needs of vulnerable groups in the informal economy are addressed when facilitating the transition to formality.

Outcome 6 has three established indicators:

¹¹ ILO, 2014c.

- ▶ Indicator 6.1: Member States that have updated their legal, policy or strategic frameworks to facilitate the transition to formality.
- ▶ Indicator 6.2: Member states in which constituents have increased their awareness and knowledge base about informality to promote and facilitate the transition to formality.
- ▶ Indicator 6.3: Member states in which at least one of the constituents has taken steps to promote gender equity and address the needs of vulnerable groups to facilitate the transition to formality.

Three cross-cutting objectives should also be taken into account; they constitute fundamental principles and are a means of achieving the ILO's constitutional goals. They are relevant for all of the Outcomes:

- ▶ International labour standards
- ▶ Social dialogue
- ▶ Gender equality and non-discrimination in the world of work

Based on each country's needs, the ILO will provide support to:

- ▶ Extend the scope of and improve compliance with laws and regulations.
- ▶ Assess the enabling environment for sustainable enterprise, so as to identify barriers to formalization and formulate policy recommendations to overcome them.
- ▶ Revise national employment policy frameworks with a view to making the formalization of employment a central goal.
- ▶ Extend social protection to categories of workers who currently are not covered.

Many countries in the region have already prepared Country Programme Outcomes (CPOs) taking these directives into consideration. (See section 4.2.)



3.3 The 2030 Agenda and Goal 8¹²

The 2030 Agenda, adopted by consensus in the United Nations General Assembly in September 2015, is certainly the most ambitious and comprehensive global development programme in recent history. Its goals and targets will guide countries' efforts to progress toward a more just, equitable and sustainable world, taking into account the interrelationship of the economic, social and environmental dimensions of development (or, as the declaration indicates, prosperity, people and the planet).

At the core of the agenda is a goal that directly relates to the ILO: "Promote sustained, inclusive and sustainable economic growth, full and productive employment and decent work for all". Target 8.3, in particular, proposes promoting "development-oriented policies that support productive activities, decent job creation, entrepreneurship, creativity and innovation, and encourage the formalization and growth of micro-, small- and medium-sized enterprises".

3.4 Recommendation 204 (R204) and the plan of action for its implementation

Participants in the 104th meeting of the International Labour Conference (2015) approved the Recommendation on the Transition from the Informal Economy to the Formal Economy (R204), which was the subject of a solid tripartite consensus and a practically unanimous vote. (ILO, 2015c).

The goals of Recommendation 204 are to:

- ▶ 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;
- ▶ 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
- ▶ Prevent the informalization of formal economy jobs.

12 ILO, 2015a.

Recommendation 204 also includes 12 guiding principles. It states: “In designing coherent and integrated strategies to facilitate the transition to the formal economy, Members should take into account the following:

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

- l) *the need to prevent and sanction deliberate avoidance of, or exit from, the formal economy for the purpose of evading taxation and the application of social and labour laws and regulations."*

Box 2. Follow-Up Plan of Action for Recommendation 204

The Plan of Action – approved at Meeting No. 325 of the ILO Governing Body (Oct-Nov 2015) – will be implemented over three two-year periods and consists of four interrelated components:

- ▶ A promotional, awareness-raising and mobilization campaign, targeting different audiences, to promote a common understanding of how the guidance contained in R204 can be used.
- ▶ Building the capacities of tripartite constituents for implementation of Recommendation 204 and action to support the transition from the informal to the formal economy. Support will be provided at the country level, and capacity building and knowledge sharing will be promoted at the regional and global levels. Emphasis at the country level will be on integrated frameworks and inter-institutional coordination. During the plan's implementation period, at least 10 countries in different regions are expected to promote the formulation and implementation of integrated policy frameworks. The model for intervention and technical support includes:
 - a. An assessment phase,
 - b. An exhaustive examination of legal frameworks and policies,
 - c. Inclusive social dialogue and capacity building for tripartite constituents, and
 - d. Formulation of an integrated strategy.
- ▶ Knowledge development and dissemination. This implies the new studies and the development of new tools aimed at formulating policies that include four action areas:
 - a. Attention to key policy areas or specific groups considered in R204,
 - b. Analysis of policy combinations and interactions
 - c. Data gathering and monitoring, and
 - d. Impact assessment.
- ▶ International cooperation and partnerships in various areas, such as the 2030 Agenda, the multilateral system, the G20, South-South cooperation.

Source: ILO, 2015d.

In November 2015, the Governing Body approved a Follow-Up Plan of Action for Recommendation 204, to support the development and implementation of coherent, integrated strategies to facilitate the transition from informality to formality, in accordance with national circumstances (Box 2).

The Plan of Action notes that country-level support will emphasize integrated frameworks and inter-institutional coordination. During the plan's implementation period (three two-year periods), at least ten countries in different regions are expected to promote the formulation and implementation of integrated policy frameworks. At least two of the region's countries are expected to be in that group.

Fortunately, various countries in the region have expressed willingness to implement such policies. Some countries have been working for a long time to develop complementary, interrelated policies with the explicit goal of promoting formalization, especially by promoting productivity, improving incentives, updating and/or perfecting regulations, or upgrading labour administration services (ILO, 2014a). In some cases, these complementary interventions have occurred at the country level, and in others at the local or sectoral level.

More recently, other countries have initiated similar actions, with multiple, integrated interventions, and others have expressed to the Regional Office their interest in this approach, which creates an enabling environment for implementation of R204 in the region (ILO, 2014b).

4. The Programme for the Promotion of Formalization in Latin America and the Caribbean (FORLAC)

As noted above, the issue of informality has a long history in the ILO. It took on renewed importance recently, however, because of the global discussion that led to the approval of ILO Recommendation 204.

In the ILO Regional Office for Latin America and the Caribbean, the Programme for the Promotion of Formalization in the region, FORLAC, has been implemented since July 2013; it consists of four components:

- ▶ Knowledge generation
- ▶ Technical assistance to countries
- ▶ Strengthening of workers' and employers' organizations
- ▶ Dissemination

The context surrounding the birth of this programme is one in which the region had experienced a period of high economic growth, which had enabled a significant reduction in poverty, but the decrease in informality was merely moderate. Latin America and the Caribbean is also a region where many governments implemented explicit policies to reduce informality of various types.¹³ For the first time in the region, people began to speak of "formalization" instead of "informality."

This created the need to document what governments had done to develop formalization policy and accompany these processes, which had had begun in various countries in the region.

4.1 Knowledge generation and dissemination

FORLAC's initial work in knowledge generation consisted of recording what governments and social stakeholders were doing with regard to transitioning to the formal economy.

a) What are governments doing to promote the transition to the formal economy?

Best practices in the region to promote the transition from the informal to the formal economy were documented. The FORLAC Notes documented formalization processes in ten countries where decreases of varying magnitude had been observed (ILO, 2014b). The conclusion was that formalization strategies require a favourable economic context as well as deliberate, interconnected formalization policies – not isolated measures – that make it possible to address a multidimensional

¹³ The Regional Forum for sharing knowledge about the transition to formality in Latin American and Caribbean countries, organized by the ILO in August 2015, noted that although the Latin American region grew by more than 40 per cent in the last decade and through 2012, and poverty decreased from 44 per cent to 28 per cent, informality only decreased from 50 per cent to 47 per cent. This raises the question of whether this behaviour is due to the way in which the region grew, the characteristics of the labour market and how it functions, the policies implemented or other factors (ILO, 2015b).

and highly heterogeneous phenomenon. Specific studies were also conducted in certain areas, including:

- ▶ **Formalization of work in micro- and small enterprises (MSEs).**¹⁴ Micro- and small enterprises are the main job creators in the region, but three out of every five workers in them are informal. The analysis highlighted the need to distinguish between enterprise formalization and labour formalization, and underscored that enterprise formalization does not necessarily lead to formalization of employment in these economic units.
- ▶ **Simplified tax regimes.** Many countries have simplified tax regimes, but until 2014, only three (Argentina, Uruguay and Brazil) linked these regimes with access to social protection through small-scale taxpayer schemes.¹⁵ The study concludes that these instruments help, but that they must be seen as "temporary bridges" between informality and taxpayer compliance with general tax regulations (Cetrángolo et al., 2014).
- ▶ **Inspection strategies for addressing informality.** This study concluded that progress has been made in the region in promoting a culture of compliance, thanks to greater dissemination of regulations among workers and employers and campaigns to raise awareness about the importance and advantages of formalization. Paperwork has also been streamlined, so that enterprises register workers and pay their social security contributions, especially through the implementation of simplified tax regimes and electronic records. In other cases, the ability to plan and conduct inspection visits has been improved by increasing the number of inspectors or implementing technological solutions (ILO, 2015f).
- ▶ **Formalization of youth employment.** Six out of every ten young people in the region hold informal jobs. Besides strategies that directly target youth employment, a significant number of countries have implemented and perfected actions to combat employment

¹⁴ ILO, 2014d and ILO, 2015e.

¹⁵ In 2014, Mexico created the "Let's Grow Together" (*Crezcamos Juntos*) programme, which linked tax paying to social security, with an added benefit: access to housing.

informality, promoting initiatives that range from improved productivity and streamlined regularization to guarantees of social coverage for people beyond holding a formal job (ILO, 2015g). There also has been analysis of whether first-job programmes and policies in the region, such as apprenticeship contracts, training programmes, hiring subsidies and special regimes for young people, have had an impact on the promotion of employability and formalization of young people (ILO, 2015h).

- ▶ **Formalization of remunerated domestic labour.** Despite the very high rates of informal employment in this sector, there has been a significant decrease in informality in this group in recent decades. Analysis of the main contributions of Convention 189 and Recommendation 201 for formalizing domestic labour, as well as the different strategies used by countries to promote the formalization of this type of work, concluded that the strategies have centred on effective access to social security, complemented by initiatives to improve income, promote inspection, create different incentives for employers, ensure collective bargaining or disseminate information about workers' rights (Lexartza et al., 2016).

b) Measurement of the sector and informal employment

Analysis of the experiences showed that not all the countries in the region use the same indicators of informality. The FORLAC programme has promoted the use of consistent statistics throughout the region. Technical assistance missions have provided training to statistics institutes on the measurement of the informal sector and informal employment, following the recommendations of ICLS XV and ICLS XVII. As part of the drive to achieve greater consistency in regional data on informality, significant efforts have been made in the past two years in the standardization of algorithms to determine the informal sector and informal employment.

As well as in-country training, FORLAC has also promoted the participation of experts in regional meetings that allow better

coordination on statistical measurement within the ILO, as well as with other institutions.¹⁶

As a result of these activities, a series of statistics from 2009 to 2013 was published for 14 countries in the region (ILO, 2014a), and the Regional Office is working on a proposal for updating the measurement algorithms.

4.2 In-country technical assistance

Between 2013 and 2015, the program had regular budget resources for activities in Argentina, Brazil, Mexico, Peru, the Dominican Republic, Jamaica and the region as a whole. It also had technical cooperation resources for activities in Colombia and from the PROSEI programme (Promoting Respect for Workers in the Informal Economy) in three Central American countries (Costa Rica, El Salvador and Honduras).

The most frequent areas of technical assistance offered to countries as part of FORLAC have been:

- ▶ Country-level knowledge/studies (Argentina, Brazil, Colombia, Jamaica, Dominican Republic)
- ▶ Support for formalization legislation or strategies (Argentina, Brazil, Colombia, Mexico, Peru and the Dominican Republic)
- ▶ Technical assistance for formalization and productive development (Jamaica, Mexico and the Dominican Republic)
- ▶ Technical assistance for formalization at the local level (Jamaica and Peru)
- ▶ Technical assistance for formalization and inspection (Brazil and Peru)

¹⁶ These included the regional workshop on statistical measurement of informality (28-30 April 2014, Montevideo), ILO participation in the meeting of the Working Group on Labour Market Indicators (18-20 November 2014, Bogota) and the meeting on proposals for algorithms for measuring informality (20-21 August 2015, Lima).

4.3 Strengthening of social stakeholders

FORLAC also strengthened activities of ACTRAV and ACT/EMP, as follows:

- ▶ ACTRAV. A database was developed and trade unions received assistance to conduct a census of informal sector workers and expand their membership to include them, identify legal constraints on rights to free association and collective bargaining, and form a regional trade union network on informality.¹⁷ The database includes information from 80 trade union organizations in 17 countries that have organized workers in the informal economy and includes references to model by-laws, handbooks and case studies. The Trade Union Confederation of the Americas (TUCA-CSA) conducted a campaign to promote Convention 189, which helped increase the number of ratifications in the region to 12 by 2015.
- ▶ ACT/EMP. ACT/EMP and employers' organizations in Latin America have developed a database of profiles of enterprise environments in the participating countries,¹⁸ a model that is now being expanded to Africa, Asia and the Pacific, and Europe. Guidelines have also been developed for how employers' organizations can support the formalization of informal enterprises and carry out surveys of informal entrepreneurs (Lima and Santiago)

4.4 Dissemination

Information on the FORLAC Programme web page has been updated with links to the sections on informal economy of the sub-regional and country offices in the region. Information has also been added about Recommendation 204, the Plan of Action, documents from the International Labour Conferences, useful reference material, and the courses offered by Turin. The list of publications about the transition from the informal to the formal economy is also being kept up to date.

¹⁷ <http://white.lim.ilo.org/spanish/260ameri/oitreg/activid/proyectos/actrav/forlac/index.php>

¹⁸ Based on the enabling environment for sustainable enterprise (EESE) methodology, this database provides indicators of factors in a country's enterprise environment that are related to formalization and enterprise performance. See <http://metaleph.com/eeese-data>.

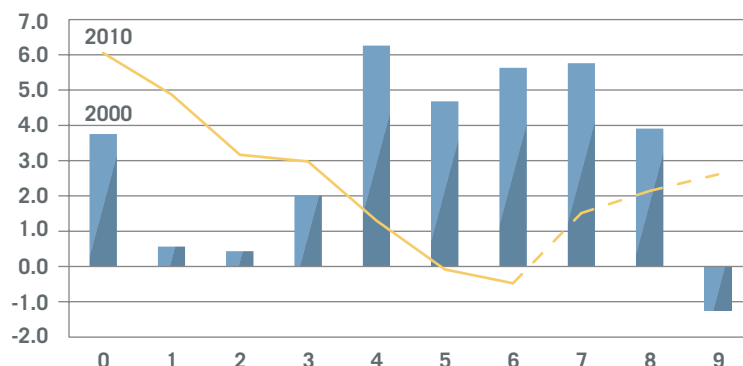
Another important dissemination activity was the Regional Forum for Sharing Knowledge about the Transition to Formality (24-28 August 2015, Lima), in collaboration with the International Training Centre in Turin and the Employment Policy Department in Geneva. The goal was to promote a regional-level exchange of best practices and experiences in policies for facilitating the transition to formality, with an eye toward developing countries' capabilities for formulating, implementing and supervising an integrated policy framework. Twelve tripartite delegations from Latin American and Caribbean countries were invited.¹⁹

5. Regional strategy for promoting the transition from the informal to the formal economy

The outlook for trends in informality in the region in the coming years is uncertain. GDP projections are lower than in the past decade. This is shown in Figure 7, which compares growth rates in the 2000s (bars) with rates in the decade that began in 2010, including projections for coming years, according to the most recent IMF estimates (IMF, 2016). In the aggregate, during the 2000s, the region's economy expanded by 38 per cent, while during the decade that began in 2010 it will grow by 23 per cent, barely enough to absorb the growth in the work force. It is still unclear whether the growth projected for the coming years will occur, because forecasts have been adjusted downward from year to year. This creates a scenario different from that of the previous decade. It is also true, however, that demographic pressure to create more jobs is decreasing with each decade as countries advance in their demographic transition.²⁰

¹⁹ http://www.ilo.org/americas/eventos-y-reuniones/WCMS_488840/lang--es/index.htm

²⁰ A discussion of the Future of Work in Latin America can be found in the special report of the 2016 Labour Overview (forthcoming).

**Figure 7. Latin America and the Caribbean: Percentage GDP growth 2000-2019**

Source: IMF, 2016.

What is interesting in the region is that many countries maintain the issue of informality as a policy priority. Despite political changes, various countries are working and innovating in policy making, and this has been a key ingredient in experiences that show a trend toward formality.²¹ This implies that one future work area in the region will be how to maintain – or even expand – the outcomes achieved in a context marked by lower growth and less economic space for the policies.

Taking into account the prior experience of the FORLAC Programme, the new guidance on promotion of formalization in the ILO at the global and regional levels, as well as proposals from staff and specialists in the ILO Regional Office for LAC, the regional strategy is based on the four components that already exist in the FORLAC Programme.

5.1 Generation of knowledge

Despite advances in knowledge in the region, some issues remain pending, especially since approval of Recommendation 204. They include:

- a) **What works and what doesn't in promotion of the transition to the formal economy?** FORLAC's strategy so far has been to record and systematize

²¹ Mexico launched a formalization strategy, Chile is considering establishing a presidential commission for formalization, Peru has set a goal for formalization within the Ministry of Economy and Finance's multi-annual macroeconomic framework, Paraguay established a National Formalization Day, and several Caribbean countries are implementing actions for formalization

what governments have done. The question is what really works. This requires an impact analysis of formalization strategies, and the evidence is scant. It is even scarcer for assessment of integrated strategies (those with more than one intervention), such as those proposed by Recommendation 204.²² This is one of the pending tasks that will require attention.

b) Integrated strategies at the national, local and/or sector level.

Recommendation 204 and its Plan of Action propose an integrated strategy for promoting the transition from the informal to the formal economy. These strategies can be applied at the country level, as well as at the local or sectoral level. It is necessary to document processes in countries where these strategies exist or have existed.

c) Enterprise formalization and labour formalization. Economic models that try to explain informality tend to equate enterprise formality with labour formality. The risk of this approach is that there is a tendency to confuse the determinants of the two phenomena, which are interrelated but not identical, and which will not necessarily require the same intervention strategies.

d) Formalization of vulnerable groups. Informal employment is concentrated disproportionately in certain groups. Two are domestic labour and self-employment. The situation in the household sector is very different from that of informal wage earners or own-account workers. There sometimes are special laws for this sector, and inspection services have more restrictions in households than in enterprises. Own-account workers are a sector that has become a statistical "catch-all", meaning it is highly heterogeneous. An exploration of its characteristics is needed to understand which are really dependent on a particular enterprise, which have triangular relationships, which are entrepreneurs, and so on.

e) Regulation and informality. This point has at least two elements to be considered. First, labour costs, which are associated with informal employment in various countries. This is an issue for debate. It

²² It is unusual to find formalization programmes with impact evaluations. In those that do exist, it is most common to find an impact evaluation of a single treatment. The literature on evaluation of multiple treatments is scarce.



is important to take care that greater regulation does not lead to an increase in informal employment, but there is also the possibility that regulatory modifications will be used to formalize "on paper" but not in practice. The goal of promoting formalization is its association with better working conditions. If regulation is reduced to accommodate worse working conditions, there is no impact on people's quality of life. Effective enforcement of standards, however, is low in the region. The role of inspection and the modernization of inspection services are pending issues. As Kanbur (2009) notes, there is a need to develop a theory of enforcement.

- f) **Social protection and formalization.** There is a lack of knowledge of the benefits of social protection programmes and a disproportionate emphasis on the associated costs. Discussion of contributory mechanisms and their potential effects on informality has been accompanied, more recently, by the possibility that some social programmes could enable certain groups to depend on these programmes permanently, thus encouraging informality. More evidence about this theory is needed, to see how frequently this problem occurs and, particularly, whether its occurrence is due to the existence of the programme or to its design.

These action areas will emphasize analysis and dissemination of innovative strategies, with a gender approach, and due attention will be paid to proposing a range of options adaptable to each country's circumstances. Knowledge outputs will include various types of technical notes, policy summaries, updated information about resource handbooks on policies and good practices, comparative studies and tools for impact evaluation.

5.2 Technical assistance to countries

Activities for technical assistance at the country level will follow the guidelines of the Plan of Action for Recommendation 204, taking into account the indicators and measurement criteria for Outcome 6 (Formalization of the Informal Economy) of the Programme and Budget for 2016-17.

Following these guidelines, and taking into account the priorities that the region's constituents have expressed, priorities for technical assistance at the country level will be directed toward:

- ▶ A promotional, awareness-raising and mobilization campaign, with different audiences, about how to use the R204 guidelines.
- ▶ Knowledge sharing and capacity building for the transition to the formal economy.
- ▶ Assessments and support for inter-institutional coordination for the formulation of integrated strategies for the transition from informality to formality, which can be done at the national, sectoral or local level.
- ▶ Support for key policy areas or specific groups (e.g. domestic labour) considered in R204.
- ▶ Development and dissemination of knowledge, with an emphasis on data collection and monitoring of policies, analysis of policy interactions, and impact evaluations.
- ▶ Cooperation and inter-institutional partnerships.
- ▶ Standardization of statistics:
 - ▶ Project to update algorithms for measuring informality with household and employment surveys. In recent years, various statistics institutes have updated their questionnaires; there is thus a need to update the algorithms currently being used.
 - ▶ Use of data from administrative records for measuring informality. Several countries produce and/or use indicators associated with recorded employment as a proxy for informality, which also requires consistency for comparative purposes.

5.3 Strengthening of social stakeholders as part of R204

The Follow-up Plan of Action for R204 includes support for activities of employers' and workers' organizations: "The Office will expand and update its technical and advisory services and capacity-building activities, upon request and within the scope of existing resources, to support governments, employers' and workers' organizations and tripartite bodies in designing, implementing and monitoring strategies to facilitate the transition to the formal economy."

In the region, activities for strengthening workers' and employers' organizations will be defined jointly with ACTRAV and ACT/EMP, respectively, always within the framework of R204.

5.4 Dissemination

Component 1 "Promotion, Awareness-Raising and Mobilization Campaign" of the Follow-Up Plan indicates that great efforts will be made to promote Recommendation 204. Attention will be given to constituent requests to present the Recommendation in various forums, and an awareness-raising and mobilization campaign will be conducted to promote a common understanding of its use. Elements will include:

- ▶ Outputs and activities for promotion and awareness raising targeting different audiences, in different languages and formats (guidelines of the International Training Centre in Turin).
- ▶ A promotional strategy will be developed jointly with tripartite bodies or groups, work teams and inter-ministerial coordination teams, social interlocutors and others.
- ▶ R204 will be promoted at conferences, seminars and ILO training activities.
- ▶ Updating of the ILO web page will continue, with information about Recommendation 204 and its implementation.

5.5 Mobilization of resources

To implement this strategy, extra-budgetary resources must be mobilized to supplement investment by offices through their Regular Budget Technical Cooperation (RBTC). These resources will be directed toward regional and inter-regional work (generation and dissemination of comparative knowledge, exchange of experiences, statistical standardization, training) and national efforts (technical assistance in countries).

The strategy for mobilizing resources for FORLAC will have three components:

- (1) Prioritizing the issue for allocation of Regular Budget Supplementary Account (RBSA) funds (both regional and those managed by

headquarters); coordination with relevant technical departments at headquarters (especially EMPLOYMENT, ENTERPRISE and WORKQUALITY) and with the Decent Work Teams in the region; seeking synergies and supplementary resources through the work of the global team for Programme and Budget Outcome 6.

- (2) Development of knowledge and communication materials based on programme outcomes, and distribution to potential partners.
- (3) Approaching potential partners, in countries and at the regional level, with emphasis on international financial institutions, potential donors' embassies and agencies of governments interested in promoting formalization.

This strategy will be closely coordinated with those of the region's Country Offices and the Regional Strategy for Mobilization of Resources, which is currently being drafted.



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Priority Area 3

RESPECT FOR AND APPLICATION
OF INTERNATIONAL LABOUR
STANDARDS AND LEGISLATION



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1. Introduction: Structure and purpose of this document

The countries of Latin America and the Caribbean face significant challenges regarding respect for and application of some¹ of the international labour standards (ILS) and current domestic legislation.²

This has led the ILO Regional Office for Latin America and the Caribbean to identify work on standards, particularly "Respect for and implementation of international labour standards and labour legislation", as one of the three key priorities for the ILO's work in the region. The other two are "Productive development policies for inclusive growth and more and better jobs" and "Transition to formality".

These priorities imply cross-cutting elements, such as the vital need to use and promote social dialogue and gender equity.

The purpose of this document is to present an overview of the challenges facing countries and constituents in the region regarding respect for and application of ILS and labour legislation (Section I), indicate how these challenges are connected with the ILO's programmatic frameworks (Section II), and outline strategic areas and specific actions for the ILO's work in the area of labour standards in Latin America and the Caribbean for 2016-2017.

This document draws on extensive analysis and discussion by the working group³ that addressed this issue at the Regional Meeting of Directors and Specialists, as well as with department heads and other colleagues at headquarters. That meeting was held in Lima from 7 to 9 December 2015 to enhance and better define at least three elements: (a) identification of challenges; (b) substantive work being done in this area; and (c) strategic areas and opportunities for greater effectiveness and better positioning of the ILO's work in the region, in accordance with our programmatic frameworks.

1 ILO member states must respect and apply the principles and rights set forth in the fundamental conventions and the conventions that have been ratified by their parliaments.

2 This is seen in observations by bodies responsible for supervision of application of international labour standards.

3 The working group consisted of Corinne Vargha, Kamram Fannizadeh, Collin Fenwick, Beatte Andrees, Humberto Villasmil, Horacio Guido, from headquarters Gerardina González, Carmen Moreno, Pedro Américo Furtado, Philippe Vanhuynegem, Stanley Gacek, Italo Cardona, Fernando García, María José Chamorro, Tania Caron, Carmen Bueno, Shingo Miyake, Javier González Olaechea, Guillermo Dema, Rainer Pritzer Elena Montobbio, Juan Ignacio Castillo, and others.

2. Challenges in the region regarding respect for and application of ILS and labour legislation

The Latin American and Caribbean countries have ratified a relatively large number of ILO conventions, and the trend in ratification has been sustained over time (see Appendix I).

This trend of many ratifications of ILO conventions is seen in both Latin America, which has an extensive tradition of legislation and of ratification of ILO conventions, and English- and Dutch-speaking Caribbean countries, which have a slightly different legal tradition stemming from a system based on English common law. In some cases, the Committee of Experts on Application of Conventions and Recommendations (CEACR) has recommended to various countries that they review legislation to better adapt it to ratified conventions.⁴

Since 1995, with ILO support, member countries of the CARICOM Single Market and Economy (CSME) have been working to make their labour legislation

⁴ “Since first identifying cases of satisfaction in its report in 1964, the Committee has continued to follow the same general criteria. The Committee expresses satisfaction in cases in which, following comments it has made on a specific issue, governments have taken measures through either the adoption of new legislation, an amendment to the existing legislation or a significant change in the national policy or practice, thus achieving fuller compliance with their obligations under the respective Conventions. In expressing its satisfaction, the Committee indicates to governments and the social partners that it considers the specific matter resolved. The reason for identifying cases of satisfaction is twofold:

- ▶ to place on record the Committee’s appreciation of the positive action taken by governments in response to its comments; and
- ▶ to provide an example to other governments and social partners which have to address similar issues.”

For example, in 2013, CEACR noted satisfaction in the cases of Bahamas for Convention 138, Grenada C100, Panama C98, Saint Lucia C87, and Trinidad and Tobago C182. In 2014, the cases of satisfaction in the region were: Argentina for C3, Bolivia C87, Colombia C24, Ecuador C121 and C130, Grenada C99, Saint Vincent and the Grenadines C182 and Venezuela C3. For the year 2015 the cases of satisfaction were: Mexico for C161, Suriname C182 and Uruguay C11, C161 and C167.

Annual reports of the Committee of Experts on Application of Conventions and Recommendations, 2013, 2014 and 2015.



consistent, particularly to allow the free movement of labour within the Caribbean region.⁵

Labour and constitutional jurisprudence in the region are both abundant and influential, and there is also a great deal of labour doctrine and academic work.

The world of work has been affected not only by the crisis and economic ups and downs, but also by technological developments, globalization and changes in the organization of work and the way enterprises operate. There have been waves of labour legislation reforms that have tended to provide greater protection and create more standards, as well as waves of reforms that have encouraged labour flexibilization and deregulation (Ramos et al., 2015. p.197). In this changing context, many governments make efforts to promote compliance with labour standards.

The main issues and challenges for the countries of the region, regarding respect for and application of labour legislation, can be summarized as set out below.

2.1 Adaptation and reform of labour legislation

According to the ILO CEACR, some countries have not adapted their national labour legislation to international labour standards.⁶

Adaptation and reform of labour legislation, when necessary, should be addressed both in legal and juridical terms, in accordance with international labour standards when possible, and in economic terms, through rigorous analysis of the economic impacts on dimensions such as employment, informality, income and productivity.

To complete the overview by ILO supervisory bodies, labour reform processes in the region should be analysed, including an assessment of the degree to which ILO constituents and the Office itself have participated in labour reform processes.

5 Goalsarran, 2005: "The survey of Caribbean labour laws reveals that there are substantial bodies of legislation on the statute books. These seem to be adequate for the conduct of labour relations.... However, there are still compelling challenges.

The challenges require the actors in the labour relations systems to positively and strategically utilize the national institutions, mechanisms, means and procedures available. There are also challenges to consolidate, revise, rationalize and introduce new standards into a comprehensive national labour code to facilitate the effective conduct of labour relations.

The actors are further required to advocate for the creation of more powerful, influential and modern labour ministries with adequate resources to enable them to contribute to national development, through a proactive programme of advisory services designed to promote enterprise partnership and national agreements."

6 Annual reports of the Committee of Experts on the Application of Conventions and Recommendations.

Changing patterns of production and labour, the weakening of states' regulatory roles in the socioeconomic arena, and trade unions' waning capacity for collective representation have been identified as key current challenges for labour legislation.

Another challenge for legislation is posed by atypical forms of recruiting,⁷ which generally occur in relationships involving intermediation or triangulation, home-based or distance, part time or flex time, or work of a particular duration or involving a particular task. These are sometimes associated with new business models linked to new technologies via on-line platforms or special applications, which have given rise to the so-called "collaborative economy" or "on-demand economy".

Subcontracting, triangulation, externalization or third-party outsourcing are increasingly frequent, and it is necessary to avoid contradictions and loopholes in regulations that could discourage the exercise of labour rights.

The ILO has adopted norms such as Convention 177 concerning Home Work (1996) and Recommendations 198 concerning the employment relationship (2006) and 193 concerning promotion of cooperatives (2002), which define useful characteristics of the employment relationship.

2.2 Respect for and application of labour standards, especially regarding Fundamental Principles and Rights

The fundamental rights at work provide a solid foundation for building equitable and just societies. This is a high-priority issue in a region with particularly high levels of inequality, discrimination and exclusion.

⁷ So called because of the contrast with subordinate work in exchange for a wage and for an employer, in the employer's location, full time and generally for an indefinite time (Córdova, 1986). The absence of one of these characteristics results in atypical recruiting.



The ILO Declaration on Fundamental Principles and Rights at Work, adopted in 1998, which comprises the principles reflected in the fundamental conventions,⁸ is a permanent and universal guide to action to promote decent work, rounded out by the regulatory and institutional advances proposed and implemented in each country.

A full overview of issues related to respect and application would have to include a review of a broad spectrum of labour standards, from the fundamental rights mentioned above, and conventions on governance or priority conventions,⁹ to technical conventions that are specific standards relevant in the region, in areas such as social protection, workplace safety and health, domestic labour, indigenous and tribal peoples (Convention 169), and others.

The following are some priority issues that were analysed during the meeting in December 2015.

The "Integrated strategy on fundamental principles and rights at work 2016-2020", recently developed by ILO headquarters in Geneva, has been taken into account in the discussion of fundamental principles and rights at work.

2.2.1 Freedom of Association and Collective Bargaining

Difficulties in the application and enforcement of labour legislation occur particularly with regard to freedom of association and the right to collective

8 The eight fundamental conventions refer to:

- ▶ Freedom of association and the right to collective bargaining
 - ▶ Convention No. 87: Freedom of Association and Protection of the Right to Organise Convention, 1948
 - ▶ Convention No. 98: Right to Organise and Collective Bargaining Convention, 1949
- ▶ Elimination of all forms of forced or compulsory labour
 - ▶ Convention No. 29: Forced Labour Convention, 1930
 - ▶ Convention No. 105: Abolition of Forced Labour Convention, 1957
- ▶ On abolition of child labour
 - ▶ Convention No. 138: Minimum Age Convention, 1973
 - ▶ Convention No. 182: Worst forms of Child labour Convention, 1999
- ▶ Elimination of discrimination in employment and occupation
 - ▶ Convention No. 100: Equal Remuneration Convention, 1951
 - ▶ Convention No. 111: Discrimination (Employment and Occupation) Convention, 1958

9 According to the ILO's classification of conventions, the priority or governance conventions on Labour Inspection (industry and commerce), 1947 (No. 81), Employment Policy, 1964 (No. 122), Labour Inspection (Agriculture), 1969 (No. 129) and Tripartite Consultation (International Labour Standards), 1976 (No. 144)

bargaining. Workers' and employers' organizations have repeatedly noted that the violation of this fundamental right has undermined the labour relations system in some countries and led to the filing of a number of complaints with the ILO by both employers' and workers' organizations.

For workers' organizations, this is the main problem in the region in terms of enforcement of legislation and application of international labour standards.

Latin America and the Caribbean have the largest number of complaints filed with the Committee on Freedom of Association. Twenty-eight of the 44 new cases being handled by that committee in 2015 were from the region,¹⁰ while the other 16 were from other parts of the world. Although that does not mean that the right to freedom of association is violated more in this region than in other parts of the world, these complaints clearly show that in addition to problems of freedom of association, there is little collective bargaining coverage in most countries and economic sectors.¹¹

Beginning in the 1990s, some countries adopted reforms that tended to favour collective bargaining, expanding their content (Panama and Peru) or scope (Argentina, Paraguay and Venezuela) and creating non-regulated forms, in which groups of workers participate, and others that are semi-regulated, for trade unions and groups of workers (Chile). One concern is that these regulated or semi-regulated forms could include provisions that contradict international conventions.

In the 1990s, "[a]lthough the call for deregulation exerted pressure on governments in the region to make employment relationships more flexible, most of them refrained from undertaking any fundamental reforms of their labour market regulation as this would have been politically unfeasible (Murillo, 2001; Cook, 2007; Sehnbruch, 2012). However, while their legislation per se did not change substantially, some flexibilization mechanisms were introduced, including short-term contracts, subcontracting, reduced firing costs and a more flexible

¹⁰ See Paragraph 8 of the 376th report of the Committee on Freedom of Association presented at the ILO Governing Body session held 29 October to 12 November 2015.

¹¹ A review of trends in collective bargaining regulations shows that as of 2001, 14 countries (Argentina, Brazil, Colombia, Costa Rica, Chile, the Dominican Republic, Ecuador, El Salvador, Guatemala, Nicaragua, Panama, Paraguay, Peru and Venezuela) had made adjustments that tended to expand and/or strengthen the exercise of collective rights or comply with ILO Convention 87 on freedom of association and protection of the right to organize (1948) and Convention 98 on the right to organize and collective bargaining (1949). The number of ratifications increased with democratization and regional integration in the region. References to collective bargaining are taken from Vega (2005), Bronstein (2006) and especially Bensúsán (2007).

organization of working time.” (Ramos et al., 2015, p.197, with references cited in the original text.)

In several countries, collective bargaining was implemented to increase flexibilization of labour contracts and work hours (Brazil, through temporary contracts and the bank of hours) or to adapt working conditions to an enterprise's situation (Panama, Paraguay and Venezuela), which in some cases helped strengthen the role of the trade unions as interlocutor.

While some countries strengthened the role of trade unions by granting them exclusivity in collective bargaining, others offered that possibility to non-union workers.

Trade unions were strengthened by extending the obligation to pay union dues to workers who benefited from collective bargaining, as occurred in Colombia, Chile, Ecuador and Venezuela, while in El Salvador, federations and confederations were allowed to negotiate collectively.

Collective bargaining is generally established at the enterprise level, but for workers' organizations, it is important to establish it more by type of activity, given the size of most businesses in the region and the difficulties and requirements many countries establish by law for organizing trade unions. That view, however, is not always endorsed by employers' organizations in the region.

As noted above, both employers' and workers' organizations file complaints about non-compliance with conventions that have been ratified, but the vast majority come from the latter. There are at least four possible hypotheses or combinations of hypotheses about why this occurs:

- a)** as an indicator of a high rate of violations of the principles and fundamental rights at work,
- b)** as an indicator that social stakeholders are aware of and not afraid to use measures for supervising the application of ILO standards,
- c)** as an expression of high labour unrest the region, and
- d)** as evidence of a possible violation of the principle of prompt and certain justice on labour issues by domestic courts in the various countries.

2.2.2 Child labour

Over the past 20 years, with support from international cooperation, Latin American and Caribbean countries have made progress on the elimination of child labour. ILO estimates from 2013, however, show a worrisome stagnation in the reduction of child labour and indicate that, at the current rate of reduction, targets for elimination of the worst forms of child labour by 2016 and all forms by 2020 might not be reached. These are outlined in Target 8.7 of the Sustainable Development Goals, adopted in September 2015 by the United Nations as part of the 2030 Agenda for Sustainable Development.¹²

Estimates show that 12.5 million children and adolescents in the region are involved in child labour, representing 8.6 per cent of the global rate. The challenge is to reverse the stagnation and accelerate the reduction of child labour until it is eliminated. The incidence of child labour remained steady between 2008 and 2011, at a rate of 8.2 per cent of children and adolescents in child labour.

Similar stagnation was seen in hazardous child labour, where progress in elimination has been slight in the past four years. This type of work seriously limits opportunities for children and adolescents, who attend school less and work longer hours.

At the American Regional Meeting in October 2014, the Regional Initiative for Latin America and the Caribbean Free of Child Labour was adopted to accelerate progress toward the targets for eliminating the worst forms of child labour in 2016 and total elimination of child labour in 2020, responding to the call of the road map ratified at the III Global Conference on Child Labour (2013) with the Brasilia Declaration, which was endorsed by representatives of 154 countries.

Employers' and workers' organizations have played an important role in promoting the elimination of child labour and protection for working adolescents in the region. There are many network and business associations against child labour, as well as individual business initiatives to promote the elimination of child labour and protection for working adolescents as part of their sustainability and social responsibility activities.

¹² Goal 8 of the 2030 Agenda is to "promote sustained, inclusive and sustainable economic growth, full and productive employment and decent work for all". Target 8.7 states, "Take immediate and effective measures to eradicate forced labour, end modern slavery and human trafficking and secure the prohibition and elimination of the worst forms of child labour, including recruitment and use of child soldiers, and by 2025 end child labour in all its forms."



2.2.3 Forced Labour

Progress in this area in Latin America and the Caribbean is still inadequate. According to ILO data, about 1.8 million people are subjected to forced labour in the region.

Significant efforts have been made, however, and should be supported and promoted. In Brazil, there is an extensive strategy for addressing forced labour; this is also true in Bolivia, Paraguay and Peru.¹³

In the 1930 Forced Labour Convention (No. 29), the ILO defines forced labour for international law as “all work or service which is exacted from any person under the menace of any penalty and for which the said person has not offered himself voluntarily”. (Article 2.1)

The other fundamental ILO instrument, the 1957 Convention on the Abolition of Forced Labour (No. 105), specifies that one can never resort to forced labour for economic development, as a means of political education, or as a means of discrimination, labour discipline or punishment for having participated in strikes (Article 1).

Forced labour is the term used by the international community for situations in which those involved must work against their will, obliged by contractors or employers with violence or threats of violence, for example, or by subtler means such as debt accumulation, retention of identity documents or threats of being reported to immigration officials. These situations can also include cases of human trafficking and practices similar to slavery.

The ILO has addressed the issue in the region mainly through technical cooperation projects and has begun a campaign for ratification of the recently approved Protocol to Convention No. 29. Nevertheless, there is a need for greater cooperation to address these serious violations of fundamental conventions.

¹³ In all of these countries, the ILO has been implementing technical cooperation projects and actions aimed at combating, preventing and eliminating forced labour.

2.2.4 Non-discrimination

Millions of people worldwide lack access to work and training, or they receive low wages or are limited to certain occupations because of their sex, skin colour, ethnic group or beliefs, without taking into account their capabilities and aptitudes.

The elimination of discrimination in employment and occupation and the promotion of equality have constituted a fundamental part of the ILO's work in the region. These are principles and fundamental rights at work, which are enshrined in conventions on Equal Remuneration for men and women, 1951 (No. 100) and Discrimination (Employment and Occupation), 1958 (No. 111).

Convention No. 100 requires countries to ensure that the principle of equal remuneration of men and women for work of equal value be applied to all workers. Convention No. 100 requires that the member states assess the value of different tasks to end underestimation of tasks performed mainly by women.

Convention 111 defines discrimination as any distinction, exclusion or preference made on the basis of race, colour, sex, religion, political opinion, national extraction or social origin, which has the effect of nullifying or impairing equality of opportunity or treatment in employment or occupation. The convention requires that ratifying countries implement policies to promote equal opportunity and treatment in employment and occupation, using methods appropriate to domestic conditions and practices, to eliminate any discrimination on these grounds. As a first step, the state is expected to repeal any legislative provisions and modify administrative practices that are incompatible with this policy. The prohibition of discrimination must not only include employment conditions, but also the selection of personnel and access to occupational training and guidance.

Racial discrimination affects millions of workers worldwide. Ethnic minorities, indigenous peoples, people of African descent, Roma, foreign-born nationals and migrant workers are among the most affected.

According to the United Nations, the wage gap between men and women is 19 per cent in Latin America and the Caribbean, below the 24 per cent global rate (UNDP, 2015).

In Latin America, as in other regions of the world, there is a close correlation between being indigenous, female and poor. The "cost" of being indigenous, in terms of income, poverty and social development, is very high worldwide. This is the



result of a combination of factors, particularly the limited coverage and poor quality of education.

The situation is even more serious for indigenous women, who are at a disadvantage in the labour market compared to indigenous and non-indigenous men and non-indigenous women. Among women, for whom the risk of slipping into poverty and difficulty in leaving poverty are generally greater than for men, indigenous women are more likely to live in poverty.

This highlights the need to understand and address the ethnic and gender dimensions of poverty-reduction policies that focus on promoting decent work. One key step consists of measuring the magnitude of inequalities in the degrees and forms of labour market participation and monitor the development of these gaps over time. Few censuses and national surveys in the region provide systematic, uniform socioeconomic indicators broken down by sex and ethnic or racial origin, using stable criteria to identify ethnic groups in a way that allows comparison.

Unequal access by men and women to better-quality jobs – which stems, among other things, from problems associated with the structure of employment, sex-based occupational segmentation and unequal distribution of domestic and family responsibilities – results in the persistence of significant gaps in aggregate wages, reflected in significant differences in monthly income.

In the case of people with disabilities, they experience common forms of discrimination, such as high unemployment rates, prejudices about their productivity and exclusion from the labour market. They also face discrimination in hiring.

Education and occupational training are crucial to overcoming poverty, promoting gender equity and advancing toward equal opportunities.

2.3 Labour administration and inspection

The government's ability to detect, sanction and ensure reparation for violation of labour regulations depends largely on the design and operation of the labour inspection system. This institution originated in Latin America in the early twentieth century, with the creation of labour offices and departments (forerunners of the ministries created between 1930 and 1990).

There are currently weaknesses in labour administration, particularly labour inspection, which undermine the effectiveness of its contribution to respect for and application of labour legislation.

Changes in labour inspection design and strategies have been inadequate to fully adapt to the greater mobility and new forms of organization of labour.

Employment under conditions of informality poses greater challenges for labour inspection systems. At least 130 million people work under such conditions. Workers are often not registered or organized. In some cases, informal workers are not covered by any law. The situation poses crucial challenges for labour inspection.

The FORLAC Note on trends in labour inspection, published in May 2015, noted that there has been little study of enforcement. Kanbur (2009) even suggested the need to develop an economic theory of enforcement.

Although enforcement is an important part of the labour inspector's strategy for ensuring compliance with labour legislation, the measures used to achieve compliance are not, in themselves, adequate or necessarily most helpful for ensuring respect for the law and guaranteeing that those who violate the law are held responsible for violations.

One negative factor is lack of knowledge of labour legislation, which has resulted in a lack of information about existing labour institutions and their public function. Many employers and workers are unaware of the role of labour inspection and the possibility that inspectors can provide them with guidance about the best way to improve the workplace conditions and promote a culture of prevention. Meanwhile, the proliferation of new forms of employment and the complexity of supply chains mean that workers are unaware of their rights and make it difficult for inspectors to oversee application of the law to such a diverse workforce. Finally, budget cuts for social programmes in various countries directly affect the results of labour officials, especially labour inspectors.

For employers and workers, it is crucial for labour administration and inspection to be able to develop procedures and processes that are clear, effective, efficient, predictable and fundamentally free of any discretionality, especially on the part of inspection officials.

Another aspect of concern for social partners is effective and efficient labour inspection in public institutions and agencies, including state-run companies.



Although there is no single, universal definition of the appropriate number of inspectors (this depends, among other things, on the total workforce size), the ILO has taken as a reasonable reference that the ratio should be approximately one labour inspector for every 10,000 workers in industrialized countries with market economies, one inspector for every 15,000 workers in countries with economies in the industrialization phase, one inspector for every 20,000 workers in countries with economies in transition, and one inspector for every 40,000 workers in less-developed countries (ILO, 2015a).

In Latin America and the Caribbean, according to ILOSTAT data, the number of inspectors per 10,000 workers varies significantly among countries and ranges from 0.1 to 1.9, or between one inspector per 40,000 workers to one inspector per 5,000 workers. The smallest countries have more inspectors per worker and the largest have fewer. This distribution in the number of inspectors is lower than in countries belonging to the Organization for Economic Cooperation and Development (OECD) and lower than the global average, according to available data.

Another indicator focuses on the number of visits per year per inspector, which ranges from about 20 visits per year to more than 300 or even 400 in some cases. This differs depending on the methodology used to make workplace visits and the technology used for the inspection.

Labour inspection performance directly reflects the strength or weakness of the region's labour ministries. The countries with the highest degree of formalization, economic progress and budget resources have reinforced the autonomy of their labour ministries and given them broader powers. At the other extreme, in countries with less relative development, the ministries tend to have little or no political influence and marginal resources, as well as smaller staffs with lower pay and less specialization.

In many cases, the CEACR has recommended strengthening the technical cooperation offered by the ILO for strengthening labour inspection. The following is a list of countries in the region where the CEACR believes it would be useful to provide technical assistance. The insistence on Convention No. 81 and Convention No. 129 is clear (CEACR, 2015).

List of countries in the region where the CEACR believes it would be useful to provide technical assistance to member states (November 2015)

Country	Convention No.
Colombia	81 Inspection
Dominican Republic	111 Discrimination (employment)
Ecuador	119 Protection (machinery), 136 Protection against Hazards of Poisoning Arising from Benzene; 139 Prevention and Control of Occupational Hazards caused by Carcinogenic Substances and Agents, 148 Working environment, and 162 Asbestos
Guatemala	81 Labour Inspection, 129 Labour Inspection (Agriculture), 161 Occupational Health Services, and 162 Asbestos
Guyana	81 Labour Inspection and 129 Labour Inspection (Agriculture)
Honduras	81 Labour Inspection, and 100 Equal Remuneration
Panama	81 Labour Inspection
Peru	139 Prevention and Control of Occupational Hazards caused by Carcinogenic Substances and Agents

2.4 Prompt and certain labour justice¹⁴ and resolution of labour conflicts

Labour justice is achieved both at the judicial (labour judges at various levels) and preliminary levels – when they exist, such as conciliation – and in administrative agencies, through labour inspection, as discussed above.

Labour justice has undergone significant changes in design and strategies in different countries, because of disrepute due to sluggish procedures and the inability to enforce sentences or rulings, or the effects – sometimes harmful or inadequate – on small businesses.

Employers and workers need efficient, effective, predictable judicial procedures that are free of discretion in the application of the law and standards.

¹⁴ Bensúsán (2007).



Labour justice proved ineffective at adapting to changing conditions of labour markets and increasing labour conflicts, especially in the area of individual rights. In most countries, the main reason for individual conflict was dismissal.

Although more research is needed to determine what should be modified in labour justice in the various countries, efforts are needed to modernize conflict-resolution mechanisms and ensure that specialized justice is imparted. Changes should be aimed at streamlining procedures that offer guarantees to the parties. In recent years, the region's countries have made efforts to create specialized institutions, such as the creation of Paraguay's Ministry of Labour, or streamline procedures in existing institutions, such as the introduction of oral proceedings in labour trials and the reform of legislation to reduce time frames and simplify processes, as in several Central American countries (Honduras, Costa Rica, Nicaragua).

One question is whether it is helpful to open more spaces for pre-judicial procedures, conciliation and the elimination of the possibility of nuisance appeals, which excessively prolong trials. More resources must be allocated to labour justice to improve personnel training and working conditions and increase the number of courts.

At the collective level, it is necessary to develop better methods for conflict prevention and resolution, seeking the consensus necessary for preserving social peace. The quality of mediation and arbitration services must also be improved and their prestige increased, so the parties feel that their participation guarantees their rights. Another recommendation is to use voluntary arbitration systems for economic conflicts and keep mandatory ones only for exceptional cases.¹⁵

There is a need for more in-depth, updated studies of the real role of jurisprudence in relation to enforcement costs and the effectiveness of standards, as judicial intervention tends to be cited as the reason for greater rigidity in labour relations and oversight of workers.

Given the state of the region's labour market and the rates of informality, a large number of workers remain beyond the scope of labour law for both de jure and de facto reasons.

¹⁵ Sappia, 2002: "Finally, the maintenance of a voluntary arbitration system should be allowed as a formula for resolving collective conflicts, and the obligatory system should be accepted as subsidiary and only for addressing unresolved disputes that affect essential public services, defined by the ILO as involving human life, health and safety, in situations of extreme need."

Because a percentage of informality occurs in formal enterprises, reference must be made to the responsibility of public and private employers and even the social economy and economy of solidarity (cooperatives, etc.) regarding respect for and application of legislation and international labour standards.

Difficulties in access to speedy and enforced justice may also drive people to turn to bodies responsible for supervising application of ILS, which is reflected in the large number of complaints.

Given this situation, the ILO has offered support to countries through cooperation projects to create forums to help resolve labour conflicts at the national level. One example is Colombia, with the experience of the Special Committee for the Handling of Conflicts referred to the ILO (CETCOIT). An in-depth evaluation of these experiences would be appropriate, to determine their effectiveness and efficiency, especially because other countries in the region are taking similar steps (for example, Panama and Guatemala).

2.5 Strengthening employers' and workers' organizations

Workers' organizations

Workers' organizations face exogenous and endogenous problems. Historically, in their development, they have had to align with political parties or positions and have supported initiatives and positions in an effort to influence their countries' development.¹⁶ Some of these traits persist and influence the action of trade unions today.

Currently, the greatest problem is the low and decreasing rate of trade unionization, compared to historical levels, in various countries in the region.

Exogenous factors that explain union weakness include the implementation of neoliberal policies and an anti-union culture typical of unequal societies

¹⁶ Goolsarran, 2005; "[In the Caribbean, Trade Unions] were initially, in essence, part of the nationalist political movements for political independence. In this context, where the trade unions had to fight for political and social status, the labour relations systems reflected a greater degree of political involvement and action to influence public policy. Industrial politics, political unionism, and trade union-based political parties are rooted in the history and tradition of Caribbean societies. The tradition of industrial or business unionism, vis-a-vis political unionism, was therefore not part of the genesis of trade unionism in the Caribbean. This reality still affects the dynamics of contemporary labour management relations."



characterized by fragile democracies and labour institutions that do not guarantee rights. This is reflected in precarious forms of contracting and the predominance of informal employment, the existence of restrictive juridical frameworks (for example, Bolivia, where trade union organization is prohibited among rural workers and cooperatives and in the public sector)¹⁷ and anti-union practices by employers (public and private). The labour relations system itself is also a source of asymmetries that tend to weaken the weakest, despite protective provisions in labour legislation.

Among endogenous factors, it is acknowledged that it is essential to improve trade union praxis, image and leadership in society;; proposals for and responses to socio-labour problems; to advance with self-reform and promote union unity in order to decrease the dispersion and fragmentation of trade unions – aspects which are in themselves an expression of freedom of association.

To alleviate the difficulties and give impetus to the trade union movement, workers' organizations are engaged in a process of self-reform and union unity or platforms of united action. As part of this process, the Trade Union Confederation of the Americas (TUCA-CSA) was created in the region. The ILO has offered support and training to strengthen this initiative.

Workers' organizations in the region understand and use procedures related to the application of ILO standards, and they often turn to these mechanisms to defend their members' rights, especially freedom of association and the right to collective bargaining.

Employers' organizations

Employers' organizations are concerned about ensuring stable, friendly workplaces conducive to sustained and sustainable business development, understanding that a clear, simple and predictable regulatory environment is vital for enterprises of all sizes and types to become established, develop and consolidate as completely formal enterprises offering decent and productive work. Respect for labour legislation and standards is part of this enterprise development.

It is also crucial to strengthen the capabilities of employers' organizations so they can remain relevant to their members. Offering useful services and acting

¹⁷ In this case, there is no dispersion or fragmentation of trade unions, but there are very serious restrictions on trade unionization.

consistently will enable them to attract new members, not out of obligation but because they believe it is "good for business" to join an employers' association.

Employers' organizations in the region also understand and seek assistance from bodies responsible for application of ILO standards when they face difficulties related to freedom of association.

There is a clear need in the region for strong, free trade union and enterprise organizations with technical, policy and operational capabilities that enable them to engage in dialogue regarding the wide range of challenges which the region faces (economic, social, and those related to sustained, inclusive, sustainable growth with productive development and decent work), to negotiate and propose policies, as well as to share in the challenges involved in implementation that these issues imply for countries' development.

2.6 Culture of social dialogue

Effective, appropriate, institutionalized social dialogue requires the combined existence of the following conditions: a democratic environment; freedom of association; autonomous, representative and strong employers' and workers' organizations with internal democracy, which participate in modern labour relations; political will and commitment from all parties, including the public sector; technical competency; adequate institutional support; and the will to comply with agreements.

2.6.1 Social dialogue at the national level

Various countries in the region are characterized by a significant level of social conflict and lack of trust in governments and public institutions and between sectors. There is not a well-institutionalized culture of social dialogue for reducing social conflict; rather, there is a culture of confrontation and great distrust. Some political analysts say the region is experiencing an era of distrust and a period of very complex governance.¹⁸

These characteristics of governance and social dialogue affect and are affected by economic and social conditions. Inequalities and exclusion increase the

¹⁸ Daniel Zovatto, in a presentation at the ILO Regional Office, 8 December 2015. See <https://youtu.be/-HLv9cM6hHk>



possibility of social conflict, erode trust in democratic institutions and place great pressure on governments. Meanwhile, the lack of a broad political consensus based on solid social dialogue processes often limits the promotion of an agenda for development, employment, inclusive growth and greater positive social justice that would mobilize the will of the various stakeholders in constructive directions.

Social dialogue has been one of the ILO's foundational principles since its establishment in 1919. It is the governance model that the ILO promotes to achieve greater social justice, promotion of employment, good labour relations, and social and political stability.¹⁹

Social dialogue puts into practice the democratic principle that those affected by policies should have a voice in decision-making; above all, however, it should be a means for economic and social progress, because it can facilitate consensus on economic, social and labour policies and give impetus to the effectiveness of legislation and institutions related to the labour market. Social dialogue also has repercussions on the economy.

Studies of the economic effects of social dialogue institutions, especially collective bargaining, demonstrate that when they function, they produce positive economic effects.

19 The strength, importance and usefulness of social dialogue have been increased through various universal instruments: the 1944 Declaration of Philadelphia, which forms part of the ILO's Constitution; the 1998 Declaration on Fundamental Principles and Rights at Work, which declares freedom to organize and freedom of association as rights, along with the right to collective bargaining; and the 2008 Declaration on Social Justice for a Fair Globalization, which states, "social dialogue and the practice of tripartism between governments and the representative organizations of workers and employers (...) are now more relevant to achieving solutions and to building up social cohesion and the rule of law".

The 2009 Global Jobs Pact states, "14. International labour standards create a basis for and support rights at work and contribute to building a culture of social dialogue particularly useful in times of crisis (...)" 16. Social dialogue is an invaluable mechanism for the design of policies to fit national priorities. Furthermore, it is a strong basis for building the commitment of employers and workers to the joint action with governments needed to overcome the crisis and for a sustainable recovery. Successfully concluded, it inspires confidence in the results achieved."

Conventions 87 on Freedom of Association and Protection of the Right to Organise, 98 on the Right to Organise and Collective Bargaining, 151 on Labour Relations (Public Service), 135 on Workers' Representatives, and 144 on Tripartite Consultation are also related to social dialogue.

In 2002, the ILC adopted a resolution on tripartism and social dialogue, which reaffirms that social dialogue is "a central element of democratic societies". And in 2013, it conducted an in-depth analysis of the state of social dialogue, in the recurring discussion called for by the ILO Declaration on Social Justice for a Fair Globalization (2008). At that time, the tripartite delegations reaffirmed their commitment to promoting diverse forms of tripartite and bipartite social dialogue, including collective bargaining, and expressed their conviction about the importance of dialogue as a tool for economic and social progress. The commission's conclusions, available on the ILO web site, represent a tripartite agreement on social dialogue, the challenges it faces and what countries and the ILO can do to give it impetus.

For example, commercial and financial globalization have shown that at the global level, wages grow more slowly than productivity, decreasing the weight of work as a proportion of total national income. The ILO Global Wage Report for 2012-2013 demonstrates that this has a negative effect on the sustainability of economic growth, because it affects household consumption, weakens global demand and affects consumer confidence.

In situations in which social dialogue and collective bargaining work well, however, wage increases often align well with increases in productivity, with a resulting decrease in wage inequality. Although at the micro level this implies a cost for employers, from a macro standpoint the wage increase creates an increase in internal demand and provides the economic basis for the sustainability of enterprises. In other words, the overall trend in which wages grow more slowly than productivity is kept in check.

ILO studies of the relationship among collective bargaining, inequality and social peace should be updated, and there is a need to study the impact of collective bargaining on enterprises and on societies.

Social dialogue need not be limited to issues of wages or working conditions. There is a wealth of international experience in social dialogue on issues related to occupational training, eliminating bottlenecks related to skills, effects on increases in productivity and on productive development policies in general, as well as value chains, clusters or specific sectors. In light of the large and growing gaps in Latin America and the Caribbean in the area of productivity, and the lack of productive development and diversification, it is important to strengthen – and, when necessary, to create – opportunities for social dialogue for these effects on productive development and skills enhancement, as called for within the regional priority of "Productive development policies for inclusive growth and more and better jobs".

OECD studies show a relationship between expanded collective bargaining and a decrease in unemployment and labour informality. It is clear that social dialogue can have healthy economic effects, as long as the dialogue is effective.

Governments must also promote social dialogue through bipartite or tripartite forums for consultation with business and trade union organizations when they plan to make legal and/or regulatory changes, not only on labour issues, but on any issue that could affect the country's business environment and job creation. These consultations must be conducted in good faith, with a true intention of



evaluating the exchanges with social partners, and not merely considering them an exchange of information and/or a formality.

Productive and relevant social dialogue is more difficult when there are no free, organized employers' and workers' organizations with the ability to act. Promoting trade union organization and business association is therefore an important objective for ILO action in the area of social dialogue. Social dialogue is also a challenge when governments are not sufficiently committed to a genuine consultation process or when social partners do not trust them or consider that they have little credibility.

There are various forms of social dialogue, often depending on national circumstances. Collective bargaining is clearly at the heart of social dialogue, but organized consultations (for example, through economic and social councils), information exchanges and other forms of dialogue are also important. It is therefore crucial to analyse the circumstances in each case to define the best strategy for promoting social dialogue that is adapted to the situation in each country.

The benefits of social dialogue must reach an increasing number of workers, including those with atypical contracts; micro-, small and medium-size enterprises; the rural economy; migrant workers; and other vulnerable, non-organized groups. The ILO refers to this as integrated social dialogue. This is an important challenge for workers' and employers' organizations, which must make an effort to increase their representativeness and affiliation among these groups, but it also implies the need to review labour legislation. It is also crucial for labour administration and labour inspection agencies to play a leading role in expanding the protection that the labour system provides to the informal economy. Finally, it is necessary to expand and maintain women's participation in social dialogue mechanisms for greater promotion of gender equality in the world of work.

2.6.2 Supra-national social dialogue

There are a growing number of supra-national entities, including mechanisms for integration and multi- or bilateral trade agreements, which include some forum for dialogue with social partners. This is an opportunity, but also a challenge for the ILO and its constituents, both in terms of participating effectively to ensure the consistency of decisions adopted at the supra-national and national levels and for follow-up and monitoring.

a) Social dialogue at regional and sub-regional levels

Although there are both regional and sub-regional forums for social dialogue in the region, there is a clear need to strengthen and re-launch social dialogue, as it is not helping to solve the great challenges facing the countries of Latin America and the Caribbean.

In the regional arena, employers (Business Technical Advisory Committee on Labor Matters, CEATAL) and workers (Trade Union Technical Advisory Council, COSATE) meet with the region's labour ministries as part of the Conference of Ministers of Labor (CIMT) of the OAS. At the Ibero-American level, there are also meetings of social partners during the Ibero-American Summits of Heads of State and Government, organized by the Ibero-American Secretariat General (SEGIB).

The American Regional Meetings sponsored by the ILO every four years are a major exercise in continental social dialogue.

At the sub-regional level, various integration bodies (MERCOSUR, SICA, CARICOM, etc.) have considered mechanisms for dialogue and consultation with civil society.

An evaluation of the functioning and impact of these regional and sub-regional dialogue forums is needed to help give them impetus and help ensure that their results have a greater impact on strategies for sustained, inclusive and sustainable growth, especially in the world of work in Latin America and the Caribbean.

b) Social dialogue in the global arena and in global supply chains

Another indication that social dialogue is spilling over national borders is the growth in global supply chains.

Multilateral agreements signed by multinational companies and international trade union federations in various sectors are an expression of social dialogue at this level. The ILO has gained experience in this area through its Better Work programme, which is active in the region in Nicaragua and Haiti, and which promotes cross-border social dialogue in globalized supply chains with a high labour coefficient, especially in the textile sector. It is important to analyse experiences and current trends in this area to increase the value that the ILO can add to these processes and continue promoting the ILO's Declaration on Multinational Enterprises.

Finally, the ILO has been addressing the challenge of promoting social dialogue and active participation by workers' and employers' organizations in international



forums such as the G20 (progress has already been made with the Business 20 and Labour 20 meetings) and in discussions with multilateral organizations, including the IMF, World Bank and IDB, as well as the United Nations system, to increase consistency in guidance for the development of decent work policies. This is particularly important with regard to the 2030 Agenda.

Circumstances in the region's various countries are very complex, and in this environment, the ILO's tripartite approach has the potential to play a decisive role in the definition of shared visions for achieving goals for economic and social development and for the world of work. This requires strengthening a culture of responsibility through social dialogue. The complex question is how to do so more effectively than has been possible to date. In particular, what must be done in places where there is conflict and lack of trust and social dialogue culture is not institutionalized?

2.7 Indigenous peoples and Convention 169

Two major milestones mark the development of international recognition for the rights of indigenous and tribal peoples: 1) the ILO's adoption in 1989 of Convention 169 on Indigenous and Tribal Peoples in Independent Countries, and 2) the United Nations Declaration on the Rights of Indigenous Peoples in 2007. The minimum standard of rights of indigenous peoples contains five dimensions: the right to non-discrimination; the right to development and social welfare; the right to cultural integrity; the right to ownership, use and control of and access to lands, territories and natural resources; and the right to political participation (ECLAC, 2014).

According to the ILO's registry of ratifications, Latin America and the Caribbean is the region with the most ratifications of this convention.

According to reports from the United Nations' Special Rapporteur on the Rights of Indigenous Peoples, six groups of problems with varying degrees of interdependence were evident during the period from 2009 to 2013 (ECLAC, 2014, p. 58). In the vast majority of these situations or conflicts, the reports cite the need to apply ILO Convention 169.

- a) Inadequate or non-existent juridical protection of indigenous peoples' rights to land, water, natural resources, biodiversity or territoriality;
- b) Impact on places sacred to indigenous peoples;

- c) Deficient or non-existent independent evaluation of environmental, social, economic and territorial impacts of extractive projects;
- d) Non-compliance with the government's duty to consult indigenous peoples and adopt measures to protect their rights before granting concessions or authorizing the implementation of extractive projects;
- e) Exclusion of indigenous peoples from participation in the benefits of extraction of resources in their territories; and
- f) Criminalization of indigenous social protest over investment projects that affect their rights and territories.

Regarding the state's duty to conduct prior consultation, countries use various procedures and forms of consultation, which do not always conform to international standards and are not always applied correctly.

The high degree of conflict around new projects for extractive industries or for development (electricity generation, new roads, and so on) and the inadequate handling of prior consultation processes have stalled a significant amount of investment in various countries, especially countries known for mining. This affects business initiatives and the development of areas that are generally poor.

The interests of industries and indigenous people are not necessarily divergent and agreements should be reached – through dialogue and consultation processes – so as to interconnect the interests of all parties and make extractive or development projects viable.

To facilitate the application of ILO Convention 169, a handbook for application of the convention was produced in 2013; the handbook underwent consultation and was endorsed by representatives of employers and workers (ILO, 2013). Correct interpretation and application of Convention 169 will result in more peace and social justice.

2.8 Overall assessment of respect and application

The ILO has worked for many years on the promotion of respect for and application of labour legislation, implementing extensive programmes to strengthen the capabilities of employers' and workers' organizations as well as labour inspection. More recently, it has included training for labour judges on international labour norms, to achieve an impact on jurisprudence in the region. This has been

done through technical cooperation programmes or projects that have included courses, training, associate's degrees, meetings at various levels, awareness-raising and information campaigns, support for meetings and conferences of organizations of employers and workers, training for labour inspectors and labour judges, and the establishment of tripartite bodies or special mechanisms for addressing and resolving labour cases at the national level and before resorting to bodies responsible for supervising the application of regulations.

Despite all these efforts, the problem persists and remains a priority for ILO constituents in the region. This raises important questions about how to improve actions and contribute more effectively to solving the problems identified:

- ▶ Which of the work methods mentioned above are most effective and should be implemented in greater depth in the future?
- ▶ How can training be improved to strengthen technical, operational and policy capabilities of employers' and workers' organizations?
- ▶ How can more effective strategies be adopted to develop a culture of enforcement of labour rights?
- ▶ How can social dialogue be promoted in environments of high distrust and conflict, where a culture of social dialogue is not institutionalized?

3. Relevance of this priority based on the ILO programmatic framework

3.1 Programme and Budget for 2016-17

Four of the 10 outcomes proposed by the Programme and Budget for 2016-17 relate to this third regional priority. The three cross-cutting policy areas are also applicable: international labour standards, social dialogue, and gender equality and non-discrimination.

Outcomes 2 and 7 are dedicated strictly to regulatory issues, outcome 8 refers to protection of workers against unacceptable forms of work, and outcome 10 refers to organizations of employers and workers, as follows:

Outcome 2: Ratification and application of international labour standards

Outcome statement: Member States are better equipped to ratify, apply and give effect to international labour standards as a means to advance decent work and achieve social justice.

Indicator 2.1: Constituents have increased their participation in the preparation and adoption of international labour standards.

1. Total rate of response of tripartite constituents to questionnaires on draft standards.

Indicator 2.2: Member States that have taken action to ratify and apply international labour standards, in particular in response to issues raised by the supervisory bodies.

1. International labour standards are ratified.
2. Government submits reports on ratified Conventions that contain a substantive response to the comments made by ILO supervisory bodies.
3. Government takes action to address the implementation gaps identified by ILO supervisory bodies.

Indicator 2.3: Member States in which constituents and other key actors have improved knowledge on and capacity to use international labour standards and the supervisory system.

1. Government or parliaments take action on drafting or amending legislation in line with international labour standards, including with respect to standards on gender equality and non-discrimination.
2. Domestic courts use international labour standards in their decisions.
3. Constituents review policies or implement capacity-building initiatives to give effect to international labour standards or follow up on the comments of the supervisory bodies.

Outcome 7: Promoting workplace compliance through labour inspection

Outcome statement: Labour inspection systems and employers' and workers' organizations are better equipped to achieve workplace compliance with national labour laws, applicable regulations, collective agreements and ratified international labour standards.

Indicator 7.1: Member States that have improved legal frameworks, policies, plans or strategies to strengthen workplace compliance in line with international labour standards, national labour laws and collective agreements.

1. Government, in consultation with the social partners, drafts or revises national laws or regulations improving working conditions or occupational safety and health in accordance with international labour standards.
2. Government, in consultation with the social partners, develops a gender-responsive policy, plan or strategy at the national or sectoral level strengthening enforcement, preventive interventions and workplace compliance.
3. Government takes specific measures towards the ratification or application of relevant Conventions.

Indicator 7.2: Member States that have improved their institutional capacity or strengthened collaboration with social partners and other institutions and partners to improve workplace compliance.

1. Labour administration institutions are established or take new initiatives to improve workplace compliance.
2. National tripartite or bipartite social dialogue mechanisms take measures to improve workplace compliance.
3. Government applies inter- or intra-institutional coordination mechanisms at the national or sectoral level to improve workplace compliance, including cooperation with private or non-profit compliance initiatives.

Indicator 7.3: Member States, social partners and other stakeholders that improve their knowledge and information systems to support workplace compliance.

1. Labour inspectorates and social partners take measures to improve workplace compliance in priority sectors using knowledge products or tools developed with ILO assistance.
2. Labour administration and related authorities establish or expand databases and sex-disaggregated statistics to better plan, implement and monitor workplace compliance strategies.

Outcome 8: Protecting workers from unacceptable forms of work

Outcome statement: Tripartite constituents are better equipped to protect women and men workers from unacceptable forms of work.

Indicator 8.1: Member States that have revised laws, policies or strategies to protect workers, especially the most vulnerable, from unacceptable forms of work, in line with international labour standards and through tripartite dialogue.

1. Government, in consultation with social partners, develops or revises gender-responsive strategies, policies or legislation to protect workers from unacceptable forms of work by realizing fundamental principles and rights at work and improving occupational safety and health and conditions of work, including wages.



2. Government establishes or makes use of national tripartite mechanisms to apply measures to protect workers from unacceptable forms of work in line with international labour standards.

3. Government takes specific measures towards the ratification of relevant international labour standards, in particular the fundamental labour Conventions.

Indicator 8.2: Member States in which one or more constituents have strengthened their institutional capacity to protect workers, especially the most vulnerable, from unacceptable forms of work.

1. Employers' and/or workers' organizations provide improved services to their members to effectively address and prevent unacceptable forms of work.

2. National or sectoral bodies take measures to improve coordination and monitor action to protect workers from unacceptable forms of work.

3. Relevant national institutions collect and disseminate statistical data, disaggregated by sex and other variables, as appropriate, on one or more dimension of unacceptable forms of work.

Indicator 8.3: Member States in which tripartite constituents have developed partnerships, including with other stakeholders, for the effective protection of workers, especially the most vulnerable, from unacceptable forms of work.

1. Constituents, in cooperation with civil society and non-governmental organizations and the media, promote awareness-raising initiatives addressing unacceptable forms of work in particular sectors.

2. Policy debates and cooperation between constituents and multilateral organizations lead to measures promoting the ratification or application of relevant international labour standards to protect workers from unacceptable forms of work.

Outcome 10: Strong and representative employers' and workers' organizations

EMPLOYERS' ORGANIZATIONS

Outcome statement: Increased representativeness and organizational and analytical capacity of employers' and business organizations to influence national, regional and international policy-making.

Indicator 10.1: Organizations that have successfully adjusted their organizational structures or governance or management practices to increase leadership capacity, effectiveness, relevance and representativeness.

1. A strategic plan for the organization is endorsed and implemented.
2. Membership is increased, including as a result of the extension of geographical or sectoral coverage, or the increase of the size of enterprise.
3. Management and governance structures are adapted and improved or new or revised organizational structures are put in place for improved governance.

Indicator 10.2: Organizations that have successfully created, strengthened and delivered sustainable services to respond to the needs of existing and potential members.

1. New services are provided by the organization and a sustainability plan for the new service is adopted by the organization.
2. Improved services are provided by the organization and a sustainability plan for the improved service is adopted by the organization.

Indicator 10.3: Organizations that have successfully enhanced their capacity to analyse the business environment and influence policy development.

1. The organization formulates advocacy strategies or develops well-researched policy positions or advocacy materials based on membership needs.

2. The organization engages in dialogue or partakes in consultations with government and other key actors, enters into partnerships with other institutions or launches advocacy campaigns to extend the outreach of its policy positions.

WORKERS' ORGANIZATIONS

Outcome statement: Increased representativeness and organizational capacity of independent workers' organizations to improve respect for workers' rights, particularly freedom of association and collective bargaining.

Indicator 10.4: National workers' organizations that increase their organizational strength at the national and regional levels.

1. A strategic plan on organizing groups of workers in vulnerable situations, particularly women, and on expanding collective bargaining coverage is adopted.
2. Three or more workers' organizations adopt a gender-responsive strategic plan to strengthen regional and subregional trade union organizations.

Indicator 10.5: National workers' organizations that increase their representative strength to influence policy agendas at the national, regional and international levels.

1. At the national level, social and economic policy proposals are presented and adopted, including in the context of labour law reforms.
2. At the regional level, joint positions on issues of concern to workers are adopted.
3. At the international level, workers' organizations submit policy proposals to influence multilateral frameworks and institutions.

Indicator 10.6: National workers' organizations that use international labour standards to promote freedom of association, collective bargaining and social justice at the national, regional and international levels.

1. At the national level, comments are submitted on ratified Conventions or on the filing of complaints and representations, or measures are

taken to follow up on the observations and recommendations of the ILO supervisory bodies.

2. At the regional level, joint trade union position papers and comments on labour clauses in trade agreements or negotiations are submitted.
3. At the international level, national support is given to a global campaign for the ratification and implementation of international labour standards.

3.2 The Lima Declaration

In the Lima Declaration adopted at the XVIII American Regional Meeting on October 2014, ILO constituents in the region expressed the following expectations for policies and actions:

II. Policy expectations:

2. Policies to promote respect for freedom of association and collective bargaining, set out in 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 Labour Relations (Public Service) Convention, 1978 (No. 151), and the Collective Bargaining Convention, 1981 (No. 154), including the identification and elimination of legal restrictions on the exercise of these rights, guaranteeing due protection and respect for the exercise of trade union rights.

17. Improving the performance of and strengthening labour inspection services, including through assistance in identifying the necessary resources.

III. ILO means of action

We request the ILO to:

- a) Promote the rights of freedom of association and collective bargaining, as well as other fundamental rights, through action programmes, technical assistance and campaigns.
- b) Promote effective social dialogue through the strengthening of governments' and social partners' capacities, with technical assistance

from the Bureau for Employers' Activities (ACT/EMP) and the Bureau for Workers' Activities (ACTRAV) for the latter.

- c)** Promote the Decent Work Agenda in subregional and regional integration processes and the implementation of Decent Work Country Programmes with the participation of the social partners, with emphasis on respect for freedom of association, collective bargaining and the promotion of an enabling environment for sustainable enterprises.
- d)** Develop focused programmes building on existing successful models to strengthen labour administration and build the capacity of labour inspectorates, as well as to assess the effectiveness of these programmes through regular evaluations.
- e)** Continue to organize training workshops for constituents on the ILO supervisory system.

3.3 The 2030 Agenda for Sustainable Development

Adoption of the 2030 Agenda for Sustainable Development constitutes a historic political declaration by world leaders on a "comprehensive, far-reaching and people-centred set of 17 universal and transformative Goals²⁰ and targets". The concept of sustainable development combines three dimensions – economic, social and environmental – in a balanced, integrated way and stresses the need

20 Sustainable Development Goals

1. End poverty in all its forms everywhere
2. End hunger, achieve food security and improved nutrition and promote sustainable agriculture
3. Ensure healthy lives and promote well-being for all at all ages
4. Ensure inclusive and equitable quality education and promote lifelong learning opportunities for all
5. Achieve gender equality and empower all women and girls
6. Ensure availability and sustainable management of water and sanitation for all
7. Ensure access to affordable, reliable, sustainable and modern energy for all
8. Promote sustained, inclusive and sustainable economic growth, full and productive employment and decent work for all
9. Build resilient infrastructure, promote inclusive and sustainable industrialization and foster innovation
10. Reduce inequality within and among countries
11. Make cities and human settlements inclusive, safe, resilient and sustainable
12. Ensure sustainable consumption and production patterns
13. Take urgent action to combat climate change and its impacts*
14. Conserve and sustainably use the oceans, seas and marine resources for sustainable development
15. Protect, restore and promote sustainable use of terrestrial ecosystems, sustainably manage forests, combat desertification, and halt and reverse land degradation and halt biodiversity loss
16. Promote peaceful and inclusive societies for sustainable development, provide access to justice for all and build effective, accountable and inclusive institutions at all levels
17. Strengthen the means of implementation and revitalize the Global Partnership for Sustainable Development

* Acknowledging that the United Nations Framework Convention on Climate Change is the primary international, intergovernmental forum for negotiating the global response to climate change.



to protect human rights. Decent work occupies a prominent place on this Agenda, reflected especially in Goal 8.²¹

4. Regional strategy for promoting respect for and application of international labour standards and labour legislation

The regional strategy will have six categories of substantive action, as well as components of knowledge development, information gathering and mobilizing of resources. These components are described below.

4.1 Six categories of action for change

Based on the assessment in Section 2, within the current programmatic frameworks described in Section 3, and in accordance with the “Integrated strategy on fundamental principles and rights at work 2016-2020”, the ILO will implement actions in the region in the following **six categories of action for change**:²²

²¹ For Goal 8, “promote sustained, inclusive and sustainable economic growth, full and productive employment and decent work for all”, the following targets were established: 8.1 Sustain per capita economic growth in accordance with national circumstances and, in particular, at least 7 per cent gross domestic product growth per annum in the least developed countries; 8.2 Achieve higher levels of economic productivity through diversification, technological upgrading and innovation, including through a focus on high-value added and labour-intensive sectors; 8.3 Promote decent job creation, entrepreneurship, and the formalization and growth of micro-, small- and medium-sized enterprises; 8.4 decouple economic growth from environmental degradation; 8.5 achieve full and productive employment and decent work for all women and men, including for young people and persons with disabilities, and equal pay for work of equal value; 8.6 substantially reduce the proportion of youth not in employment, education or training; 8.7 Take measures to eradicate forced labour and secure the elimination of the worst forms of child labour; 8.8 Protect labour rights and promote safe and secure working environments for all workers, including migrant workers, in particular women migrants, and those in precarious employment; 8.9 promote sustainable tourism that creates jobs; 8.10 expand access to financial services.

²² The first five are priority areas and actions recommended by the group of specialists from the region and headquarters who met in Lima from 7 to 9 December 2015 at the Meeting of Directors and Specialists. The sixth, action against child labour, is included because of the importance of the issue and the ILO’s commitment to supporting the Regional Initiative for Latin America and the Caribbean Free of Child Labour.

- (1) Promoting freedom of association and collective bargaining
- (2) Innovative strategies for conflict prevention and resolution
- (3) Promoting a culture of social dialogue
- (4) Labour administration and inspection, including workplace safety and health
- (5) Respect for and application of Convention 169 on indigenous peoples
- (6) Accelerating actions to eliminate child labour

4.1.1 Promoting freedom of association and collective bargaining

In the area of **freedom of association and collective bargaining**, joint actions with ACTRAV and ACT/EMP are proposed to:

- a) Promote freedom of association and collective bargaining, with special attention to the most serious cases in the region and to the implementation of recommendations from ILO bodies that supervise application of international labour standards.
- b) Contribute to the training of employers' and workers' organizations on issues related to freedom of association and collective bargaining.
- c) Offer technical assistance and guidance to countries to achieve greater respect for freedom of association and promote collective bargaining.

Joint efforts involving the region's offices and Decent Work Technical Support Teams (DWT), with ACTRAV, ACT/EMP, employers' organizations, workers' organizations and labour ministries, are expected to contribute effectively to the promotion of freedom of association, collective bargaining and the application of recommendations by bodies that supervise application of ILS.



4.1.2 Innovative strategies for conflict prevention and resolution

In the area of **innovative strategies for conflict prevention and resolution**, the goal is to reduce lack of knowledge to more efficiently prevent and resolve labour conflicts, including those related to application of international labour standards.

Colombia and Guatemala are well-known examples; in both countries, the ILO has made efforts to establish projects and a representative of the director general or tripartite commissions (such as CETCOIT). These cases and others will continue to require some specific assistance.

Work will focus especially on the following:

- a) Developing a research agenda, as well as some regional activities to discuss research findings and agree on an action plan
- b) Supporting pilot experiences, such as those in Colombia, Panama, Guatemala, Paraguay and Brazil.

The proposed actions are expected to provide feedback for the global strategy on principles and fundamental rights.

4.1.3 Promoting a culture of social dialogue

Promotion of a culture of social dialogue will involve the following:

- a) Strategic mapping of institutional structure of social dialogue in the region and its impact on economic, social and political challenges
- b) Contributing to effective strengthening of constituents' capabilities, including training and monitoring and evaluation
- c) Mainstreaming social dialogue as a cross-cutting approach to technical activities implemented in the region
- d) Involving regional organizations of workers and employers and key stakeholders (parliaments, intellectuals, academia, media, political parties, etc.) to help create a culture of social dialogue.

4.1.4 Labour administration and inspection, including workplace safety and health

The proposal on **labour inspection, including workplace safety and health**, is as follows:

- a) Promote the key conventions for labour administration and inspection and workplace safety and health
- b) Support the institutions responsible for generating and managing data about labour administration, labour inspection and workplace safety and health
- c) Help raise awareness about these issues, preparing handbooks for national campaigns on inspection and workplace safety and health
- d) Conduct research and prepare training materials for inspectors, workers and employers (from a sectoral standpoint).

4.1.5 Respect for and application of Convention 169 on indigenous peoples

With regard to **indigenous peoples**, it is proposed that a regional strategy be developed through Results 2, 6 and 8. This strategy should take into account the global strategy adopted by the Governing Body in November 2015. It will also be necessary to identify the support needed from headquarters for development of the regional strategy, and for headquarters and those in the field to make a joint effort to mobilize resources.

The regional outcome resulting from the agreed-upon strategy is expected to contribute to the success of the global strategy.

4.1.6 Acceleration of actions for eliminating child labour

In the area of **elimination of child labour**, the proposal is as follows:

- a) Support the Latin America and the Caribbean Free of Child Labour Regional Initiative to accelerate progress toward compliance with the goals of eliminating the worst forms of child labour, in accordance with Target 8.7 of the 2030 Agenda



- b) Develop and promote the implementation of a policy acceleration framework that makes it possible to maximize systems of social protection and education, from a preventive standpoint, to interrupt the path toward child labour
- c) Strengthen the network of Regional Initiative focal points as a tool for catalysing and promoting policies for overcoming child labour
- d) Support the maintenance of the Regional Initiative's Technical Secretariat.

4.2 Knowledge and information

Research and the gathering of adequate information are critical for in-depth analysis and a fuller understanding of problems and the underlying reasons for their persistence. This area requires various complementary efforts:

- a) Gathering statistical information based mainly on administrative records
- b) Analysis of countries' actions for reform and adaptation of labour legislation and labour procedures in the region
- c) Analysis of governance mechanisms, institutional arrangements and intervention models, to compare best practices
- d) Updating and development of studies in the region that analyse the impact of international labour standards and labour legislation on countries' development
- e) Monitoring of revisions or updating of ILS by the ILO and dissemination of results in the region
- f) Dissemination of good practices identified in the region in the areas of legislation, jurisprudence and administration.

4.3 Mobilizing resources and joint efforts

Given that there are limited resources, action in this priority area requires:

- a) Participation of specialists and directors from the region and specialists from the technical departments at headquarters (NORMES,

GOVERNANCE, RESEARCH, ACT/EMP and ACTRAV) to implement coordinated action

- b) Development of technical cooperation projects and search for funding sources. This effort must also involve specialists from the region and headquarters, the programming units in the region, and PROGRAM and PARDEV at headquarters.

4.4 Coordination to address priority work areas

Implementing the strategies agreed upon requires joint efforts by the Regional Office, DWTs, country offices, Inter-American Centre for Knowledge Development in Vocational Training (CINTERFOR) in the region and relevant departments at ILO headquarters.

Countries to receive technical assistance in the five priority areas will be identified, taking into consideration the programming of each office and DWT, so all actions are related to a Country Programme Outcome (CPO) and respond to current programmatic frameworks for the region.

Considering that the trend in technical cooperation is toward a reduction in funds available for the region, that regular budget resources are inadequate to meet all needs, and that the Regional Office does not have additional resources, headquarters and the region will have to make a special, joint effort to seek extra-budgetary resources that will allow the effective implementation of the proposed strategies.



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APPENDIX I: Ratification of conventions

After Europe, the continent with the second-highest number of ratifications of conventions is America. The average for the Latin American and Caribbean region (not including the United States and Canada) is even higher.

America has registered 1,752 ratifications and has 35 countries, Europe has registered 3,478 ratifications in 51 countries, Africa has 1,867 ratifications in 54 countries, the 11 Arab states register 288 ratifications, and the 35 countries of Asia and the Pacific have 788 ratifications. As a simple average, Europe has ratified more than 68 conventions per country, America more than 50, Africa more than 35, the Arab states more than 26 and in Asia and the Pacific, the average is more than 22 conventions ratified per country.

Ratifications are generally very high for the fundamental conventions, lower for priority or governance conventions (see Tables 1 and 2), and vary much more for the so-called technical conventions.

Table 1. Ratification of fundamental conventions

Country	Freedom to organize		Forced labour		Discrimination		Child labour	
	C087	C098	C029	C105	C100	C111	C138	C182
Total: 187	153	164	178	175	172	173	168	180
Africa (54)	49	54	54	54	52	54	52	53
America (35)	33	32	34	35	33	33	31	35
Asia and the Pacific (35)	18	21	28	24	29	25	23	30
Arab states (11)	3	6	11	11	7	10	11	11
Europe (51)	50	51	51	51	51	51	51	51

Table 2. Ratification of governance or priority conventions

Country	C081	C122	C129	C144
Total: 187	145	111	53	139
Africa (54)	46	22	10	40
America (35)	28	23	9	30
Asia and the Pacific (35)	14	15	1	19
Arab states (11)	10	4	1	5
Europe (51)	47	47	32	45

Source: NORMLEX – Information System on International Labour Standards, ILO, 2016.



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