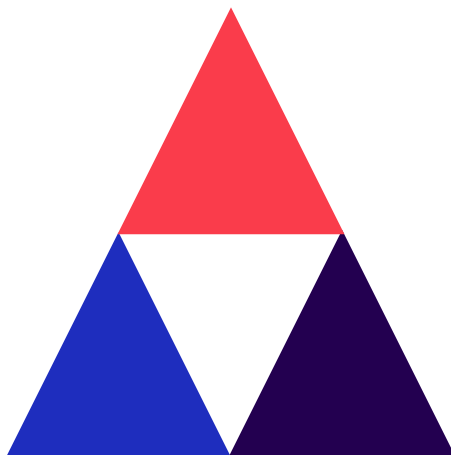




► The future of work in the arts and entertainment sector

Technical Meeting on the future of work in the arts and entertainment sector
(Geneva, 13–17 February 2023)



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I. Introduction

1. The [Technical meeting on the future of work in the arts and entertainment sector](#) was held from 13 to 17 February 2023. The Governing Body of the International Labour Organization (ILO) decided at its 341st Session (March, 2021) to convene the meeting, the purpose of which would be to discuss challenges and opportunities relating to the future of work in the arts and entertainment sector, with the aim of adopting conclusions, including recommendations for future action.
2. The Chairperson of the meeting was Mr H. Munthe (Senior Adviser, Confederation of Norwegian Enterprise). The Government Vice-Chairpersons were Mr A. Novales Bilbao (Spain) and Mr A.E. Essah (Nigeria), the Employer Vice-Chairperson was Mr J.J. Diaz Mirón and the Worker Vice-Chairperson was Mr D. Crabtree-Ireland.
3. The meeting was attended by 44 Government representatives and advisers (from 30 Member States), together with 29 Government observers (from 13 Member States), as well as 8 Employer and 16 Worker representatives and advisers, 25 Worker observers and 22 observers from intergovernmental organizations (IGOs) and invited international non-governmental organizations.
4. The Chairperson, opening the Technical Meeting on the Future of Work in the Arts and Entertainment Sector, and welcoming all participants, said that artists and cultural professionals uplifted people in difficult times and the sector offered present and future job opportunities for the next generation. The meeting would discuss decent work opportunities to achieve full employment potential in the sector, which, according to ILO estimates, accounted for 1.4 per cent of global employment (46.2 million jobs). The unique workforce and the diverse enterprise ecosystem faced decent work challenges, affected by technological changes, globalization and demographic transformations. The COVID-19 pandemic had also had an unprecedented impact. Job-rich measures and policies were required to promote decent work opportunities for all in the sector. All participants in the meeting were invited to bring their knowledge and experience to the table to explore how to create a more resilient, inclusive and sustainable future of work in the arts and entertainment sector. Through their insights and expertise on critical issues in the arts and entertainment sector, the meeting would identify key areas in which all constituents could work together to make progress, through robust and constructive social dialogue.
5. The Secretary-General of the Meeting welcomed all participants to the technical meeting, which would afford an opportunity to discuss challenges and opportunities relating to the future of work in the arts and entertainment sector and adopt conclusions and recommendations to guide ILO constituents, the ILO, and the sector in the years to come. The arts and entertainment sector accompanied everyone, uplifting spirits in difficult times, and contributing to societal well-being and cohesion. Yet, during the COVID-19 pandemic, the sector had been significantly affected, with productions shutting down completely. Everyone used creative content in some form. Yet, when discussing cultural and creative policies, consideration for the impacts of transitions currently under way (including digital and environmental) was lacking. While data showed an increase in women's employment across the various subsectors, gender inequalities persisted in certain occupations, manifesting in differences in income and types of contract. Gender stereotyping also persisted; women in the sector remained vulnerable to violence and harassment, often intersecting with other forms of discrimination.

6. The COVID-19 pandemic had shone a light on the importance of renewing dialogue among governments, employers', and workers' organizations and to ensure creators' meaningful involvement in decision-making for future employment and recovery policies. The role of the arts and entertainment sector went beyond the creation of income or commercial value, contributing to broader development goals, and fostering social cohesion. Policy approaches must therefore be human-centred, context-specific and inclusive of all interested parties. The sector was at the forefront of technological development; while its creation and innovation had a ripple effect on other sectors, its talent and professions were often not recognized as work. Cultural professionals must be recognized as such, and an appropriate policy framework must be put in place to protect them with adequate wages and working conditions, skills development and enterprise development, all viewed through a lens of gender equality, diversity and inclusivity. The meeting would afford an opportunity to consider the arts and entertainment sector from the perspective of the ILO Decent Work Agenda, underpinned by international labour standards, ILO declarations and tools, and based on social dialogue.
7. The Executive Secretary of the Meeting provided an overview of the contents of the report *The future of work in the arts and entertainment sector*, which had been prepared by the Office to inform the deliberations of the meeting. The report drew attention to the importance of the arts and entertainment sector as a contributor to social cohesion and public resilience; the question of whether it constituted a global public good was the subject of increasing international discussion. The sector was evolving: moving from tangible to intangible products, with an emergence of new, digital actors on the scene that were broadening the landscape of the sector. The COVID-19 pandemic had caused severe disruption, both in the short and long-term, highlighting the sector's fragility. The report therefore drew attention to the need to ensure that recovery was rooted in resilience. Arts and entertainment were marked by a growing ecosystem of micro, small and medium-sized enterprises (MSMEs), an increase in cross-border trade, new technological applications for the delivery of goods, and a drastic reduction in traded physical commodities.
8. The report provided detailed information on the impacts on employment and decent work of technological development and the resulting shifts in services, production, supply and demand, including user participation in product content. It also considered the gender and demographic trends in employment in the sector. The environmental impact of all forms of production and consumption of entertainment was another key issue, viewed from the perspective of both the importance of efficient production in theatres, studios and on sets, and of the role of artistic activism. Lastly, the report analysed the diversity of labour composition in the sector, the prevalence of project-based, multiple employer, short-term contract, self-employment, own-account and temporary contractual arrangements, and the resultant fluctuations in, and irregularity of, incomes, gaps in social protection coverage, issues of remuneration in the digital environment and misclassification of employment. Examples were provided of the increase in recognition of the importance of social dialogue as a result of the COVID-19 pandemic.

II. General discussion

9. The Employer Vice-Chairperson thanked the Office for the comprehensive report, and said that the conclusions to be adopted by the technical meeting would provide balanced guidance to build enabling environments for businesses to foster sustainable job creation. Arts and entertainment not only contributed to decent and productive job creation, but were fundamental to the enjoyment of the human right to culture. Cooperation between employers, workers and governments was needed more than ever to provide an environment for viable

arts and entertainment, and enable the sector to recover from the impacts of the COVID-19 pandemic, which continued to put pressure on businesses around the world.

10. Technological developments were having a significant effect on the sector, constituting both an opportunity and a challenge; cultural professionals must be given the skills to use new technologies, and keep pace with technological development. Despite the advances in artificial intelligence, human creativity would continue to be the source of ingenuity in arts and entertainment. Technology would afford new job opportunities, and would continue to change the ways in which content was produced and disseminated. It should be leveraged to ensure decent work and sustainable development in a currently unknown future. Experiences should be shared and lessons learned from the responses to current challenges to foster understanding of the market and the needs of the industry, and to advance decent and productive work, in a sustainable arts and entertainment sector.
11. The Worker Vice-Chairperson said that the arts and entertainment sector was facing increasing challenges. Respect for workers was crucial to building a sustainable arts and entertainment sector. Workers were workers, irrespective of their type of employment. Yet inconsistencies persisted with regard to employment and respect for labour rights for those working on an intermittent or temporary basis. Despite providing great benefits to companies in the sector, those workers were not afforded basic labour rights, fair compensation or social protection. The cost that they bore must be acknowledged and addressed. All workers should also have the right to organize and bargain collectively. Health and safety was a key issue, including unsafe and unfair hours of work, particularly in the context of the COVID-19 pandemic. Diversity was another key aspect of the sector, with significant problems of discrimination and harassment persisting in the industry. Changing technology, in particular the impact of artificial intelligence, must also be addressed to ensure a human-centred approach to changes in the industry. Every effort must be made to foster the conditions to ensure decent work for all workers in the sector.
12. The Government Vice-Chairperson (Spain) said that the discussion was opportune; the COVID-19 pandemic had highlighted the importance of the arts and entertainment sector as a contributor to national economies and social development. As a result of the impacts of the pandemic, some governments had reviewed their legal and institutional frameworks to address the needs of the sector, including from the perspectives of labour rights, social protection and job creation. More structured support was still needed for the sector, its enterprises and workers; a long-term plan was required in that regard. While several governments had taken measures to protect workers in the arts and entertainment sector, there was a pressing need to discuss the sector's future, not only in the context of changes emanating from the pandemic but also from the perspective of technological developments, which were changing the ways in which art and entertainment were produced and had implications for business models and remuneration systems in the sector. The Government group was committed to sharing experiences in building the resilience of the sector, learning from other constituents about measures being taken to create conditions conducive to creative entrepreneurship and jobs, and to ensuring that all workers in the sector enjoyed their labour rights and social protection coverage.
13. The Government representative of Sweden, speaking on behalf of the European Union (EU) and its Member States, underscored the importance of advancing and ensuring decent work in the arts and entertainment sector in the context of transitions and crises. Arts and entertainment were part of the democratic fabric of freedom of expression; the right to take part in cultural life and enjoy cultural rights was indispensable for the dignity and free development of persons. The sector also played a key role in economic development. Increased

demand for entertainment activities had expanded opportunities for creative entrepreneurs and job creation. At the same time, a large proportion of arts and entertainment sector workers faced significant decent work deficits, often due to the lack of social protection and unemployment support mechanisms. Cultural work was often characterized by precarious short-term contracts and a high prevalence of self-employment.

14. The EU and its Member States were committed to strengthening decent work in the sector, by promoting fairness and equality for all, with particular attention to female artists and cultural professionals. Women's equal access to participation and to equal pay in the arts and entertainment value chain was essential. Consideration must also be given to ensuring full and equal access to employment in the sector for persons with disabilities. Since the COVID-19 pandemic, the European Commission had conducted studies on working conditions of artists and cultural and creative professionals, establishing a working group tasked with prioritizing the matter in the forthcoming EU Work Plan for Culture. Work was also under way, in cooperation with the United Nations Educational, Scientific and Cultural Organization (UNESCO), to monitor policies and measures implemented in the context of implementation of the 1980 Recommendation on the Status of Artists. Closer cooperation between UNESCO and the ILO should be fostered. International bodies and civil society organizations were increasingly concerned that artistic freedom was being challenged by governments, political ideologies and non-State actors around the world. Artistic freedom and freedom of artistic expression, which had not been included in the Office report, must be given due consideration as a crucial aspect of the working conditions of artists and a fundamental element of cultural diversity and democracy.
15. The Government representative of Tunisia said that the arts and entertainment sector accounted for approximately 1 per cent of Tunisia's GDP, and that it played an important role in country's economic and social development, especially through the considerable efforts made by the Government for some time (laws, procedures, incentives, financial and technical mechanisms, etc.) to strengthen the sector in its creative aspects, innovative and digital so that it can enable the development of players in this field and strengthen its economic added value. That notwithstanding, the majority of labour in the sector remained informal. Measures were being taken to encourage the transition to formality, and funds for artistic and cultural investment had been set up to boost investment in the sector. The COVID-19 pandemic had highlighted the vulnerability of artists and the specific difficulties they faced. The Government of Tunisia had taken a range of measures to promote and protect cultural enterprises and jobs in the arts, establishing funds to boost the sector's recovery and enacting legislation to promote and support the establishment of cultural and artistic businesses, cultural institutions and creative hubs. The ILO had a key role in supporting the sector; the conclusions to be adopted by the meeting would be essential in that regard.
16. The Government representative of Türkiye thanked the ILO, other international organizations, governments and social partners for their support and assistance in the wake of the largest natural disaster in his country's history. He drew attention to the importance to giving due consideration to traditional arts and entertainment in the conclusions of the technical meeting.
17. A representative of UNESCO said that culture was more important than ever for strengthening social cohesion. Some 10 million jobs in the cultural and creative sector had been lost worldwide during the COVID-19 pandemic. The pandemic had revealed pre-existing vulnerabilities and precarious working conditions in the sector, which was characterized by freelance and part-time work, precarious contracts and poor remuneration, informal working arrangements and lack of social protection. Increased dissemination of artistic content online had impacted workers significantly, with reduced pay, and questions regarding intellectual

property rights and royalty gaps. A balance must be struck between the collective need for art, entertainment and heritage and ensuring fair working conditions for those at the heart of creative industries. Decent work must be rooted in appropriate legal and regulatory frameworks. Data collection was vital for evidence-informed policymaking. Artists required access to training, skills development, mobility, decent employment and social protection. To that end, UNESCO was working with governments, advising on legislation defining the status of the artist and providing technical assistance and capacity-building. The United Nations system and its partners must join forces to enhance the social and economic protection of artists and advocate for culture as a global economic good.

18. A representative of the United Nations Conference on Trade and Development (UNCTAD) said that by creating decent work opportunities in the arts and entertainment sector and in the creative economy in general, trade could be made more equitable, with greater benefits for workers and businesses alike, which would contribute to more sustainable and inclusive economic growth and development, for the benefit of communities and countries. Economic growth was a key pillar of sustainable development; Sustainable Development Goal (SDG) 8 called for sustained and inclusive growth to provide economic opportunities for everyone and assist people out of poverty, providing full and productive employment with equal conditions for women and men, while protecting the environment and ensuring sustainable use of resources. The UNCTAD was helping to harness the trade-creative economy nexus to leverage technology, broaden entrepreneurship, creativity, innovation and sustainable tourism, and increase access to markets. Progress could only be sustainable and inclusive if it was grounded in local productive capacities and in an enabling international environment. Market forces and public interventions must be harnessed to meet wider development gains, in particular in developing countries. Creative and cultural assets had a key role to play in creating opportunities to meet SDG 8 on decent work.
19. A representative of the World Intellectual Property Organization (WIPO) said that, while it was not yet possible to measure the full impact of the COVID-19 pandemic on the arts and entertainment sector, the short-term negative effects on creative industries and workers were undeniable. With regard to copyright and related rights for the future of work, two core aspects should be considered: first, a significant number of workers in the arts and entertainment sector enjoyed protection through copyright and related rights due to their professional activity as creators; and secondly, even if workers did not enjoy copyright and related rights, transactions involving those rights were fundamental for many business models, including for both commercial and not-for-profit use of materials produced by creative workers. Despite internationally recognized minimum standards of protection, national laws varied significantly. Technology was also having a variety of effects on business models and categories of workers. Rights related to creation, ownership and licensing copyright would remain crucial to economic success in the creative industries, including in digital subsectors. With content being the main draw for consumers, as well as the main asset of many digital business models, copyright and related rights would be essential to ensure the future of work for creators.
20. A representative of the International Arts and Entertainment Alliance underscored the economic importance of the arts and entertainment sector, and its essential role in reflecting the diversity of cultures and providing entertainment and cultural enrichment. During the restrictions on movement imposed to tackle the COVID-19 pandemic, the entertainment industry had played a central role in raising spirits and giving hope. Yet the vast increase in consumption of online and streaming services had not benefited artists and performers. The industry had been severely impacted by the pandemic, with vast numbers of workers losing their jobs and only source of income overnight; the many workers on independent contracts

had no access to social protection, unemployment benefits or furlough. Yet the future of the industry relied on those workers. Without adequate representation and the right to bargain collectively, precarious work would continue to dominate. Only by upholding labour rights could stability be brought to the sector. Given the rapid development of technology and uptake of artificial intelligence, which were revolutionizing the production of content in the arts and entertainment sector, those rights were even more crucial than ever. Collaboration between the social partners, with guidance from the ILO, would be key.

21. A representative of the International Federation of Film Producers' Associations highlighted that film and audiovisual production was labour-intensive and highly skilled across a full spectrum of creative, technical and financial professions. The complexity of production thus made it particularly important to ensure legally compliant labour standards for all in the industry, of which not only fair wages but also occupational safety and health were essential components. Local traditions and legal frameworks must be given due consideration; there was no "one-size-fits all" approach. Cooperation across the arts and entertainment sector had been key to operations under the restricted conditions of the COVID-19 pandemic, in particular setting standards to ensure the safety of those working on productions. Much remained to be done, however, to enrich the understanding of the issues at stake and to enhance good practice across the entertainment sector worldwide.
22. A representative of the European Broadcasting Union said that his organization was the world's largest alliance of broadcasting media. Radio broadcasting was undergoing interesting developments, with the majority of radio studios now livestreaming on camera and broadcast live on television channels. While that situation raised questions on the future of radio, and the skills and jobs unique to it, it also raised opportunities for new jobs, skills and outreach to audiences. Radio was one of the most disrupted subsectors in arts and entertainment; transformation and the influence of digital technology and the evolution of large media companies required adaptability and resilience.

III. Consideration of the proposed points for discussion

1. **What are the main opportunities and challenges to promote decent work and fully harness the economic and employment potential in the arts and entertainment sector in the context of digital and technological advances, globalization, environmental sustainability, demographic changes, a human-centred COVID-19 recovery and other drivers of change?**
23. The Worker Vice-Chairperson said that the primary challenge for decent work in the arts and entertainment sector was the informal, temporary and precarious nature of employment, which was exacerbated by lack of recognition of worker status and the resultant loss of the right to organize and bargain collectively, and the absence of social protection, including healthcare access and pensions. Lack of fair compensation for workers for their contribution to creative works with ongoing value was also a challenge, exacerbated by digitalization. Occupational safety and health should be given due consideration; long and unsafe working hours were common, and had been increased by the restrictions imposed during the COVID-19 pandemic and the concessions made by workers to save the industry. Those changes to workplace practices had since become the norm, to the significant disadvantage of workers and the industry as a whole. A further challenge was caused by the rapid development of technology, in particular fundamental changes to distribution mechanisms in the recorded media industry and the introduction of artificial intelligence with significant creative

capabilities, which was threatening jobs. Lastly, full application and enjoyment of intellectual property rights was crucial to maintaining a culture of creativity and enabling creative workers to make a sustainable living. Those rights were also being brought into question by technological advances.

24. Social dialogue would afford opportunities to strengthen the stability and sustainability of the sector. Strong principles of social protection could be established, through which governments and employers could counterbalance the precariousness of work for the benefit not only of workers but of the industry as a whole. The strong cooperation to seek solutions during the COVID-19 pandemic had demonstrated how effectively the social partners could work together, also in collaboration with governments, for the benefit of the sector. Fairness and sustainability of the sector could be advanced by ensuring fair remuneration for workers, and enabling them to negotiate and bargain collectively. Facilitating worker mobility by streamlining cultural exchanges, reducing formalities and restrictions on crossing borders, and eliminating double taxation would afford significant opportunities to the sector as a whole. Increasing inclusivity and diversity in the sector would make it better and stronger. Lastly, working together on technological change to harness its benefits while maintaining a human-centred approach, would be essential. With the correct regulatory framework and parameters for use, artificial intelligence could assist, rather than replace, workers. Indeed, part of the statement he had just delivered had been written by ChatGPT.
25. The Employer Vice-Chairperson highlighted that a vibrant arts and entertainment industry created employment opportunities for a wide variety of workers, and afforded enormous opportunities for MSMEs, not-for-profit entities, and commercial enterprises, which together formed an interdependent industry. In 2019, the direct economic output of the sector had exceeded US\$803 billion worldwide. The industry had suffered unprecedented disruption during the COVID-19 pandemic, and despite the resumption of in-person performances, it was yet to recover and stabilize. Recovery and the future of decent work would depend on the resilience of business. Important lessons had been learned. The industry relied on the talent, ingenuity and skills of a myriad of professions. Companies must rebuild their financial reserves, despite current economic uncertainty. Skills development and lifelong learning were essential. Needs should be identified through social dialogue, and education tailored to meet them. The loss of workers during the pandemic had resulted in critical shortages in the industry, not only in professions directly linked to the sector, but also in related trades, which had diminished industry capability; live productions were being cancelled owing to lack of professional and technical workers.
26. There was no one-size-fits-all approach to decent work in the arts and entertainment sector. While experience could be shared and lessons learned, local conditions must be taken into account. Industries with large projects involving the cooperation of numerous creators had different needs to individual artists who worked as entrepreneurs. The diversity of the sector must be recognized and decent work advanced for all workers: diverse working arrangements invariably required differentiated approaches and interventions. With appropriate regulation, diverse forms of work could be used to fill employment gaps in a context of decent work. Technological transformation also afforded opportunities to advance safer work environments, make the sector more inclusive and create new jobs in technology-related spheres. Technology should be leveraged for innovation, creation of better jobs and opportunities, entrepreneurship and sustainable development. Bridging the digital divide constituted both a challenge and an opportunity; governments must build the requisite enabling environment related to tax incentives, banking, internet connectivity and freedom of expression. Demographic shifts were also impacting the sector. In some regions, ageing

populations would require interventions to reskill and adapt to the labour market. In others, young people entering the labour market must be provided with the appropriate skills. Young talent could be honed and shaped in line with digital and technological innovation.

27. The COVID-19 pandemic had highlighted the importance of occupational safety and health. Safe working environments were a joint responsibility: while employers had key role, small and medium-sized enterprises (SMEs) required support from governments. SMEs faced significant cost pressures. Decreased consumer confidence, supply chain issues, a disrupted investment pipeline and skills shortages were all impacting the sector. A lack of enabling frameworks for entrepreneurs, along with overly prescriptive regulations, hampered formal employment creation. The sector had many opportunities before it; all stakeholders must work together to overcome challenges and strengthen collaborations for the development of new skillsets.
28. The Government Vice-Chairperson (Spain) said that although the arts and entertainment sector was growing and innovative, workers in the sector faced uncertainty with regard to the future of work. Technological transformation not only created opportunities with regard to increasing access to artistic and cultural content, but also represented a risk to stable jobs, pay and working conditions. The COVID-19 pandemic had highlighted the vulnerability of workers in the sector, and in particular the high levels of informality that resulted in a lack of social protection and health coverage. Intellectual property rights must be protected to ensure just distribution of profits from creative content to artists and authors. Cultural policies to support traditional and local forms of production should be put in place to ensure a balance with the use of digital platforms. Investment in education, skills-building and lifelong learning was essential to enable workers to keep pace with digital transformation. Given the widespread informality in the sector, focus must be placed on policies to encourage the transition to the formal economy, with employment opportunities rooted in decent work. Informality and the resultant lack of regulation affected women workers disproportionately. More focus should be placed on creating a sustainable future and ensuring a climate conscious, carbon neutral arts and entertainment sector. Only through freedom of association and the right to collective bargaining for all workers could artists have full enjoyment of their rights to artistic expression in a context of decent work, with fair remuneration and social protection.
29. The Government representative of Sweden, speaking on behalf of the EU and its Member States, said that despite the economic importance of the arts and entertainment sector, economic and social conditions for artists and cultural professionals were deteriorating. Education, upskilling and lifelong learning initiatives were required to enable workers to keep pace with green and digital transformations. Shifts in the labour market were resulting in increasing informality and insecure forms of work, which, together with the growing platform economy, were having a significant impact on the sector, with fundamental principles and rights at work challenged.
30. The sector was characterized by atypical and non-standard forms of employment, resulting in fluctuating incomes for workers. Solo self-employed workers should be able to earn a decent living and have full access to social security, and should enjoy the rights to freedom of association and collective bargaining. Certain provisions of the EU Competition Law had been cited as an obstacle in that regard. To offer clarity on the application of the Law, the European Commission had published guidelines on the matter. A directive on copyright and related rights in the digital single market had also been issued, including a provision on appropriate and proportional remuneration. Women continued to face obstacles to equal access to the arts and entertainment labour market, and faced widespread violence and harassment in the workplace. Governments must ensure that the relevant ministries, departments and

authorities at the national and local levels had sufficient resources to promote decent work in the arts and entertainment sector.

31. The Government representative of Zimbabwe described efforts to bolster Zimbabwe's cultural and creative industries, which were still in their infancy. Technological development was a double-edged sword: while production costs could be saved and global dissemination facilitated by prioritizing online access and streaming for musical content, artists could face decreases in revenue owing to lack of respect for intellectual property rights. Significant opportunities lay in sharing information and best practices, to enhance the welfare of workers in the arts and entertainment sector, through collective bargaining.
32. In Zimbabwe, efforts were being made to foster creativity and innovation, and ensure social protection, including coverage of medical costs and funeral assistance. The Government funded arts festivals, provided grants and loans for those who had lost revenue during the COVID-19 pandemic, provided short-term employment for artists during government events and national days, and supported Zimbabwean artists' mobility on the international stage. Challenges persisted with regard to the high levels of informality in the sector, and the lack of an adequate governance framework to link entertainment, employment and labour market institutions. Traditional labour inspections were difficult to enforce, owing to the nature of work in the sector and the peculiar working hours. Most artists were own-account workers. The changing nature of piracy from physical to online theft, also posed a challenge. Lastly, Zimbabwe's technological infrastructure required further development.
33. The Worker Vice-Chairperson said that while there was no "one-size-fits-all" solution to the challenges raised, labour rights were universal rights and should apply to all workers. Workers in the arts and entertainment sector were not entrepreneurs by choice. The precarious work situation of many in the sector was created by employers who chose precarious employment arrangements for their own convenience and benefit. Any worker who worked under the control of another, such as a producer, was not truly an entrepreneur. Those who were forced to be a one-person business to be able to pursue their art should have the same rights as any other worker. The Workers' group welcomed the development of legal and policy frameworks by several governments, which took account of the needs of all workers, reflecting a modern understanding of the realities of work in the sector.
34. With regard to the impacts of the COVID-19 pandemic, remarks regarding the challenges faced by employers rang hollow in comparison with the lives lost, suffering and sacrifices of millions of workers throughout the pandemic. For the conclusions of the technical meeting to be meaningful, they must have social dialogue and collective bargaining at their heart. Collective bargaining was essential to tackle the complex and nuanced challenges unique to the arts and entertainment sector. Occupational safety and health in the workplace was the responsibility of employers and governments. Lastly, while the uptake of artificial intelligence might constitute an opportunity for employment creation in some cases, without a human-centred approach to technological development, decent work would be threatened by disruption to traditional patterns of work and the replacement of workers.
35. The Employer Vice-Chairperson said that the discussion had shown the sector's substantial contribution to job creation and economic growth, while highlighting the diversity and dynamism of a sector with wide-ranging needs. Areas in which the views of the constituents converged included the importance of skills development to cope with change and foster employability, and the significant impact on the sector of technology and digitalization and swift advances in their uptake during the COVID-19 pandemic. The benefits of artificial intelligence were being studied by several organizations, which were gathering information on

best practices. There remained, however, a lack of data and substantive information on the advantages of artificial intelligence in the world of work. Further study in that regard was required. Skills development to remain employable and keep pace with transformation was essential. Inclusivity and diversity with regard to access to the labour market must also be promoted. Full application of intellectual property rights was essential in that regard.

36. Social dialogue was indeed crucial, as was access to social protection. The primary responsibility of the state in that regard must be recognized. The root causes of protection gaps should be accurately identified, and where informality prevailed, governments should advance the transition to the formal economy and ensure comprehensive and sustainable social protection was accessible to all workers. While the Workers' group argued that deficits were linked the use of diverse working arrangements, the Employers' group disagreed. Diverse working arrangements should not be stigmatized as "precarious", and self-employment did not constitute a precarious working arrangement. Diverse working arrangements were not the same as informality; employment relationships that differed from traditional fixed-term working arrangements existed under legitimate legal frameworks. Mobility and the portability of social security entitlements were also crucial for decent work. Governments could ensure that the relevant bilateral and multilateral arrangements were in place to facilitate cross-border mobility and avoid double taxation. The Employers' group was committed to achieving a balanced set of conclusions to offer guidance to the benefit of all.

2. What policies and measures have worked, what has not worked well, and what needs to be done to ensure a future of work in the sector that is inclusive, sustainable and resilient? What are the good practices and opportunities for sustainable economic development and decent job creation related to the sector?

37. The Employer Vice-Chairperson said that the lessons learned from the COVID-19 pandemic should be harnessed and not forgotten. Collaboration and unprecedented forthrightness had saved millions of jobs and enterprises. Those partnership efforts must continue, to secure a worthy future for the arts and entertainment sector. The diversity of the sector required diverse measures; there was no one-size-fits-all approach to securing decent work. Industries with large global projects involving the collaboration of numerous creators had different needs to SMEs and individual artists.
38. Skills shortages must be addressed; grant programmes to provide access to education and training for new workers, including traineeships, and reskilling, retraining and upskilling for existing workers, were crucial to fill skills gaps and advance employability. Employers should be involved in tailoring education and vocational programmes to the needs of the labour market. Rapid technological development was giving rise to the need for new skills and would create new jobs in the future. Industry, educational institutions and governments must work together to train an appropriately skilled workforce to meet current and emerging demands. Enabling environments and support for business development and management should also include educational programmes for entrepreneurs and small business operators.
39. The protection of intellectual property was a key area requiring government action. Businesses could only develop when supported by robust intellectual property regulation to enable content creation by protecting the work of arts and producers, thereby encouraging innovation, entrepreneurship and economic opportunities for all. Intellectual property standards must reflect the broad diversity of products of the arts and entertainment sector: music publishing differed significantly from museum exhibition curation or the production of a television series. Furthermore, while some content was created by individuals, other artistic

entertainment experiences were the result of a combination of resources and talents. Targeted, up-to-date policies were needed to ensure that intellectual property rights were upheld for creators and enterprises alike. Social dialogue was crucial to advancing decent work and productive employment with strong representation of businesses and workers alike. The ILO had a key role in encouraging its Member States to share information and best practices in that regard.

40. The Worker Vice-Chairperson underscored the importance of social dialogue, and in particular the ability of the self-employed workforce to bargain collectively. Social protection was crucial; governments had a key role to play, but employers must also collaborate with workers to ensure that adequate social protection was in place, in particular for workers in non-traditional work arrangements. Systematic information gathering was needed to understand trends in that regard. While there had been some positive experiences of collaboration between employers and workers during the COVID-19 pandemic, emergency sectoral support had highlighted the difficulties and precarious circumstances of a freelance workforce. In many cases, emergency funding had been made available for institutions rather than individuals, and as such had failed to reach the most vulnerable workers.
41. Regarding intellectual property rights, the ILO must ensure a human-centred approach to intellectual property, in particular as co-administrator of the Rome Convention. The Office should resume a more proactive role in intellectual property issues. The adoption of the EU Directive on copyright and related rights in the digital single market 2019/790 constituted a positive step towards addressing contractual freedom, giving creators access to information and transparency about the revenue generated from the exploitation of their work, and helping to evaluate whether the compensation received was appropriate. The overarching principle of appropriate proportionate remuneration should be included in the conclusions of the technical meeting. The lack of enforceable regulations and sanctions in that regard was regrettable. Payment arrangements for authors and performing artists for the ongoing use of their work were lacking. In that regard, the ILO should encourage implementation of the Beijing Treaty on Audiovisual Performances.
42. Turning to occupational safety and health, governments and employers must apply the lessons learned during the COVID-19 pandemic, ensuring robust “back-to-work” protocols and safe working conditions after restrictions had been lifted. Unsafe, protracted working hours remained a particular challenge in the sector, which must be addressed. With regard to technological development, in particular artificial intelligence, standards must be set to ensure the appropriate and safe deployment of those technologies in a manner that provided opportunities to workers, rather than replacing them. The ILO could develop principles and guidance in that regard. While skills development and training were part of the solution to challenges posed by the implementation of such technologies, there were other issues still at stake. Data mining and information gathering for programming artificial intelligence technologies could perpetuate discrimination. To ensure gender equity and equality for disadvantaged groups, policies are needed on protection against harassment and to ensure that the workplace was accessible and welcoming for all.
43. The Government Vice-Chairperson (Spain) said that despite the wide range of realities and opinions in the government group, there was a common view that education, upskilling and training were essential to adapt the workforce to new technologies and to boost the sector’s recovery from the impacts of the COVID-19 pandemic. Cooperation between the public and private sectors was needed to ensure the production of good quality cultural products. The prevalence of informality in the sector, lack of resources and limited investment during the pandemic, as well as gender disparities and lack of recognition of intellectual property rights,

constituted challenges to the sector's economic development. Social protection mechanisms were crucial for the well-being of all in the sector, among other measures to promote the creation of cultural infrastructure, including cultural centres, and support MSMEs, including start-ups. Governments must cooperate closely with industry to bridge gaps in the regulation of artificial intelligence. Governments could work together with local cultural sectors to promote all cultural expressions and contribute to the transition to formality. The status of artists must be recognized as a key step towards improving their working conditions, protecting their work and ensuring fair distribution of the profits thereof. MSMEs and the social and solidarity economy should be included in that regard. Inclusivity could be boosted through digital skills development to empower women and young people, promoting the participation of civil society in art and culture, and securing the right to social dialogue.

44. The Government representative of Sweden, speaking on behalf of the EU and its Member States, said that to ensure economic development, decent job creation and an inclusive, resilient and sustainable future for the arts and entertainment sector, access to funding must be improved. Social protection for all workers, inclusivity in the sector, and support for MSMEs depended on availability of financial resources. Upskilling and reskilling were essential to keep pace with the green and digital transitions. Interdisciplinary cooperation between the arts and entertainment sector and the environment and technology sectors should be promoted, fostering innovation in both culture and industry, and taking full advantage of digital technologies. The arts and entertainment sector was a driver of sustainability; cultural actors had a key role in tackling climate change. The resilience of arts and entertainment professionals must be enhanced. A sustainable labour market should be developed, with social protection for all. Inclusive business models should be promoted, intellectual property rights must be respected, and new and diverse ways of securing artists' income should be considered. Formal processes for social dialogue must be strengthened to allow the voice of arts and entertainment professionals to be heard in policymaking and negotiation.
45. In the EU, the application of the European Directive on copyright and related rights in the digital single market was being monitored, and developments in contractual practices imposed on creators and their impact on remuneration were being analysed. The "Creatives Unite" platform had been set up to provide a common space for all cultural and creative stakeholders in Europe and included online guidance on access to funding, mobility and intellectual property rights. The Creative Europe programme also contributed to the recovery of the sector from the impacts of the COVID-19 pandemic, reinforcing competitiveness, inclusivity, digitization and environmental sustainability. Particular attention was paid to promoting gender equality. Measures to ensure recognition of the status of artists had been put in place in several European States, along with other schemes and "fairness processes" to support the arts and creative practice, provide financial support and share best practices. The status and working conditions of artists were priority issues under the new EU Work Plan for Culture 2023–26.
46. The Government representative of Zimbabwe referred to several inclusive, sustainable and resilient legal and policy frameworks in her country, seeking to support and give guidance to artists, create an enabling environment for inclusive participation, economically empower vulnerable groups in the sector and promote formalization. Among others, the National Arts, Culture and Heritage Policy promoted arts, culture and heritage as exploitable economic assets. A policy framework was also in place targeting the inclusion of young people, women and persons with disabilities. Given the broad gender stereotyping in the industry, steps were being taken to encourage women's equal participation and eliminate harassment, with a particular focus on the transition from the informal to formal economy and the provision of support to artists through grants, loans and scholarships, as well as assistance for mobility.

47. The Government representative of the Democratic Republic of the Congo referred to his country's long history of law-making and institutions to support the arts and cultural sector and protecting the recovery of royalties for workers in that sector. The long-standing national cultural fund was being converted into a bank for cultural development credit. A national programme for communication on the arts and entertainment sector was being developed, with the involvement of multiple ministries and public bodies, which would seek to establish cultural businesses, such as theatre companies and publishing houses, build public infrastructure for the arts and entertainment sector, formalize the status of the artist and develop favourable fiscal policies.
48. The Employer Vice-Chairperson welcomed the convergence of opinions on several issues, and underscored the importance of collaboration and the application of lessons learned. The Employers' group welcomed the emphasis on education, upskilling and cooperation to rebuild the sector and recover from the impacts of the COVID-19 pandemic.
49. The Worker Vice-Chairperson said that his group was encouraged by the enthusiasm of the Employers' group and governments with regard to support for upskilling and training, which must be undertaken with the needs of workers and employers in mind, enabling workers to remain relevant and employable. While the Workers' group agreed that governments had an important role to play in providing training, skills development and social protection, employers also had a responsibility in that regard, especially in ensuring the portability of health coverage and pensions. Further efforts were required to put in place robust anti-harassment programmes.

3. What recommendations should be made for future action by the International Labour Organization and its Members (governments and employers' and workers' organizations) regarding the future of work and the current changes in the arts and entertainment sector, including lessons learned during the COVID-19 pandemic?

50. The Worker Vice-Chairperson said that employers' organizations, governments and workers should work together to engage in effective social dialogue and acknowledge the fundamental right of all workers, especially intermittent workers, to collective bargaining. Policies should be developed to foster just transitions and strengthen preparedness for future crises. Living wages, decent working conditions and adequate social protection, in particular access to healthcare and pension schemes, should be provided for all workers, and the use of written contractual arrangements should be encouraged. Portability of social protection rights and benefits, and prevention of double taxation should be fostered through bilateral agreements. Performers and authors should enjoy recurring revenue for all online access to their work; equitable and non-waivable remuneration should be collected from digital platforms by the management organization representing the artist. Steps should be taken to ensure the occupational safety and health of all workers; the list of occupational ailments should be revised, with the addition of those specific to the sector, and measures taken to ensure health coverage for workers affected. Strategies should be put in place to ensure equality, inclusion and non-discrimination, with effective measures to prevent and protect against violence and harassment.
51. The well-known expression, "the show must go on" set dangerous expectations that workers would work under any conditions, irrespective of their well-being. Work-life balance must be promoted, with limits on working times respected, taking account of the particularities of the sector, such as working hours spent in rehearsal and individual preparation for productions

and performances. The ILO should provide policy guidance in that regard. A human-centred approach to technology was needed, to ensure that the development and use of artificial intelligence upheld transparency obligations, complied with copyright and associated rights, and respected the labour rights of performers and creative workers. Cultural exchange should be encouraged by streamlining visa and work permit application procedures for creative workers travelling for touring purposes. Lastly, labour inspection systems should be strengthened to ensure that performances and productions scheduled late in the day or at weekends were subject to inspection.

52. The ILO should support its constituents in engaging in effective collective bargaining to ensure full and productive employment and decent work for all. It should provide technical support in the form of capacity-building meetings and workshops, particularly where decent work deficits had been identified, to promote decent and sustainable work and access to universal, adequate and sustainable social protection for all in the sector. Regional meetings and workshops should also be held to ensure that the transformation of the sector, including technological change, provided decent work. The ILO should conduct a survey of the state of the industry with regard to that transformation, including the uptake of artificial intelligence, to inform further discussions. A study should also be conducted on social solidarity entities and their capacity to advance working conditions during transformation. A joint ILO/WIPO working group on intellectual property rights should be established, and the ILO should set up a sectoral working group to consider changes in working conditions, in particular as a result of digital transformation, in real time. Policy guidance should be issued on implementation of the right to bargain collectively in the sector, the removal of barriers to mobility and the status of artists as workers. Lastly, the conclusions of the technical meeting should include a list of relevant standards.
53. The Employer Vice-Chairperson recalled that during the darkest points of the COVID-19 pandemic, workers and employers had come together to save the arts and entertainment sector, under the common goal of improving the sustainability of workplaces for all. With that in mind, social dialogue should be encouraged, strengthened and guaranteed as the cornerstone of progress in the sector. Decent work and productive employment required the strong representation of businesses and workers alike. The ILO should strengthen the capacity of its constituents to respect, promote and realize fundamental principles and rights at work, by sharing good practices and policy interventions. Governments and the social partners should work together to address immediate and critical skills shortages, through funding and programmes for skilling, reskilling and upskilling for new and existing workers in the sector. Governments should secure appropriate funding for industry-led skills development initiatives, vocational training and traineeships; a culture of lifelong learning should be promoted. Trade unions should also support skilling interventions for their members.
54. With regard to technological development, governments should invest in measures to promote innovation and entrepreneurship, and provide funding support to facilitate equal access to technologies. Policies should be put in place to leverage technologies, and artificial intelligence in particular, for economic development and decent work creation, against a backdrop of strong social dialogue. Appropriate regulatory frameworks should also be put in place to ensure protection of intellectual property rights, which would boost innovation, entrepreneurship and economic opportunity. Consultation with the social partners would be key in that regard.
55. Member States, with the support of the ILO, should ensure adequate and sustainable social protection, through a combination of sources of contributory and non-contributory financing, with progressive and effective taxation systems. The ILO should help its constituents to design,

sustainably finance and implement national social protection policies and strategies that were gender responsive and inclusive, and were aligned with the realities of the arts and entertainment sector. Social protection policy should be coordinated with employment and other social and economic policies to facilitate the transition from the informal to the formal economy in the arts and entertainment sector. The ILO should support its Member States in ensuring access to adequate social protection for workers in all types of employment, including self-employment, and in ensuring the preservation and portability of acquired entitlements.

56. All stakeholders in the sector should promote gender equality and inclusivity, including measures to secure access to the labour market for persons with disabilities and other marginalized groups. All forms of discrimination should be eliminated from the labour market. Government should promote gender-responsive employment policies. The ILO should provide technical support in that regard. The ILO should also undertake research and analysis on access to social protection in the arts and entertainment sector, and should publish data disaggregated by gender and employment status, including on freelancers and independent contractors. Data should be collected on the representation of women, migrants and persons with disabilities in the sector. Research should also be conducted on the labour market implications of the uptake of new technologies, in particular artificial intelligence. Information on best practices should be compiled and published to advance comprehensive and sustainable social protection systems for workers in the arts and entertainment sector. South-South and triangular cooperation should be promoted for the sustainability, development and resilience of the sector.
57. Lastly, the Employers' group did not wish to see a list of international standards annexed to the conclusions of the technical meeting. The whole body of international standards was valid.
58. The Government Vice-Chairperson (Spain) said that the Government group wished to see a list of relevant standards annexed to the draft conclusions. The list did not have to be exhaustive, but would be a useful reference for the application of the conclusions. The ILO should give technical support to Members, in particular in defining the status of the artist in countries where regulatory frameworks for the protection of labour rights of artists were lacking. The ILO should work together with other multilateral organizations, in particular WIPO, to improve working conditions and promote the protection of intellectual property rights and bring an end to piracy and the associated loss of income for creators. ILO technical support to Member States would address inequalities between States which impacted on their capacity to contribute to arts and entertainment. Studies should be conducted on decent work deficits in the sector, and guidance issued on how to facilitate social protection. Investment in education and skills would be necessary to overcome potential job losses caused by the uptake of new technologies, in particular artificial intelligence.
59. Governments should promote decent work, inter alia by investing in skilling, upskilling and reskilling opportunities for workers; public-private cooperation to fill knowledge gaps should be encouraged. The resilience of the workforce should be strengthened to withstand the introduction of new technologies. Particular efforts should be made to ensure implementation of the ILO Employment Relationship Recommendation, 2006 (No. 198) and apply worker classification criteria. Fair remuneration for workers should be protected and gender equality and inclusivity in the sector should be promoted. Steps should be taken to update legislation regulating employment in the sector, and to facilitate labour inspection. Support should be provided for MSMEs and artists' mobility should be promoted. The social partners were encouraged, through their representative organizations, to engage in social dialogue and collective bargaining to defend the interests of artists and ensure that workers were hired and registered appropriately.

60. The Government representative of Sweden, speaking on behalf of the EU and its Member States, said that while international labour standards, which were important for ensuring decent work, were applicable to the arts and entertainment sector, many workers in the sector faced decent work deficits, excessive working hours, unpaid work, lack of social protection and no unemployment support, often as a result of precarious short-term contracts. An inclusive interpretation of the definition of “worker” in the sector was therefore essential, and must include solo self-employed workers. Access to freedom of association and the right to collective bargaining for all workers was crucial for securing decent work. The ILO should continue to promote the universal ratification of the fundamental conventions. Unequal access, participation, pay and visible share in the value chain persisted. It was hoped that the discussion at the International Labour Conference on the General Survey on Gender equality and non-discrimination, family responsibilities, and maternity protection could set the basis for realizing gender equality and non-discrimination, as well as addressing accessibility for persons with disabilities, in the sector.
61. With regard to the ongoing green and digital transformations, a skilled workforce was required. International labour standards providing a framework for realizing inclusive and equitable high-quality education and lifelong learning opportunities for all must be implemented. The ILO should strengthen coordination with other organizations, including through collecting data and information, producing reports and studies, collating good practices, and supporting governments and social partners.
62. Governments should ratify and apply appropriate conventions and examine whether the criteria for the classification of an employment relationship and other legal conditions of work were sufficiently clear in national legislation. Public authorities must take the lead by making policies to leverage change where needed, in particular to address disguised employment practices and clarify employment status, in line with international standards. When distributing public funding, national, regional and local authorities should ensure that the terms and conditions negotiated by representative organizations were respected. Governments should also ensure that workers in the arts and entertainment sector, including those in non-standard forms of employment, benefited from national social protection schemes; social protection, decent working hours, work-life balance and a safe and healthy working environment were essential elements of decent work. International mobility was a key element of work for artists. Governments should take measures to facilitate social protection coverage and access to visas and work permits for travelling artists, and to eliminate risks of double taxation. They should support the empowerment of the social partners and promote social dialogue and collective bargaining. Lastly, they should strengthen copyright legislation to guarantee adequate and proportionate compensation for artists, in particular in the context of rapid digital development.
63. The Worker Vice-Chairperson acknowledged the contributions made by governments throughout the discussion, in particular with regard to public procurement. With that in mind, both the Labour Clauses (Public Contracts) Convention, 1949 (No. 94) and the Employment Relationship Recommendation, 2006 (No. 198) should be included in an appendix to the conclusions to be adopted by the technical meeting. References to the precarious nature of work done by many workers in the arts and entertainment sector had also been appreciated; appropriate measures should be taken to address concerns in that regard. Turning to the issue of cooperation, which had been cited by the Employers’ group as having been particularly strong and successful in tackling the challenges to the sector posed by the COVID-19 pandemic, the Workers’ group feared that, while there had indeed been significant success, cooperation was dwindling with the lifting of restrictions. Employers had reverted to pre-

pandemic approaches that were not collaborative or cooperative. Cooperation was essential to safe and appropriate workplace environments.

64. Trade unions supported skilling interventions, and had long promoted (and would continue to promote) a culture of lifelong learning. The Workers' group underscored the difference between "living" and "adequate" wages; remuneration issues in the arts and entertainment sector should be addressed from the perspective of living wages. Collective bargaining was crucial for all workers, irrespective of their form of engagement, which required collaboration between employers and workers. Gender equality and gender equity were essential measures in that regard and should be strengthened to promote and protect the inclusion of under-represented groups and the elimination of all forms of discrimination and harassment based on personal characteristics.
65. The Employer Vice-Chairperson thanked all those who had participated in the discussions, which had been conducted in a courteous, yet candid, manner. On the whole, there had been more elements of consensus than divergence, which would provide a good basis for the recommendations to be adopted. Areas where views clearly diverged should not be included in the conclusions, to avoid the risk of not reaching consensus.
66. The Secretary-General of the Meeting requested guidance on whether a list of standards should be annexed to the draft conclusions, as was common practice for ILO sectoral meetings. The previous technical meeting, for example, which had taken place in December 2022, on the future of work in the oil and gas sector, had agreed to include an appendix to its conclusions, entitled "non-exhaustive reference list of ILO declarations, instruments and guidance".
67. The Worker Vice-Chairperson said that his group was in favour of the addition of an appendix, which would facilitate the readability of the conclusions, titled as suggested by the Secretary-General of the Meeting.
68. The Employer Vice-Chairperson maintained that they would be in favour of an appendix with a list of standards that were mentioned in the report for discussion. The Worker Vice-Chairperson said that all standards referenced during the discussion should be included in the draft appendix. The Chairperson stated that an appendix with a list of standards would be prepared by the Office, for consideration by the groups.
69. The Government Vice-Chairperson (Spain) said that his group had avoided making references to standards during the discussion on the understanding that a list would be annexed to the conclusions of the technical meeting. He therefore thanked the Employers' group for its flexibility, and remained in favour of the addition of an appendix containing a non-exhaustive list of relevant instruments. Such an appendix would help raise awareness of the relevant instruments.

IV. Consideration and adoption of the draft conclusions

70. The meeting nominated representatives and advisers from each group to form a working party, which met on 16 February 2023, to examine the draft conclusions drawn up by the Office on the basis of the discussions held over the previous days.
71. The members of the working party were: Government representatives – Mr A. Bilbao (Vice-Chairperson, Spain) and Mr A. Essah (Vice-Chairperson, Nigeria), Ms Y. Rocma Astuti (Indonesia), Ms N. del Sante and Mr S. Ahlenius as adviser (Sweden) and Ms M. Hanga and Ms C. Manuhwa as adviser (Zimbabwe); Employer representatives – Mr J.J. Díaz Mirón (Vice-Chairperson), Ms S. Minster, Ms L. Rubbo, Mr C. Agossou with Mr S. Elegba, Ms I. Schmalbauch, Ms W. Koukoui and Mr L.R. Morales as advisers; and Worker representatives – Mr D. Crabtree-

Ireland (Vice-Chairperson), Ms M. Kelly, Mr D. Gomes, and Ms S. Santana with Mr D. Laquer, Mr J. Studinger, Mr B. Mauchel, and Ms M. Llanos as advisers.

72. The draft conclusions on the future of work in the arts and entertainment sector, as revised by the working party, were submitted to the meeting for adoption on 17 February 2023.

The future of work in the arts and entertainment sector

Opportunities and challenges to decent work in the arts and entertainment sector in the context of key drivers of change and a human-centred COVID-19 recovery

Proposed paragraph 1

73. Paragraph 1 was approved.

Proposed paragraph 2

74. At the request of the working party, the Office had revised the beginning of the second sentence to read, "The economic and social importance of the sector became further evident during the COVID-19 pandemic, which also highlighted its".
75. The Worker Vice-Chairperson, Employer Vice-Chairperson and Government Vice-Chairperson (Spain) approved the Office's proposal.
76. Paragraph 2 was approved as amended.

Proposed paragraph 3

77. The Government Vice-Chairperson (Spain) said that his group had wished to replace the word "creation" by "transformation", with a view to maintaining neutral language. It could, however, in a spirit of compromise, accept "creation and transformation".
78. The Worker Vice-Chairperson said that the concept of job losses should also be included, for the purposes of balance. His group had therefore proposed the addition of a new second sentence, to read, "They have also resulted in worker displacement and job losses, as well as threats to the success and sustainability of the sector."
79. The Government Vice-Chairperson (Spain) supported the Workers' proposal.
80. The Employer Vice-Chairperson said that his group had preferred the original text as proposed by the Office. In a spirit of consensus-seeking, he proposed a subamendment to add the word, "However" at the beginning of the proposed new sentence, and to insert "may" before "have resulted".
81. The Worker Vice-Chairperson pointed out the lack of balance in the definitive statement that artificial intelligence and digitalization had contributed to employment creation and transformation but only "may" have resulted in worker displacement and job losses. However, in a spirit of compromise, his group would accept the subamendment.
82. The Employer Vice-Chairperson subsequently withdrew a proposed amendment to add, at the end of the first sentence, "however, this may have an impact on the world of work and on the sustainability of the sector."
83. Paragraph 3 was approved as amended.

Proposed paragraph 4

84. The Employer Vice-Chairperson wished to insert “may” before “exist” in the first sentence.
85. The Worker Vice-Chairperson said that his group felt strongly that decent work deficits existed and could therefore not accept the Employers’ proposal. The Government Vice-Chairperson (Spain) concurred.
86. The Employer Vice-Chairperson said that there was nothing conclusive in the Office report on decent work deficits in the sector. He reiterated his group’s proposal.
87. The Worker Vice-Chairperson said that, on the contrary, the report referred to explicit exclusions from social protection, which indeed constituted deficits in decent work.
88. Following informal consultations held by representatives from the three groups, the Worker Vice-Chairperson said that an agreement had been reached to revise the first sentence of the proposed paragraph to read, “While the arts and entertainment sector creates a great deal of decent jobs, some decent work deficits exist, especially where informality prevails.”. The insertion of “may” after “Challenges” at the beginning of the final sentence had also been agreed.
89. The Employer Vice-Chairperson and the Government Vice-Chairperson (Spain) supported the compromise text as proposed.
90. Paragraph 4 was approved as amended.

Proposed paragraph 5

91. Paragraph 5 was approved.

Proposed paragraph 6

92. The Worker Vice-Chairperson proposed inserting “, freelance, gig” after “temporary”.
93. The Employer Vice-Chairperson said that his group could accept the insertion of “freelance” but wished to delete “gig”.
94. The Worker Vice-Chairperson said that while gigs were an important type of work in the arts and entertainment sector, in an effort to achieve consensus his group could accept the subamendment to delete “gig” as proposed by the Employers’ group.
95. The Government Vice-Chairperson supported the amendment, as subamended.
96. Following a discussion on whether certain types of work “often give rise to” decent work deficits, or “may give rise to” decent work deficits when workers had limited access to social protection, in a spirit of compromise, the Worker Vice-Chairperson withdrew a proposal to insert the word “often” and the Employer Vice-Chairperson withdrew a proposal to insert the word “may” before “give rise to”.
97. In the final sentence, the Employers’ group had proposed an amendment to replace, after the words “among other reasons,” the rest of the sentence by “workers have limited access to social protection or when these are not used for the purpose for which they are intended.”. During the working party’s discussions, the Workers’ group had proposed subamendments to insert “or non-existent” after “limited”, to insert “and/or labour” after “social”, and to insert “work arrangements” after “these”.
98. The Employer Vice-Chairperson said his group could accept the subamendments, provided that the sentence ended with the word “intended”.

99. The Worker Vice-Chairperson subsequently withdrew a proposed amendment to add, after “intended” the words “for, or are used to circumvent labour rights protections.”.

100. Paragraph 6 was approved as amended.

Proposed paragraph 7

101. Paragraph 7 was approved.

Proposed paragraph 8

102. During the deliberations of the working party, the Workers’ group had proposed the addition of a new second sentence. The Employers’ group had proposed to subamend the new sentence, to read, “The sector must approach all aspects of its work through a lens of diversity, equality and inclusion.”.

103. The Worker Vice-Chairperson and Government Vice-Chairperson (Spain) agreed.

104. Paragraph 8 was approved as amended.

Proposed paragraph 9

105. Paragraph 9 was deleted in the light of the amendments made to paragraph 17(g).

Harnessing the fullest employment potential of the arts and entertainment sector to ensure a future of work that is inclusive, sustainable and resilient

Proposed paragraph 10

106. Paragraph 10 was approved.

Proposed paragraph 11

107. Following informal consultations held by representatives from the three groups, the Worker Vice-Chairperson withdrew a proposal to insert “all” before “workers” and proposed that a full stop be placed after “the arts and entertainment sector”. The remainder of the paragraph should be replaced by a second sentence, to read, “Social dialogue, including collective bargaining plays a fundamental role in building a sustainable and professional industry, facilitating equal access to technologies, fostering entrepreneurship, promoting transition to formality and prevention of informalization, effective and inclusive labour market institutions and a safe and healthy work environment.”.

108. It was so agreed.

109. Paragraph 11 was approved as amended.

Proposed paragraphs 12 to 14

110. Paragraphs 12 to 14 were approved.

Proposed new paragraph after paragraph 14

111. During the discussions of the working party, the Government group had proposed the addition of a new paragraph after paragraph 14, to read, “Policies are needed to promote the social, cultural, religious and spiritual values and practices of indigenous and tribal peoples in arts and entertainment, protect their fundamental labour rights and to ensure their enjoyment of intellectual property and neighbouring rights, copyright and related rights. Such policies

should be designed by and with indigenous and tribal peoples.". The Employers' group had proposed ending the paragraph at "fundamental labour rights" and deleting the remainder of the proposed paragraph.

- 112. The Government Vice-Chairperson (Spain) said that his group could accept the Employers' proposal.
- 113. The Worker Vice-Chairperson agreed.
- 114. Paragraph 14 *bis* was approved as amended.

Proposed paragraphs 15 and 16

- 115. Paragraphs 15 and 16 were approved.

Proposed new paragraph after paragraph 16

- 116. During the deliberations of the working party, the Workers' group had proposed the addition of a new paragraph, after paragraph 16, on the role of social dialogue in ensuring a decent future of work in the sector. Following a lack of agreement in the working party, informal consultations were held by representatives from the three groups. The Worker Vice-Chairperson subsequently presented a proposed revised draft, to read, "In this perspective, social dialogue based on the respect of freedom of association and the effective recognition of the right to collective bargaining has a central role in ensuring a decent future of work in the sector.".
- 117. The Employer Vice-Chairperson and Government Vice-Chairperson (Spain) supported the revised proposed paragraph.
- 118. Paragraph 16 *bis* was approved.

Recommendations for future action by the International Labour Organization and its Members

Proposed paragraph 17

Proposed chapeau

- 119. The chapeau was approved.

Proposed clause (a)

- 120. In view of a lack of agreement on the original clause as proposed by the Office, informal consultations were held by representatives from the three groups. The Worker Vice-Chairperson subsequently presented a revised proposal, to read, "create an enabling environment for effective social dialogue in all its forms, and take action to ensure effective recognition of the right to collective bargaining in the arts and entertainment sector;".
- 121. The Employer Vice-Chairperson and Government Vice-Chairperson (Spain) agreed.
- 122. Clause (a) was approved as amended.

Proposed new clause after clause (a)

- 123. In the light of the revision of clause (a), the Worker Vice-Chairperson withdrew a proposal to add a new clause after clause (a) to read, "take action to ensure effective recognition of the right to collective bargaining for all workers providing their personal labour in the industry,

regardless of form of engagement or employment, including those who may be self-employed;”.

Proposed clause (b)

124. Clause (b) was approved.

Proposed clause (c)

125. The Worker Vice-Chairperson said that, with a view to streamlining the clause and in a spirit of compromise, his group would withdraw its proposals, made during the deliberations of the working party. His group could accept the Government group’s proposal to replace “living wages” by “minimum wages, statutory or negotiated”. The clause would thus read, “review or design, adopt, and enforce policies on adequate minimum living wages, statutory or negotiated, employment relationships, working conditions, such as hours of work and work-life balance;”.

126. The Employer Vice-Chairperson and the Government Vice-Chairperson (Spain) agreed.

127. Clause (c) was approved as amended.

Proposed new clause after clause (c)

128. During the deliberations of the working party, the Workers’ group had proposed the addition of a new clause. With a view to overcoming a lack of consensus, informal consultations were held by representatives from the three groups. The Worker Vice-Chairperson subsequently introduced a compromise draft, to read: “promote the strengthening and implementation of comprehensive and coherent policy and regulatory frameworks on limits on working time, recognizing that the sector has unique working time practices and the need to further advance safe and healthy working environments in the sector;”.

129. The Government Vice-Chairperson (Spain) and the Employer Vice-Chairperson agreed.

130. Clause (c) *bis* was approved as amended.

Proposed clause (d)

131. The Employer Vice-Chairperson said that, on the condition of the acceptance of his group’s proposed amendment to insert, after “SSEs”, “and facilitate the transition to formality” is accepted, it could accept the Workers’ proposal to add “and the prevention of informalization;” at the end of the clause.

132. It was so agreed.

133. Clause (d) was approved as amended.

Proposed new clause after clause (d)

134. During the deliberations of the working party, the Government group had proposed the addition of a new clause, to read, “protect and promote freedom of artistic expression;”.

135. Clause (d) *bis* was approved.

Proposed clause (e)

136. In view of a lack of support, the Worker Vice-Chairperson withdrew a proposed amendment, made during the deliberations of the working party, to insert “regardless of the form of engagement,” before “and just transitions”.
137. Clause (e) was approved.

Proposed clause (f)

138. In the light of the agreement reached on paragraphs 9 and 17(g), and following informal consultations held by representatives from the three groups, the Worker Vice-Chairperson presented a revised proposed clause, which had been agreed by all parties, to read “leverage the use of artificial intelligence and technologies for the benefit of all, ensuring a human-centred approach, including the right to consent to use;”.
139. Clause (f) was approved as amended.

Proposed clause (g)

140. The Worker Vice-Chairperson said that, in view of a lack of consensus in the working party, informal consultations had been held by representatives from the three groups, as a result of which, a revised version of the proposed clause had been agreed, to read, “recognize the importance of copyright and related rights in the art and entertainment sector, and therefore ensure that these rights are implemented in a way that effectively remunerates producers, performers and authors through statutory remuneration, or collective bargaining, or other forms of negotiation, or a combination thereof;”
141. Clause (g) was approved as amended.

Proposed clause (h)

142. The Employer Vice-Chairperson proposed adding, at the end of the clause, “, and in close collaboration with social partners in the design of education systems;”.
143. The Worker Vice-Chairperson said that his group could accept the addition of “, and in close collaboration with social partners” but wished to delete “in the design of education systems”.
144. The Secretary-General of the Meeting pointed out that, when read in conjunction with the chapeau to paragraph 17, the reference to collaboration with the social partners was redundant.
145. The Employer Vice-Chairperson agreed to the subamendment.
146. The Government Vice-Chairperson (Spain) said that, in a spirit of flexibility, if the Employers and Workers deemed it necessary to amend the clause, his group could agree, despite the redundancy pointed out by the Secretary-General.
147. Clause (h) was approved as amended.

Proposed clause (i)

148. At the request of the working party, the Office had prepared a revised draft of clause (i), to read, “provide universal access to comprehensive, adequate and sustainable social protection systems to all workers in the sector, including self-employed workers through a combination of affordable, contributory and non-contributory financing systems, including by not limited to

healthcare and pension schemes and engage in bilateral agreements to enhance the portability of social benefits across borders and employment statuses; and”.

149. The Worker Vice-Chairperson, Employer Vice-Chairperson and Government Vice-Chairperson (Spain) agreed to the proposed revision.

150. Clause (i) was approved.

Proposed clause (j)

151. The Worker Vice-Chairperson informed the meeting that despite strongly held views by all parties, informal consultations held by representatives from the three groups had resulted in consensus. While the proposed language would not have been his group's preference, it had conceded in a spirit of compromise. The revised proposed clause would read, “ensure that international labour standards and other international conventions are applied to tackle not only gender inequality but all inequalities and discrimination faced by workers in the sector. Discrimination on any ground has the effect of nullifying or impairing equality of opportunity or treatment in employment or occupation and has to be adequately addressed and combated.”.

152. The Government Vice-Chairperson and Employer Vice-Chairperson agreed to the proposed wording.

153. Clause (j) was approved as amended.

154. Paragraph 17, as a whole, was approved as amended.

Proposed paragraph 18

155. During the deliberations of the working party, a proposal had been made to place the text of proposed paragraph 18 before paragraph 17.

156. The Government group said that it could only agree to changing the position of the paragraph on the condition that, for the sake of clarity, a chapeau would be added, to read, “Governments have the duty to:”.

157. It was so agreed.

158. The Employer Vice-Chairperson proposed replacing the words “applied to all workers” by “effectively implemented”, and deleting “regardless of their employment relationship”.

159. The Worker Vice-Chairperson did not agree; the wording was pre-approved, having been used in the conclusions of other ILO technical meetings.

160. The Employer Vice-Chairperson said that despite the wording having been used in previous conclusions, his group could not support it in the context of the arts and entertainment sector. He proposed adapting the wording used in the outcome document from the Global Dialogue Forum on Decent Work in the World of Sports. After the words “ratified international labour Conventions”, the remainder of the proposed paragraph would thus be replaced by “protect and are applied to all, in accordance with these Conventions.”.

161. Neither the Worker Vice-Chairperson nor the Government Vice-Chairperson (Spain) could agree to that proposal. It was therefore rejected.

162. Following informal consultations held by representatives from the three groups, the Worker Vice-Chairperson said that his group could agree to delete “regardless of their employment relationship” as requested by the Employers’ group during the deliberations of the working

party. The Employers' group agreed to keep "applied to all workers" before "in the arts and entertainment sector".

163. Paragraph 18 was approved, as amended.

Proposed paragraph 19

Proposed chapeau

164. The chapeau was approved.

Proposed clause (a)

165. The Worker Vice-Chairperson proposed adding the words "for all workers" at the end of the clause.

166. The Government Vice-Chairperson (Spain) said that his group could agree to the proposed amendment.

167. The Employer Vice-Chairperson could not accept the proposed amendment.

168. Following informal consultations held by representatives from the three groups, the Worker Vice-Chairperson withdrew the proposed amendment.

169. Clause (a) was approved.

Proposed clauses (b) to (d)

170. Clauses (b) to (d) were approved.

Proposed new clause after clause (d)

171. Following informal consultations held by representatives from the three groups, the Worker Vice-Chairperson said that an agreement had been reached on the proposed amendments to the new paragraph, which would read, "strengthen coordination, synergies and multilateral cooperation with multilateral organizations active on the issues, including but not limited to UNESCO, Organisation for Economic Co-operation and Development (OECD), UNCTAD, the World Trade Organization (WTO) and others, in order to advance the decent work agenda; and establish a cooperation between ILO and WIPO on intellectual property rights and working conditions;".

172. Clause (d) *bis* was approved as amended.

Proposed clause (e)

173. Clause (e) was deleted in the light of the discussion on clause (f).

Proposed clause (f)

174. The Workers' group had proposed, during the deliberations of the working party, a new clause, to read, "collect and analyse data and good practices regarding remunerations and working hours in the sector, with a view to publishing a study or a policy brief on this matter;".

175. Clause (f) was approved.

Proposed clause (g)

- 176.** The Workers' group had proposed, during the deliberations of the working party, a new clause, to read, "provide policy guidance on the implementation of the right of collective bargaining in the sector;".
- 177.** Clause (g) was approved.

Proposed clauses (h) and (i)

- 178.** Clauses (h) and (i) were approved.

Proposed clause (j)

- 179.** The Worker Vice-Chairperson said that following extensive informal consultations held by representatives from the three groups, all parties had agreed to the following wording: "provide support for workers' organizations, helping them raise awareness, enhance and protect the professional status of the workers they represent and build their capacity to engage in social dialogue on their behalf; provide support for employers' organizations on relevant issues in the sector; and to governments on strengthening labour inspection systems in the sector.".
- 180.** The Employer Vice-Chairperson said that, after "employers' organizations" his group wished to replace "on relevant issues on the sector" by "regarding skills development and to advance lifelong learning in the sector".
- 181.** It was so agreed.
- 182.** Clause (j) was approved as amended.
- 183.** Paragraph 19, as a whole, was approved as amended.

Appendix**Title**

- 184.** The title was approved.

International Labour Standards**Fundamental Instruments**

- 185.** The list of fundamental instruments was approved.

Governance (priority) Instruments

- 186.** The list of governance instruments was approved.

Technical Conventions

- 187.** The list of technical conventions was approved.

Technical Recommendations

- 188.** The list of technical recommendations was approved.

Declarations

- 189.** The list of declarations was approved.

International instruments and guidance

- 190.** The Government Vice-Chairperson (Spain) requested the addition of the Universal Declaration of Human Rights and the International Covenant on Economic, Social and Cultural Rights to the list of international instruments and guidance was approved.
- 191.** It was so agreed.
- 192.** The list of international instruments and guidance was approved as amended.
- 193.** The appendix, as a whole, was approved as amended.
- 194.** The Conclusions, as a whole, were unanimously adopted, as amended.

V. Closure of the Meeting

- 195.** The Secretary-General of the Meeting said that the technical meeting had been characterized by diverse representation of subsectors, in particular in the Workers' group, and therefore a significant amount of expertise. The atmosphere and spirit of negotiations had been positive, friendly and optimistic. Social dialogue has prevailed once more. She congratulated the officers of the meeting, the members of the working party on conclusions and all participants on the conclusions adopted. She thanked all those who had participated in the panel discussion, and all participants from other multilateral organizations for their support. Lastly, she thanked and congratulated the Chairperson for his calm and knowledgeable guidance.
- 196.** The Employer Vice-Chairperson thanked all those who had contributed to the smooth-running of the meeting, and to the work of the Employers' group. He congratulated the Chairperson on his steadfast leadership, and expressed his respect for the Workers' group and the strong spirit of collaboration that had prevailed throughout the negotiations, the result of which was a strong set of conclusions.
- 197.** An Employer representative from Benin added his congratulations and thanks, and welcomed the adoption of the conclusions. The arts and entertainment sector was burgeoning in Benin, with the support of the Government and the private sector. All exchanges of information and best practice would be welcome.
- 198.** The Worker Vice-Chairperson underscored the importance of the outcome of the technical meeting, and welcomed the diligent attention paid by all parties to the details of the conclusions adopted. The conclusions were forward-looking and would be of significant value to all stakeholders in the arts and entertainment sector. He thanked the Chairperson for his leadership, and the ILO Secretariat for its support throughout the meeting. He thanked the secretariat of the Workers' group for its commitment. He expressed his gratitude to his fellow officers, and welcomed the spirit of cooperation and collaboration that had prevailed. Lastly, he thanked all members of the Workers' group for bringing their expertise to the meeting.
- 199.** The Government Vice-Chairperson (Spain) said that he had been honoured to represent the Government group and thanked all those who had participated in the discussions and whose commitment had contributed to the successful adoption of the conclusions, which represented a successful compromise for taking the work of the arts and entertainment sector forward. He expressed particular appreciation to his fellow Vice-Chairpersons, whose expertise had contributed significantly to the quality of the conclusions adopted. Lastly, he thanked all

Members of the ILO Secretariat without whose support the meeting could not have taken place.

- 200.** The Government representative of Togo welcomed the adoption of the conclusions and outlined the measures being taken by his Government to promote the arts and entertainment sector in Togo, through peacebuilding, economic development and employment creation efforts.
- 201.** The Government representative of Sweden, speaking on behalf of the EU and its Member States, expressed appreciation for the spirit of compromise and cooperation that had prevailed over the discussions, and thanked the officers of the meeting and all those who had contributed to its successful outcome. The ILO should continue its efforts to promote decent work and social justice for all in the arts and entertainment sector, and to strengthen its cooperation with international partners, in particular UNESCO and WIPO, and other relevant stakeholders at the national, regional, and global levels. The EU and its Member States regretted that their views on the importance of addressing discrimination on any grounds, in particular sexual orientation and gender identity, had not been fully reflected in the conclusions of the technical meeting. She revealed that her closing statement had been drafted by ChatGPT, thus demonstrating the remarkable capabilities of technology and the importance of further action to promote human-centred use of artificial intelligence.
- 202.** The Chairperson, thanking the Office for its support, and all participants in the meeting, in particular the Vice-Chairpersons, for the collaborative spirit which had prevailed over the deliberations, declared the Technical Meeting on the Future of Work in the Arts and Entertainment Sector closed.

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Appendix

Panel discussion: Creating a more resilient, inclusive and sustainable arts and entertainment sector through decent work

1. A panel discussion was held on the afternoon of Monday, 13 February 2023, moderated by Ms Sophy Fisher, Senior Communication and Public Information Officer, ILO. The arts and entertainment industry was highly valuable, generating tens of billions of dollars per year. The sector was expanding rapidly, becoming more digital, more mobile and more youth oriented. In addition to traditional forms of entertainment and creativity, gaming, virtual reality and artificial intelligence were becoming major drivers of growth in the sector. Despite such growth, working conditions in the industry were problematic; much work in the sector was precarious and informal. How could an industry that relied so heavily on human talent offer better conditions to its workers?

Panel 1: Intergovernmental organizations

2. The Moderator introduced four panellists from international organizations: Ms Katalin Bokor, Economic Affairs Adviser, Creative Economy and Trade Section, United Nations Conference on Trade and Development (UNCTAD); Ms Emanuelle Robert, Programme Specialist for Culture, Cultural Policies and Sustainable Development, UNESCO; Mr Rafael Ferraz Vasquez, Legal Officer, Copyright Law Division, World Intellectual Property Organization (WIPO); and Ms Ekaterina Trevinka, Coordinator, Culture, Creative Industries and Local Development, Organisation for Economic Co-operation and Development (OECD).
3. Ms E. Robert (UNESCO), when asked how policies on working conditions in the arts and entertainment sector could keep pace with technological changes, underscored the importance of ensuring that the digital environment fully embraced the notion of artistic freedom. Artistic freedom was a concept incorporating a range of rights, including the right to create without censorship, freedom of movement, freedom of association, the right to participate in cultural life, among others. Regulation was needed to ensure security for artists and cultural professionals, not only to protect their labour rights but also to protect them against harassment. To ensure that the digital transformation was enshrined in cultural policies, a broader discussion was needed with global digital platforms and service providers. Targeted measures were required with regard to the discoverability of local content, fair remuneration for creators, and greater transparency in the use of algorithms. Investment in skills and knowledge was essential to keep pace with the rapidly evolving digital environment; new skills were needed not only for creation of content but also for the management of business models.
4. Mr R. Ferraz Vasquez (WIPO) said that the evolving digital environment required specific business models and had brought new stakeholders into the arts and entertainment sector that would become key players in the creative marketplace and value chain. The marketplace role of each of those stakeholders, while constantly evolving, must be understood. Consideration should also be given to the complex aspects of international digital market places and their functioning alongside territorial legislation and legal frameworks. In that regard, international organizations had a key role in setting minimum standards and maintaining a global overview of complex situations around the world.
5. Ms E. Trevinka (OECD) added that it was crucial to bridge skills gaps in the sector. Understanding the impacts of artificial intelligence was also essential on the various subsectors

and on specific jobs. Regarding the broader resilience of the sector, public funding for culture had generally been decreasing. It was therefore essential to ease access of creatives to other sources of funding for firms working with intangible assets, and to create conditions for crowd funding, business innovation and support programmes. There was also a need for monitoring tools to measure the social and economic impact of that funding.

6. Ms K. Bokor (UNCTAD) said that skills development was crucial for harnessing a digital creative economy, including digital skills and skills in design, marketing and entrepreneurship. Universal and affordable access to technology was required, in particular broadband connectivity and mobile networks. The persistent digital divide must be overcome to ensure access to markets. Other infrastructure, including financial services, postal services and transport networks were also needed. Lastly, enabling business environments must be created. States should modernize their legal frameworks by creating clear ministerial structures and enacting or strengthening legislation related to the arts and entertainment sector and the creative economy. Steps must also be taken to boost the institutional capacities of the government agencies responsible for promoting the arts and entertainment sector and creative economy.
7. The Moderator asked how the arts and entertainment could be made more sustainable, and how the necessary practical business skills could be injected into the sector.
8. Ms K. Bokor (UNCTAD) responded that high levels of informality were a particular obstacle to the availability of data and information, which could obscure the overall picture of the situation in the sector. MSMEs in developing countries faced significant challenges with respect to connectivity, lack of digital skills and competences and skills related to marketing, branding and advertising, limited access to online marketplaces and payment solutions, and high logistics costs. Arts and entertainment was a cross-cutting sector; creating an enabling environment involved several policy dimensions, including: protection of intellectual property rights while preventing the abuse of those rights; access to e-commerce while protecting consumers and their data and privacy; tax incentives; and freedom of expression and access to culture.
9. Mr R. Ferraz Vasquez (WIPO) said that information was being gathered to learn lessons from the impacts of the COVID-19 pandemic, in particular on business that centred on in-person and analogue relations with consumers. Sustainability depended on whether workers were benefiting from the evolution of the online marketplace. The protection of intellectual property rights was key to the sustainability of MSMEs and own-account artists in the digital marketplace.
10. Ms E. Trevinka (OECD) said that to make better policies, more granular data and reporting of business statistics at the level of local labour markets were needed to match available labour with employment opportunities. Information on the cultural labour force could be underestimated if freelancers or those for whom work in arts and entertainment was a second job were not included in data. More and better data on all forms of employment in the sector were crucial for informed policymaking.
11. Ms E. Robert (UNESCO) added that more cross-cutting policymaking was required; culture was not isolated. Inter-ministerial cooperation was therefore required at the both the national and global levels, along with systemic engagement with civil society organizations. An increasing number of countries were better connecting their cultural policies with other policies from a broader spectrum. A cross-cutting, flexible, responsive public policy scheme was crucial for the sustainability of the cultural sector. Social protection, training and capacity-building for workers were key. Lastly, investment in data collection and knowledge was essential for

informed decision-making and policymaking. The implementation of international standards would have a key role in sustainability.

Panel 2: ILO constituents

12. The Moderator introduced three further panellists from among the ILO Constituents: from the Government group, Mr Stefan Ahlenius, Senior Adviser, Swedish Art Grants Committee; from the Workers' group, Ms Naomi Pohl, President, Musicians Union, the United Kingdom of Great Britain and Northern Ireland; and from the Employers' group, Ms Anita Debaere, President, Performing Arts Employers Associations League Europe (PEARLE).
13. Mr S. Ahlenius (Government representative, Sweden), responding to a question on how to ensure decent work in the arts and entertainment sector, said that promoting better working conditions for artists was a priority issue. Social dialogue was key, as was the implementation of international standards, such as the UNESCO 1980 Recommendation concerning the Status of the Artist.
14. Ms N. Pohl (Worker representative, United Kingdom) said that collective bargaining was essential; the right to be represented was particularly important for freelancers. Matters of remuneration must include pay conditions, such as timeliness of payment and coverage of costs, as well as working time. Social protection was also essential; the pandemic had shed light on a lack of protection for many creative industry workers, in particular freelancers, who had been forced out of the industry. Pensions, health coverage, benefits and social security must also be given due consideration. Intellectual property law must keep pace with technological development. Contracts with buyouts of rights and diminished royalties were leaving artists in an untenable situation, resulting in them leaving the industry. Artificial intelligence must be properly regulated with the proper guarantees in place for remuneration and to meet other challenges. Equal pay and equal access to creative industries were crucial to inclusivity; racial, gender and disability equality policies should cover the needs of self-employed and freelance workers. Reporting mechanisms for harassment and inequality should be put in place. Safety was another challenge: many performers were required to travel long distances, late at night. The costs of their travel arrangements should be met and their safety ensured.
15. Ms A. Debaere (Employer representative, PEARLE) explained that the European Union (EU) had a 20-year history of social dialogue in the arts and entertainment sector. Common topics that had arisen over those years were: skills development, occupational safety and health, mobility (in particular with regard to musicians travelling with musical instruments containing protected species), capacity-building and gender equality, in particular with measures focusing on the prevention of bullying, transgressive behaviour and sexual harassment.
16. When asked how social dialogue could be promoted in an industry with such a high level of informality and second jobs, Ms N Pohl (Worker representative, United Kingdom) responded that social dialogue was in the best interests of all; agreements negotiated on behalf of freelancers were also in the best interests of employers. Collaboration with employers' organizations was key. During the COVID-19 pandemic, cooperation and dialogue had been more frequent than previously, owing to common challenges and a common desire to revive the live entertainment industry as quickly and efficiently as possible. Such regular dialogue should be maintained as a matter of course, after the crisis.
17. Mr S. Ahlenius (Government representative, Sweden) added that governments should not reduce culture budgets; funding was essential. Sweden had a strong history of social dialogue, which had become yet stronger during the COVID-19 pandemic. Dialogue between

government ministries and departments was also important, to ensure a cross-cutting approach.

18. Ms N. Pohl (Worker representative, United Kingdom) added that the pandemic had highlighted the precarity of some areas of work. Parts of the business had thrived: online broadcast services had been highly sought after, while live and in-person aspects of the industry had been shut down altogether. Yet remuneration for online services was often significantly lower than for live performances. Disparities and imbalances in remuneration must be redressed to avoid significant talent drain.
19. Ms A. Debaere (Employer representative, PEARLE) added that the partial lifting of some of the COVID-19 restrictions, which had allowed for rehearsals to take place and had changed engagement with audiences, had broadened the diversity of audiences. Yet there had been no remuneration linked to the increased use of the digital environment. In a post-restriction environment, there was significant enthusiasm for returning to live performance. Consideration must be given to how to use the digital environment in an intelligent manner. Many online performances were offered free of charge or for low-cost tickets, and did not make any revenue. The digital performance environment was therefore challenging.

Question and answer session

20. The Moderator said that the COVID-19 pandemic, despite having provided opportunities for online performance, had not reduced people's desire to watch live performances.
21. A Worker observer for Canada said that, in the United States and Canada, high investment in production for online experiences during the pandemic had not yielded positive results. He wished to know if the digital experience had been better in Europe, and whether it could be considered a viable future for live performance.
22. Ms A. Debaere (Employer representative, PEARLE) responded that online streaming and digital presentations of live performances had not proven to be viable business models; they were accessed by consumers at low cost or free of charge, despite high production costs. In a digital environment, it was impossible to know how many viewers were watching a performance for the price of one ticket. Digital and streaming services were, however, offering potential and opportunities for diversification and broader access to performance. How those services could be developed as an addition to live performance remained to be seen. The majority of performers were returning to live performance.
23. Ms N. Pohl (Worker representative, United Kingdom) said that while access to performances could be increased by online streaming, purchase of the rights to stream could be expensive and tricky to negotiate, and filming for the quality required for streaming services was costly. Performing to a digital audience was a different experience for performers than working in the presence of an in-person audience, which affected performance quality and audience experience. Digital broadcasts of performance could not replace the live performance industry.
24. A Worker representative from India agreed that the quality, experience and magic of live performance could not be replicated online.
25. A representative of the International Federation of Actors pointed out the derogative system for the taxation of sports people, entertainers and performers, provided for in the OECD Model Tax Convention, which could result in double taxation whereby performers were taxed in the country of residence and the country of performance. That approach constituted an injustice. The success of efforts to avoid such situations had been limited. What measures could OECD

take to rectify the reality of double taxation. Ms E. Trevinka (OECD) responded that she would raise the matter with the relevant department at OECD.

26. The Moderator added that restrictions on mobility could also hamper artists' professional endeavours and asked panellists to share their experiences in that regard.
27. Ms N. Pohl (Worker representative, United Kingdom) said that British performers and artists were facing particular difficulties with mobility restrictions owing to changes in rights to freedom of movement resulting from Britain's exit from the European Union. Greater cooperation was required to facilitate entry and exit of artists and allow performers to tour without unnecessary restriction. Mobility and touring had long been a key aspect of performance and creative industries.
28. Ms A. Debaere (Employer representative, PEARLE) said that UNESCO had a role to play in fostering that cooperation and calling for preferential treatment for artists from developing countries. The administrative burdens and costs of global travel were increasing. Assistance from policymakers would therefore be key.
29. Ms E. Robert (UNESCO) added that mobility and preferential treatment were addressed in the UNESCO Convention on the Protection and Promotion of the Diversity of Cultural Expressions. Regional cooperation institutions had an increasingly important role in facilitating mobility, such as the Caribbean Community (CARICOM), which was addressing mobility for artists in the Caribbean.
30. The Government Vice-Chairperson (Nigeria) said that while the arts and entertainment industry was a job-rich sector, in Africa in particular it was also characterized by high levels of informality. How could that informality be resolved to optimize investment and employment opportunities? Informality resulted in social protection gaps, which must be bridged. Experiences should be shared and lessons learned in that regard, to ensure that no one would be left behind.
31. Ms K. Bokor (UNCTAD) responded that UNCTAD had projects in several developing countries bringing together participants from the private and public sectors to discuss informality, among other issues. In those countries, often social protection was lacking, irrespective of whether workers were formalized and paying taxes. UNCTAD was therefore working with governments to try to increase incentives for formalization. The full economic weight of creative industries could not be recognized with such high levels of informality.
32. A Worker representative from Senegal said that in Senegal, 73 per cent of the economically active population was in informal employment. Data on informality in the arts and entertainment sector was insufficient to understand the full scale of the informal workforce. Workers did not necessarily wish to work informally, rather in many cases artistic professions were not recognized. Recognition of the professional status of artists and performers was essential to encourage the transition to the formal economy. Political will, and a strong civil society were crucial to foster social dialogue, guarantee social protection and recognize artists and performers as key contributors to the economy.
33. Ms E. Trevinka (OECD) provided an example of schemes in place in Colombia to establish a register for creative workers to encourage the transition to formality and a pension scheme for freelance workers to encourage national pension contributions. Those schemes had proven effective.
34. The Moderator thanked the panellists and all participants for their contributions.