



## ► Room document\*: 3

Integrating dependent contractors in the framework for statistics on the informal economy



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This paper was drafted by Michael Frosch of the ILO Department of Statistics, Standards and Methodology Unit. It is intended to provide additional input regarding the proposed treatment of dependent contractors within the draft resolution concerning statistics on the informal employment. It may be reworked for publication in future.

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The paper has been discussed within the ILO Working group and at the Meeting of Experts in Labour Statistics in preparation for the 21st International Conference of Labour Statisticians (ICLS), held in February 2023. The present version includes updates and revisions reflecting the current status of the proposal.

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## 1. Introduction

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1. An important objective of revising the current statistical standards on informality is to align the new framework to the latest statistical standards including the resolution concerning statistics on work relationships adopted by the 20th International Conference of Labour statisticians (ICLS) in 2018. This includes integrating the new status in employment category of dependent contractors within the new framework on statistics on the informal economy.
2. The inclusion of dependent contractors in the framework, and how informality should be understood and defined for this group, has been discussed extensively by the Working group on the revision of the statistical standards of informality and its Subgroup 1 Dependent contractors and informality. Advancements were made and a proposed definition of their formal and informal status was developed, which takes into account the unique situation of dependent contractors and differences between countries regarding registration and coverage of formal arrangements for this group. This proposal was presented and discussed at the technical regional consultations conducted in all regions between June and October 2022. It received strong support from the participants in all regions. A final discussion within the working group took place in November 2022. The working group expressed support for the proposed treatment of dependent contractors regarding how to categorize the formal and informal sector as well as for how to define informal and formal jobs for dependent contractors. This proposal was then discussed at the Meeting of experts on labour statistics in preparation for the 21st ICLS Statistics on the informal economy in February 2023 and received strong support from the experts.
3. This document describes the proposal for how to integrate dependent contractors within the framework of informal economy. It is intended to support discussions at the 21st International Conference of Labour Statisticians (ICLS). It builds on previous work presented in the discussion papers *Defining informal/formal sector and informal/formal jobs for Dependent Contractors* (ILO, 2021a), *Dependent contractors and informality* (ILO, 2021b), *The integration of Dependent Contractors within the framework of informal economy* (ILO, 2022a), *Dependent Contractors and the framework of the informal economy* (ILO, 2023a) but updated to reflect the latest developments.

## 2. Background

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4. Dependent contractors constitute a new employment status category, introduced in the revised International Classification of Status in Employment (ICSE-18) adopted by the 20th ICLS. Various terms, such as “dependent self-employed” or “disguised employment relationship”, have been used to describe the status of workers in the grey area between independent workers and employees. Their “in-between” situation has posed a major challenge for many statistical agencies in both the developed and the developing world. Frequently classified either as own-account workers or as employees, they have not been treated as a distinct statistical group. The introduction of a new status in employment category of dependent contractors was one of the more important changes that took place at the 20th ICLS and that contributes to increase countries capacity to provide statistics on this group to inform policymaking.
5. The in-between situation of workers in this category is one of the main reasons there is a particular policy interest around this group. Many legal systems build on a distinction between independent and dependent workers, and labour regulations typically address the situation of employees while commercial laws and fiscal regulations target independent workers. The category of dependent contractors challenges this distinction. When categorized by country legal systems as independent or self-employed workers, a frequent practice, dependent contractors are not covered by the labour laws, social protection and other measures targeting employees. At the same time, formal arrangements such as commercial law and fiscal regulation to regulate and protect production by enterprises are typically not adapted to address the situation of these workers. This challenge is not only a legal issue but also a statistical one, including the issue of how informality can be related to dependent contractors.
6. With ICSE-18, dependent contractors became recognized as a unique statistical category of dependent workers that share characteristics with independent workers as well as dependent workers. In common with many independent workers, they are in employment for profit and have contractual arrangements of a commercial nature. In addition, they do not have an incorporated enterprise and do not regularly employ one or more persons as an employee. Like independent workers (employers and own-account workers) in employment for profit, dependent contractors therefore have a relatively high degree of economic risk. At the same time, they are operationally and/or economically dependent on another entity that exercises control over their productive activities and directly benefits from the work performed by them (ILO, 2018a). This dependency means that they, like employees, have a reduced authority over their activities, which defines them as dependent workers. The combination of a relatively low degree of authority and high degree of economic risk separates dependent contractors from both employees and independent workers in ICSE-18 and is the underlying reason for assigning them their own status in employment category.
7. In parallel with the development of ICSE-18 work was conducted on providing recommendations for data collection, which was presented at the 20<sup>th</sup> ICLS (ILO, 2018b). Since then, additional work has been carried out and countries are increasingly testing and implementing ICSE-18. An important

aspect of this is the identification of dependent contractors. Based on these experiences the data collection recommendations are being continually updated to reflect the latest gained insights. The latest version can be found in the [ICSE-18 manual](#).

8. The increasing implementation of ICSE-18 among countries stresses the need to also integrate dependent contractors in the framework of the informal economy. At the same time the duality of their situation implies a statistical challenge both with respect of categorizing them in the formal or informal sector as well as defining their jobs as informal or formal.

## 2.1. Policy needs for data

9. The issue of dependent contractors has gained a lot of attention, not least because of the increased digitalization of work and the emergence of digital platform employment. However, dependent contractors are not a new phenomenon but constitute a category of workers that have traditionally existed in many countries (such as homeworkers in garment production chains, workers in transportation, industrial outworkers, farmers and hairdressers). The current policy concern is that the number of workers in the dependent contractor's category is increasing globally due to technological developments that facilitate third-party intermediation in employment, increased outsourcing, and extensive sub-contracting networks (Behrendt and Nguyen 2018). The policy discussion and response to this issue can be summarized along two main lines, namely, whether these workers, or some of them, should be legally reclassified, and whether rights, protections, and obligations should be extended to them whatever their legal status.
10. The first policy issue is a legal one, as to whether some workers in this grey area should be legally reclassified and recognized as employees. If so, this would imply that the economic unit on which the worker depends would be recognized as an employer and the worker would be covered by the arrangements including labour laws and social insurance regulations that cover employees in the given country. For example, there have been court cases in countries (including France, the United Kingdom and the United States) about whether or not taxi drivers or delivery workers working for digital platforms should be classified as employees (Fredman et al. 2017).
11. The second policy issue focuses on the extension of rights and obligations to this category of workers. This includes the extension of social protection (see Behrendt and Nguyen 2018) as well as of the registration of activities and the consequent obligation to pay income tax, the right to deduct VAT and have access to work related accident and injury insurance. The extension of rights and obligations can be carried out by targeting the dependent contractor either directly, or indirectly through the economic unit on which the worker is dependent (OECD 2019).
12. These two policy discussions and strategies have a differential impact on the issue of dependent contractors and informality. Legal reclassification by the country of the worker implies a re-categorization of the worker's employment status and his or her formal recognition as an employee. This would not only have legal implications but also a statistical impact. The worker would then no longer have a commercial agreement but an agreement of employment and would therefore not

only legally but also statistically be defined as an employee. The formal or informal status of that worker would then depend on whether the employer effectively meet these obligations.

13. The second issue concerning the extension of rights and obligations is more directly related to the issue of dependent contractors and informality. The different policy measures aimed at improving the situation of dependent contractors can be viewed as an attempt to formalize their status as well as increase their social protection. The extension of rights and obligations would entail the registration of activities, either directly by the dependent contractor or indirectly through the economic unit on which the contractor is dependent.
14. Statistics on dependent contractors and their informal and formal status are essential for assessing employment characteristics, for policy development, and in varied spheres of social dialogue. In negotiating social protection for informal workers, it is important to know what percent of the informal workforce consists of dependent contractors (and conversely, what percent of dependent contractors are in informal employment). In Thailand, the Social Security Act has separate articles for the self-employed and wage employed but does not have an article for covering dependent contractors. In another case, in years past, India's SEWA (Self-employed Women's Association) needed to know how many incense stick rollers (predominantly dependent contractors) worked in production in order to advocate for a social welfare scheme for incense stick rollers (Sewa, 2000). In registering dependent contractors for existing national legislation, for social protection for example, it is important to know the size of the group and their distribution by industry, occupation, and other classifications of interest. In negotiating with lead firms in production chains, it is important to know the share of the workforce that are dependent contractors and their informal or formal status.
15. While the policy debate is ongoing, the role of statistics is to provide data on the statistical category of dependent contractors, which can further support the policy debate and social dialogue with evidence on the size and characteristics of the dependent contractor workforce. In this regard, it is important to distinguish between the legal and statistical classification of persons in employment. ICSE-18, including dependent contractors, is a statistical classification that covers persons in employment based on specific characteristics inherent in their work relationships. This is different from countries legal classifications of persons, for example, self-employed or employees, as the intention with ICSE is to enable the provision of harmonized statistics on work relationships of the employed population. The inclusion of the category of dependent contractors in ICSE-18 enables countries to start to statistically identify this category of persons in employment and provide data on their main characteristics. This enables countries to provide data on the prevalence of dependent contractors within the country, their industries, occupations, working hours etc, as well as monitoring any transitions from independent worker or employee to dependent contractor, and vice-versa. All of this is essential information to support the ongoing debate. In addition, it will be important to provide data on their formal and informal status, the extent of coverage of formal arrangements in relation to their jobs, their exposure to economic risk and the effective outreach of any policy measures targeting these workers. This would contribute to more nuanced data about dependent contractors to further inform the policy discussion.



### 3. Categorizing the sector for dependent contractors

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16. A first important step in integrating depending contractors in the framework on the informal economy is categorizing the sector for these workers. The categorization of all employed persons in the formal sector, informal sector or household own-use community sector provides essential information about the structure of the informal economy in a country but is also linked to the definition of formal and informal jobs.
17. The categorization by sector in the 17th ICLS guidelines concerning a statistical definition of informal employment (ILO, 2003) is based on the formal and informal status of the economic unit for which the work is carried out. This does, however, have slightly different consequences depending on whether the worker is an independent worker (employers and own-account workers) or a dependent worker (employees or contributing family workers). For independent workers, the categorization by sector depends on the formal status of the economic unit they own and operate, while for dependent workers it is based on the economic unit for which they work and depend on. Dependent contractors, however, challenge this approach as they are workers in employment for profit that depend on another economic unit for that work. They thereby share characteristics with other independent workers (particularly with own-account workers in unincorporated enterprises) as well as with other dependent workers (particularly with employees). This is also reflected by the fact that dependent contractors include workers in a range of different situations, stretching from what can be described as disguised employment relationships, to dependent contractors that own and operate their own registered formal enterprises.
18. A way to deal with this situation is to expand the notion of a “formal economic unit” for dependent contractors by not restricting it to whether the economic unit of the dependent contractor is registered as an enterprise (and therefore formal) but also include the possibility that the worker per se can be registered and hence constitute a formal economic unit. This approach recognizes that some dependent contractors might own and operate an enterprise that fulfils the conditions for being formal, while for others it might be the dependent contractor as a worker that “is registered” in a more general sense. This latter situation would typically include registration in relation to tax on the profits made from the activities, which does not imply registration of an enterprise but of the worker and the activities carried out by the worker in relation to the profits made.
19. From the point of view of informality, being registered, either the worker or the enterprise, can be viewed as an important first step to be considered formal. It is the starting point for being covered by any type of formal arrangements, even if these formal arrangements, in practice, may be limited. Registration also ensures that the worker could be covered by potential future benefits and guarantees aimed at improving their situation. Dependent contractors that do not have a formal enterprise and where the worker is not registered for tax would be “invisible” in the legal and administrative framework of the country and could not be effectively covered by formal arrangements. The registration of the dependent contractor in relation to tax can be seen as a

complement to whether the dependent contractor has a formally recognized enterprise. If the dependent contractor has either a formally recognized enterprise or is formally recognized as a worker through registration, they could be considered employed in the formal sector. If none of these conditions are met, then the dependent contractor would be employed in the informal sector.

20. An important point is that the “dual” criteria i.e., formal enterprise or being registered for tax for profits made, should be applied to all dependent contractors. Under this approach, dependent contractors are being considered as one distinct group, independent of other characteristics such as whether they only provide their labour as input or have invested in financial and material input, and independent of whether they perceive themselves as being self-employed or employees.
21. This approach for classifying the sector for dependent contractors implies that their categorization is different than for other dependent workers in that it is, to some extent, decoupled from the economic unit on which they depend. A dependent contractor could therefore be registered in relation to tax but depend on an informal enterprise or be categorized in the informal sector due to a lack of registration while being dependent on a formal enterprise. Unlike employees, the categorization of the sector would not reflect the economic unit on which the dependent contractor depends but rather the formal status of the economic unit of the dependent contractor themselves. This reflects the fact that the relationship between the economic unit and the dependent contractor is not a relationship of employment but a commercial one.
22. It is important to also recognize the possibility that formalization can take place through the economic unit on which the dependent contractor depends. The element of dependency inherent in the relationship is the reason why the person is classified as a dependent contractor. It could be argued that the economic unit on which the dependent contractor depends can and, in some cases, should, enable and facilitate the coverage of formal arrangements, similar as for employees and thereby contribute to their formalization. There could be measures to register the activities of the dependent contractor taken by the entity on which they depend, or that entity could provide or facilitate access to social protection and payment of taxes. In relation to the criterion of registration in relation to tax this implies that the registration can be carried out either by or through the economic unit on which the dependent contractor depends, as well as by the dependent contractor directly.
23. These points have been summarized as follows in the proposed draft resolution:

*Persons employed in the formal sector include independent workers who own and operate a formal enterprise, dependent contractors who own and operate a formal enterprise or are registered for tax, employees and contributing family workers with informal or formal jobs carrying out work for a formal economic unit (Para 39, Appendix, ILO, 2023b).*

*Persons employed in the informal sector include independent workers who own and operate an informal household unincorporated market enterprise, dependent contractors who do not own and operate a formal economic unit and are not registered for tax, employees and contributing family workers who are employed in informal household unincorporated market enterprises (Para 48, Appendix, ILO, 2023b).*

24. Where “own and operate a formal enterprise” would apply to those dependent contractors who operate an enterprise that fulfils the conditions of being a registered enterprise or having a complete set of accounts for tax purposes.

25. Being registered in relation to tax, is proposed to be defined as following:

*Being registered for tax implies that the dependent contractor is, on their own account or through the economic unit on which they are dependent, registered for tax in relation to the profits made from the activities carried out in relation to the job. Depending on the national circumstances, this may refer to a register that implies registration of the worker and the activities carried out by the worker and that obliges the worker to declare the income and expenses related to carrying out the activities for tax purposes as well as any additional obligatory contributions depending on national regulations and laws (Para 74, Appendix, ILO, 2023b).*

26. The operationalization of the criterion of being register for tax will have to be implemented according to the national context and tax system. Typically, it would include registration for tax purposes that does not imply registration of an enterprise but rather registration of the worker and the activities carried out by the worker. The payment of any taxes would therefore be in relation to any profits made by the dependent contractor through that specific job, reflecting that dependent contractors are workers in employment for profit. Like independent workers, it would be important that some obligations follow from being registered. This could be an obligation to declare the income from the activities as well as the expenses, but typically on a less detailed level than the requirements of keeping accounts in relation to incorporated enterprises. Depending on the country context, being registered could also imply additional contributions, for example, to pension funds or insurance.

## 4. Informal and formal jobs for dependent contractors

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27. During the process of developing the proposal for the integration of dependent contractors into the framework for statistics on the informal economy, considerable attention was given to defining informal and formal jobs for this group. Dependent contractor's "in-between" situation challenges the approaches used for independent workers and for other dependent workers. Dependent contractors are persons in employment for profit with commercial agreements, which means the same criteria used for employees do not apply because the relationship between the dependent contractor and the entity on which they depend is of commercial nature and not a relationship of employment as is the case for employees. In contrast to others employed for profit (e.g., own-account workers), but similar as for employees, their authority to decide over their activities is reduced by the entity on which they depend which defines them as dependent workers. Unlike for employees however, the entity on which they depend does not have any responsibility to compensate for the dependence by ensuring that the worker has access to formal arrangements that reduce the economic risk associated with the job, as would be the case if the person was a recognized employee of that entity. The combination of characteristics makes them distinctly different from both independent workers in employment for profit who are defined by their relatively high degree of authority and control over the economic and organizational aspects of their work and from employees that while having a reduced authority also have a reduced economic risk. This distinctive situation necessitates a tailored definition of their informal or formal job status, one that accounts for these specific nuances and differences.

### 4.1. Dependent contractors in the informal sector have informal jobs by default

28. The proposal to, by default, define the job as informal if the dependent contractor is categorized in the informal sector has received strong support in the different discussions forming part of the preparation of the proposal. This treatment is in line with the treatment of the other statuses in employment categories. Independent workers have informal jobs, by default, if the enterprise they own and operate is an informal enterprise. Employees, with the changes proposed, and contributing family workers, by definition, do not have formal jobs in the informal sector (Appendix, ILO, 2023b). Removing the existence of formal jobs in the informal sector creates conceptual and analytical clarity. Perhaps more importantly, it implies that from a formalization perspective, working for a formal economic unit is a pre-condition for having a formal job, irrespective of status in employment. Of course, for some categories of workers (employees, contributing family workers) having a job in the formal sector is not sufficient for the job to be defined as formal and additional criteria are also applied.
29. With respect to dependent contractors, it would follow that a dependent contractor who does not have a formal enterprise and is not registered for payment of tax on profits, cannot have a formal job. If the dependent contractor does not have a formal enterprise and is not registered in relation to tax on the profits made, then the activities carried out would not be covered by any formal

arrangements and the activities would be informal productive activities. This lack of a formal status also implies that the job as such is not recognized by the legal administrative framework of the country and is therefore an informal job.

30. These different points have been summarized as part of the definition of informal jobs for dependent contractors in the proposed draft resolution as follows:

*Dependent contractors are considered to have informal jobs if they do not have a formal status in relation to the legal administrative framework of the country...( Para 68, Appendix, ILO, 2023b).*

*This includes dependent contractors that:*

- (a) *do not own or co-own a formal economic unit and are not registered for tax and thereby do not have a formal status; ( Para 69 (a), Appendix, ILO, 2023b).*

## 4.2. Coverage by formal arrangements among dependent contractors

31. The conceptual and operational definitions of formal and informal jobs for persons in employment is a question of ensuring that the job is formally recognized by the legal and administrative framework of the country and provides an effective access to formal arrangements. This creates a link between the definition of informal employment and the underlying concept of informal productive activities proposed to be defined as “all productive activities by persons or economic units that are -in law or in practice -not covered by formal arrangements” (Paragraph 10, Appendix, ILO, 2023b).
32. Dependent contractors work with a reduced degree of authority (due to their dependent relationship) and a relatively high degree of economic risk (as they are in employment for profit). This combination makes them different from employees (who have a relatively low degree of authority and economic risk) as well as from independent workers (that have a relatively high degree of authority), which is also why they are recognized as their own status in employment category in ICSE-18. From the point of view of a coverage of formal arrangements, the characteristics of dependent contractors imply that it would be important that dependent contractors with formal jobs would, like other dependent workers, not only have a formal status in relation to the legal and administrative system through registration, but also some access to formal arrangements that contribute to reduce their economic risk.
33. The type of arrangements that would come with having a formal status, by either having a formal registered enterprise or being registered in relation to tax for dependent contractors, will however, differ between countries. Dependent contractors who operate a registered enterprise or are registered in relation to paying tax on profits will, in some countries, benefit from the protection of being registered, such as legal protection of the company name or intellectual property, and will have obligations, such as the requirement to keep accounts for tax purposes in the event that the

turnover or income is above a given threshold or if the owner wants to deduct VAT. Depending on the country, registration might also carry the obligation to enrol and contribute to social insurance.

34. In other countries, the formal arrangements that come with registration might not, in practice, be sufficient for the job to be considered as being accessioned with and effective access to formal arrangements. This is particularly so in countries where it is possible to register for paying tax on profits without registering an enterprise, and where no formal arrangements as such come with being registered for tax only. In these situations, being registered would mainly carry the obligation to pay taxes, while protections associated with that would be limited.
35. Dependent contractors encompass persons operating in diverse situations. For instance, they could be a farmer or a consultant reliant on a primary client that sets the prices for their goods and services and where the person has a registered business, keeps comprehensive accounts for taxation purposes, and fulfils obligations such as income declaration and VAT deduction. It can also include a person working for a company carrying out similar tasks as employees of that company and where the work is closely supervised by the company, but where the person is not recognized as an employee but engaged through a commercial agreement, thereby assuming responsibility for their own tax obligations and for any contribution and coverage of social insurance. The coverage of formal arrangements for these two different types of dependent contractors will differ depending on the national system and the linkage between the business register and registration in relation to profits made and depending on the linkage between registration and coverage of formal arrangements such as social insurance coverage.

#### **4.2.1. Linkage between business register and registration for tax**

36. National business registers or commercial registers can be viewed as the official record of all formal enterprises within the country. Depending on the legal form of the enterprise, different obligations and protections for the owner(s) would follow from having their enterprise registered. While the types of legal identities, as well as the terms used, differ between countries, there is generally a distinction between legal identities with limited liability (such as an incorporated enterprise, corporation, limited partnership or limited private company) and unincorporated enterprises where the owner has full liability (such as a sole trader or sole proprietorship). Unincorporated legal entities are of particular relevance to dependent contractors. While dependent contractors, by definition, cannot have an incorporated enterprise with limited liability, they may have a registered unincorporated enterprise, for example, as a sole proprietorship. Registering the activities as a sole proprietorship in the business register can give the owner of the enterprise access to a coverage of some formal arrangements.
37. As shown in Table 1, links between business registration and registration in relation to tax on profits differs between countries. In some countries, being registered in relation to tax on profits implies an automatic inclusion in the national business register. In other countries the two registers are distinct. For example, a sole proprietor in Denmark who registers their activities in order to pay taxes on the profits made would automatically be registered in the Danish national business register as a sole proprietor and, through that, receive an official enterprise number. However, in Ireland the

same person would be able to register in the national tax register, as a sole trader, and choose whether to register their enterprise in the national business register.

38. These differences between countries will impact the categorization of the sector for dependent contractors and consequently, have an indirect impact on the definition of informal and formal jobs for these workers. In countries where there is a direct link between tax and business registration, having criteria to assess both will have no impact on the end result. In countries where these registrations are not directly linked, i.e. where being registered in relation to tax on profits does not necessarily imply being registered in the business register, testing both criteria would be relevant.

#### **4.2.2. Linkage between registration and social insurance**

39. A second dimension that impacts on the definition of informal and formal jobs for dependent contractors is the link between access to a coverage of formal arrangements such as social insurance and registration (either a registered enterprise or for tax on profits made). As can be seen in Table 1, two broad systems exist within countries. In some, being registered implies mandatory payments to social insurance. The form of payment differs between countries, ranging from paying a tax on the profit made (USA, Sweden) to the payment of a fixed lump-sum (Poland). The type of social insurance that payments provide access to, and the level of coverage also differ substantially between countries. They could include access to one or more forms of health insurance, pension, unemployment insurance, paid sick leave, maternity leave, etc. Typically, coverage would include a limited range of social insurance and at reduced levels compared to employees. To increase the range and level of protection, some countries offer additional voluntary social insurances as a complement.
40. In countries such as Mexico, Peru and Ghana, there is no direct link between registration and social insurance. Having a registered enterprise or being registered for tax does not carry the obligation of mandatory contributions to social insurance. Instead, there is an option to contribute to voluntary social insurance schemes that may or may not require a registration of an enterprise or in relation to tax on profits made. In these countries, the coverage of formal arrangements for registered dependent contractors could be very limited if the person chooses not to participate in these voluntary schemes. This is particularly so for those dependent contractors registered in relation to tax but who do not have a registered enterprise and cannot access the (limited) formal arrangements that come from having a formal enterprise.

► Table 1. Linkage between business register, registration for tax and social insurance

		Linkage between business register and registration for tax	
		Business register and registration for tax is the same system	Business register and registration for tax is not necessarily linked
<b>Link between registered and Social Insurance</b>	<p><b>Being registered implies some mandatory payment of fees/tax to SI</b></p> <p>Gives access to coverage of some “basic” protection such as health insurance, pension, long term care insurance, unemployment insurance, maternity leave, with the possibility to top up</p>	Denmark, France, Poland	Ireland, USA, Sweden, UK, Singapore,
	<p><b>Social protection (health insurance, pension, insurance against accidents etc.) is separate and voluntary</b></p>	Japan	Mexico, Peru, Ghana, Zimbabwe etc.

42. The differences in systems between countries, implies that in some countries a registered dependent contractor would have an access to coverage of formal arrangements due to the linkage between registration and mandatory social insurance, however, in other countries this would not be the case given that there is no such direct link. While it can be argued that dependent contractors with a registered enterprise would still have access to some limited formal arrangements (protection of company name, access to capital, the right to deduct VAT etc.) this would not be the case for those dependent contractors that do not have a registered enterprise but are registered for tax on the profits made. The lack of formal arrangements for these workers, in countries where there is no link between registration and mandatory contributions to social insurance, calls for the use of the additional criterion of registration and contribution to voluntary social insurance as part of defining informal and formal jobs for this group. This approach ensures that the dependent contractor is not only formally recognized but that a certain level of protection for the worker follows from having a formal job. The additional criterion of registration and contribution to voluntary social



insurance thereby do not only compensate for that that entity on which the dependent contractor depends has no obligations to provide for formal arrangements such as social protection which would be the case if the person was an employee, but also compensates for the fact that in some countries no substantial formal arrangements follow from having a formal status.

43. However, in countries where there is a direct link between registration and access to social insurance (even if limited) by mandatory contributions, being registered (either having a registered enterprise, or being registered in relation to tax) could be sufficient to determine that the dependent contractor should not only be considered to have a formal status through the registration but also that a coverage of formal arrangements follows from this. In these countries, registration would be a sufficient criterion for defining the job held by the dependent contractor as formal.
44. Similar as for employees, the type of social insurance and the degree of coverage that the dependent contractor have access to will differ depending on the national context and system. The operationalization of the criterion therefore needs to be assessed based on the country context regarding whether social insurance should be used as an active operational criterion as part of defining informal and formal jobs for dependent contractors, and if used, whether it should be used for all dependent contractors in the formal sector or just a subgroup. This would depend on the link between the business register and being register for tax as well as the type of formal arrangements that comes with being register in one or the other. And finally, if it is assessed that contribution to voluntary social insurance is needed to ensure a certain degree of access to formal arrangements, then the specific type of insurance used for operationalizing the criterion would need to be adjusted and adapted to the national context.

### **4.3. The definition of informal and formal jobs for dependent contractors**

45. The unique category of dependent contractors as being on the boundary between own-account workers and employees and the differences among countries in relation to the linkage between business registers, registration for tax on profits and social insurances, as previously described, calls for a definition of formal and informal jobs for this group that takes these aspects into account.
46. In some countries being registered for tax on profits or having a registered enterprise is directly linked to mandatory contributions to social insurance and therefore gives access to coverage of formal arrangements that reduces the economic risks for dependent contractors. In these countries registration implies that the dependent contractor has access to some formal arrangements that reduces the economic risk of dependent contractors even if sometimes limited. In other countries, where registration and social insurance are not directly linked, an additional criterion of voluntary contributions to social insurance might be needed to ensure that some coverages of formal arrangements follow from having a formal job. And finally, there might be countries where the additional criterion of social insurance may only be needed for a subpopulation of dependent

contractors e.g., those registered for tax only, to ensure that a certain degree of coverage of formal arrangements follows from having a formal job.

47. An operational definition of informal and formal jobs among dependent contractors categorized in the formal sector that take these differences into account, and that allows countries to operationalize the definition depending on the specific system and situation in the country ensures that dependent contractors with formal jobs have a certain degree of coverage of formal arrangements through their formal jobs.
48. Based on these points the proposal is to define informal and formal jobs for dependent contractors as follows:

#### Informal jobs held by dependent contractors

*Dependent contractors are considered to have informal jobs if they do not have a formal status in relation to the legal administrative framework of the country or if they do have a formal status but are not associated with any effective access to formal arrangements aimed at reducing the economic risk related to holding the specific job.*

*This includes dependent contractors that:*

- (a) do not own or co-own a formal economic unit and are not registered for tax and thereby do not have a formal status; or*
- (b) own or co-own a formal economic unit or are registered for tax, and thereby have a formal status but without effective access to formal arrangements intended to reduce the economic risk related to the job.*

*Depending on the national context, effective access to formal arrangements intended to reduce the economic risk for dependent contractors could include measures that protect their own registered company name and their physical and intellectual property, that increase their ability to obtain capital and that provide access to job-related occupational injury insurance, health insurance, paid sick leave or paid parental leave and a job-related pension, or other types of formal arrangements intended to decrease the economic risk associated with the job.*

*For the purposes of operationalization, the considerations below should be taken into account.*

- (a) In countries where owning and operating a formal enterprise or being registered for tax implies effective access to such arrangements, having a registered enterprise or being registered for tax is sufficient for the job to be considered formal, while not being registered thus defines the job as informal.*
- (b) In countries where the registration of the enterprise or registration for tax is not directly linked to such measures, registration in and contribution to other voluntary or mandatory statutory social insurance schemes should be used as an additional criterion*

*to ensure that the formal job held by the dependent contractor carries protections aiming at reducing the economic risk holding the specific job. The lack of such protection would thus define the job as informal.*

(Paragraph 68-71 Appendix, ILO, 2023b).

### Formal jobs held by dependent contractors

*Dependent contractors are considered to have formal jobs if they have a formal status in relation to the legal administrative framework of the country and have effective access to formal arrangements aimed at reducing the economic risk related to holding the specific job.*

*This includes dependent contractors that:*

- (a) operate and own or co-own a formal economic unit or are registered for tax; and*
- (b) have effective access to formal arrangements.*

(Paragraph 72-73 Appendix, ILO, 2023b).

49. The proposed definition of informal and formal jobs for dependent contractors received a general support from the working group, and at the different technical regional meetings (ILO, 2022b). It was also strongly supported at the Meeting of Experts held in February 2023 (ILO, 2023c). It was deemed to be a balanced approach that ensures that a certain degree of formal arrangements that reduces the economic risks embedded in the jobs held by dependent contractors comes with a formal status of the job, thus recognizing that these are dependent workers in employment with commercial agreements. In combination with the proposed categorization of the sector, which has a relatively low threshold for being considered categorized in the formal sector, it creates a definition that takes the unique situation of dependent contractors into account. In addition, the proposal also ensures a similar outcome between countries independent of the specific country system and independent of the national composition between dependent contractors with a registered enterprise and dependent contractors with no formal enterprise but that are registered for tax only, which will support cross-national comparability.
50. One of the unique aspects of the definition is that it, unlike for employees and contributing family workers, is detached from the entity on which they depend. Both regarding the formal status of the economic unit on which they depend but also in relation to the formal status of their job. This is a consequence of the fact that dependent contractors have a commercial agreement with the entity on which they depend and not a recognized agreement of employment. Dependent contractors would therefore be categorized in the informal or formal sector and have a formal or informal job independent of the formal status of the economic unit on which they depend. Dependent contractors in the informal sector with informal jobs, and dependent contractors in the formal sector with either informal and formal jobs could therefore be dependent on an informal economic unit, a formal economic unit or a household.

51. This is recognized in the draft resolution as:

*The formal status of the economic unit on which the dependent contractor is dependent does not have a direct impact on the informal or formal status of the job held by the dependent contractor or on the categorization of dependent contractors in, respectively, the informal sector or the formal sector. Dependent contractors categorized in the informal sector holding informal jobs and dependent contractors categorized in the formal sector holding informal jobs or formal jobs can thereby have a dependency on an informal economic unit, a formal economic unit or a household.*

(Paragraph 75 Appendix, ILO, 2023b).

## 5. Case of Mexico

52. As part of the pilot test in 2019 conducted by the National Institute of Statistics and Geography of Mexico (INEGI) a series of questions regarding registration and social insurances were asked to dependent contractors. This allows an assessment of the impact on applying the proposed definition. In total there were 4,066,876 dependent contractors representing 8 percent of the total employed population. Among these 62 percent did not have a formal enterprise and were not registered in the Tax Administration System (SAT by its Spanish acronym) and hence are categorized in the informal sector. Due to the lack of a formal status these dependent contractors would also be defined as having informal jobs. The remaining 38 percent of the dependent contractors either have a formal enterprise or are registered for tax and would therefore be categorized in the formal sector. As can be seen in table 2 most dependent contractors are categorized in the formal sector due to their registration for tax (37 percent of all dependent contractors) and only a minor group is categorized in the formal sector due to owning and operating a formal enterprise (1.2 percent of all dependent contractors).

► **Table 2. The categorization of the sector**

FORMAL SECTOR				INFORMAL SECTOR	
Economic Unit is formal (registered)		Tax registered		No formal enterprise and not being registered for tax	
Persons	%	Persons	%	Persons	%
46,814	1.2	1,515,094	37.3	2,504,968	61.6

53. Based on the data from the pilot conducted by INEGI the group of dependent contractors that own and operates a formal enterprise is relatively small, while the group of dependent contractors registered for tax is significant. This distribution influences the impact of applying registration and contribution to voluntary social insurance as an additional criterion. As can be seen in table 3, the main difference arrives from whether social insurance is used as an additional criterion or not, while the impact of whether social insurance is used for only those registered for tax or for all dependent contractors in the formal sector only has a minor impact. In the case of Mexico 38 percent of all dependent contractors would be categorized in the formal sector either due to having a formal enterprise or being registered for tax, and by that be within the scope of also being considered to have formal jobs. If Mexico would have had a direct link between having a registered enterprise/being registered in relation to tax and mandatory social insurance, then these 38 percent would be defined as having a formal job. However, no such direct link exists in Mexico, which calls for applying the additional criterion of registration and contribution to voluntary social insurance to ensure an effective coverage of some formal arrangements. When applying the additional criterion of contribution to social insurance for those registered for tax, the share of dependent contractors with formal jobs is only 4 percent while 96 percent of all dependent contractors would have an

informal job. If social insurance is applied for all dependent contractors categorized in the formal sector, the share of dependent contractors with formal jobs would only decrease marginally from 4 percent to 3 percent.

► **Table 3. Impact on the share of informal and formal jobs depending on the use of the criterion of voluntary social insurance**

	Formal sector				Informal sector	
	Formal job		Informal job		Informal job	
	Persons	%	Persons	%		
<b>SI is applied only for those registered for tax</b>	162,327	4.0	1,399,580	34.4	2,504,968	61.6
<b>SI is applied for all DC in the formal sector</b>	127,539	3.1	1,434,369	35.3	2,504,968	61.6

54. The use of the additional criterion of job-related social insurance to ensure that a formal job comes with formal arrangements for dependent contractors have, in the case of Mexico, a significant impact on the share of informal jobs and formal jobs among dependent contractors. However, whether, social protection is applied only for those registered for tax or for all dependent contractors in the formal sector only has a marginal impact. This reflects the distribution of dependent contractors where relatively few have a formal enterprise while a significant share is registered for tax. In a country where relatively more dependent contractors would have formal enterprises (or fewer would be registered for tax) the difference on the total share of formal jobs, between applying social insurance for all dependent contractors in the formal sector or only for those registered or tax, would increase. In countries, that do not have a direct link between registration and mandatory contributions to social insurances it would be necessary to carry out an assessment whether it is deemed to be sufficient formal arrangements following from having a formal enterprise or if contribution to voluntary social insurance also is needed as a criterion for this group.

## 6. Summary

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55. Dependent contractors constitute a new employment status category, introduced in the revised International Classification of Status in Employment (ICSE-18) adopted by the 20th ICLS. The integration of dependent contractors within the framework of informal economy is an essential alignment to the latest standards on labour statistics.
56. Dependent contractors differ from other status in employment categories as they share characteristics with independent workers as well as dependent workers. This unique position also calls for special treatment of dependent contractors regarding the categorization of the informal sector and formal sector as well as for the definition of informal jobs and formal jobs for these workers.
57. Dependent contractors may, like other independent workers, own and operate their own formal enterprise. Others might not have an enterprise in a traditional sense, for example, those who only provide their labour as input to the entity on which they depend. A categorization of the sector that takes these different situations in account would be built on an expansion of the notion of a “formal economic unit”. If the dependent contractor either has a formal (registered) enterprise or is registered in relation to tax on the profit, then the worker would be recognized by the legal and administrative framework and hence be considered as working in the formal sector. If this is not the case, that is the dependent contractor does not have a formal enterprise and is not registered for tax on profit, then the worker would be categorized in the informal sector.
58. To recognize the dependent relationship the dependent contractor has, and that formalization can take place by targeting entity on which they depend, it is important to recognize that registration and access to a coverage of formal arrangements can be facilitated by this entity. This would include a situation where this entity registers the worker in relation to tax, report the activities to the authorities and ensure that taxes are paid, and other responsibilities are met, for example, contribution to social insurances.
59. The “in-between” situation of dependent contractors is also a challenge for defining informal and formal jobs for dependent contractors. Neither the approach used for defining informal and formal jobs for independent worker nor the approach used for defining informal and formal jobs for employees are applicable to dependent contractors.
60. In addition, countries have different systems and links between having a registered enterprise, being registered in relation to taxation on profits and social insurance. In some countries there is a direct link between being registered for profit and registration in the business register (one is not possible without the other) while in others it is possible to be registered in relation to profit without registration in the business register. Countries also have varying links between registration and access to a coverage of formal arrangements. In some countries, registration comes with mandatory contribution to social insurance (even if more limited compared to employees), while in other

countries no such direct link exists, and any coverage of such formal arrangements requires registration and contribution to voluntary social insurance schemes.

61. A definition of formal jobs for dependent contractors needs to take the unique situation of dependent contractors into account and ensure that having a formal job for dependent contractors implies some formal arrangements that reduce their economic risk. In this regard, it would be necessary to have a definition that includes a certain degree of flexibility so that countries can adapt to their national context and achieve a similar outcome independent of the specific system within countries.
62. There are strong arguments that dependent contractors categorized in the informal sector should be considered to have informal jobs by default. These dependent contractors would not own and operate a formal enterprise and not be registered in relation to tax on their profits and would not be formally recognized by the legal and administrative framework of the country. The job and the activities carried out would therefore not be effectively covered by formal arrangements and therefore be informal.
63. Dependent contractors categorized in the formal sector can be considered to have a formal status due to that they have a formal enterprise or are registered for tax on profits and therefore are recognized by the legal administrative framework of the country. However, for these dependent contractors to be considered to have formal jobs it would be necessary that this comes with an effective access and coverage of the formal arrangements.
64. In countries where there is a direct link between registration and mandatory contribution to social insurance registration would be a sufficient criterion as this would give an effective access to formal arrangements for the dependent contractor. In countries where this is not the case, the criterion of contribution to voluntary social insurance can be used to ensure that a minimum level of formal arrangements comes with having a formal job. This could either be used for all dependent contractors in the formal sector or only for those registered in relation to tax on profit (if for example it is deemed that there is a sufficient degree of formal arrangements coming with having a formal enterprise registered in the national business register.) Such a definition would fulfil the requirements of being adaptable to different countries contexts and create a similar outcome independent on differences between countries while taking the unique situation of dependent contractors into account.
65. The committee is asked to provide input on the proposed:
  - categorization of dependent contractors in respective the formal sector as defined in paragraph 39, (Appendix, ILO, 2023b) and informal sector as defined in paragraph 48 (Appendix, ILO, 2023b);
  - definition of the criterion “registered for tax” for dependent contractors, paragraph 74 (Appendix, ILO, 2023b);



- the proposed definition of informal jobs for dependent contractors in the formal sector, paragraphs 68-71 (Appendix, ILO, 2023b) including;
  - defining jobs held by dependent contractors in the informal sector as informal jobs by default, paragraph 69 (a) (Appendix, ILO, 2023b);
  - the recommendation for operationalization of “ensuring an effective access of formal arrangements” that takes into account differences in countries relating to the link between registration and access to coverage of formal arrangements, paragraphs 70-71 (Appendix, ILO, 2023b);
  
- the proposed definition of formal jobs for dependent contractors in the formal sector, paragraphs 72-75 (Appendix, ILO, 2023b).

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