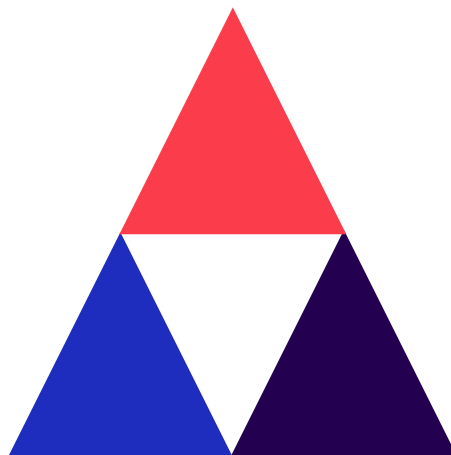




► Summary record of proceedings

Meeting of Experts on Decent Work in the Platform Economy
(Geneva, 10–14 October 2022)



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Summary record of proceedings

Meeting of Experts on decent work in the platform economy

► Introduction

1. The conclusions concerning the second recurrent discussion on social dialogue and tripartism, adopted by the International Labour Conference at its 107th Session (2018), provide that the Office should “continue research regarding the access to freedom of association and the effective recognition of the right to collective bargaining of digital platform and gig economy workers and, on that basis ... the Governing Body ... [should] decide whether convening a tripartite meeting would be appropriate or not” (para. 6 (e)).
2. The ILO Centenary Declaration for the Future of Work, adopted by the International Labour Conference at its 108th Session (2019), calls on all Members to put in place “policies and measures that ensure appropriate privacy and personal data protection, and respond to challenges and opportunities in the world of work relating to the digital transformation of work, including platform work” (Art. III(C)(v)).
3. At its 341st Session (March 2021), the Governing Body decided “to request the Office to convene a tripartite meeting of experts on the issue of ‘decent work in the platform economy’ in the course of 2022”.¹ The results of this meeting would subsequently inform a possible general discussion or standard-setting item on this subject, should the Governing Body decide to place such an item on the agenda of the 112th Session (2024) of the Conference. At its 343rd Session (November 2021), the Governing Body approved the dates and composition of the meeting. The agenda of the meeting was approved by the Governing Body at its 344th Session (March 2022).
4. The Meeting of experts on decent work in the platform economy was held in Geneva from 10 to 14 October 2022. It was composed of 8 experts nominated after consultation with Governments, 8 experts nominated after consultation with the Employers’ group and 8 experts nominated after consultation with the Workers’ group of the Governing Body. There were 25 Government observers and representatives of the International Organisation of Employers and the International Trade Union Confederation, as well as representatives of the Organisation for Economic Co-operation and Development (OECD), the European Commission and the International Cooperative Alliance.
5. The Meeting was chaired by an independent Chairperson, Honourable Minister Mr C. Jordan (Barbados). The Vice-Chairpersons were Mr R. Nayak (Government expert, United States of America), Ms S. Regenbogen (Employer expert, Canada) and Mr R. Subasinghe (Worker expert, United Kingdom of Great Britain and Northern Ireland).
6. In his opening remarks, the Chairperson [M] noted the timeliness and importance of decent work in the platform economy given its impact on entire national economies and hence on the world

¹ [GB.341/INS/PV](#), para. 47(c).

of work. He underlined that ILO Member States were looking to the Meeting to advance the discussions and produce results that would assist them.

7. The Secretary-General [F], Ms Manuela Tomei, Director of the Conditions of Work and Equality Department, noted the existence of the platform economy since the 1990s and its rapid expansion over the last decade. It had created unprecedented opportunities and challenges for both workers and enterprises and had played a role in the COVID-19 pandemic by allowing the continuation of services and economic activities.
8. She also noted that at its 107th Session (2018), the International Labour Conference had held a discussion on social dialogue and tripartism and requested the Office to “continue research regarding the access to freedom of association and the effective recognition of the right to collective bargaining of digital platform and gig economy workers”. At its 108th Session (2019), the International Labour Conference had adopted the Centenary Declaration, which called on the ILO to direct its efforts towards “policies and measures that ensure appropriate privacy and personal data protection and respond to challenges and opportunities in the world of work relating to the digital transformation of work, including platform work”. As a result, the Governing Body at its session in 2019 had discussed the appropriateness of holding a tripartite meeting of Experts. Accordingly, in March 2021, the Governing Body requested the Office to convene a tripartite meeting of experts on the issue of ‘decent work in the platform economy’ in the course of 2022 specifying “that the Meeting would subsequently inform a possible general discussion or a standard-setting item on this subject should the Governing Body decide to place such an item on the agenda of future conferences”. The Meeting would be the ILO’s first dedicated tripartite discussion on the platform economy and its draft conclusions would be submitted to the Governing Body to aid it in determining how the ILO could advance its distinct expertise and perspectives on delivering decent work in the platform economy. The discussion would also assist the Office to develop more relevant and coherent work on the topic.
9. The background report² highlighted the main features of the platform economy and the characteristics of on-site and online platforms. It paid attention to issues such as fair competition between firms, as well as the opportunities and challenges for job creation. It examined the characteristics of platform workers and reviewed the debates related to their classification. It analysed working conditions and social protection, as well as the protection of personal data and safeguards concerning the use of technology for organizing and monitoring work. It also examined the extent to which workers enjoyed freedom of association and the right to collective bargaining, the ILO standards that might be applicable, and relevant national and international initiatives.

► Opening statements

10. The Employer Vice-Chairperson [F], speaking on behalf of the experts nominated by the Employers’ group, expressed confidence that a candid, comprehensive discussion would result in informative and balanced conclusions that would identify ways of seizing and maximizing the opportunities for growth, productivity, employment creation, entrepreneurship and income that

² [MEDWPE/2022](#).

platforms offered in the world of work, while minimizing and addressing the challenges they posed in certain contexts. The topic was complex since the platform economy was a diverse ecosystem that covered multiple business models, sectors of economic activity, forms of service provision, ways of working and worker profiles. Platforms were largely concentrated in a few geographic locations and the platform economy was still in its nascent phase.

11. The conclusions reached at the Meeting would have implications for the economy, employment and the livelihoods of persons and enterprises. Yet, any attempts to reach a generalized conclusion would hence be premature and counterproductive. Instead, the Meeting should deepen and widen the collective understanding of the platform economy, considering its multiple dimensions, its diversity and its application in different contexts, and should determine appropriate policy actions for seizing the decent work opportunities it offered while addressing associated concerns.
12. The background report represented a good and nuanced basis for the deliberations. It captured the range of policy actions, approaches and responses taken by governments, employers and workers at national and regional levels. While it contained some unsubstantiated and prematurely generalized claims such as the marketing power or monopsony of platforms, their negative impact on fair competition and the fiscal imbalances in the platform economy, which had also appeared in the *World Employment and Social Outlook 2021: The Role of Digital Labour Platforms in Transforming the World of Work* – the background report had corrected some of these by highlighting opportunities for economic development and decent work. The Meeting should reflect the ability of the platform economy to create opportunities for decent employment, income, innovation and entrepreneurship; its flexibility in balancing unpaid care work, studies or retirement with paid work; and its potential for integrating youth, migrants and persons with disabilities into the labour market. It was critical that the outcome of the Meeting provide a nuanced and balanced narrative, while bearing in mind the fast-evolving nature of the platform economy. Equally important were the fundamental principles and rights at work and decent work in the platform economy.
13. The first challenge was the lack of precise definitions of the terms “platform”, “platform work” and “platform economy”, including across jurisdictions, academic studies and data sources. It was important to look beyond the two approaches referred to in the background report, which viewed platforms either as intermediaries or as a service and in some cases as “service providers”. It was also important not to confuse intermediation with recruitment agencies or private employment services. Platform work was one of many ways of organizing work, through the application of digital technologies.
14. The Worker Vice-Chairperson [M], speaking on behalf of the experts nominated by the Workers’ group, found the background report balanced, informative and evidence-based. The platform economy had grown rapidly and spread to industries such as transport, domestic care and education. Large investments of venture capital had driven that growth, allowing platforms to increase their market share by offering below-market prices. Digital labour practices were undermining the protection of both web-based and location-based platform workers. The use of non-standard forms of employment and disguised employment were critical to the business models of digital labour platforms. Employment status misclassification had exposed workers to financial and social risks and a lack of access to labour and social protection, including the right to freedom of association and collective bargaining. Weak implementation of anti-discrimination

laws had left migrant and young workers, who were over-represented in non-standard jobs, with minimal recourse to protection. Child labour, forced labour and exposure to physical and psychosocial risks were also present in platform work. Algorithmic management was akin to the subordination found in traditional forms of management. Financial schemes and rewards in the platform economy had placed limits on the flexibility that platforms purported to offer. Workers had no minimum, predetermined or limited hours of work and no right to disconnect and they faced the risk of being suspended from the platform (“de-platforming”) if they declined work. Wages were often left unpaid and pay rates were unclear and fixed without consultation with the workers. Customer ratings permitted discrimination and abuse and influenced working conditions, while workers lacked access to justice or protection from unfair discipline or termination. While data collection was used to control their work and optimize the functioning of the platform, workers, trade unions and workers’ representatives were in the dark as to its use, storage and dissemination. There was also no scope to negotiate terms and conditions around the design and use of algorithms. Platform work was insecure and informal, as evidenced by decent work deficits and governance gaps, including the scarcity of labour inspection. Lack of clarity of labour regulation and employment status risked contributing to the informalization of the economy.

15. The Worker Vice-Chairperson [M] noted that governments and social partners were taking action to regulate working conditions, data protection and social protection for platform workers, irrespective of their employment status, including through collective agreements at platform and sectoral levels, labour charters and platform cooperatives. Platform work, however, was continuing the trend towards casualization, while exposing new dimensions of decent work deficits. Dedicated normative action at the ILO through a new standard was therefore required to fill legal gaps in existing international labour standards.
16. The Government Vice-Chairperson [M], speaking on behalf of the experts nominated by the Government group, called for a clear, shared definition of platform work and noted the need to address issues of misclassification in order to remedy regulatory challenges. It was also important to explore the role of algorithmic management and the issue of data protection. Access to key data was necessary as well in order to help inform policymaking, enforce labour standards and ensure fair competition. While some Conventions applied to platform workers, such as the Freedom of Association and Protection of the Right to Organise Convention, 1948 (No. 87), he underlined the need to expand protection of those workers.
17. The Government expert from the United States [M] reiterated the importance of that discussion for framing the platform economy in relation to formal and informal non-standard employment and identifying the scope and gaps in protection under existing Conventions and Recommendations. In his country, core labour protections under the labour and employment laws did not distinguish between platform work and other forms of employment. Misclassification had left workers unprotected, generated competitive disadvantages for employers and reduced tax revenues for governments. While the misclassification of workers as “independent contractors” in order to evade labour and employment law had existed before and during the rise of the platform economy, there were also legitimate independent contractors. He reflected on whether data and algorithmic management was unique to the platform economy and mentioned the national artificial intelligence initiative of 2020, which had established guiding principles on algorithmic discrimination and the usage of personal data.

18. The Government expert from Mexico [M] noted that progress in technology and the pandemic demanded the examination of decent work in the platform economy. While the platform economy had provided income opportunities in the face of such crises, it had also displaced jobs and delinked rights. The Meeting thus represented an opportunity to identify and address challenges to realize decent work. To do so required clear definitions, while addressing misclassification and the transparency of algorithms, challenging certain business models and adapting social protection to new jobs. He hoped that the Meeting would result in an agreement and guidance for the Governing Body to set the agenda of the International Labour Conference in that regard.
19. The Government expert from Tunisia [M] confirmed the growing influence of platform work in the areas of transport, logistics, IT services and electronic services. It particularly attracted young graduates, in part due to the flexibility and autonomy and high rates of unemployment. Digital platforms presented opportunities for entrepreneurs and job creation.
20. An observer from the OECD [F] highlighted the need to strengthen collective bargaining rights for platform workers and other workers facing similar power imbalances, as called for in the *OECD Employment Outlook 2019: The Future of Work*. She further welcomed the progress that had been made, as evidenced by the European Commission's Guidelines on the application of EU competition law to collective agreements regarding the working conditions of solo self-employed persons. A 2020 OECD survey had found that the COVID-19 pandemic had exposed the precariousness of platform work and the exclusion of platform workers from governments' emergency support measures. She underlined the OECD's commitment to continue working with the ILO and the European Commission on digital platforms, employment and work; working conditions; and algorithmic management.
21. An observer from the International Cooperative Alliance [M] noted the challenges cooperatives faced within the platform economy. Cooperatives had demonstrated their capacity to provide better working conditions for platform workers, including through practices that engaged platform enterprises, workers, unions and cooperatives. He called on the ILO, governments and social partners to find the most appropriate frameworks for improving working conditions, notably by fighting bogus self-employment, and guaranteeing a level playing field for platforms such as through cooperative platforms.

► General discussion

Point 1: Which types of platforms does the expression “platform economy” encompass, and in which sectors do they operate? What is the profile of companies and workers engaged in their activities? Do digital platforms share similar models of interventions and interactions with the labour market?

22. The Worker Vice-Chairperson [M] noted that the term “platform economy” remained contested. Although it reflected economic activity in a segment of the economy driven by technological innovation, it was expanding to the wider economy. While it promised efficiency in enabling interactions and exchanges using economies of scale in a non-regulatory environment, it had not created decent work and genuine flexibility. Instead, it was entrenching social and economic

inequalities and associated decent work deficits. Technological innovation was again changing history and the ILO should address the negative externalities through international labour standards as it had done during the industrial revolution. Digital labour platforms were companies providing services and not technology companies producing a sharing economy, nor were they simply digital infrastructures that enabled the facilitation, control and administration of interactions and relationships for profit or not for profit. They regulated prices, used algorithms to control worker behaviour and could unilaterally terminate workers' access to the platform. Those new modes of organization resembled traditional precarious forms of work, such as on-call work, piecework and temporary work; however, they were not subject to labour regulation. Such governance gaps led to poor working conditions and unfair competition for some employers.

- 23.** The focus on digital labour platforms meant the discussion would cover platform service companies, including remote micro-tasking, professional work (or web-based crowd work) and on-location work, including delivery, transport and care work, as well as rentals or sales. Different business models should be distinguished, paying close attention to how they made a profit and the extent to which they afforded labour and social protection. He denied the arguments that platforms added value through efficiencies and networks, noting that certain models incentivized the misclassification of workers. Platforms were often charging workers access fees and registered more workers than they needed, resulting in underemployment and price depression. Workers in one country working on digital platforms in another country ("digital labour migration") often fell between the protections of either jurisdiction. The business model had therefore created gaps in labour and social protection, deepening the decent work deficits associated with the casualization of labour and non-standard forms of employment. Furthermore, while young people and men dominated those platforms, women's participation was increasing and was concentrated in sectors that reflected existing gender stereotypes. Migrants were over-represented, especially in the food delivery sector due to fewer entry barriers, and were particularly vulnerable to discrimination and abuse. In the Global South, platforms relied on labour migrating from rural to urban areas, which contributed to keeping labour costs low and provided insufficient labour protections.
- 24.** Algorithmic management was central to the relationship between platforms and workers and often subordinated workers who were not in an employment relationship. The market power gained by platforms had resulted in monopolistic and monopsonistic business forms, which risked falling outside government regulation, hampered fair competition, widened the technological divide between countries, and increased the economic dependency of countries with less developed platform economies. By affording insufficient working conditions and social protection, platform companies kept prices artificially low, putting non-platform companies at a disadvantage. Studies were necessary to evaluate the impact of the platform business model on market dynamics and public services.
- 25.** The Employer Vice-Chairperson [F] called on the experts to avoid using negative terms such as "insecure", "non-standard" or "precarious" work in favour of a positive discussion about the contributions of the platform economy to the world of work and economic development. She noted that the platform economy was broad and diverse and comprised a complex, heterogeneous ecosystem of businesses and activities. It spanned multiple sectors, business models, service provision modalities, worker and service provider profiles, and geographic coverage. Activities ranged from facilitating supply to services, online sales, information-sharing among peers, access to finance and funding, learning, matching candidates to positions and

organizing work, among others. It included location-based platforms (for example in delivery, transport or care) and online platforms (for example for translation, software design or image review for social networks), which engendered a diversity of business models, employment arrangements and regulatory considerations that should be taken into account. As a result, it was not yet appropriate to try to adopt a singular definition of the platform economy. Further research and discussion were needed on the types of existing platforms, their business models and their social protection issues.

26. Despite the diversity, all platforms enabled workers to exercise control over their working choices without penalty. Unlike with traditional employers, there was no expectation for workers to be available during standard hours of work. The high percentage of women and migrants in the platform economy was evidence that it provided employment opportunities for workers who had traditionally been left out of the labour market. The platform economy had also provided access to income when other forms of social or income support were unavailable, such as during the COVID-19 pandemic. While, in most cases, platforms did not act as employers in the traditional sense, they did fill employment gaps and they promoted employability by offering work experience and skilling and training opportunities. It was important to continue to leverage the platform economy for the development of labour markets and better job opportunities. Solutions should not entail barriers to innovation and entrepreneurship.
27. The Government Vice-Chairperson [M] noted that it was part of their mandate to delineate the scope of the “platform economy”, pointing to the European Council and Parliament Directive Proposal 2021/0404 of 9 December 2021 on improving working conditions in platform work (henceforth the EU Draft Directive), which included a reference to digital labour market platforms in opposition to digital marketplaces. The discussion should focus on both location-based and online workers within the world of digital labour platforms.
28. The Government expert from Spain [M] noted that digitalization, digital platforms and algorithms were changing the world of work and therefore needed to be accompanied by new labour standards to provide legal security for both companies and workers, address legal vacuums, and achieve a dynamic and innovative economy. While agreeing on the diverse nature of the platform economy, he referred to five common traits of the platform economy that were supported by a large body of research: (i) it encompassed mainly online work (85 per cent); (ii) it was global in nature and performed primarily through multinationals, sometimes at the cost of local businesses; (iii) it pursued a “winner takes all” model, resulting in the merging or absorbing of competition and monopolization, which was problematic in a competition-based economy; (iv) it was not a new sector of activity but rather a digital transformation of existing sectors; (v) its functioning depended on algorithms, which reduced the negotiating power of workers.
29. The Government expert from China [M] noted the emergence and rapid growth in his country of digital labour platforms, particularly in ride-hailing and delivery services, and the extension to other industries and sectors, especially those involving services, logistics, care and culture. Regulatory developments in China³ referred to specific categories of workers rather than providing a legal definition or criteria. However, academia defined “active platform workers” as those who stayed connected to online platforms for more than four hours a day.

³ In particular the Guidelines on protection of the rights and interests of digital workers, document No. 56.

- 30.** The Government expert from Czechia [F] highlighted the importance and growth of digital labour platforms in many sectors in the European Union and the global economy and labour market. A definition that encompassed both in situ and online work was important for framing policy responses and distinguishing it from other platforms, whose main purpose was to exploit or share assets. The workforce on digital labour platforms was diverse. There was a prevalence of young, male and higher-educated workers, with varying gender dimensions depending on the work performed. While digital labour platforms contributed positively to job creation, business development, innovation, accessibility of services and digitalization, and employment misclassification practices were causes for concern as they could translate into poor working conditions and inadequate access to social protection.
- 31.** The Worker Vice-Chairperson [M] highlighted the need to define digital labour platforms; focus on the employment relationship between the worker and the platform in order to provide certainty and legal protection; and further regulate in situ and online platforms. Referring to the Centenary Declaration, he noted that regulations should address the impact of platforms on the labour market and not deny existing decent work deficits. He clarified that he had used the terms “non-standard forms of employment”, “insecure work” and “precarious work” judiciously and noted their use by the ILO and in the 2030 Agenda for Sustainable Development. While the platform economy was indeed rapidly evolving, had some positive impacts and was transforming existing sectors, it also drove real and persistent decent work deficits that required ILO action. He cautioned that platforms could recreate nineteenth century work practices and new generations of “digital day-labourers”, as noted in the 2019 report of the ILO’s Global Commission on the Future of Work, entitled *Work for a Brighter Future*. The dispersed nature of work across jurisdictions had also led to significant enforcement gaps. The COVID-19 pandemic had had a disproportionate impact on platform workers (who had been essential during the pandemic), exacerbating their vulnerabilities, according to a Eurofound report.⁴ In practice, algorithms had offset the potential advantages of flexibility, shifting the risk of idle time to workers. The inability to earn a decent wage had prompted workers to work on multiple platforms and should be understood as market failure. He referred to the ILO Declaration of Philadelphia and the Centenary Declaration, which had called for ILO action to ensure adequate protection for all workers and align business practices and had reaffirmed the continued relevance of the employment relationship in order to provide certainty and legal protection. It was important to engage promptly in order to ensure that the platform economy resulted in genuine growth and rights for workers.
- 32.** The Employer Vice-Chairperson [F] welcomed the policy interventions that had been shared by Government experts, which demonstrated the diversity of approaches and the utility of social dialogue. She lamented the references to anecdotal evidence, calling for additional empirical research. She called for a more balanced discussion to capture the potential of the platform economy for leveraging technology, supporting entrepreneurship and providing opportunities for workers. It was important not to impose a regulatory approach from developed economies onto developing economies: diverse national circumstances required targeted policies and national dialogue. The applicability of up-to-date international labour standards, including for employment classification, should not be undermined. Additional data research was needed to

⁴ Eurofound, [COVID-19: Implications for Employment and Working Life](#), 2021.

determine gaps in existing standards. Employers would support governments in creating an enabling environment for the development of sustainable enterprises, in line with the Centenary Declaration.

Point 2: Which opportunities and challenges does the platform economy generate in respect of employment creation, including for people facing difficulties in accessing labour markets, and with regard to informality?

- 33.** The Employer Vice-Chairperson [F] highlighted the benefits of the platform economy, as demonstrated during the COVID-19 pandemic, including employment creation, for both waged employment and self-employment and for income generation. Discussions should not focus on classifying all platform workers as employees but rather on recognizing the potential for both types of arrangements. Platforms provided services for consumers in underserved communities, which in turn served as an enabler for growing employment opportunities and self-employment in the wider economies, including for women and other vulnerable groups. They promoted inclusion and diversity by providing access to work regardless of national origin, disability status or gender, as well as by removing requirements for documentation, licenses and other administrative steps. Workers reported satisfaction with the autonomy and flexibility that platforms provided compared to the offline or “analogue” economy. Platforms could also facilitate formalization efforts, particularly in developing countries, by providing infrastructure and systems for more formalized engagements, secure payments, traceability and record-keeping that provided workers with additional safeguards, access to credit, financial inclusion and literacy, and skills development opportunities. Traceability and transparency could also generate public finances through tax revenues. Platforms also removed labour market barriers for new entrants, migrant workers and those seeking to balance work and care duties. It was necessary to consider guidance in existing ILO instruments to address the challenges found in — although not unique to — platforms.
- 34.** The Worker Vice-Chairperson [M] underlined the need for better data collection on employment and decent work. The rapid growth of the platform economy had been driven by business approaches that had lowered prices and resulted in lower incomes, poor working conditions and a lack of social protection. While platform work might afford income opportunities for vulnerable groups, it was not a sustainable solution and could trap marginalized workers in poor conditions, limit their upward mobility and maintain or deepen inequalities. He questioned the data shared by the Employer Vice-Chairperson [F] on platform worker attitudes towards flexibility, noting that survey questions and responses were often misconstrued. He recalled the need to combat disguised employment, welcoming the commitment of the Employer experts to that effect, as well as the guidance provided in the ILO Guidelines on the promotion of decent work and road safety in the transport sector. He raised concern about existing practices, including (i) non-linear or surge pricing, which forced workers to stay connected during periods of high demand; (ii) unremunerated work in relation to active roving time on transport and delivery applications and the timesheet data-processing requirements of crowdsourcing platforms, which ran contrary to the ILO Hours of Work (Commerce and Offices) Convention, 1930 (No. 30); (iii) practices that amounted to piecework pay; and (iv) algorithmic management that applied penalties to workers who refused assignments (including their deactivation without the possibility to appeal to a

human manager) and also resulted in the commodification of employment, discrimination and a barrier to effective labour inspection, as noted in the court hearings held in Bologna, Italy. To achieve sustainable and inclusive formalization, it was essential to pursue progressive immigration law, remove labour market barriers for migrants and ensure digital access for women and persons with disabilities. He also warned against perpetuating gender stereotypes and inequalities in the platform economy with regard to unpaid care responsibilities. Meanwhile, the phenomena of telemigration and digital nomadism needed to be addressed in order to avoid unfair wage competition and digital arbitrage. Although platform work bore the hallmarks of informality, if it were well regulated it could provide pathways to formalization. The Transition from the Informal to the Formal Economy Recommendation, 2015 (No. 204) provided useful guidelines in that regard.

35. The Government Vice-Chairperson [M] agreed that the platform economy provided job opportunities, especially for marginalized groups. He noted the resulting importance of prioritizing both sustainability and decent work alike in the platform economy, and noted that government has to play a role in striking that balance. Tripartism is a key tool for addressing challenges including the misclassification of platform workers; issues of data protection; and algorithmic management.
36. The Government expert from the United States [M] noted the need to promote greater equity given the characteristics of platform workers who were disproportionately younger, persons of colour and belonged to lower-income households. Flexibility varied across platforms. While it had played a role in job maintenance and creation during the COVID-19 pandemic, it was also limited by algorithmic management, which called for greater transparency. Finally, flexibility is not unique to the platform economy. Non-platform employers in his country are increasingly using flexibility as a tool to recruit and retain strong workers in a competitive labour market.
37. The Government expert from Czechia [F] agreed that platform work contributed to job creation and opportunities for those delivering professional services or searching for flexible work arrangements, and also removed barriers for workers who faced challenges in accessing the labour market, such as workers with care responsibilities, workers from minorities, young workers, asylum seekers, migrants and people with disabilities. Given the precarious and vulnerable situations of some of those workers, due consideration was also needed. The platform economy could help diversify revenues, develop new businesses and improve access and choice for customers. However, a number of challenges also needed to be addressed, including those related to the lack of transparency and predictability of contractual arrangements, health and safety, algorithmic management, inadequate access to social protection and employment misclassification.
38. The Government expert from Tunisia [M] referred to the income, skills and employability opportunities that platforms offered to isolated communities and marginalized workers. Platform work also supported national economies, especially those of developing countries, including by providing a path towards formality. He observed the much appreciated flexibility, better work-life balance and sharing of family responsibilities that platforms offered. He called for tripartite action in policy development and better collaboration in data collection and data-sharing.
39. The Government expert from Mexico [M] noted the employment and formalization opportunities, providing an illustration concerning domestic workers. Digital platforms could contribute to labour law compliance, for example of occupational safety and health (OSH) and social protection

rights, as well as the more effective application of relevant legislation through enhanced labour inspection. With reference to social protection, he noted the importance of recognizing the employment relationship and the need to adapt systems to the reality of platform workers. It was important to take advantage of the momentum to build a consensual regulatory framework in order to ensure decent work for platform workers, which would require tripartite actors to make concessions.

40. The Government expert from China [M] noted the positive impacts of platforms on the economy and labour markets, including through employment creation for women and youth. Platform work had transformative potential in some sectors, such as the retail and food sectors, as demonstrated during the COVID-19 pandemic. He also noted the attractiveness of the increased flexibility and autonomy that digital labour platforms offered. In that regard, China, like many countries, was confronted with a number of challenges, including the recognition of the employment relationship; insufficient protection of workers' rights, including the rights to social security and to voice and representation; and algorithmic management.
41. The Government expert from Spain [M] acknowledged the potential of the platform economy to reduce informality and improve traceability and called for governments to ensure the application of OSH rules and minimum wages, among others. While flexibility represented an opportunity for some workers, it should not imply self-employment or be conceived as a trade-off for labour rights. Research had demonstrated that the platform economy did not generate jobs but rather moved labour across borders and away from traditional companies. The platform economy was not a new sector; rather, it had transformed existing sectors and employment, without which the majority of workers would have remained in traditional forms of employment. The growth of platform work had been made possible by reducing costs through the non-application of labour rights, resulting in unfair competition for compliant enterprises. He drew attention to the extensive body of research on the topic of the platform economy.
42. The Employer Vice-Chairperson [F] noted the importance of the platform economy for promoting sustainability and decent work; employment and income opportunities, including for marginalized workers; formalization; business credit and funding opportunities; increasing flexibility and autonomy; skills development; improved safety and traceability; and levelling the playing field between established enterprises and start-ups, especially in developing countries. She also noted the key role of social dialogue and the need for research and data, including on algorithmic accountability. Flexible work arrangements attracted workers seeking remote work and should not be confused with the inherent and unique flexibility of self-employment. She questioned the Worker Vice-Chairperson's [M] reference to Convention No. 30 since it dealt with hours of work in an office. She underscored that the issue of undocumented migrant workers and their path to regularization and formalization was beyond the scope of the Meeting. She lamented the generalized use of language such as "insecure", "informal" and "trapped" to characterize the situation of platform workers.
43. The Worker Vice-Chairperson [M] agreed on the employment opportunities of the platform economy for certain marginalized workers, such as workers with disabilities, underscoring the need for decent work; the identification of the specific challenges and risks involved; an enabling environment for platform companies and workers; and social dialogue. He concurred with the Government expert from Spain [M] on the wealth of available research and the need to pay attention to the transformation cycle, which had resulted in the replacement and

decompartmentalization of existing jobs. He highlighted the many elements of informality present in such work and referred to the *General Survey on Promoting Employment and Decent Work in a Changing Landscape* (hereafter 2020 General Survey) to provide guidance on how a lack of clarity concerning employment status had increased informality. The achievement of decent work depended not on ensuring that all workers were in employment relationships but rather on ensuring that all workers were covered by international labour standards. Finally, violations of fundamental principles and rights at work and the heightened risk of child and forced labour were the result of facilitated access to platforms and underlined the importance of labour inspections in that regard.

Point 3: How are platform workers classified, and which responses have been given by public authorities, social partners and other stakeholders to this issue?

44. The Worker Vice-Chairperson [M] stated that the question of employment status was deeply embedded in the business model of platform companies. Platform companies were new intermediaries that could lead to an evasion of labour rights and misclassification of employment. He noted a number of promising instances of case law and legislation that recognized the employment relationship of in situ workers in the transport and delivery sectors, which in several cases had cited ILO instruments and jurisprudence, including the Employment Relationship Recommendation, 2006 (No. 198).⁵ He also referred to outlier case law that insisted on the primacy of contractual language and the use of arbitration clauses that kept cases outside courts. Legislation served to avoid lengthy and costly litigation and enforce jurisprudence. In that regard, he detailed the presumption approach and “ABC test” that existed in the California Assembly Bill No. 5, Ch. 296, and noted other legislation that had made it easier for workers to fall within the definition of employees, such as in Spain, the United Kingdom and the EU.⁶ While emerging jurisprudence⁷ had demonstrated the effectiveness of instituting a presumption of employment status for combating misclassification, it should be accompanied by the extension of fundamental labour rights to genuinely self-employed workers. Platform workers, irrespective of their employment status, should have access to the full range of fundamental principles and rights at work, as emphasized by the 2020 General Survey. In that regard, the findings of the Committee of Experts on the Application of Conventions (CEACR) had recognized the ability of platform workers to organize and collectively bargain⁸ and the need to pay further attention to employment discrimination based on employment status, in line with the Discrimination (Employment and Occupation) Convention, 1958 (No. 111).

⁵ Tribunal Fédéral Suisse, *Uber Switzerland GmbH c. Office cantonal de l'emploi du canton de Genève*, 2C_575/2020 (30 mai 2022); England and Wales Court of Appeal (Civil Division), *Uber B.V. (“UBV”) & Ors v Aslam & Ors*, EWCA Civ 2748 (19 December 2018); and Tribunal Apelaciones Trabajo, *Queimada E. c. UBER V.B. y otro*, 89/2020 (3 junio 2020).

⁶ The Spanish Law No. 12/2021, the Trade Union and Labour Relations (Consolidation) Act of 1992; EU Draft Directive.

⁷ German Federal Labour Court, Decision of 1 December 2020–9 AZR 102/20; and Brazilian Regional do Trabalho da 2ª Região (TRT-2) de 27 de Agosto 2018, 1001058--88.

⁸ See ILO, [Direct Request \(CEACR\) – adopted 2020, published 109th ILC session \(2021\): Right to Organise and Collective Bargaining Convention, 1949 \(No. 98\) – Belgium \(Ratification 1953\)](#); and new legislation on collective bargaining rights in Greece (see ILO, [Observation \(CEACR\) – adopted 2012, published 102nd ILC session \(2013\): Right to Organise and Collective Bargaining Convention, 1949 \(No. 98\) – Greece \(Ratification: 1984\)](#)).

- 45.** The Employer Vice-Chairperson [F] emphasized that a rigid dichotomist approach to the employed and self-employed categories was limited and that some countries had considered a third category: dependent contractors. She questioned whether the range of approaches and tests for classifying the employment relationship had considered the complexity and diversity of platform work. A rigid classification could be detrimental to both workers and businesses; detract from the freedom to organize and from autonomy; and result in a reduction in employment opportunities, a lack of adequate protection for workers, and legal and compliance risks for businesses. She reiterated the support of the Employers' group for combating disguised employment, underlining that Recommendation No. 198 offered non-binding guidance in that regard. It was also important to uphold the principle of free choice, including self-employment, and of work under a civil or commercial contract, in line with the Employment Policy Convention, 1964 (No. 122). She also noted that the ability to work on various platforms given the absence of exclusivity clauses was desirable, especially for location-based platforms.
- 46.** She stressed the absence of unanimity concerning the classification of platform workers, despite the court rulings cited in the background report, concluding that it would not be possible to adopt a blanket approach through a presumption of employment status, which risked misclassifying civil and commercial relationships and overlooking all the factual circumstances. Instead, other criteria should be considered, such as the absence of an obligation to work, the right to work for direct competitors, limited geographical constraints, the reality of fixed fees and the provision of work tools. The Employer experts did not oppose clarifying employment classification and underlined that Recommendation No. 198 offered non-binding guidance in that regard. However, they deemed that legal certainty could not currently be achieved through the adoption of a new international labour standard. National and provincial laws and jurisprudence were sufficient and the other approaches mentioned in the background report should be considered, including case-by-case judicial determination, intermediate legal forms, and the extension of labour and social security rights to all platform workers.
- 47.** The Government Vice-Chairperson [M] stated that the question of employment classification was key, with varied legal approaches across sectors and jurisdictions. Some countries had adopted an intermediate or "third way" approach to classification, whereby workers had been conferred some but not all of the rights granted to employees, while other countries had rejected that approach in favour of models that reduced grey zones, for example by establishing a rebuttable presumption of employment. Classification should be based on objective criteria, even if they were variable by industry. Power imbalances had led some countries to regulate more carefully. The recognition of genuine self-employment and appropriate classification could give more certainty to platforms. That required complying with existing legal frameworks and collaborating with public authorities, including by providing data and records, in order to support labour inspections or judicial proceedings. Triangular employment relationships and the cross-border nature of the platform economy had complicated compliance and enforcement. Platforms should be legally incorporated in each of the countries in which their workers operated.
- 48.** The Government expert from the United States [M] noted the negative impacts of misclassification on individual workers and on equity. Disguised employment practices had put law-abiding employers at a disadvantage, with impacts on the labour market, tax revenues and social insurance systems. States in the United States had taken a variety of approaches to classification, including through presumptions of employment such as the ABC Test and the creation of an

intermediate status. The intermediate approach had been rejected by the current federal government since, if workers in that category were afforded the same rights as other workers, the category would be unnecessary, while affording them fewer rights would produce negative incentives. Instead, new legislation was under preparation to create a rebuttable presumption of employment status in collective bargaining and to clarify independent contractor status through a new test that would be consistent with national law and jurisprudence. As such, it was timely for the ILO to contribute its tripartite inputs to the conversation in order to reduce uncertainty and address misclassification, increase the efficiency of enforcement efforts and reduce the risk of litigation against employers.

- 49.** The Government expert from Mexico [M] stated that classification should be based on objective criteria and that legal procedures should not impede the recognition of an employment relationship. In Mexico, classification had an impact on taxes, social security and working conditions. The fiscal authorities had an agreement with digital platforms that allowed tax collection if their contractors were self-employed workers; while imperfect, it had led to considerable tax revenues. The social security administration had launched a pilot to extend social security to independent workers, with very low uptake. The misclassification of workers had also reduced the capacity of workers to reach collective agreements with digital platforms. The classification of platform companies as employers had impacted taxes and other costs. Although it had been argued that that would not be financially viable, the reform in Mexico had shown an increase in social contributions and the application of minimum wages. He called for continued tripartite dialogue in order to address issues of classification and close international and national legal gaps so as to ensure rights for all workers, whether dependent or independent.
- 50.** The Government expert from Czechia [F] stated that in the European Union, nine out of ten platforms had classified workers as self-employed, 20 per cent of whom had been misclassified. Numerous court cases in the EU had resulted in the reclassification of workers as employees. Misclassification had deprived people of their labour and social rights, putting undue pressure on social security systems. Ensuring correct classification, while respecting genuine self-employment, was key to improving the situation of platform workers. Several approaches existed, including the rebuttable presumption of an employment status. The EU Draft Directive had tackled misclassification, algorithmic management and cross-border transparency, and had also proposed guidelines on the application of EU competition law in order to protect collective bargaining. Several EU Member States had adopted national laws or concluded collective agreements to improve working conditions and access to social protection, often targeting transport and delivery platforms.
- 51.** The Government expert from Spain [M] referred to Law No. 12/2021, which had provided a presumption of employment status within digital platforms offering transport services and an obligation for all companies to report on the operation of algorithms that affected working conditions. Any platform service provider was presumed to be a worker when the platform used an algorithm to direct the work. The law was a result of social dialogue, as employers had also recognized the need to close legal and implementation gaps in labour law for platform workers. A modernized concept of workers was needed to address the future of work and ensure the continued applicability of the ILO's normative framework. He called for more regulation to define the concept of workers, given the triangular arrangements, algorithmic management and management by incentives, which had made it difficult to detect the employment relationship. Rather than focusing on flexibility of time, place of work or the way work was delivered, criteria

for employment classification should focus on the means of production, such as the California Assembly Bill No. 5, Ch. 296, and as evidenced in various court rulings. The creation of a third category was not a viable solution, as evidenced by court cases in Spain, Italy, Germany and the United Kingdom. It was difficult for platform workers to demand the correct classification as employees given: (i) the lack of unionization; (ii) the transnational and part-time nature of work; (iii) the triangular work relationship; (iv) algorithmic management; (v) management by incentives; and (vi) the fear of being disconnected or fired. Therefore, there was a need for regulations and improved enforcement through increased labour inspection and a presumption of employment status. Better compliance with regulation and greater legal certainty could imply greater investment in platform companies for the direct benefit of companies and workers.

52. Noting the urgency of the topic, the Government expert from Brazil [M] stated that in 2018, Brazil had adopted a law extending social security to ride-hailing workers, which had ignited social dialogue on how to classify platform workers in a way that satisfied the needs and interests of workers in terms of flexibility while affording them basic rights. While the regulatory framework remained under discussion, labour inspections of the platform economy had already been carried out across the country, serving as a basis for court decisions, and the Government of Brazil remained committed to guaranteeing minimum standards, including social security, life insurance and training programmes.
53. The Government expert from Japan [M] stated that while there was a definition of “platform workers”, there was no definition for “freelance workers”. However, guidelines and regulations were being issued to increase their protection and solve the imbalances between freelance workers and platform companies. The Government had also prepared guidelines clarifying the application of antitrust, subcontracting and labour regulations and had established an advisory centre for freelance workers and expanded workers’ compensation benefits to include independent food delivery workers. A bill regulating companies that contracted freelancers working under contract or consignment (and not employment as such) was also under preparation.
54. The Government expert from China [M] underlined that there was no single legal definition of platform workers; rather, they could be defined as employees or as self-employed persons providing services. Since 2021, a third category had been created to extend basic rights and social protection to workers who had greater autonomy of work, while being subject to the management and control of platforms, as established in the Guiding opinion on protecting labour security rights and interests of gig workers.⁹ That had entitled those workers to the right to fair employment, remuneration, working time, work safety, social security, and participation in the decision-making processes for the algorithms and working rules. While some existing laws applied to platform workers, others such as the Trade Union Law had been revised for that purpose. Given the diversity of views on classification, it was clear that a one-size fits all approach would not be feasible. The Meeting should identify the basic labour rights that should be granted to platform workers, regardless of their classification.
55. The representative of the European Commission [F] outlined the objectives and content of the EU Draft Directive, which covered both in situ and online digital labour platforms and sought to support genuine self-employment. It comprised: (i) a procedure to ensure the correct

⁹ Adopted at the State Council General Affairs Meeting held on 7 July 2021.

classification of employment status through a rebuttable legal presumption, using criteria in line with the law and practice of EU Member States; (ii) regulating algorithmic management to contain potential infringements of working conditions, employment status and data-protection rights, including by restricting the collection, use and processing of personal data, improving transparency and social dialogue, and ensuring human monitoring, evaluation and accountability; and (iii) strengthening information-sharing and traceability, especially in a cross-border context. She noted that the EU Draft Directive had been developed in a way that involved the social partners and was evidence-based and it was currently the subject of discussion in the European Council and Parliament.

- 56.** The Worker Vice-Chairperson [M] welcomed the Employer Vice-Chairperson's [F] rejection of disguised employment and support for the application of Recommendation No. 198, which called on governments to combat disguised employment practices, and he asked the Office to take immediate promotional action. The proper application of relevant ILO standards should continue, while addressing gaps through new normative action to provide a level playing field and establish legal certainty by harmonizing and standardizing national legislative, judicial and workplace approaches, including for cross-border work. He welcomed the Government experts' consensus on the need for the primacy of facts principle, objective employment status indicators, and improving compliance and enforcement, given the triangular employment relationships and cross-border nature of platform work.
- 57.** A third category of workers would not lead to positive outcomes in terms of wages and employment but would create legal uncertainty and inadequate labour and social protection at national and international levels. It would also incur unnecessary litigation and related pressures on labour administration and regulatory authorities. Regulating dependent self-employment was also insufficient to address the changes in work organization observed in the platform economy. Instead, classification must address the power imbalance between platforms and self-employed workers and ensure freedom of association and collective bargaining, irrespective of employment status. Contrary to genuinely self-employed workers, workers misclassified as self-employed did not have the capacity to determine the cost of their services and contractual conditions, nor did they have any influence over the scope of services provided. Given the global impact of platforms across countries, with varying levels of development and digital capacity, and the cross-border nature of the platform economy, development cooperation and a new international labour standard could provide countries with the necessary support and guidance towards decent work in the platform economy, while considering diverse economic, cultural, technological and social contexts. The EU Draft Directive represented a good example.
- 58.** The Employer Vice-Chairperson [F] noted that the classification of workers should not distract the conversation from promoting decent working conditions, regardless of classification. The diversity of platform workers and of approaches to classification across and within jurisdictions made the imposition of international classification criteria unreasonable. Platforms should not be used as devices to classify workers and emerging business models, including platform cooperatives, had challenged the relevance of classification. She noted that the use of a third category of workers had already emerged as a solution in some countries. The rebuttable presumption of employment status would not create legal certainty but simply act as a tool that could be rebutted in the courts. While acknowledging that EU Draft Directive was important, the fact that no decision had yet been reached, despite the similar level of economic development across its members, indicated the difficulty of adopting an international standard. In any case,

there was no need for a single path forward on the issue of classification and social protection. The existence of applicable international standards negated the need for new standards on platform work. Carving out platform work would erroneously suggest that existing standards were no longer relevant.

59. With reference to the intervention by the representative of the European Commission, the Employer Vice-Chairperson [F] underlined the heterogeneity of national legal solutions and the divergent views within the EU regarding the Draft Directive, inferring the difficulty of imposing a one-size-fits-all solution, especially one built on a European model. She recommended that the ILO engage in a thorough analysis, research and impact assessment of policy interventions at a global level.

Point 4: Which are the working conditions and social protection of platform workers? Are workers' personal data protected? Are there safeguards in place concerning the use of technology for organizing and monitoring platform work?

60. The Employer Vice-Chairperson [F] stated support for the Social Security (Minimum Standards) Convention, 1952 (No. 102), and the Social Protection Floors Recommendation, 2012 (No. 202), noting their application to the platform economy, and for the ILO Centenary Declaration and its call for social protection systems that were adequate, sustainable and adapted to developments in the world of work. Social protection represented an investment in inclusive and well-functioning economies and contributed to decent work, productive employment, sustainable enterprises, inclusive growth, improved tax revenues and social cohesion. She welcomed innovative models and promising policy responses that were able to balance sustainability, fiscal space and economic growth with significant coverage, respect for human dignity and social justice. In many countries, protections were linked to the employer rather than to the worker, despite the growing prominence of new and diverse forms of work. She called for a fluid and flexible design to align with current labour market needs, especially in the context of the platform economy, and for avoiding the choice between flexibility and security. She recalled that the Resolution concerning the second recurrent discussion on social protection (social security), adopted by the International Labour Conference at its 109th Session (2021), had called for the realization of universal social protection, which could be achieved by tailoring social protection to cover the entire workforce and the integration of new categories of workers. To be successful, those efforts should be extended to platform workers and platforms; keep abreast of a more diverse labour market; take proportional approaches to risk-pooling; and include portability measures. Extension challenges, which were common across all types of employments, demanded a cross-cutting response, such as those elaborated in the background report. Effective measures should be designed according to national contexts and through social dialogue and not according to classification.
61. The use of algorithms, artificial intelligence and data protection were of equal relevance in platform and traditional companies, and platform service providers actually enjoyed a higher level of control than traditional employees with respect to those. Algorithms were governed by rules set by humans that allowed platforms to efficiently match consumers with service providers at an acceptable price, while promoting safety, transparency and protection against fraud. Like any sector, platforms needed rules that governed access to information and incentives to encourage

behaviour that improved marketplace reliability and safety. Consumers needed to expect reasonable protection and platforms had to balance those interests. Because data protection and use were relevant issues for all companies, they were largely regulated in most countries, for instance in the European Union, Mexico, Brazil, Japan, China and France.¹⁰ In general, such laws required platforms to be transparent with service providers based on rules that promoted safe, respectful and efficient interactions and shared information on the use of data collected. Those practices were positive insofar as they remained within the scope of applicable regulation and did not represent an improper encroachment on intellectual rights.

- 62.** The Worker Vice-Chairperson [M] stated that there was extensive evidence of decent work deficits, which required immediate ILO attention through a new standard. The standard-setting process would necessarily involve a law and practice report, which would provide the necessary evidence base for bold normative action to curtail decent work deficits, close labour protection gaps, provide legal certainty and create a level playing field. Gaps in working conditions included those related to a lack of guaranteed income and access to a living wage; pay transparency; unpaid working time; holiday pay; timely provision of protective equipment; access to parental and maternity protection; protection against violence and harassment at work; lack of access to sanitation and rest facilities; insufficient rights to freedom of association and collective bargaining; and often no access to dispute settlement and grievance mechanisms. Employment status misclassification could be at the root of many of those gaps. Workers were also affected by automated decision-making by algorithms, including arbitrary automatic suspensions, withholding of jobs, unilateral ratings, constant surveillance of activities, and racial and gender biases. Workers also had to bear the cost of work equipment, faced penalties for rejecting jobs, lacked the effective right to disconnect and had no right to data portability and little to no data-protection rights.
- 63.** He highlighted the lack of social protection, referring to the *World Employment and Social Outlook 2021*, which stated that social protection coverage was inversely related to workers' dependence. Calculation of benefits did not include unpaid waiting time, which had significant impacts on workers, as well as on governments, depriving them of the funds needed to invest in public services. The lack of social protection could be life-threatening, as observed in the rise in deaths of food delivery riders, leaving families without protection and platforms bearing no responsibility.
- 64.** Pay issues were the most frequent subject of protests, as evidenced by a survey of platform labour protests published in June 2022. Platform workers paid by task often also paid high commission fees to the platform, as noted in the *World Employment and Social Outlook 2021*, which represented the majority of platforms' revenues. Microtask and crowdwork workers spent a significant amount of time doing unpaid activities, as noted in ILO research.¹¹ Workers in developing countries were often given gift vouchers instead of cash. When workers received cash, money transfer costs were sometimes deducted from their pay. Platform workers had limited access to training and career

¹⁰ European Union, Data Protection Directive; Mexico, Law on the Protection of Data; Brazil, Federal General Data Protection Law (2020); Japan, Act on Protection of Personal Information (2003); China, Personal Information Protection Law and Data Security Law; and France, Law for a Digital Republic (2016).

¹¹ Janine Berg, et al., *Digital Labour Platforms and the Future of Work: Towards Decent Work in the Online World* (ILO, 2018).

opportunities, as noted in the 2020 report of the European Parliament's Committee on Employment and Social Affairs.

- 65.** The new forms of worker control and monitoring had resulted in a loss of autonomy and extended working time beyond the limits established under the Forty-Hour Week Convention, 1935 (No. 47). Fear of denial of work or other punishment, ratings and other incentive structures had curtailed workers' autonomy and control over their work, working time, schedules and decisions on health and safety, which, in a market of oversupply of labour, could lead to a lack of work opportunities. Algorithms regulated working conditions by replacing humans in allocating and evaluating work, contributing to workplace surveillance that undermined workers' privacy and dignity. Several platforms had clauses allowing clients to reject work as unsatisfactory with little to no justification. The lack of transparency of algorithms had created a power imbalance between workers and platforms and genuine collective bargaining was necessary to redress it. Data was a sizeable form of income for platforms, with no share going to workers. Data sovereignty and portability was necessary to promote the rights and autonomy of workers. It was also crucial for governments to have access to the source codes of algorithms in order to regulate them for discrimination or unfair dismissal contrary to the Termination of Employment Convention, 1982 (No. 158).
- 66.** The Government Vice-Chairperson [M] affirmed that all workers should enjoy fundamental principles and rights at work, acknowledging the existence of legal, implementation and compliance gaps and the need for specific protections for workers in the platform economy. Classification and related employer obligations were key for accessing workers' rights and ensuring a level playing field. Basic rights should still apply, even when classification was unclear. Data protection, algorithmic management, triangular relationships and social protection required special attention.
- 67.** The Government expert from the United States [M] explained that in his country, platform workers had fewer protections than other workers, notably with respect to minimum wages, overtime, access to social insurance and the right to organize. Misclassification was an inarguable obstacle in that regard, with detrimental impacts on workers, rule-abiding employers and social insurance programmes. Data protection was important, as employers were using data to make consequential decisions about working conditions. Transparency around algorithmic management was necessary in order to assess workers' classification and compliance with labour and employment laws. Tripartite oversight of those decisions was necessary and time-sensitive.
- 68.** The Government expert from Czechia [F] stated that platform work had created opportunities but also challenges regarding working conditions, notably in relation to transparency and predictability, without a mechanism for redress or complaints. Surveillance by digital labour platforms or clients and the direction and appraisal of worker performance could strongly affect workers' autonomy and well-being. Regarding earnings and working time, issues included taskwork, unpaid tasks, refused payments, exclusion from minimum wage and social dialogue, low bargaining power and income insecurity. Flexibility often led to unpaid waiting time and could compromise work-life balance. Employment status, eligibility requirements and the supplementary nature of income from platform work limited workers' access to social protection. Limited access to unemployment protection and sickness benefits had exacerbated the vulnerability of in situ workers during the COVID-19 pandemic. Correct classification could help address those issues, particularly regarding access to social protection. The distribution of tasks

based on ratings and monitoring and surveillance by algorithmic systems had resulted in increased psychosocial risks. Better prevention of related employment accidents and occupational diseases was necessary. She also highlighted the impact on working conditions of the use of automated monitoring and algorithmic decision-making systems rather than human managers. Notably, the lack of transparency of such parameters prevented workers from questioning decisions or requesting human verification and concealed the existence of worker subordination and control. Data-protection laws should strictly limit the use of personal data and ensure that workers were informed of its use. Algorithmic management should be subject to social dialogue and platforms should ensure human oversight and provide redress mechanisms.

- 69.** The Government expert from Spain [M] noted that existing regulations were insufficiently applied to ensure the fundamental rights of platform workers, in part due to the challenges of classification. Ensuring decent work required correct classification, a modern concept of the term “worker” and adequately resourced labour inspections. Necessary future action included extending and ensuring the effective application of existing rights to platform workers; ensuring correct classification; and adopting new regulations to address four challenges that were specific to the platform economy, including: (i) insufficient regulation to protect data and address the way new technologies embedded in the platforms allowed the monitoring and control of workers’ activities even outside of work; (ii) the lack of transparency and the negotiation of algorithms inherent to the functioning of platforms, as well as challenges related to the selection, control, supervision, management and dismissal of workers, for which Spanish Law No. 12/2021 could serve as a precedent; (iii) the right to disconnect digitally, as constant connection blurred the boundaries between work and rest; and (iv) the existence of triangular work relationships to which ILO standards did not fully apply.
- 70.** The Government expert from Mexico [M] noted that certain barriers to fundamental rights were specific to – if not exclusive to – the platform economy and there was no international standard around which to build proper social protection systems for all platform workers, regardless of classification. The regulatory challenges encountered in Mexico pertained to algorithmic management, including workers’ lack of understanding of how algorithms operated and reinforced discrimination towards vulnerable groups, the lack of transparency concerning the penalties linked to work volume and the lack of mechanisms for ensuring the participation of platform workers in regulating algorithms. Many jurisdictions gave workers the right to participate in setting internal regulation when unions did not exist. He noted the challenges related to connectivity and “de-platforming”, which could amount to the unjust dismissal of workers. The irregular nature of the work had also challenged his Government’s capacity to ensure social protection, incurring undue costs to society to account for the low rate of contributions and high rate of accidents among platform workers. There were additional obstacles that specifically affected women in the platform economy, including the use of discriminatory algorithms hampering their access to work; violence and harassment; lack of access to maternity protection; and occupational segregation. Finally, he underlined the difficulty of monitoring and enforcing compliance among platforms when they were not legal entities in the countries of operation. It was necessary to close those gaps and develop an international legal framework, through social dialogue.
- 71.** The Government expert from Brazil [M] reaffirmed the need to guarantee decent work and respect the fundamental rights of workers, irrespective of their classification, through institutional action and broad social dialogue. As an example, he cited the enactment in Brazil in 2018 of the

General Data Protection Law, which had established a legal framework for the rights of holders of personal data regarding the processing of data available in physical and digital media. Platform companies also remained bound by tax legislation to prevent unfair competition and fiscal imbalances.

- 72.** The Employer Vice-Chairperson [F] underlined that the social protection challenges in the platform economy resembled those in other sectors, were rooted in national social security systems and depended on the availability of fiscal space to cover everyone, irrespective of their employment classification. The technology inherent in platform work could help to increase social protection coverage through the traceability of workers and service providers, and could also help to implement targeted policy interventions. She warned of simplistic solutions and reiterated the need to adopt pragmatic and informed approaches to extend social protection. The presumption of employment status had presented the risks of withholding employment opportunities and hampering the development of entrepreneurship and the sustainability of small and medium-sized enterprises, leading to heightened informality and unemployment. Social protection should be tied to an actual employment relationship, which required that disguised employment be distinguished from genuine self-employment in the platform economy. She highlighted that situations of inadequate pay, multiple employers and tripartite labour relations were not unique to the platform economy and needed further research. There was no evidence that workers had been denied break time; rather, platform work offered individuals flexibility to organize their working time according to their needs.
- 73.** She argued that the Meeting should focus only on issues that were specific to platforms and that therefore artificial intelligence regulation lay outside the scope of the Meeting. Worldwide, data-protection issues were very well regulated in terms of the type of information collected, its use, transparency and accessibility. She recalled that a discussion on the protection of workers' personal data in the digital era had been raised by the Governing Body in March 2021 and proposed as an item on the agenda of the International Labour Conference. She supported the need to respect regulations regarding the use of algorithms, including intellectual property law, data-sharing and collection, as well as decision-making processes by artificial intelligence. Algorithms should not be used to perpetuate discriminatory behaviour; however, sensitivity was required in order to balance the rights of workers to data protection with those of service providers and with the service providers' obligation to share such data with government authorities, including for taxation purposes. There were also instances in which it was important not to disclose such processes. She also supported the undertaking of further research on best practices regarding the handling of confidential information and data portability across platforms, including ratings, distinguishing between performance ratings, customer satisfaction feedback and so on. She objected to the Worker Vice-Chairperson's [M] assertion that algorithms necessarily made decisions that led to a lack of work and suggested that such decisions could be the consequence of a poor customer experience.
- 74.** The Worker Vice-Chairperson [M] agreed that there was a need to extend social protection to all workers, regardless of their employment relationship, taking into account the principles of Convention No. 102 and Recommendation No. 202. However, he recognized the relevance of the determination of employment status for social protection, which necessitated a dual strategy of correcting misclassification while also extending social protection to genuinely self-employed workers, in light of the large numbers of workers in disguised employment. While technology might allow for the traceability of workers, there was a lack of transparency and sharing of

information with labour inspectors and tax and social security authorities, which hindered their capacity to enforce compliance. Referring to the exposure of location-based platforms to psychosocial risks, injuries and even the death of location-based platform workers, he recalled that OSH had been elevated to the list of fundamental principles and rights at work and that platform workers should enjoy those rights, without fear of automatic retaliation for refusing dangerous work, and should have the ability to report such risks to a human manager. In addition, OSH representatives should have access to algorithms and source codes and platforms should not use automated monitoring and decision-making to put undue pressures on platform workers or risk their health, as included in the provisions of the EU Draft Directive.

75. He noted the gaps in the research on data protection and surveillance, calling for further research in the areas of customer ratings, collective rights and greater transparency in the determination of working conditions. He noted the good practices in law and jurisprudence that required platforms to disclose data on how wages are determined¹²; granted workers access to descriptions of productivity quotas to assess their potential risks;¹³ and enabled trade unions to gain access to productivity algorithms.¹⁴ The EU Draft Directive sought to extend the right to access such information to the genuinely self-employed. He proposed that a “bundle of data rights” should include the right of individual access and control of personal data; the right of collective access and negotiated control of such data; the right to compensation for profits and intangible benefits that platforms might derive from such data; the right to have decisions based on such data made by a human; and the right to data portability. Finally, he underlined the importance of remedy and grievance systems in lieu of arbitration, calling for the removal of arbitration provisions, as exemplified by a decision of the Supreme Court of Canada.

Point 5: Do platform workers enjoy freedom of association and the effective recognition of the right to collective bargaining?

76. The Worker Vice-Chairperson [M] stated that the rights to freedom of association and collective bargaining were enabling rights that were applicable to all workers and prerequisites for other rights, citing the 2020 General Survey as well as the jurisprudence of the CEACR and the Committee on Freedom of Association (CFA) regarding the applicability of Convention No. 87 and the Right to Organise and Collective Bargaining Convention, 1949 (No. 98). Geographic dispersion, fear of retaliation by way of suspension, application surveillance, disguised employment and misclassification posed challenges for organizing both in situ and online platform workers. Nonetheless, there had been several successful organizing efforts by traditional and new grass-roots worker-led unions alike, for example in India, Colombia and Germany. Genuinely self-employed persons’ right to collective bargaining was recognized at the national level, both in law such as in Spain¹⁵ and in union organizing efforts like in Australia, and at the international level by the European Commission’s Guidelines on the application of EU competition law to collective agreements regarding the working conditions of solo self-employed persons, as well as the ILO’s

¹² Court of Appeals in Amsterdam.

¹³ Assembly Bill No. 701.

¹⁴ Spanish Law No. 12/2021.

¹⁵ Spanish law No. 12/2021.

supervisory bodies. He also referred to an Italian Constitutional Court decision¹⁶ that had recognized the constitutional right to strike of small-scale entrepreneurs and self-employed workers. Collective bargaining agreements could regulate working time and wages as well as algorithmic information rights, as had been seen in Denmark and Spain,¹⁷ respectively. He called for platforms to be recognized as employers for the purposes of collective bargaining and for ILO action to ensure that competition law did not create obstacles to freedom of association and genuine self-employed, as agreed in the Conclusions of the Meeting of Experts on Non-Standard Forms of Employment, 2015.¹⁸

- 77.** Misclassification and competition law curtailed organizing and collective bargaining and had to be addressed. For example, a court case in the United Kingdom¹⁹ had denied a union the right to seek statutory recognition due to the court's classification of the workers as self-employed. The collective agreements mentioned in the background report and an ILO working paper²⁰ applied only to workers in an employment relationship. Competition law nonetheless remained a barrier in too many jurisdictions, for example in Denmark, where the Danish Competition and Consumer Authority had struck down a collective agreement that was deemed not to be aligned with EU competition law as the workers were not considered employees of the platform.²¹
- 78.** The Employer Vice-Chairperson [F] recognized the importance of the promotion of freedom of association and the right to collective bargaining, which were part of the ILO Declaration on Fundamental Principles and Rights at Work and the ILO Declaration of Philadelphia. She underlined that all Member States had the obligation, by virtue of their membership, to promote the principles of Conventions Nos 87 and 98, irrespective of ratification, as they reflected true democratic norms and were necessary for freedom of choice and the rule of law in the market economy. They also created an environment for more efficient work organization, innovation and higher productivity, with the potential to contribute to social peace and economic resilience. She disagreed, however, regarding the applicability of both Conventions to platform workers, regardless of their classification, and further analysis was required to make such a determination. She suggested that the references made to CEACR and CFA decisions related to different contexts. While workers, regardless of their classification, could enjoy the rights set out in Convention No. 87, she questioned the applicability of Convention No. 98 to platform workers, since Article 4 made that right conditional on an employment relationship. She recalled that the Employers' group had disagreed with the assessment made by the 2020 General Survey and considered that autonomous self-employed workers were in commercial contracts and were therefore not covered by Convention No. 98. She recalled that CFA decisions were not legally binding and did not form legal precedents, cautioning against their application to platform business models because they were either ill-adapted or out of date. She further cautioned against applying labour-related norms to commercial activity due to possible conflicts with existing competition laws, as

¹⁶ Italy, Constitutional Court, Decision of 24 January 2020–1663.

¹⁷ Collective Bargaining Agreement of 17 December 2021 between CCOO and UGT (2022-).

¹⁸ [GB.323/POL/3](#).

¹⁹ England and Wales Court of Appeal (Civil Division), *The Independent Workers Union of Great Britain v The Central Arbitration Committee*, EWCA Civ 952 (24 June 2021).

²⁰ ILO, [Realizing the Opportunities of the Platform Economy through Freedom of Association and Collective Bargaining](#), Working Paper 80.

²¹ Denmark, The Danish Competition and Consumer Authority (DCCA), Decision of 26 August 2020).

self-employed persons entered contracts independently and were often considered businesses. The background document had overstated the power asymmetry and competitive effects of platform businesses. She conceded that monopoly and monopsony powers did exist but noted that they were not automatically present in the platform economy. She cautioned against potential conflicts with competition law, citing the example of Ireland.²² She further expressed doubts as regards the reported rates of non-standard forms of employment, also noting the decreasing rates of unionization. Regarding the right to strike, she reiterated the Employers' group position that that right did not exist in international labour standards and that the CEACR had exceeded its mandate in that regard.

- 79.** The Government Vice-Chairperson [M] confirmed that all platform workers should enjoy freedom of association and the right to collective bargaining. Access to such rights were however hampered by insufficient regulation, gaps in implementation or the lack of incorporation of enterprises in countries of origins. He noted the challenges unique to the platform economy, referring specifically to algorithmic management that resulted in dismissals, discrimination and reprisals for exercising those rights. He noted the remaining questions regarding the transposition of union bargaining mechanisms, including in relation to the self-employed; the identification of employers; and workplace access for in situ and online workers. He concluded by noting the important role of unions in improving conditions in the platform economy.
- 80.** The Government expert from Czechia [F] noted that social dialogue and collective bargaining remained limited because of the lack of a physical workplace and that both should be promoted as tools to improve working conditions since that entailed the existence of communication channels and the absence of fear of retaliation. There was a need for sharing key information with workers' representatives and subjecting algorithmic management tools to social dialogue. She stated that under certain circumstances and with due regard to national law, self-employed workers should be able to engage in collective bargaining without fear of infringing competition law.
- 81.** The Government expert from Spain [M] referred to gaps in existing international labour standards, as evidenced by numerous studies, that needed to be addressed in order to ensure correct classification and thereby enable freedom of association and the right to collective bargaining, including: (i) addressing imbalances between global companies and national unions that were unable to create international collective bargaining agreements; (ii) the need for distinct rules and mechanisms, particularly regarding the elections of trade union representatives and securing safe communication channels between workers and their representatives without company intervention; (iii) the application of rights where companies were absent from the territory; (iv) the need to prevent algorithms from discriminating against workers and trade union representatives, including by guaranteeing the right to affiliation and to non-retaliation; and (v) the need for specific regulations on data protection and privacy of information.
- 82.** The Worker Vice-Chairperson [M] expressed regret about the views expressed by the Employer Vice-Chairperson [F] on the mandate of the supervisory mechanism. He added, with reference to Recommendation No. 204 and CFA jurisprudence, that all workers, irrespective of their contractual status, and therefore also all self-employed workers, had a right to collective bargaining. He concluded by referring to Leeds Index of Platform Labour Protest and a protest by

²² Ireland, Competition (Amendment) Act 2017, Schedule 4.

essential workers in Brazil during the COVID-19 pandemic to exemplify the role of collective action and the courage of platform workers to engage in protests.

83. The Employer Vice-Chairperson [F] acknowledged the diverse national approaches used, such as in Australia, Canada, Chile and India, to represent the interests of platform workers and employers and extend collective bargaining to the self-employed, in line with Convention No. 87. However, the fact that national practices existed did not imply the need for an international obligation derived from that standard. Legitimate, collective action did not necessarily have to result in a collective agreement for the multiplicity of platform workers. Where an employment relationship existed, the rights to freedom of association and collective bargaining should be respected, promoted and realized by Member States, while combating misclassification at the national level. The focus should be on determining the level of enforcement of those rights. However, she asserted that the right to strike could not be derived from Conventions Nos 87 or 98 and lamented the decisions taken by the CEACR. She called for national innovative practices and solutions and underlined the value-added of sectoral social dialogue as a means to regulate the relationships as per Conventions Nos. 87 and 98 for workers in all arrangements.

Point 6: Which issues should the ILO focus on to help make decent work a reality in the platform economy, notably what guidance could be provided to inform a possible general discussion or standard-setting on decent work in the platform economy, subject to the Governing Body's decision?

84. The Employer Vice-Chairperson [F] noted that while there was cross-cutting agreement on the place of platform work in the economy and the challenges posed by its fast-evolving nature, there was an insufficient basis or common ground on key issues for taking ILO standard-setting action. More multiperspective and multidisciplinary research, as well as comprehensive and representative data, were needed to inform future deliberations, given the diversity, complexity and evolving nature of platform economy. Research could include determining the scope of regulations; the applicability of existing ILO standards; the operations and impacts of the platform economy; and the dynamics of its interactions with the offline labour market. Future discussions needed to consider the multiplicity of actors in the platform economy, including the genuine self-employed and an emerging third category referred to as "dependent contractors". Meanwhile, existing standards should be implemented to help increase compliance and enforcement. She cautioned against creating new rules covering the cross-border provision of services by and recruitment of platform workers, as such rules already existed for other workers.
85. While normative action was not appropriate for the entire platform economy, she proposed other actions that could be taken, namely: (i) advancing the discussion of how platforms could increase formality through traceability, tax and data privacy law reform, as well as incentive mechanisms, with the added benefits of generating government revenue, advancing financial inclusion and protecting workers; (ii) applying Recommendation No. 198 as a tool to guide ILO constituents in the classification of employment relationships; (iii) ensuring OSH through a system of defined rights, responsibilities and duties through social dialogue, in line with the Resolution on the inclusion of a safe and healthy working environment in the ILO's framework of fundamental principles and rights at work, adopted by the International Labour Conference at its 110th Session (2022); (iv) encouraging novel forms of social dialogue that included employer organizations and

platform companies in order to improve working conditions and relations between service providers and platforms; (v) ensuring the social protection coverage of all platform workers and service providers, irrespective of employment status; (vi) offering dispute-resolution mechanisms and access to justice for platform workers and service providers; (vii) enhancing internet accessibility and other digital infrastructures, particularly in marginalized and rural communities, in order to remove barriers to employment; (viii) promoting sector-wide approaches and the ratification of existing up-to-date standards, including the Private Employment Agencies Convention, 1997 (No. 181), the Work in Fishing Convention, 2007 (No. 188), Recommendation No. 198 and Convention No. 102, in line with the standards review mechanism; (ix) strengthening and building the capacity of labour inspectorates to ensure compliance of companies with national law; and (x) protecting service providers' data rights, while balancing platform companies' ability to share information with government authorities for taxation purposes and respecting the legitimate right of companies for patent and trade secrets under intellectual property laws so as to not curtail innovation and new developments.

- 86.** The Worker Vice-Chairperson [M] noted that labour practices on digital platforms, both web-based and location-based, were undermining hard-fought worker protections and reshaping entire sectors, including the transportation, care work and public services sectors. There was a clear, substantiated need for standard-setting action in the form of a convention to fill the gaps in international labour standards and ensure decent work for platform workers. Conversely, a general discussion would serve only to delay action that clearly required urgent attention. Platform work had reinforced a trend towards casualization at the expense of labour rights, while adding the new dimensions created by the internet-enabled and platform-mediated nature of the work. A new convention on digital labour platforms could build upon the growing body of national laws and jurisprudence and address the question of employment status and the need for a protection floor that could prevent the further decline of wages and working conditions and adverse impacts on the economy. Climate and rapid technological change required lifelong training, upskilling and reskilling for platform workers.
- 87.** Any new convention would need to ensure the applicability of relevant existing standards to all platform workers, including the right to freedom of association, collective bargaining, prohibition of discrimination and OSH. Digital labour platforms should be responsible for working conditions based on presumption of employment status and should act as the counterpart for purposes of collective bargaining, while a new convention should apply to all platform workers, irrespective of employment status. Recommendation No. 198 would be a key tool for resolving employment misclassification. A new convention should address a number of unregulated issues, including (i) algorithmic management; (ii) data protection, access and portability of data and data governance; (iii) surveillance and monitoring; (iv) third-party ratings and appraisals (including resulting disciplinary action or discharge); (v) wages, rates and regular payment and overtime pay; (vi) working time for all time labour and the right to disconnect; (vii) discipline, penalties and termination of employment; (viii) access to social protection for all platform workers; (ix) transparency in relation to pricing, wages and rates; (x) recruitment fees; (xi) clear terms and conditions stipulated in contracts; and (xii) platform work-specific labour inspection and effective remedies inspired by the Maritime Labour Convention, 2006, as amended (MLC, 2006), as noted in the recommendations of the Global Commission on the Future of Work. A new convention would also need to address the protection of personal data and the use of monitoring, benchmarking and surveillance technology. It should require that algorithms be transparent and

that workers, trade unions and their representatives should have access to information regarding monitored and supervised actions and be consulted on changes affecting work. Data should belong to workers and be made portable across platforms, while platforms should be required to provide explanations and a right of reply regarding decisions taken by algorithms. Platform workers should be paid at least a living wage, whether mandated or negotiated, or rates with formulas for fixed and variable cost recovery, and they should be paid at regular intervals, with customer fees paid on time. Platforms should assume liability for compensating workers for non-compliance, either directly or through a system of financial security. A comprehensive grievance mechanism and dispute-resolution procedure should be put in place that recognized multi-party arrangements across jurisdictions. Compliance and enforcement should be a responsibility jointly shared by the government in which the platform was registered, the labour inspectorates of the country in which the worker operated, the platforms themselves and any clients.

- 88.** The Government Vice-Chairperson [M] listed the discussed gaps and challenges within the platform economy: (i) reducing grey zones and guaranteeing proper classification of those workers; (ii) increasing transparency in algorithmic management to support the proper classification and prevent discrimination; (iii) effective collective bargaining and protection of workers against interference in that regard; (iv) ensuring social protection across the platform economy; (v) OSH; (vi) access to remedies and dispute settlement; (vii) navigating triangular relationships between platforms, workers, and service recipients; (viii) the cross-border nature of some platforms; (ix) data protection and digital rating concerns; (x) the right to disconnect; (xi) addressing waiting time; and (xii) data access for labour inspectors and court proceeding for proper protection of workers. While he acknowledged the applicability of existing standards, new challenges observed by governments called for normative action. He also acknowledged the need for non-normative action, including continuous research that took into account the equity of gender and under-represented groups to inform normative action.
- 89.** The Government expert from the United States [M] argued that it was important for international normative action to commence before national action has concluded in order for it to have an impact. That was especially important for addressing the remaining legal and practical protection gaps found in industries of a cross-border nature. The ILO could identify common understandings and establish common standards as regards data protection and algorithmic transparency for both workers and governments, as well as for labour inspectors and courts to check determinations and to level the playing field.
- 90.** The Government expert from China [M] underlined the role of the ILO in supporting Member States in achieving decent work in the platform economy. He called for comprehensive and in-depth evidence-based research, with a special emphasis on the challenges faced in the ride-hailing, delivery and transportation sectors, as well as on issues related to employment classification, algorithmic management, data protection, labour inspection, social protection schemes, working time management, OSH and skills development. He also called for increased technical assistance to support the ratification and implementation of relevant up-to-date standards and to build the capacities of tripartite constituents, including as regards labour administration. The ILO should be proactive in maintaining policy coherence in the international arena, alongside other relevant international organizations, in order to ensure an enabling environment for the sustainability of platform enterprises and decent work for platform workers. The ILO was the appropriate forum in which to strengthen coordination and dialogue among constituents and other relevant stakeholders. He favoured a general discussion over standard-

setting, given the fast-changing nature of the platform economy and the still exploratory stage of national policies.

91. The Government expert from Czechia [F] noted that based on debates in which she participated in Brussels she believed that EU Member States were committed to working with their global partners to bring about decent working conditions in platform work across the world. She welcomed and expressed appreciation for the ILO's role in advancing global research and guiding international efforts to address the opportunities and challenges brought on by platform work. She expressed a need for international cooperation and for support setting global standards on platform work in order to increase legal clarity and labour protection and referred to the EU Draft Directive currently under examination. She concluded that, following its normative mandate, the ILO is well-placed to ensure that the existing gaps in the protection of platform workers internationally are addressed.
92. The Government expert from Mexico [M] supported making a recommendation to the Governing Body to include a point for normative action at the 113th Session of the International Labour Conference in order to build a common vision and address decent work deficits. He stressed that the status quo had resulted in obstacles for all parties: unfair competition for employers due to lack of compliance with existing law; precarious employment for workers given the lack of regulation and legal clarity; and blocked labour policy development and social protection due to the normative gaps and the disparity of regulations. It would be a missed opportunity in a just transition of work to address challenges related to data protection, algorithmic management, labour conditions, rules for collective bargaining, labour inspection, adherence to fiscal obligations and the need to mainstream a gender perspective.
93. The Government expert from Brazil [M] stated his Government's commitment to ensure constructive international and national social dialogue in order to guarantee decent work in the platform economy and to address misclassification and data management. He noted the limitation of national and international regulations and the ILO's role in addressing platform work.
94. The Government expert from Spain [M] underlined the debate's importance in the current economic and social context given the multiple ongoing world crises and the increasing social and economic inequality, which could lead to increased social conflict. He warned about the world regressing to the time when workers lacked sufficient protection, which would increase inequality and endanger liberal democracies. The time was ripe to avoid the errors of the past and establish international regulations that could provide adequate guaranties. He listed the normative insufficiencies specific to the platform work discussed that required a response, including in the following areas: (i) grey zones in relation to working time and algorithmic management, which were resulting in the exclusion of workers, legal uncertainty and misclassification; (ii) the difficulties of platform workers in claiming correct classification as employees, due mainly to the lack of trade unions, the cross-border nature of platform work, the over-representation of part-time work, triangular work relationships, algorithmic and incentive-driven management: both an effective system of classification and sufficiently broad labour inspections were needed to ensure decent work, while correctly classified platform workers had additional needs regarding their rights; (iii) data protection and the transferability of platform ratings; (iv) OSH measures and non-discrimination arising from algorithmic management; (v) the right to digital disconnection and adequate triangular relationships; and (vi) the access of workers to tribunal and conflict-resolution mechanisms. He called for standard-setting and gender-sensitive research to reduce labour

conflicts worldwide and to address gaps and platforms that operated outside traditional industrial models.

95. The Employer Vice-Chairperson [F] found the consideration of standard-setting activity to be too ambitious, given the lack of clarity, clear direction or consensus on key issues, as well as the diversity of national approaches. Further discussion and research was needed on competition in the platform economy, the diversity of business models, unit economics, scale advantages and network effects, taking into account the diversity of sectors and approaches. She encouraged States to regulate and find solutions and cautioned that an international labour standard would adversely affect job creation, particularly in developing countries, and could jeopardize flexible and supplemental income opportunities for workers who faced entry barriers into the labour market. She called on the Office to conduct further research and deeper analysis with a view to better understanding and narrowing the issues; provide policy advice; and decide on future action within ILO's mandate. Research should address social protection for self-employed and platform workers; work opportunities, job creation and sustainable enterprises; representative organizations and non-traditional associations within platform work; the role of platform work in transitioning from the informal to the formal economy; and inclusion and non-discrimination. It was within the Meeting's mandate to decide on the possible scope of future action, while the agenda-setting of the International Labour Conference was done by the Governing Body.
96. The Worker Vice-Chairperson [M] listed the following areas of broad if not unanimous consensus: (i) the challenges for ensuring decent work in digital labour platforms, whether online or location-based; (ii) the decent work deficits and resulting social tensions; (iii) the efforts of workers and unions to vindicate the rights of those affected by such deficits, particularly by seeking legal recourse, and the limitations of the national judicial approaches that had been highlighted by the Government experts; (iv) the importance of legal research at national and international levels; (v) the legislative action taken by numerous Governments as well as the European Union to address decent work deficits, as well as the legal and implementation gaps arising from the business model of digital labour platforms; (vi) the monopolistic and monopsonistic effects of platforms on the wider economy, including the power imbalances they had generated and the role of collective bargaining in that regard; (vii) the potential of digital labour platforms for economic growth and employment opportunities, but also the need for their further regulation and ILO guidance; (viii) the need to address employment misclassification and disguised employment and to ensure that all workers were protected by fundamental rights and other international labour standards; (ix) the applicability of existing ILO tools and the need for further work for their effective application; (x) the gaps in standards that needed to be addressed in order to set a minimum floor of protections for workers and provide legal certainty for governments and businesses, especially given the global and cross-border nature of digital labour platforms' operations; and (xi) addressing normative gaps as regards data rights and algorithmic management.
97. While noting the suggestion of the Employer Vice-Chairperson [F] to allow national practice to evolve, he underlined that that he was cognizant of the need for participatory and evidence-based action. He further acknowledged the several ILO publications that had already highlighted decent work deficits and the normative gaps that future normative action could address. With reference to the Declaration of Philadelphia and the Centenary Declaration, he emphasized the ILO's clear normative mandate to protect labour from commodification and to address the conditions of labour that led to decent work deficits.

98. Highlighting the request of the Government group for normative action to provide legal certainty and a level playing field, he underlined that a new convention should restate the existing standards that applied to all platform workers and should address the normative gaps identified at the Meeting, including algorithmic management, the protection of personal data, the use of monitoring and benchmarking surveillance technology. He noted that there was consensus that freedom of association and collective bargaining were the only way that workers, regardless of their employment status, could realize their rights and effectively address decent work deficits. Failure to regulate at the international level would only continue to impose burdens on the governments, workers and businesses who complied with the rules, while the continuation of a patchwork approach ran the risk of triggering a race to the bottom and increased uncertainty among businesses. National-level action was insufficient given the possibility that technological innovation could disrupt the economy and labour markets, with huge cross-border implications.

► Consideration of the draft conclusions

99. The Meeting turned to the consideration of the draft conclusions with the aim of achieving consensus thereon in order to submit them to the ILO's Governing Body at its 346th Session in November 2022.
100. The Employer Vice-Chairperson [F] expressed concern about the length of the draft conclusions.
101. The Worker Vice-Chairperson [M] noted that the draft conclusions provided a good starting point for discussion, although he felt they should be more ambitious given the extent of the decent work deficits in the platform economy.
102. The Government Vice-Chairperson [M] found the draft conclusions to be a good basis for discussion and noted the need for effective time management.
103. During the two days of discussions, amendments to paragraphs 1 to 6 were introduced and discussed but no agreement was reached thereon. Subsequently, in the interest of time and as agreed with the Vice-Chairpersons, the Chairperson [M] invited the Vice-Chairpersons to submit all their substantive amendments to paragraphs 7 to 15 before proceeding to discuss them, after which the Vice-Chairpersons also agreed to discuss paragraphs 18 and 19 first, followed by paragraphs 16 and 17. The meeting concluded before the amendments previously introduced to paragraphs 7 to 15 could be discussed.

Paragraph 1

Having met in Geneva from 10 to 14 October 2022, the Meeting of experts on decent work in the platform economy affirmed that the International Labour Organization should take the lead in defining pathways to ensure that all platform workers have access to decent work, while maximizing the opportunities that this segment of the economy brings for growth, job creation and innovation.

104. The Worker Vice-Chairperson [M] proposed an amendment to replace the words "have access to decent work," with the words "enjoy decent work," requesting the Office to confirm if that reflected standard language.

105. The Secretary-General of the Meeting [F] clarified that both expressions had previously been used and that the choice of terms would depend on which expression the experts considered most appropriate.
106. The Employer and Government Vice-Chairpersons supported the amendment.
107. The Employer Vice-Chairperson [F] proposed two amendments: first, to add, after the word “growth,” the word “productivity,;” and second, to add, after the words “job creation”, the words “, entrepreneurship, inclusion”.
108. The Government Vice-Chairperson [M] supported both amendments.
109. The Worker Vice-Chairperson [M] did not support either amendment. The term “productivity” was already covered by the term “growth” and there was insufficient data and statistics on entrepreneurship and inclusion to justify the inclusion of those concepts in the text of the paragraph.
110. The Employer Vice-Chairperson [F] recalled the extensive discussions on the role of the platform economy in offering entrepreneurship opportunities and inclusive growth, and noted that macroeconomic productivity was essential to the survival of enterprises and the private sector, as reflected in the Centenary Declaration and the ILO’s Global call to action for a human-centred recovery from the COVID-19 crisis that is inclusive, sustainable and resilient.
111. The Worker Vice-Chairperson [M] supported the amendment to include the words “entrepreneurship” and “inclusion” before the words “job creation”.
112. The amendment to add the word “productivity” was placed in square-brackets upon agreement of the Vice-Chairpersons.

Paragraph 2

The platform economy is diverse and complex and is growing and evolving rapidly. It comprises different business models, spans different sectors and involves multinational companies and small businesses alike. Digital platforms also differ in the ways in which they engage with workers and interact with labour markets.

113. The Employer Vice-Chairperson [F] proposed an amendment to replace “multinational companies and small businesses alike” with the words “different-sized companies” in order to better reflect the diversity of the platform economy in terms of business models.
114. The Worker Vice-Chairperson [M] did not support the amendment as the platform economy included not only multinational enterprises but also small and medium-sized enterprises.
115. The Government Vice-Chairperson [M] introduced a subamendment to replace the words “small businesses” with the words “small and medium-sized enterprises”.
116. The Employer Vice-Chairperson [F] supported the Government experts’ subamendment, to which she added a subamendment to replace the words “multinational companies and small businesses” with the words “multinational companies, local companies, and small and medium-sized enterprises”.
117. The Worker Vice-Chairperson [M] supported both subamendments.

- 118.** The Employer Vice-Chairperson [F] proposed a second amendment to add a sentence at the end of the paragraph, in order to better reflect the diversity of the platform economy in terms of types of workers, to read:

There are multiple profiles for the types of workers that engage in the platform economy.

- 119.** The Government and Worker Vice-Chairpersons did not support the second amendment of the Employers' group since questions of employment classification, profiles and demographics could be included in subsequent paragraphs.
- 120.** The Employer Vice-Chairperson [F] withdrew the Employer experts' second amendment.
- 121.** The Employer Vice-Chairperson [F] proposed a third amendment to insert, in the third sentence, after the words "engage with workers", the words "and self-employed service providers", in order to better reflect the diversity of the platform economy in terms of employment classification.
- 122.** The Worker Vice-Chairperson [M] did not support the third amendment of the Employers' group as the text should apply to all platform workers, including self-employed workers, as had been submitted during the general discussion.
- 123.** The Government Vice-Chairperson [M] did not support the third amendment of the Employers' group, as he felt that the additional term it proposed had already been captured in the term "worker".
- 124.** The Employer Vice-Chairperson [F] noted that it was important to clearly elucidate the scope of the term "worker" somewhere in the document, as it was not clear within the ILO that it was inclusive of both employed and self-employed individuals. It was clear, however, that the platform economy engaged with both categories. An alternative solution would be to delete the words "with workers" before the words "labour markets".
- 125.** The Worker Vice-Chairperson [M] noted that it was the long-standing practice of the ILO to include both employees and self-employed persons, working informally or otherwise, in the scope of the term "worker", reflecting also the decision of the International Court of Justice of 1922 that the term "worker" should be interpreted in the broadest sense possible.
- 126.** The Government Vice-Chairperson [M] introduced a subamendment to replace the words "and self-employed service providers" with the words ",including the self-employed". He also could support the Employer Vice-Chairperson's [F] suggestion to remove the words "with workers", although the inclusion of the word "worker" added clarity since many companies interacted both with workers and with the labour market.
- 127.** The Employer Vice-Chairperson [F] supported the subamendment proposed by the Government Vice-Chairperson [M] to replace "and self-employed service providers" with "including the self-employed".
- 128.** The Worker Vice-Chairperson [M] did not support the subamendment as the original text was sufficiently inclusive and descriptive. The term "workers" implicitly included the self-employed.
- 129.** The Employer Vice-Chairperson [F] said she did not understand the concern about including a reference to self-employed workers if there was agreement that they were included in the term "worker", underlining that an explicit reference to the self-employed would help readers outside the ILO.

130. The phrase “including the self-employed” was placed in square brackets upon agreement among the Vice-Chairpersons.

Paragraph 3

Considering its mandate, the International Labour Organization should focus on “digital labour platforms”, namely platforms that involve the individual work of people. A distinction can be drawn between location-based platforms, where work is performed in a particular geographical area, and web-based platforms on which work is performed online. They share, nonetheless, commonalities regarding how work is performed and can therefore be considered together.

131. The Employer Vice-Chairperson [F] introduced three amendments: first, to delete from the first sentence the words “namely platforms that involve the individual work of people” as that topic had not been addressed during the general discussion; second, to replace in the second sentence the word “can” with the word “should”; and third, to delete the third sentence as it was incorrect.
132. The Worker Vice-Chairperson [M] did not support the amendments. Digital labour platforms involved the work of individual persons, even though that point might not have been made in those terms during the general discussion.
133. The Government Vice-Chairperson [M] did not support the amendments. Some of the deleted words provided a necessary definition of the term “digital labour platform”.
134. Since there was no support for the third amendment, the Employer Vice-Chairperson [F] proposed a subamendment to replace in the third sentence the word “nonetheless” with the words “in some cases,” and to delete from the end of the same sentence the words “and can therefore be considered together”.
135. The Government Vice-Chairperson [M] could support the subamendment; however, he preferred the Office text as it was important to recognize that the existence of commonalities across types of platforms should allow them to be considered together.
136. The Government expert from Spain [M] did not support the third amendment, recalling that the Office text and his own interventions during the general discussion had accurately reflected commonalities, including in terms of business models, algorithmic management, the winner-takes-all approach, the cross-border nature of platform work and issues related to competition.
137. The Worker Vice-Chairperson [M] agreed with the Government expert from Spain [M] that the background report and the Meeting had discussed commonalities in terms of how work was performed and managed, as well as in terms of their economic and business models. He supported the Employer experts’ subamendment to delete the word “nonetheless” but could not accept its replacement with the words “in some cases,” as they would represent an unnecessary qualifier.
138. The Employer Vice-Chairperson [F] did not agree with the Government expert from Spain [M] that the draft conclusions should reflect a list of commonalities.
139. The Worker Vice-Chairperson [M] proposed an amendment to add the words “organized, managed and” before the words “performed and can therefore be considered together” to reflect the common experience among platform workers with respect to the lack of human management

and the use of algorithmic management and other technologies to manage and supervise workers.

140. The Employer Vice-Chairperson [F] did not support the amendment as it was not appropriate to use language on misclassification in that instance.
141. The Worker Vice-Chairperson [M] withdrew his amendment to add the term “organized” but retained the addition of the term “managed” to reflect the agreement of the existence of that commonality.
142. The Employer Vice-Chairperson [F] did not support the subamendment to maintain the word “managed”.
143. No consensus was reached on the three amendments of the Employers’ group.
144. The Government Vice-Chairperson [M] introduced two amendments: first, to insert a new sentence after the first sentence, to add clarity and remind the reader of the focus of the Meeting, to read:

This Meeting of experts focused its deliberation on digital labour platforms.

and second, to replace at the beginning of the second sentence the words “A distinction can be drawn between” with the words “There are two types of digital labour platforms”, in order to remain descriptive.
145. The Worker Vice-Chairperson [M] supported the amendments.
146. The Employer Vice-Chairperson [F] did not support the amendments. It was not the mandate of the Meeting to define digital labour platforms. To define digital labour platforms and then narrow the scope to only two types of platforms would be to exceed the mandate of the Meeting and did not reflect the consensus. The focus of the conclusions should respond exclusively to the mandate set forth by the Governing Body at its 334th session. She could agree to wording that reflected that there were “at least” two types of platform workers, although that statement was also premature.
147. The Government Vice-Chairperson [M] supported the suggestion to insert the words “at least” before the word “two” and the word “main” after the word “types”, introducing it as a subamendment. He withdrew the amendment to add the sentence “This meeting of experts focused its deliberation on digital labour platforms.”; however, he explained that the amendment had aimed precisely to contextualize the focus of the conclusions, without providing a strict definition of digital labour platforms.
148. The Employer Vice-Chairperson [F] supported the Government group’s subamendment to insert the words “at least” but proposed a further subamendment to remove the term “main” after “at least two” since this term created an undue primacy.
149. The Government Vice-Chairperson [M] supported the Employer experts’ subamendment.
150. The Worker Vice-Chairperson [M] supported the subamendments of the Government and Employers’ groups.

I. Opportunities and challenges

151. The title of section I was adopted without amendment.

Paragraph 4

The platform economy brings about many opportunities as well as risks. It creates unprecedented opportunities for business to access a larger and more geographically dispersed client base. It benefits consumers who have improved access to products and services, particularly in underserved areas.

152. The Employer Vice-Chairperson [F] introduced two amendments: first, to replace in the first sentence the words “brings about” with the word “has”; and second, to replace at the end of the same sentence the word “risks” with the word “challenges” to reflect the section title.
153. The Government and Worker Vice-Chairpersons [M] supported the amendments.
154. The Employer Vice-Chairperson [F] introduced a third amendment to insert at the end of the first sentence the words “, some of which exist outside the platform economy as well”, because challenges such as the misclassification and social protection of self-employed workers were rooted in the ways in which government linked social security to the employment relationship and were therefore not unique to the platform economy and required a multidisciplinary approach.
155. The Government and Worker Vice-Chairpersons [M] did not support the amendment, as it was redundant and went beyond the scope of the Meeting’s mandate.
156. The Employer Vice-Chairperson [F] could agree to withdraw the amendment, on the condition that the existing language on the roots of challenges beyond the platform economy was retained in paragraph 12.
157. The Worker Vice-Chairperson [M] was in principle prepared to accept the existing language in paragraph 12 but preferred not to deal with items as a package based on such conditionalities.
158. The Government Vice-Chairperson [M] appreciated the point of the Employer Vice-Chairperson [F] and agreed to retain the existing language on challenges in paragraph 12.
159. As there was no consensus, the Employer experts’ third amendment was placed in square brackets.
160. The Government Vice-Chairperson [M] introduced an amendment to replace at the beginning of the first sentence the words “The platform economy” with the words “Digital labour platforms” to more closely reflect the focus of the Meeting’s discussions.
161. The Worker Vice-Chairperson [M] did not support the amendment.
162. The Employer Vice-Chairperson [F] did not support the amendment as there was no agreed definition of digital labour platforms. Although there was no definition either of the platform economy, it posed less of a challenge because that term was more commonly understood.
163. The Government Vice-Chairperson [M], to improve the balance between challenges and opportunities, introduced a second and third amendment: to insert at the end of the first sentence the words “for workers, decent work and fair competition” after the word “challenges”, which had been inserted by the Employer experts’ second amendment; and to replace the word “It” with the word “They” at the beginning of the second sentence, which should then become a new paragraph. If those amendments were adopted, the first paragraph would signal the broad theme of the opportunities and challenges of digital labour platforms, while the second paragraph would focus specifically on the opportunities for businesses and the remaining paragraphs of the section would detail other opportunities and challenges.

164. The Employer Vice-Chairperson [F] supported the inclusion of the words “for workers and decent work” but did not agree with the inclusion of the words “fair competition”. She proposed a subamendment to delete the words “fair competition”, to limit the scope of the phrase to the opportunities and challenges faced by workers and decent work. There was no consensus among the experts as to the effects of the platform economy on fair competition and the topic went beyond the scope of the Meeting. While she did not object to the separation of the paragraph into two, she questioned it as a drafting choice.
165. The Government Vice-Chairperson supported the subamendment to add the words “fair competition”, in the spirit of compromise.
166. The Worker Vice-Chairperson [M] supported the amendment as subamended.
167. The Employer Vice-Chairperson [F] introduced a fourth amendment to insert at the end of the first sentence the words “and talent pool.” after the words “client base”, since the platform economy had created unprecedented opportunities for business to access a wider and more diverse talent pool to provide services.
168. The Worker Vice-Chairperson [M] did not support the amendment, as “talent pool” was not familiar language and part of the workforce being referred to, namely the in situ platform workforce, was not necessarily geographically dispersed.
169. The Government Vice-Chairperson [M] did not support the amendment.
170. The Employer Vice-Chairperson [F] withdrew the amendment.
171. The Employer Vice-Chairperson [F] introduced a fifth amendment to insert in the second sentence, after the words “unprecedented opportunities for business”, the words “and individuals”, to reflect that platforms provided opportunities not just to businesses but also to individuals by giving them access to a client base, a social safety net and earned income, whether as employees earning employment income or as self-employed earning business income.
172. The Worker Vice-Chairperson [M] did not support the amendment. The subject of the sentence should remain businesses. Moreover, the appropriate term to use would be “workers”. The two main reference groups at the ILO were employers and workers and the self-employed were workers. It was unacceptable to suggest otherwise, given the long history behind the broad interpretation of the word “worker” at the ILO, the Permanent Court of International Justice, the ILO Supervisory Bodies, and the *Report for discussion at the Meeting of Experts on Non-Standard Forms of Employment (Geneva, 16–19 February 2015)*.²³
173. The Government Vice-Chairperson [M] did not support the amendment. While he recognized that there were benefits for people in the platform economy who were employees and those who were genuinely self-employed, the task at hand was to find a way to reflect that in the conclusions of the Meeting. He proposed to place the term “worker” in square brackets wherever it appeared in the draft conclusions and to introduce a definition of the term “worker” in the document using wording from Recommendation No. 198, notably the reference to “employed and self-employed workers”.

²³ [MENSFE/2015](#).

174. The Employer Vice-Chairperson [F] agreed with the proposal of the Government Vice-Chairperson [M] to place the term “worker” in square brackets and to include a definition of the term “worker”, specifying that such a definition should include both employed and self-employed, which would then be used uniformly throughout the document.
175. The Worker Vice-Chairperson [M] was not prepared to bracket an issue that had critical implications both within and beyond the Meeting. He requested the Office to provide clarity on what constituted a worker at the ILO.
176. The Secretary-General of the Meeting [F] explained that the ILO and the Office used the term “worker” to encompass both dependent workers or employees and self-employed. She explained that whenever a Convention’s scope of coverage was limited to employees or dependent workers, the term “employees” was used. Alternatively, a Convention might clarify that the term “workers” was used to only refer to “employees”.
177. Taking note of that explanation, the Employer Vice-Chairperson [F] saw no harm in including a definition of the term “worker: for the purposes of the document, for example by including a phrase such as “including both employed and self-employed hereinafter for the purposes of the document”, or “hereinafter Workers with a capital W”. When paragraphs of the conclusions referred to something that applied to one group or the other, then the term “employees” or the term “self-employed” could be used. She also pointed out that the ILO had not consistently used the approach explained by the Secretary-General of the Meeting [F] and that there was therefore good reason to adopt a definition for the purposes of the conclusions. By way of example, she cited Article 3(c) of the Occupational Safety and Health Convention, 1981 (No. 155), which stated that “[f]or the purposes of this Convention ... the term “workers” covers all employed persons, including public employees”.
178. The Worker Vice-Chairperson [M] expressed doubt concerning the need to clarify the terminology of long-established ILO principles. The objective of paragraph 4 was to capture all workers, irrespective of their employment status, an objective that the Worker experts supported. The specific issues of classification, employees and self-employed workers appeared later in the text. It would be difficult to proceed without agreement on the unqualified use of the term “worker”.
179. The Government Vice-Chairperson [M] made a proposal for a concise definition of “worker” as follows: “in line with ILO Convention No. 98 and common ILO practice, the term worker encompasses both employed and self-employed workers”. That definition reflected long-standing practice and would clarify to the lay reader the inclusiveness of the term.
180. The Worker Vice-Chairperson [M] recalled that the Meeting’s mandate was to offer guidance to the Governing Body, which was aware of the definition of “worker”, and it was therefore unnecessary to include such a definition in the conclusions.
181. The Employer Vice-Chairperson [F] stated that if the position of the Workers’ group was that it was obvious to everyone that the term “worker” included employees and the self-employed, then it was unclear what the difficulty was in defining the term in the conclusions. She noted that it was not the first time the issue had come up in the ILO, and that it was obvious from ILO jurisprudence that language mattered, citing Paragraph 11(c) of Recommendation No.198, which provided that “workers ... must be deemed to be either employed or self-employed”. It was important to have clarity on the definition of the term “worker” by including a definition used for the purposes of the document and specifying otherwise, when necessary, as had been done in many ILO standards.

If they could not agree on the idea that the term “worker” included employed and self-employed, except where otherwise articulated, she saw no way to reach agreement on the other paragraphs of the conclusion in which the topic was addressed.

- 182.** The Worker Vice-Chairperson [M] said that he could consider the inclusion of a description, if not a definition, of the term “worker” as a footnote, subject to agreement on the content of the definition. While the Government Vice-Chairperson’s [M] proposed language was helpful, other sources of determination, including ILO jurisprudence, would need to be consulted.
- 183.** The Government Vice-Chairperson [M] agreed with the Worker Vice-Chairperson’s [M] proposal, suggesting that the footnote appear the first time the term “worker” was used in the conclusions. He also clarified that the proposal was not to create a definition but rather to restate or clarify long-standing ILO practice.
- 184.** The Employer Vice-Chairperson [F] said that there was no long-standing ILO practice or common practice and questioned whether a break was needed to undertake a full legal analysis of the ways in which terms such as worker, employee and self-employed had been used in the past. There needed to be a definition, which should not appear in footnotes. She expressed confusion as to why there was a need to make a vague reference to ILO existing practice for something as basic as the phrase “worker includes employed and self-employed”. Legal certainty was needed as that was a guidance document, particularly as references were made throughout the document to the rights that flow from certain classifications and status.
- 185.** The Secretary-General of the Meeting [F] explained that there was a manual that was used for drafting ILO instruments, which stated that the practice of the Conference was to give the broadest meaning to the term workers. On many occasions, it had been emphasized that if the subject matter of a given instrument was not limited to employed workers or the instrument did not provide for any specific exclusion in respect of one or more categories of workers, then “worker” was understood to cover all workers.
- 186.** The Employer Vice-Chairperson [F] noted that the Meeting did not constitute a standard-setting discussion. When discussing certain topics, such as social protection or OSH, there was broad support that all workers were covered. However, the topic at hand was unique because certain rights flowed from classification. The term “worker” needed a clear definition that explained, early in the draft conclusions, how the experts participating in the Meeting understood the term.
- 187.** The Worker Vice-Chairperson [M] requested the Office to prepare a draft definition of “worker” for further discussion, and to place the proposed amendments to include the words “and individuals” in paragraph 4, as well as all other references to “workers”, in square brackets.
- 188.** The Employer Vice-Chairperson [F] and the Government Vice-Chairperson [M] agreed with the proposal and the words “worker” and “workers” were placed in square brackets throughout the text.
- 189.** The Employer Vice-Chairperson [F] introduced an amendment to add, after the words “in underserved areas”, the words “and has expanded consumer and business choice in sectors which have historically underserved lower income communities and marginalised groups.”. She further proposed that the amended sentence, which read “It benefits consumers who have improved access to products and services, particularly in underserved areas, and has expanded consumer and business choice in sectors which have historically underserved lower income

communities and marginalised groups.” should become its own paragraph, to represent the existence of all parties within the commercial transaction. The section would thus address first businesses, then consumers, and finally workers.

190. The Worker Vice-Chairperson [M] stated that the proposed amendment posed challenges, as did the original version of the sentence as proposed by the Office, as neither considered a number of structural issues including the underfunding of public services, inequalities and the various disparities that had led to the situation in which platform companies were filling service delivery gaps.
191. The Government Vice-Chairperson [M] did not support the amendment as it went beyond the Meeting’s mandate.
192. The Employer Vice-Chairperson [F] proposed a subamendment to retain the original Office text of the third sentence but to place the sentence in a stand-alone paragraph in order to emphasize the benefits of the platform economy to consumers as distinct from businesses.
193. The Worker Vice-Chairperson [M] preferred to delete the original text of the third sentence; however, in the spirit of compromise and in the interest of achieving a balanced text, he proposed a subamendment to delete the words “particularly in underserved areas” after “products and services” from the end of the original third sentence in order to reflect the fact that the areas might be underserved because of other significant issues, such as a lack of funding for public services.
194. The Employer Vice-Chairperson [F] and the Government Vice-Chairperson [M] supported the subamendment.

Paragraph 5

It also offers workers an opportunity to make a living or complement their labour income, particularly at a time of high unemployment, high inflation and stagnant wages. During the COVID-19 pandemic, digital labour platforms offered income opportunities in the face of significant disruptions in labour markets. However, the net job creation is difficult to quantify considering the process of employment creation, destruction and transformation.

195. The Employer Vice-Chairperson [F] introduced an amendment to insert in the first sentence, after the words “It also offers workers”, the words “and the self-employed”, to reflect similar concerns to those she had raised under paragraph 4, while recalling that the Government experts had spoken extensively about the access to income that the platform economy had offered to individuals during the COVID-19 pandemic.
196. As the terms “worker” and “workers” had already been placed in square brackets, the amendment was not further discussed.
197. The Employer Vice-Chairperson [F] introduced a second and third amendment: to replace in the first sentence the words “at a time of” with the words “in times of”, as it was a more generic term that was not bound to a particular moment; and to delete from the same sentence the words “and stagnant wages” as wage stagnation was a matter that went beyond the platform economy, had not been discussed during the Meeting and would not be accepted.
198. Rather than commenting on the Employer experts’ second and third amendments, the Worker Vice-Chairperson [M] introduced an amendment to revise the first sentence, as while digital

labour platforms could create income-generating opportunities they could also create new drivers of inequalities, to read:

It also offers workers income-generating opportunities.

He added that the rest of the original sentence did not address the question of structural labour market issues, which often required workers to have a second job, often at risk of OSH, because they could not survive from their main job. With reference to the Employer experts' amendment to delete the words "and stagnant wages", he noted the existence of substantial evidence of wage stagnation over the previous decade; however, should his amendment be accepted, it would no longer be necessary to discuss it as the reference to wage stagnation would be deleted.

199. The Government and Worker Vice-Chairpersons [M] supported the amendment.
200. The Worker Vice-Chairperson [M] introduced an amendment to insert at the end of the second sentence the words "while platform workers also faced significant occupational safety and health challenges" in order to achieve balance as the original text did not mention the risks in terms of exposure to COVID-19, such as the lack of personal protective equipment (PPE) that platform workers had faced during the pandemic.
201. The Government Vice-Chairperson [M] supported the amendment.
202. The Employer Vice-Chairperson [F] supported the amendment on the condition that it be subamended by inserting the word "some" after the word "while", as not all workers had faced such risks, and by deleting the word "significant", to reach a more neutral text.
203. The Worker Vice-Chairperson [M] recalled the challenges faced by platform workers, particularly in situ workers, who had been on the front lines, with heightened risks of exposure to COVID-19, often without PPE, which he indeed found to be significant. As such, he preferred to retain the reference to "significant" challenges but could accept the insertion of the word "some" before the words "platform workers".
204. The Government Vice-Chairperson [M], in the spirit of compromise, supported the Employer Vice-Chairperson's [M] subamendment to add the word "some" and to delete the word "significant".
205. The Employer Vice-Chairperson [F] recalled that it was primarily ride-hailing and food delivery platform workers that had faced OSH challenges during the COVID-19 pandemic and not those platform workers who worked from home, with minimal exposure to the virus.
206. There was no consensus on the Worker experts' amendment.
207. The Employer Vice-Chairperson [F] introduced an amendment to delete the words "the net job creation" before "is difficult" as it was an ambiguous term; to add the word "it" after the word "However, "; and to replace "qualify" with "size the platform economy and its impact on the labour market", which reflected more neutral language. She introduced a further amendment to delete "considering the process of employment creation, destruction and transformation" after "labour market". Destruction and transformation had not been discussed during the Meeting and were too negative in tone. It was better to emphasize the difficulties of measuring the size and impact of the platform economy.
208. The Worker Vice-Chairperson [M] did not support the amendment, recalling the discussion of the ways in which the platform economy had created or transformed jobs, how it had impacted specific sectors and how it had transformed work, for example by breaking it down into tasks.

Moreover, it was not so difficult to size employment in the platform economy. He preferred to retain the original Office text.

209. The Government Vice-Chairperson [M] did not support the amendment and preferred to retain the original Office text.
210. The Employer Vice-Chairperson [F] proposed a subamendment to delete the original Office text, which read: "However, the net job creation is difficult to quantify considering the process of employment creation, destruction and transformation."
211. The Government Vice-Chairperson [M] did not support the subamendment as the third sentence brought important balance to paragraph 5.
212. The Employer Vice-Chairperson [F] noted that while the intent of paragraph 5 was to focus on the benefits and opportunities of the platform economy, the third sentence did not reflect such opportunities. In that vein, the third sentence should refer to the creation of jobs that had not existed previously, as another opportunity that the platform economy had provided, while references to the uncertainty of its net effects should be moved to a separate paragraph on challenges. Alternatively, if both challenges and opportunities were to be reflected in the same paragraph, she proposed a second subamendment to insert a new sentence, after the existing second sentence, to read: "It also created jobs that did not previously exist in the labour market and opportunities to complement income." She also proposed a third subamendment to replace the sentence "However, the net job creation is difficult to quantify considering the process of employment creation, destruction and transformation." with the sentence "However, it is difficult to quantify the platform economy, considering the process of employment creation and transformation and its impact on the labour market."
213. The Worker Vice-Chairperson [M] did not support the subamendments. The original Office text was preferable and adequately reflected the full cycle of employment creation, transformation and destruction.
214. The Government Vice-Chairperson [M] proposed as a compromise to accept the Employer experts' subamendment to introduce the words "It also created jobs that did not previously exist in the labour market and opportunities to complement income," contingent on maintaining the original Office text that read "However, the net job creation is difficult to quantify considering the process of employment creation, destruction and transformation."
215. The Employer Vice-Chairperson [F] noted that the inclusion in the existing third sentence of the word "destruction" was not acceptable. There was anecdotal evidence but no quantifiable evidence of jobs that had been destroyed. She could not support the Government Vice-Chairperson's [M] proposed compromise.
216. The Government Vice-Chairperson [M] proposed a subamendment to replace in the existing third sentence the words "process of employment creation, destruction and transformation" with the words "job gains and losses and transformation".
217. The Employer Vice-Chairperson [F] reiterated that they had heard no evidence of job losses generated by the platform economy and she could not support the Government experts' subamendment.
218. The Worker Vice-Chairperson [M] supported the Employer experts' subamendment to introduce the words "It also created jobs that did not previously exist in the labour market" but did not

support their subamendment to introduce the words “and opportunities to complement income”. He did not support the amendments to the final sentence of the paragraph, remaining in favour of the sentence as originally drafted in the Office text.

219. The entirety of paragraph 5, with the exception of the first sentence, was bracketed.

Paragraph 6

Platform workers are often young, male and better educated than average. Some are highly skilled. Platform work may be a source of inclusive employment by making it easier for youth, people with disabilities, migrants or other groups, who face greater difficulties in participating in the labour market, to do so because of the relatively low entry barriers. Platform work may also enable workers to combine paid work from home with care responsibilities, although it bears the risk of reinforcing gender stereotypes and inequalities at home and at work. In fact, women’s participation in the platform economy is lower than in the offline economy and women are over-represented in household and care services.

220. The Employer Vice-Chairperson [F] introduced an amendment to delete the first two sentences that read “Platform workers are often young, male and better educated than average. Some are highly skilled.” as there was no evidence to support the statement. She then introduced an amendment to replace the word “may” with the word “could” and to introduce the words “elderly” after the word “youth,” and “women” after the words “migrants,”. She introduced an amendment to delete the words “, although it bears the risk of reinforcing gender stereotypes and inequalities at home and at work. In fact, in some economies, women’s participation in the platform economy is lower than in the offline economy and women are overrepresented in household and care services,”, citing a lack of evidence to support the statements.
221. The Worker Vice-Chairperson [M] noted that the evidence cited in the reference document supported the original Office text of paragraph 6, which he preferred to retain without amendment.
222. The Government Vice-Chairperson [M] supported the amendments to delete the first two sentences, as the demographics of the platform economy did vary across countries and sectors; to add the words “elderly” and “women”; and to replace “may” with “could”.
223. The Government expert from Mexico [M], speaking on behalf of the Government group, did not support the amendment to strike the final sentences starting with “although it bears the risk”, stating that it was important to stress the particular vulnerabilities faced by women. Although they were not necessarily unique to the platform economy, it was important to emphasize those vulnerabilities, which were well supported by the evidence gathered in Mexico. He proposed an amendment to the original text to insert a paragraph break after the words “entry barriers.” and, in the following sentence, to insert the words “gender segregation” before the word “gender stereotypes”. In the final sentence, he introduced an amendment to add the words “in some economies” after the words “In fact,” and to add a new final sentence after the words “care services.” that read “There might also be challenges in ensuring equal remuneration for women and men workers for work of equal value.”
224. The Employer Vice-Chairperson [F] proposed a subamendment to the Employer experts’ fourth amendment to insert in the fourth sentence the words “and serve as supplemental income” after the words “care responsibilities”. Regarding the Government experts’ amendments, she said the

Meeting had not had an opportunity to delve into the gender dimension and many platform companies did not even know the gender of the person they were employing. Platforms were not responsible for creating gender imbalances in sectors such as care, nursing and teaching, which were historically female-dominated. Rather, such occupational segregation was the result of systemic discrimination and other obstacles that existed independently of the platform economy and varied by regional context. The connections between gender inequality, platform work, occupation and career could be an area for the ILO to conduct further study to build the necessary evidence base.

225. No consensus was reached on the amendments proposed, as subamended.

Paragraphs 7 to 15

226. As agreed with the Vice-Chairpersons, the Chairperson [M] called on each Vice-Chairperson to introduce their amendments to paragraphs 7 to 15, none of which were discussed by the Meeting except for paragraph 7, on which no agreement was reached.

Paragraph 7

Platform workers highly value the schedule flexibility and autonomy the digital labour platforms offer. Such flexibility is a condition for many to get access to new income opportunities. At the same time, flexibility should not be incompatible with the benefits of employment protection. However, sometimes, flexibility may be limited in practice by the low level of remuneration, which may lead to long working hours, and by the use of algorithms that penalize workers who decline tasks.

227. The Employer Vice-Chairperson [F] introduced three amendments: first, to delete from the first sentence the word “schedule”; second, to replace in the third sentence the words “benefit of employment protection” with the words “access to social protection” after the words “incompatible with”; and third, to delete the fourth sentence.

228. The Government Vice-Chairperson [M] introduced an amendment to add “often report that they” after the words “Platform workers” and to add “, but workers have also voiced preferences for adequate and regular remuneration and stability” after the word “offer”. He also introduced an amendment to replace the word “should” with “is” after “flexibility” and delete “be” before the words “incompatible with the benefits”.

229. The Worker Vice-Chairperson [M] supported the amendments proposed by the Government Vice-Chairperson [F]. In addition, he introduced an amendment to add “may” before “offer”; and in the last sentence to replace “may be limited” by “is limited” and to add “insensitive schemes” before “algorithms”. He explained that this would reflect discussions regarding the manner in which incentive schemes determined platform workers working time and structured their working lives. He added that they were able to accept the Employer Vice-Chairperson’s [F] amendment to delete the word “schedule” in a spirit of moving forward.

230. The Employer Vice-Chairperson [F] did not support the Worker experts’ amendments as the evidence and research that the Employer experts had collected did not indicate that workers had complained about limited levels of flexibility. She could not support the Government experts’ first amendment to add “often report that they” before “highly value the flexibility”.

Paragraph 8

The complete traceability of activities on digital labour platforms offers an unprecedented opportunity for governments to monitor and ensure compliance with laws and regulations, thereby facilitating the formalization of platform workers. This is contingent though on the collaboration and information-sharing between platforms and the competent national authorities. Some platforms, by contributing to the upskilling of informal workers and facilitating their access to credit and markets, can enhance their ability to transition to formal employment. On the other hand, the casualization of labour and the lack of clarity regarding the regulatory framework that applies to digital labour platforms, in particular the employment status of workers, may contribute to informality.

- 231.** The Employer Vice-Chairperson [F] introduced four amendments: first, to delete in the first sentence the word “complete”, as there was not enough information regarding the range of activities platforms were able to trace; second, to replace in the second sentence the word “between” with the word “by”, as there was no evidence of platforms sharing information between companies; third, to replace in the third sentence the words “formal employment” with the word “formality”; and fourth, to replace the fourth sentence with three new sentences to read:

Platform work may promote and contribute to the successful transition of individuals from the informal to the formal economy. Both online work platforms and location-based platforms have the potential to provide formal infrastructures and systems for self-employed and/or workers to engage with businesses and consumers in a more formalized manner. The written agreements, digitization of transactions and centralized infrastructure, secure payment systems and traceability allow for the protection of self-employed/workers in environments formerly devoid of these safeguards.

- 232.** The Worker Vice-Chairperson [M] introduced amendments to replace “by contributing” with “can contribute”, to replace “informal workers” with “workers in the informal economy” and to replace “facilitating their access” with “facilitate SME’s access” and to replace “can enhance their ability to” with “and contribute to the”.
- 233.** The Government Vice-Chairperson [M] introduced amendments to add “enhanced requirements for” before the words “information-sharing”; to replace “between platform and” with the word “with”; and to add the words “and on the due compliance with national regulations” after “the competent national authorities”. He also introduced an amendment to add, after the words “national authorities”, the sentence: “At the moment, governments experience significant difficulties in accessing data on platform work with limited information on which platforms operate in their territory and how many people work through them. This issue is exacerbated by the transnational nature of digital platforms. This poses significant challenges for enforcement of labour laws as well as collection of taxes and social security contributions.” He further suggested separating the last two sentences of the paragraph into a new paragraph with the additional amendment of changing “by” with “when” after “Some platforms,”.

Paragraph 9

The correct classification of platform workers is a crucial issue since the employment relationship is the gateway to labour and social rights. While some platform workers are genuinely self-employed, others may be misclassified as independent contractors, depriving workers from due labour and social protection, generating legal liabilities for platforms, inducing unfair competition and producing losses in tax revenues and social security contributions.

- 234.** The Employer Vice-Chairperson [F] proposed an amendment to replace “The correct” by “legal clarity on”, “a crucial” by “an important” and “is the” with “may be”; to replace “While some” with “Many” before “platform workers”; to add, after “self-employed”, the words “and properly classified in this way.”; to begin a new sentence with the word “Others”; and to replace “independent contractors” with “self-employed”, to ensure consistency in the use of terms throughout the document. She further suggested deleting “depriving workers from due labour and” before “social protection”; commencing a new sentence with “Inappropriate classification can lead to a lack of access to”; replacing “generating legal liability” with “and poses adverse legal and compliance risks,”; to add the word “platform” before “companies”; to replace “inducing” with “It may lead to” and to delete “producing” before “losses”.
- 235.** The Worker Vice-Chairperson [F] introduced an amendment to replace in the first sentence the words “the gateway” with the words “a critical gateway”.
- 236.** The Government Vice-Chairperson [M] proposed an amendment to insert a new sentence at the end of the paragraph to read:
- Still, even self-employed workers face decent work deficits which must be addressed.

Paragraph 10

Litigation on the classification of platform work arrangements has been increasing around the world in recent years. Court decisions in certain cases have reclassified platform workers as employees, particularly in the case of location-based platform workers, including ride-hailing drivers and couriers, while, in others, they have confirmed their classification as self-employed. On the other hand, case law has so far been scarce as regards the status of workers engaged on web-based platforms. Furthermore, court proceedings are often costly and lengthy, and workers may hesitate to resort to them by fear of being disconnected from the platform.

- 237.** The Employer Vice-Chairperson [F] submitted two amendments: first, to delete from the second sentence the words “particularly in the case of location-based platform workers, including ride-hailing drivers and couriers”, as that specification was unnecessary; and second, to delete the fourth sentence.
- 238.** The Government Vice-Chairperson [M] introduced three amendments: first, to replace in the second sentence the words “while, in others” with the words “while, in a minority of others”; second, to replace in the second sentence the words “status of workers” with the words “employment status of workers”; and third, to revise the fourth sentence to read:

Furthermore, court proceedings are often costly and lengthy, and it may be impossible for platform workers to resort to them for fear of being disconnected from the platform, in some cases, as a consequence, losing their livelihood.

Paragraph 11

The classification of platform workers is a complex matter given the diversity of legal systems, types of platforms and business models. The existence of a relationship between the platform, the worker and the client, and the cross-border nature of some of the activities performed add to the challenge. Countries have given different responses to this situation. In addition to the categories of “employees” and “self-employed”, some have introduced a third, intermediate, category of workers and extended some basic labour and

social protection rights to the latter. Evidence suggests that this has not necessarily translated into enhanced legal certainty or has put an end to legal proceedings for the reclassification of platform workers. Other countries have sought to clarify and reduce the grey zone surrounding the existence of an employment relationship. Several countries have adopted legislation aiming at lightening the burden of proof to demonstrate the existence of an employment relationship, including through rebuttable presumptions, or at extending some labour rights to platform workers, regardless of their employment status.

- 239.** The Employer Vice-Chairperson [F] introduced two amendments: first, to replace at the beginning of the first sentence the words “The classification of platform workers” with the words “The classification of the employment relationship generally, including of platform workers”; and second to delete the second and fifth sentences.
- 240.** The Worker Vice-Chairperson [M] introduced four amendments: first, to replace in the first sentence the words “a complex matter” with the word “relevant”; second, to replace in the second sentence the words “some of the activities performed” with the words “platform work”; third, to delete the third sentence, as intermediate categories predated platform work; and fourth, to insert a new sentence at the end of the paragraph, to read:
- Some have extended basic labour social protection rights to all platform workers.
- 241.** The Government Vice-Chairperson [M] proposed an amendment to replace in the fourth sentence the words “has not necessarily translated into enhanced legal certainty or has put an end to legal proceedings” with the words “may not necessarily translate into enhanced legal certainty or put an end to legal proceedings”.

Paragraph 12

Platform work may bring challenges regarding working conditions and social protection, although some of these challenges are not unique to the platform economy. Platform workers may face a lack of transparency and predictability of working conditions. Relatively often, they do not benefit from negotiated or statutory minimum wages and labour oversupply leads to lower wages. In addition to unpaid waiting times, pending the allocation of tasks by the platform, they are typically remunerated by task and need to pay substantial commissions to platforms. The constant connection entailed by platform work blurs the boundaries between work and rest periods. Possibilities of training and career development are reduced, and access to dispute settlement and grievance mechanisms limited, if any.

- 242.** The Employer Vice-Chairperson [F] introduced two amendments; first, to replace in the first sentence the words “some of these challenges” with the words “most of these challenges”; and second, to delete the remaining sentences of the paragraph as there had been no consensus on those specific challenges and they should therefore be excluded from the conclusions.
- 243.** The Worker Vice-Chairperson [M] proposed an amendment to insert in the first sentence, after the words “Platform work may bring challenges regarding working conditions”, the words “, occupational safety and health,”.
- 244.** The Government Vice-Chairperson [M], underlining his support of the original text of the paragraph as proposed by the Office, proposed an amendment to insert a new sentence after the second sentence, to read:

Some platform workers lack adequate safety and health protections.

Paragraph 13

The use of automated monitoring and decision-making systems may have a significant impact on working conditions. The use of algorithms to allocate and evaluate work performance may entail challenges concerning the protection of workers' personal data and their right to privacy. It may result in increased psychosocial risks and may exacerbate the risk of occupational accidents and diseases. A lack of transparency in the design and use of algorithms may lead to unjustified rejection and thus non-payment of work by clients, arbitrary ratings and sometimes withholding of jobs or automatic suspensions. Algorithmic management can also conceal the existence of subordination and control of workers. Equally important is ensuring the accountability of platforms and that automated decisions are reviewed by humans.

- 245.** The Employer Vice-Chairperson [F] introduced three amendments: first, to delete the first sentence; second, to revise the second sentence to read:

The possible use of decision-making systems to offer and allocate work, in order to match supply and demand, may entail challenges concerning the protection of workers' personal data and their right to privacy.

and third, to delete the remaining sentences of the paragraph, as there was no consensus on algorithmic management.

- 246.** The Worker Vice-Chairperson [M] proposed an amendment to insert at the end of the first sentence the words "and on the realization of fundamental principles and rights at work".
- 247.** The Government Vice-Chairperson [M] supported the original text of the paragraph and therefore introduced no amendments.

Paragraph 14

Access to social protection is essential for all workers. Many workers in the platform economy, particularly those for whom platform work is the main source of income, have limited or no access to social protection. This can be related to several factors such as eligibility requirements, including the lack of coverage of self-employed workers, weak compliance mechanisms or misclassification of workers. Some countries have taken steps to improve social security coverage, in line with the Social Security (Minimum Standards) Convention, 1952 (No. 102), and/or the Social Protection Floors Recommendation, 2012 (No. 202) which provides guidance for the establishment of basic social security guarantee and the progressive inclusion in higher levels of social security to as many people as possible.

- 248.** The Employer Vice-Chairperson [F] proposed amendments to add the words ",regardless of classification" after the words "all workers"; to delete the term "Many" before the words "workers in the platform economy"; to replace ", particularly those for whom platform work is the main source of income," with "may"; and to add "in some jurisdictions" after "social protection", to reflect the information shared by some experts that their jurisdictions offered social protection to self-employed and employees.
- 249.** The Worker Vice-Chairperson [M] supported the original text of the paragraph and therefore introduced no amendments.
- 250.** The Government Vice-Chairperson [M] introduced an amendment to insert at the beginning of the first sentence the word "Universal".

Paragraph 15

The principles of freedom of association and the effective recognition of the right to collective bargaining are essential to ensure decent working conditions for all workers in the platform economy, to guarantee the efficient functioning of markets and contribute to social peace. However, difficulties in the effective access to and exercise of these rights may arise due, inter alia, to (i) the misclassification of the workers concerned; (ii) the determination of the personal scope of application of the right to collective bargaining, in particular with regard to self-employed workers; (iii) the identification of the responsible employer; (iv) the channels available for trade union organizations to communicate with workers; and (v) the identification of possible anti-union discrimination practices when labour and employment decisions are taken by algorithms. At the same time, national policies aimed at addressing these challenges are developing at a rapid pace. Different approaches emerge, including regarding access of self-employed, or certain categories of them, to collective bargaining mechanisms.

251. The Employer Vice-Chairperson [F] proposed amendments to replace the term “principles” with the term “principle” before “of freedom of association”; to replace “and the effective recognition of the right to collective bargaining are essential” with “is key”; and to delete “to guarantee the efficient functioning of markets and contribute to social peace” after “platform economy”. She introduced an amendment to add a sentence before the words “However, difficulties” that would read: “The effective recognition of the right to collective bargaining is key to ensure decent working conditions for all employees in the platform economy.” She introduced amendments to replace “due, inter alia to” with “, especially in the case of” and to delete the items listed under roman numerals (ii), (iii) and (v).
252. The Worker Vice-Chairperson [M] proposed an amendment to delete from the beginning of the first sentence the words “The principles of”.
253. The Chairperson [M], in the interest of time, proposed to deal first with paragraphs 18 and 19, before discussing paragraphs 16 and 17.
254. The Vice-Chairpersons agreed to the proposal and the Meeting proceeded to review the amendments to paragraph 18.

IV. Recommendation for future action by the International Labour Organization

255. The title of section IV was adopted without amendment.

Paragraph 18

The experts concurred that existing ILO standards provide useful guidance to advance decent work on both location-based and web-based platforms. However, they also observed that some aspects of platform work are not adequately covered by existing international labour norms. These include (i) counting and remuneration of time spent waiting for the allocation of tasks assigned by the platform and the right to digital disconnection; (ii) protection of workers’ personal data and right to privacy, including portability of digital reputation; (iii) governance of algorithmic management, including fairness and transparency of automated decisions such as ratings and deactivation from the platform; (iv) existence of adequate dispute resolution mechanisms; (v) effective labour inspection

and access to relevant data and records by the competent authorities ; and (vi) the cross-border nature of some forms of platform work.

256. Prior to introducing their amendments, the Employer Vice-Chairperson [F] noted her commitment to reach agreement on positive conclusions. The Worker Vice-Chairperson [M] noted the foundational role of the paragraph in fulfilling the mandate of the Meeting, as it was to provide guidance to the Governing Body on gaps in international labour standards, as reflected in the background report and as expressed by the experts throughout the general discussion, which would inform a possible general discussion or standard-setting process. The Government Vice-Chairperson [M] noted that he had no amendments to introduce and that he supported the original text of the paragraph as proposed by the Office.
257. The Employer Vice-Chairperson [F] proposed an amendment to item (i) to delete the words “counting and” and “of time spent waiting for the allocation of tasks assigned by the platform”, as these concepts were too narrow, and to add the words “and revenues” after “remuneration”.
258. The Government Vice-Chairperson [M] supported the amendment, contingent on the acceptance of a subamendment to add the word “adequate” before the word “remuneration”.
259. The Employer Vice-Chairperson [F] supported the subamendment.
260. Further discussion of the amendment to item (i) of the third sentence was left pending and was resumed at the end of the discussion of paragraph 18.
261. The Worker Vice-Chairperson [M] proposed an amendment to item (ii) of the third sentence to insert, after the word “protection”, the words “and governance”, to emphasize the need for governance to protect workers’ data.
262. The Employer and Government Vice-Chairpersons supported the amendment to item (ii) of the third sentence.
263. The Worker Vice-Chairperson [M] proposed an amendment to item (iii) of the third sentence to insert, after the words “deactivation from the platform”, the words “and other penalties, and surveillance”, since as had been discussed, there were many automated decisions that went beyond deactivation or dismissals to include suspension or non-allocation of tasks, and there were many impacts of monitoring techniques that represented real gaps in protection that needed to be addressed.
264. The Employer and Government Vice-Chairpersons did not support the Worker experts’ amendment to item (iii) of the third sentence.
265. The Worker Vice-Chairperson [M] proposed an amendment to insert a new item in the list in the third sentence to read “(-) individual and collective information and consultation rights”, which related to the right to information of individual workers and worker representatives, as well as consultation rights concerning algorithms, data and working conditions.
266. The Government Vice-Chairperson [M] supported the amendment.
267. Responding to a request for clarification from the Employer Vice-Chairperson [F], the Worker Vice-Chairperson [M] explained that the amendment referred to information and consultation with workers’ representatives on workplace issues such as algorithmic management. It represented a regulatory gap, with examples of good practices emerging in several jurisdictions, such as in Spain’s Riders’ Law.

- 268.** The Employer Vice-Chairperson [F] did not support the amendment as the concept was too Eurocentric.
- 269.** The Worker Vice-Chairperson [M] proposed a subamendment to add the words “access to” after the word “collective” and to delete the word “rights” after “consultation”, recalling the national examples submitted by several Government experts during the general discussion.
- 270.** The Employer Vice-Chairperson [F] supported the subamendment but could not support the reference to consultation as consultation practices varied at the country and platform levels.
- 271.** The Government Vice-Chairperson [M] proposed a subamendment to delete the words “and consultation” and to add the words “promotion of appropriate consultation,” as an additional list item, in line with the Co-operation at the Level of the Undertaking Recommendation, 1952 (No. 94).
- 272.** The Employer Vice-Chairperson [F] expressed overall concerns regarding the objective of the proposed new item. The term “consultation” had many different meanings and, in addition, had been insufficiently discussed to be included in the draft conclusions in a manner that reflected a common understanding.
- 273.** The Worker Vice-Chairperson [M] introduced a second subamendment to revise the proposed new item to read “(-) individual and collective access to information;”, as there was merit to including at least a reference to access to individual and collective information.
- 274.** The Government Vice-Chairperson [M] withdrew the Government experts’ subamendment and supported the Worker Vice-Chairperson’s [M] second subamendment.
- 275.** There was no consensus on the amendment to insert a new item as subamended in the list in the third sentence.
- 276.** The Employer Vice-Chairperson [F] introduced two amendments to item (iii) in the third sentence: first, to replace the words “governance of algorithmic management” with the words “algorithmic governance”, as the issues to be addressed stemmed from the broader scope of algorithmic governance rather than the more limited scope of management; and second, to delete the words “such as ratings and deactivation from the platform”, to better reflect the differences of opinion among the experts.
- 277.** The Government Vice-Chairperson [M] did not support the first amendment, as the term “algorithmic governance” had not been the subject of discussion and was not a term on which there was a shared understanding. He did support the second amendment.
- 278.** The Employer Vice-Chairperson [F] explained that the term “algorithmic governance” referred to rules in the use of algorithms and was a more appropriate and broader term to use, as it was at the level of governance that the issues concerning algorithms would be resolved. She hoped her amendment would receive support in view of that explanation.
- 279.** The Worker Vice-Chairperson [M] did not support either of the two amendments, as the term “algorithmic management” was the commonly used term, including in paragraph 20 of the report of the Recurrent Discussion Committee on Employment of the International Labour Conference at its 110th Session (2022).²⁴ The term also better reflected the way that algorithms were being

²⁴ [ILC.110.Record No. 6A](#).

used in the workplace. Ratings and deactivation were important examples of the outcomes of automated decisions and should not be deleted.

280. There was no consensus on the Employer experts' two amendments to item (iii) of the list in the third sentence.
281. The Worker Vice-Chairperson [M] proposed an amendment to item (vi) to delete the words "some forms of" before the words "platform work", as the data-driven nature of platform work necessarily meant that all platform work was of a cross-border nature.
282. The Government Vice-Chairperson [M] did not support the amendment, as the original phrasing was more accurate.
283. The Employer Vice-Chairperson [F] did not support the amendment, as there were local, small and medium-sized platforms that were not of a cross-border nature and that contributed to the transition from the informal to the formal economy.
284. The Government Vice-Chairperson [M] introduced an amendment to item (vi) to replace the words "cross-border nature" with the words "cross-border element".
285. The Employer Vice-Chairperson [F] supported the amendment.
286. The Worker Vice-Chairperson [M] supported the amendment and withdrew the Worker experts' amendment to item (vi).
287. The Employer Vice-Chairperson [F] proposed an amendment to insert five new items in the list in the third sentence to read: "(-) the transition from the informal to the formal sector; (-) work opportunities and job creation; (-) the promotion of sustainable enterprises and entrepreneurship; (-) representative organizations of social dialogue in the platform economy; and (-) sustainable social protection".
288. The Worker Vice-Chairperson [M] proposed two subamendments: to replace the words "formal sector" with the words "formal economy"; and to replace the words "work opportunities" with the words "income opportunities". He also questioned the intended meaning of the term "representative organizations of social dialogue" but supported the inclusion of a subparagraph covering the term "social dialogue in the platform economy".
289. The Government Vice-Chairperson [M] supported the addition of the new items to the list, but introduced a subamendment to replace the words "sustainable social protection" with the words "universal, adequate, comprehensive and sustainable social protection systems", to reflect the language adopted at the 109th Session of the International Labour Conference (2021).
290. The Employer Vice-Chairperson [F] could support the Worker experts' subamendments. She supported the Government experts' subamendment but introduced a further subamendment to insert the words "access to" before the word "adequate", consistent with ILO language.
291. The Worker Vice-Chairperson [M] supported the subamendments.
292. The Worker Vice-Chairperson [M] introduced an amendment to insert three items in the list in the third sentence to read: "(-) regular payment of wages and rates; (-) commission charges and fees; and (-) platform work contracts;", to address the major issues faced by platform workers regarding delayed or incomplete payment of wages, for which there was an important gap in international labour standards; excessive fee charging and the unlawful deduction of wages; and the lack of coherence, transparency and accessibility of the terms and conditions of employment in a

language understood by the worker concerned, given the high prevalence of migrant workers in the platform economy.

- 293.** The Government Vice-Chairperson [M] supported the amendment.
- 294.** The Employer Vice-Chairperson [F] supported the Workers' group amendment but introduced two subamendments: to insert the word "service" before the word "fees" to capture how different platforms work; and to replace the words "platform work contracts" with the words "platform work terms and conditions, including contracts".
- 295.** The Worker Vice-Chairperson [M] requested clarification from the Employer Vice-Chairperson [F] regarding the addition of the word "services" before "fees" and supported her subamendment to insert "terms and conditions, including" between "platform work" and "contracts".
- 296.** The Government Vice-Chairperson [M] introduced an amendment to insert a new item in the list in the third sentence to read "(-) the realization of fundamental principles and rights at work;".
- 297.** The Employer and Worker Vice-Chairpersons supported the amendment.
- 298.** The Worker Vice-Chairperson [M] emphasized the critical importance of the paragraph in fulfilling the Meeting's mandate to provide guidance to the Governing Body as to the need for a possible general discussion or standard-setting item. It should therefore identify gaps in the body of international labour standards, as reflected in the background report and in the inputs of the experts during the Meeting. He introduced three amendments: to replace in the first sentence the words "existing ILO standards" with the words "several ILO standards"; to replace in the same sentence the words "provide useful guidance" with the words "are relevant and applicable"; and to replace in the second sentence the words "international labour norms" with the words "international labour standards". Several international labour standards, including the core Conventions, applied to workers in the platform economy.
- 299.** The Employer and Government Vice-Chairpersons supported the amendments.
- 300.** The Employer Vice-Chairperson [F] proposed an amendment to revise the second sentence to read:
- They also observed that some aspects of platform work need further reflection and consultation with social partners.
- There was broad agreement that existing ILO standards provided useful guidance to advance decent work in the platform economy, both for location-based and web-based platforms. As the experts in the Meeting were not all international labour standards experts, it was also important to focus not on the gaps but on the opportunities that the platform economy presented.
- 301.** The Government Vice-Chairperson [M] supported the amendment, contingent on the inclusion of text in paragraph 19 that captured the fact that there were gaps in international labour standards, and subject to a subamendment he introduced to replace the words "further reflection and consultation with social partners" with "further tripartite consultation and ILO action".
- 302.** The Employer Vice-Chairperson [F] supported the subamendment.
- 303.** The Worker Vice-Chairperson [M] did not support the amendment as subamended, as it would effectively change the meaning of the list in the third sentence from a list of existing regulatory gaps to a list of items for discussion. Yet, the regulatory gaps had been reflected at length in both the background report and during the general discussion among the experts, who had been

selected specifically for their expertise on the topic. It was unacceptable for the list to no longer be presented as a list of regulatory gaps. A failure to list gaps would also represent a departure from the Meeting's mandate to provide guidance to the Governing Body on the need for a general or standard-setting discussion. Given the numerous items that had been added to the list in the third sentence by the amendments proposed by each of the Vice-Chairpersons, the Worker Vice-Chairperson [M] introduced an amendment to divide the paragraph into two parts: the first part would address existing regulatory gaps, including items (i) to (vi) of the original Office text of the third sentence, as amended where there was a consensus, while the second part would include additional points for further reflection and discussion as captured by the items introduced by amendment. Should his amendment be accepted, the Worker Vice-Chairperson [M] could not support the Employer experts' amendment to item (i) of the list, as it would lose the original intent of the sentence and revenues referred to enterprises, not workers, although he could accept the Government experts' subamendment. The new paragraph would then include the elements introduced by amendment by the Vice-Chairpersons. Other items could also of course be included.

- 304.** The Employer Vice-Chairperson [F] did not support the Worker experts' amendment to divide the paragraph into two parts and create two lists, or to include any list that represented regulatory gaps, as there was no consensus on that among the experts. The paragraph should state first that ILO standards were relevant and applicable, and should then reflect the divergence of views among experts regarding the regulatory gaps on the one hand and the new and emerging issues on the other. Issues such as algorithmic decision-making, the right to disconnect, dispute resolution and commission charges were new and the ILO was well placed to assist Member States in advancing collective understanding of how those issues influenced decent work, but just because they were new did not mean that they were not covered by existing ILO standards. She specified that the Employer experts' amendment, as subamended by the Government group to refer to tripartite consultation and ILO action in the second sentence meant that the items listed in the third sentence would be not merely topics of reflection but topics of tripartite consultation and ILO action. As there was no consensus on paragraph 18, she proposed to bracket the text and move on to paragraph 17.
- 305.** The Worker Vice-Chairperson [M] reflected that the Employer experts' amendment to the second sentence would fundamentally transform the nature of the paragraph. He did not support moving to paragraph 17 since it had been agreed to first review paragraphs 18 and 19.
- 306.** The Government Vice-Chairperson [M], noting the disagreement concerning the existence of gaps in the international labour standards, proposed a further subamendment to revise the second sentence to read:
- However, they also observed that some aspects of platform work, because of their novel and emerging nature, are not adequately covered by existing international labour norms and need further tripartite consultation and ILO action.
- The full list of items (i) to (vi) would follow in the third sentence, as amended and also with the addition of those new items that had been introduced by amendment.
- 307.** The Worker Vice-Chairperson [M] supported the Government experts' further subamendment, including the proposal concerning the consolidated list of original and amended items.

- 308.** The Employer Vice-Chairperson [F] supported the Government experts' further subamendment but proposed a subamendment to replace the words "are not adequately covered" with the words "may not be adequately covered", as there were some items of the list in the subsequent third sentence that were covered by standards, such as labour inspections, social protection and OSH, while other items were not.
- 309.** The Worker Vice-Chairperson [M] did not support the Employer experts' subamendment, since it was clear that the novel and emerging nature of the work meant that the issues were not adequately covered by international labour standards.
- 310.** The Government Vice-Chairperson [M] did not support the Employer experts' subamendment. He suggested an alternative subamendment to replace in the third sentence the word "include" with the words "may include".
- 311.** The Worker Vice-Chairperson [M] supported the Government experts' alternative subamendment.
- 312.** The Employer Vice-Chairperson [F] proposed a further subamendment to replace the words "and ILO action" with the words "and gap analysis in order to inform further ILO action".
- 313.** The Worker Vice-Chairperson [M] did not support the Employers experts' further subamendment. Gap analyses had already been undertaken prior to the Meeting and requiring more such analyses would delay action on an issue that was already agreed to be urgent. Moreover, a gap analysis would necessarily be conducted if the Governing Body were to agree on initiating standard-setting.
- 314.** The Government Vice-Chairperson [M] did not support the Employer experts' further subamendment as a gap analysis had already been conducted in the context of the background report and had also been provided for under paragraph 17(a) of the draft conclusions.
- 315.** The Employer Vice-Chairperson [F] withdrew the Employer experts' further subamendment but noted that she could not compromise on the subamendment to replace the words "are not adequately covered" with "may not be adequately covered". Further evidence and information were needed to make clear statements regarding the coverage of platform workers by international labour standards, including both Conventions and recommendations.
- 316.** The Government Vice-Chairperson [M] proposed a further subamendment to revise the second sentence to read:
- However, they also observed that some aspects of platform work, because of their novel and emerging nature, are not adequately covered by existing international labour norms and need tripartite consultation and gap analysis to inform ILO action.
- 317.** The Employer Vice-Chairperson [F] did not accept the Government experts' further subamendment. She challenged the assertion that a full gap analysis had been conducted, as the background report and discussion among the experts did not amount to a gap analysis. She reasserted that a gap analysis must be done prior to further ILO action, including standard-setting.
- 318.** There was no consensus on the amendments to the paragraph. The text of paragraph 18 was bracketed.

Paragraph 19

While the experts were open to the principle of setting a new international labour standard on decent work in the platform economy, their views diverged regarding the appropriate timing for such a course of action. For some experts, the time is ripe for a standard-setting on this subject, given existing decent work deficits and regulatory gaps, and the need for the ILO to act as the lead international organization on this matter and to adequately respond to requests for technical assistance by Member States. At the same time, the Office should continue to undertake further research. For other experts, priority should be given to developing a critical mass of knowledge and experience on the topic and to acquiring a better understanding of the scope, thrust and full implications of a possible new standard, before engaging in or considering a standard-setting process on decent work in the platform economy.

319. The Chairperson [M] invited the Employer and Worker Vice-Chairpersons to introduce their amendments to the paragraph, after which the floor would be open for discussion. The Government Vice-Chairperson [M] did not introduce any amendments, expressing satisfaction with the original Office text.

320. The Worker Vice-Chairperson [M] proposed an amendment to replace in the second sentence the words “For some experts, the time is ripe for a standard-setting on this subject,” with the words “For the majority of experts, the time is ripe for a standard-setting on this subject at the earliest possible opportunity,” to reflect the views of the experts during the general discussion.

321. The Employer Vice-Chairperson [F] proposed two amendments: first, to replace at the beginning of the first sentence the words “While the experts were open to” with the words “Some experts were open to”; second, to delete from the second sentence the words “given existing decent work deficits and regulatory gaps” and to revise the sentence, including by dividing it into two sentences, to read:

For some experts, the time is ripe for a standard-setting on this subject. The experts agreed on the need for the ILO to act as the lead international organization on this matter and to adequately respond to requests for technical assistance by Member States.

The intention of those two amendments was to make clear where there was a divergence of views among the experts, notably with respect to the existence of regulatory gaps and decent work deficits, as well as the need for standard-setting. The Employer Vice-Chairperson [F] also introduced a third amendment, to revise the fourth sentence to read:

For other experts, priority should be given to developing a critical mass of knowledge and experience on the topic and to acquiring a better understanding of its scope, thrust and full implications, before engaging in or considering a standard-setting process on decent work in the platform economy.

The amendment to the fourth sentence sought to reflect more accurately the position of some experts that there was a need to acquire a better understanding, not of the implications of a new possible standard, but of the scope, thrust and implications of the industry and the issues faced by the platform economy.

322. The Government Vice-Chairperson [M] did not support the Worker experts’ amendment as it was redundant.

323. The Employer Vice-Chairperson [F] also did not support the Worker experts’ amendment.

- 324.** The Worker Vice-Chairperson [M] withdrew the amendment.
- 325.** The Government Vice-Chairperson [M] supported the Employer experts' first amendment as it seemed fair to clarify which opinions were not shared by all the experts with respect to standard-setting. He introduced a subamendment to replace the words "Some experts" with the words "Many experts", as that better reflected the actual number of experts who were open to the principle of standard-setting. The Government Vice-Chairperson agreed with the Employer experts' proposal to divide the second sentence into two parts and to begin the new third sentence with the words "The experts agreed on", but he did not support the proposal to delete the words "given existing decent work deficits and regulatory gaps", as the text should reflect that it was the existence of gaps in the realization of rights that made some experts believe the time was ripe for standard-setting on the platform economy. He therefore proposed a subamendment to replace the word ", given" with the words ", due to", to reflect that distinction. He also introduced a subamendment to insert at the beginning of the amended third sentence the word "Nevertheless," so that the two sentences would now read:

For some experts, the time is ripe for a standard-setting on this subject, due to existing decent work deficits and regulatory gaps. Nevertheless, the experts agreed on the need for the ILO to act as the lead international organization on this matter and to adequately respond to requests for technical assistance by Member States.

He also proposed a further subamendment to move the second of those amended sentences and the subsequent sentence:

At the same time, the Office should continue to undertake further research.

to the end of the paragraph, as they reflected areas of consensus among the experts. Finally, he did not support the Employer experts' amendment to revise the fourth sentence, as the original text was clearer and more accurate.

- 326.** The Employer Vice-Chairperson [F] supported all the Government experts' subamendments except the proposal to replace in the first sentence the words "Some experts" with the words "Many experts" as it was not an accurate reflection of the proportion of experts who supported standard-setting. She therefore withdrew her amendment to delete from the second sentence the words ", given existing decent work deficits and regulatory gaps" and supported the Government experts' proposal to replace those words with the words "due to existing decent work deficits and regulatory gaps", with a subamendment to insert, after the words "due to", the words "their view of". If there was no support for that subamendment, the text could be amended to reflect opportunities and challenges. She also withdrew her amendment to revise the fourth sentence and instead introduced a subamendment to replace in that sentence the words "a possible new standard" with the words "possible new standard-setting", to include in the discussion the implications of the process of standard-setting and not just a standard by itself.
- 327.** The Worker Vice-Chairperson [M] supported the Government experts' subamendments, noting however that the two relocated sentences would perhaps be better located in paragraph 17.
- 328.** The Worker Vice-Chairperson [M] did not support the Employer experts' amendment to delete the words "given existing decent work deficits and regulatory gaps" or to replace the words "a possible new standard" with the words "possible new standard-setting".

- 329.** Having reflected on the evolution of the text, the Employer Vice-Chairperson [F] reiterated her preference to delete the words “, given existing decent work deficits and regulatory gaps”. Should those words be included, the text would unduly emphasize the challenges of the platform economy, without sufficient reference to the opportunities that it afforded; moreover, the text would have to qualify specifically which experts were of the view that there were decent work deficits and regulatory gaps that called for standard-setting in the immediate future. That could be achieved by inserting, after the words “due to”, the words “their view of”, which she had therefore introduced as a subamendment.
- 330.** The Worker Vice-Chairperson [M] noted that the proposed use of the word “Many” at the beginning of the first sentence was an accurate reflection of the number of experts who had expressed their openness to the principle of setting a new international labour standard, including all the Worker and Government experts. As he had understood it, even the Employer experts had expressed an openness to standard-setting, albeit at a later date. As such, it would perhaps be even more accurate to replace the word “Many” with the words “The majority of”. He reiterated his support for the Government experts’ subamendments, since the words “the time is ripe for a standard-setting on this subject, due to existing decent work deficits and regulatory gaps” accurately reflected the position of the particular experts who were the subject of the sentence. Finally, he requested clarification regarding the implications of the Employer experts’ proposal to replace in the fourth sentence the words “a possible new standard” with the words “possible new standard-setting”.
- 331.** The Employer Vice-Chairperson [F] clarified that the Employer experts did not believe that it was the appropriate time for a standard-setting exercise on decent work in the platform economy. They would not pre-empt any conclusion on the way forward for the ILO until they had a deeper understanding of that topic, which is why they supported the ILO in undertaking additional research and analysis. She explained that the Employer experts’ subamendment was intended to express that further analysis was needed to understand what the standard-setting process would look like on that topic, what a possible standard would look like, what shape it might take and whether there was an alternative to a standard-setting process that would be more appropriate to discuss the very fluid nature of the subject matter. She introduced a subamendment to replace in the second sentence, after the words “on this subject”, the words “due to” with the words “noting”, and to insert in the fourth sentence, after the words “standard-setting process”, the words “or other ILO action” to accurately reflect the views of the Employer experts.
- 332.** The Worker and Government Vice-Chairpersons could support the Employer experts’ subamendment, contingent on the withdrawal of the proposal to add the words “or other ILO action” as that would block the ILO from taking any action.
- 333.** The Employer Vice-Chairperson [F] could not agree to language that made the Employer experts’ position ambiguous. The Employer experts supported immediate ILO action, as reflected in the words “the need for the ILO to act as the lead international organization on this matter and to adequately respond to requests for technical assistance by Member States” and the words “the Office should continue to undertake further research”. Following those actions, however, discussion would be necessary to determine further ILO action.
- 334.** The Worker Vice-Chairperson [M] said that he could not support the Employer experts’ subamendment to add the words “or other ILO action”, as although there had been many diverging views, he did not recall the Employer experts taking the position that a critical mass of

knowledge and experience and a better understanding of the implications of a possible new standard or standard-setting process were necessary before the ILO could take any action. He recalled for example that the Employer experts had called for the immediate promotion of Recommendation No. 198.

- 335.** The Government Vice-Chairperson [M] noted that the sentence as amended could indeed be understood to mean that an extensive body of research, experience and analysis should be undertaken before the ILO could take any action. He noted that if the Meeting could reach agreement on inserting at the beginning of the first sentence the words “Many experts”, although “A majority of experts” would be more accurate, the Government experts would be less concerned about the insertion of the words “or other ILO action”, and they would moreover be open to identifying another word instead of “Many”.
- 336.** The Employer Vice-Chairperson [F] explained that once the ILO had a better understanding of the implications of a possible new standard-setting based on additional research and experience, the experts’ recommendation might not be to engage in standard-setting but rather to conduct technical assistance, cases studies, capacity-building or a general discussion, for example. Her amendment was not intended to present a precondition for any ILO action in the immediate future. It might be useful to first discuss the nature of the recommendations for action by the ILO and the Office, as set out in paragraphs 16 and 17. Regarding the proposed insertion at the beginning of the first sentence of the words “Many experts”, she reiterated the position that it was not appropriate to specify the number of experts that agreed with a certain draft conclusion, which was already a diversion from the usual process of achieving a consensus text. She proposed to revert to consensus-based conclusions and not to reflect diverging views unless that could be done in a neutral way.
- 337.** The Worker Vice-Chairperson [M] introduced a subamendment to replace at the beginning of the first sentence the words “While the experts were open to” with the words “The experts showed a general openness to”.
- 338.** The Employer Vice-Chairperson [F] did not support the subamendment.
- 339.** The Worker Vice-Chairperson [M] withdrew the amendment.
- 340.** It was then agreed that the Meeting would proceed to discuss paragraphs 16 and 17.

II. Measures to ensure decent work in the platform economy

Paragraph 16

Chapeau

- 341.** No amendments to the chapeau were received.

New subparagraph

- 342.** The Government expert from Mexico [M], speaking on behalf of the Government experts, introduced an amendment to insert a new subparagraph at the beginning of paragraph 16 to reflect the importance of gender equality and inclusion, and to address the barriers that existed for women and other vulnerable group, to read:

Advance gender equality and inclusion on digital labour platforms. The presence of gender stereotypes and inequalities in the world of work also persists in the platform economy. Policy interventions should seek to overcome any barriers for the inclusions of women, youth and the elderly, people with disabilities, migrants or other groups, in consultations with the relevant stakeholders.

343. The Employer and Worker Vice-Chairpersons supported the amendment.

Subparagraph (a)

Fostering social dialogue to maximize the opportunities and address the decent work deficits on digital labour platforms. National regulatory initiatives to foster decent work in the platform economy should be subject to tripartite social dialogue. The meaningful involvement of the social partners is crucial to ensure that new regulations reflect the realities and diversity of the rapidly evolving platform economy. Explore novel forms of social dialogue, including at the sectoral level, that reflect the specificities of the evolving platform economy and could contribute to achieving decent work;

344. The Employer Vice-Chairperson [F] introduced an amendment to replace in the italicized heading the words “*the decent work deficits*” with the words “*any decent work deficits*”.

345. The Government and Worker Vice-Chairpersons supported the amendment.

Subparagraph (b)

Harnessing the fullest potential of the platform economy to achieve decent work and sustainable development. Measures should be taken, in line with the Centenary Declaration for the Future of Work, to ensure that the platform economy realizes its full potential for decent job creation, entrepreneurial opportunities and innovation. Particular attention should be paid to ensure that groups with greater difficulties in accessing the labour market have equal access to platform work, including by overcoming the digital divide;

346. The Employer Vice-Chairperson [F] introduced an amendment to replace in the first sentence the words “entrepreneurial opportunities and innovation” with the words “entrepreneurial opportunities, innovation and an environment enabling sustainable enterprises”.

347. The Government and Worker Vice-Chairpersons supported the amendment.

Subparagraph (c)

348. No amendments were introduced to subparagraph (c).

Subparagraph (d)

Ensuring access to freedom of association and the effective recognition of the right to collective bargaining. An appropriate legislative and institutional framework should be put in place to facilitate the effective access to and exercise of freedom of association and the right to collective bargaining in the platform economy. This includes, among others, ensuring that access to and exercise of these rights is not hampered by: i) the absence of rules governing industrial relations in the platform economy or the inadequacy of such rules; ii) difficulties related to the classification or misclassification of workers and employers. Mechanisms should be put in place to identify and effectively sanction possible anti-union discrimination practices and explore appropriate measures to facilitate communication among workers;

349. The Employer Vice-Chairperson [F] introduced an amendment to add the words “for all platform workers” after the words “*freedom of association*”; to add the words “*for workers in employment*”

relationships" after "the right to collective bargaining"; and to delete "and the right to collective bargaining." after the words "freedom of association and".

- 350.** The Worker and Government Vice-Chairpersons [M] did not support the amendments as they were not legally accurate or in line with ILO jurisprudence. The Worker Vice-Chairperson [M] requested clarification from the Office, questioning whether such an amendment would even be receivable given that it undermined fundamental rights and the jurisprudence of the house.
- 351.** The Secretary-General of the Meeting [F] explained that the ILO had established that access to freedom of association and the right to collective bargaining applied to all workers: those in an employment relationship as well as those in self-employment.
- 352.** The Employer Vice-Chairperson [F] reiterated that the right to collective bargaining that flowed from Convention No. 98 was limited to those in an employment relationship.

Subparagraph (e)

Promoting other fundamentals principles and rights at work, including the right to a safe and healthy working environment. Special attention should be given to preventing and eliminating forms of platform work that do not respect fundamental principles and rights at work. Measures should be set to guarantee that all platform workers, irrespective of their employment status, benefit from occupational safety and health protection, and to ensure the prevention of occupational accidents and diseases, including by platforms;

- 353.** The Employer Vice-Chairperson [F] introduced two amendments: first, to delete the first sentence; and second, to replace in the second sentence the words "guarantee that all platform workers, irrespective of their employment status, benefit from" with the words "allow all platform workers, irrespective of their employment status, to benefit from".
- 354.** The Worker Vice-Chairperson [M] explained that the fundamental principles and rights were central to the work of the ILO and to workers and that therefore they could not accept the amendments.
- 355.** The Government Vice-Chairperson [M] also did not support the amendments but said they could possibly support a reformulation of the deleted sentence.

Subparagraph (f)

Facilitating transition from the informal to the formal economy. The cooperation and exchange of information between platforms and relevant authorities should be strengthened to fully realize the potential of the complete traceability of platform work for the successful transition of platform workers to the formal economy. The establishment of legal frameworks on the sharing of relevant information should be complemented by incentive mechanisms, as well as measures to address the lack of awareness or willingness to comply and simplify procedures. Additional relevant measures should be adopted in line with the Transition from the Informal to the Formal Economy Recommendation, 2015 (No. 204);

- 356.** The Employer Vice-Chairperson [F] introduced two amendments: first, to delete in the first sentence the word "complete" before the word "traceability"; and second, to insert in the second sentence, after the words "sharing of relevant information", the words "with authorities".
- 357.** The Worker and Government Vice-Chairpersons supported the first amendment but did not support the second amendment.

Subparagraph (g)

Ensuring appropriate classification of platform workers. National policies for implementing the Employment Relationship Recommendation, 2006 (No. 198), should be formulated and applied, to combat disguised employment and ensure the appropriate classification of all workers, including platform workers. Digital labour platforms should actively collaborate with national public authorities, including through sharing of all relevant data, to ensure that the employment status of platform workers is in line with applicable legal provisions, based on the primacy of facts principle;

- 358. The Employer Vice-Chairperson [F] introduced an amendment to replace in the first sentence the word “formulated” with the word “promoted”.
- 359. The Worker Vice-Chairperson [M] supported the amendment, with a subamendment to reintroduce the word “formulated”.
- 360. The Government Vice-Chairperson [M] supported the amendment and subamendment.
- 361. The Employer Vice-Chairperson [F] introduced an amendment to insert in the first sentence, after the words “including platform workers”, the words “and to recognize genuine self-employment”, in line with the language of Recommendation No. 198.
- 362. The Worker Vice-Chairperson [M] did not support the amendment.
- 363. The Government Vice-Chairperson [M] supported the amendment.
- 364. The Employer Vice-Chairperson [F] introduced an amendment to replace in the second sentence the words “based on the primacy of facts principle” with the words “guided primarily by the facts”, in line with the language of Recommendation No. 198.
- 365. The Government and Worker Vice-Chairpersons [M] supported the amendment.

Subparagraph (h)

Protecting platform workers’ personal data and regulating algorithmic management. A strong regulatory framework and compliance mechanisms should be put in place to ensure the adequate protection of platform workers’ personal data and right to privacy, in particular as regards the regulation of digital monitoring, workers’ access and control over their data and data portability. The use of algorithms in the platform economy, notably to allocate tasks, assess work performance and discipline workers, should also be regulated and controlled, including as regards workers’ right to a human review of automated decisions. Digital labour platforms should ensure that the design of algorithms they use are fair, transparent, and devoid of discriminatory biases;

- 366. The Employer Vice-Chairperson [F] introduced amendments: first, to replace in the italicized heading the words “*regulating algorithmic management*” with the words “*service providers’ data*” after the words “data and”; and second, to revise the second sentence to read:

Transparency in the use of algorithms in the platform economy should also be better studied, including as regards workers’ right to a human review of automated decisions with regard to intellectual property rights.

- 367. The Worker Vice-Chairperson [M] did not support the amendments, specifying that service provider’s data was not within the scope of the Meeting’s work or the discussion of intellectual property rights in that context.

368. The Government Vice-Chairperson [M] supported the proposals to include the words “service provider’s data” and the words “with regard to intellectual property rights”, but could not support the other proposed revisions, noting his particular concern with the proposed deletion of the words “algorithmic management”, which would remove the context necessary to facilitate the subsequent inclusion of such key terms.

Subparagraph (i)

Providing access to adequate social protection for all platform workers. Strategies seeking to achieve universal access to comprehensive and sustainable social protection systems in line with the Social Security (Minimum Standards) Convention, 1952 (No.102) and the Social Protection Floors Recommendation, 2012 (No. 202) should be promoted and include all platform workers. This calls for a dual strategy that combines the appropriate classification of all workers with the extension of social protection to workers in all types of employment. The effective collaboration of platforms, based on a combination of legal obligations and incentives, should leverage the traceability of platform work to ensure compliance with social security and other obligations, contributing to the financial sustainability of social protection systems while securing fiscal space for extending social protection to all;

369. The Employer Vice-Chairperson [F] introduced an amendment to replace in the second sentence the words “all workers” with the words “platform workers”.
370. The Government and Worker Vice-Chairpersons supported the amendment.
371. The Employer Vice-Chairperson [F] introduced an amendment to replace in the second sentence the words “workers in all types of employment” with the words “all workers, irrespective of their employment status”.
372. The Government Vice-Chairperson [M] supported the amendment.
373. The Worker Vice-Chairperson [M] did not support the amendment and preferred to use language from the Resolution concerning the second recurrent discussion on social protection (social security), adopted by the International Labour Conference at the 109th Session (2021), at which the topic had been discussed at length together with financing.
374. The Employer Vice-Chairperson [F] explained that the Employer experts believed that all workers should be covered by social protection, irrespective of employment status. Issues related to the financing and sustainability of social protection systems was a separate issue covered in the last sentence of the paragraph.
375. The Worker Vice-Chairperson [M] requested the Office to clarify if the text was in line with what had been agreed at the 109th session of the International Labour Conference.
376. The Secretary-General of the Meeting [F] explained that the expression “all forms of employment” had been used to be more inclusive and to emphasize that financing might derive from different sources for both workers in an employment relationship and workers that were not in an employment relationship.
377. The Worker Vice-Chairperson [M] supported the original Office text.
378. The Government Vice-Chairperson [M] noted that the Government experts were open to either option.

- 379.** The Employer Vice-Chairperson [F] emphasized that it was fundamental for the Employer experts and that regardless of previous definitions, social protection should be extended to all workers, including the self-employed.
- 380.** There was no consensus on the amendment.
- 381.** The Employer Vice-Chairperson [F] proposed an amendment to revise the third sentence to read:
The traceability of platform work could help to advance access to social protection and other obligations, contributing to the financial sustainability of social protection systems while securing fiscal space for extending social protection to all;
- 382.** The Government and Worker Vice-Chairpersons supported the amendment.

Subparagraph (j)

Ensuring fair remuneration and decent working time: Measures should be taken to ensure that platform workers are paid for all tasks performed, including those arbitrarily rejected, and that remuneration take into consideration the time spent logged on to the platform, waiting for tasks or services. Measures should also be taken to ensure that rest periods and the right to disconnection are guaranteed;

- 383.** The Employer Vice-Chairperson [F] introduced an amendment to insert the word “fairly” before “paid for all tasks performed”, and to delete the words “including those arbitrarily rejected, and that remuneration take into consideration the time spent logged on to the platform, waiting for tasks or services.”
- 384.** The Worker Vice-Chairperson [M] did not support the amendments as it was not consistent with ILO terminology.
- 385.** The Government Vice-Chairperson [M] supported the amendment to insert the word “fairly”, contingent upon retaining the rest of the original sentence.

Subparagraph (k)

Dispute mechanism and compliance: Agile dispute resolution mechanisms adapted to the specificity of platform work should be established and effective access for platform workers to a labour inspectorate with sufficient resources and expertise to monitor this kind of work should be ensured.

- 386.** The Employer Vice-Chairperson [F] introduced an amendment to replace in the sentence the word “agile” with the words “effective and credible” and to replace the word “established” with the word “available”.
- 387.** The Government and Worker Vice-Chairpersons supported the amendment.

III. Recommendations for future action by the Office

Paragraph 17

Chapeau

- 388.** No amendments to the chapeau were received.

Subparagraph (a)

389. No amendments to subparagraph (a) were received.

Subparagraph (b)

390. No amendments to subparagraph (b) were received.

Subparagraph (c)

Continue to build empirical evidence on platform work using surveys or case studies in ILO Member States. A multidisciplinary perspective should be applied to better understand how digital labour platforms organize work in diverse sectors and through which business models, and their impact on workers, notably women and disadvantaged groups, and businesses, including in developing countries;

391. The Employer Vice-Chairperson [F] proposed an amendment to insert in the sentence, after the words “and their impact on”, the words “employment creation and productivity growth, on the one hand, and the situation of”, and to insert, after the words “in developing countries”, the words “, on the other”.

392. The Government and Worker Vice-Chairpersons supported the amendment.

Subparagraph (d)

393. No amendments to subparagraph (d) were received.

Subparagraph (e)

Conduct research on the use of digital monitoring of workers and algorithmic management and their impact on working conditions, and on the extent to which existing regulatory frameworks and compliance tools at the international, regional and national levels help address the challenges these practices raise;

394. The Employer Vice-Chairperson [F] introduced an amendment to replace the words “algorithmic management” with the word “algorithms”, in line with the amendments proposed by the Employer experts to paragraph 18. She also proposed a second amendment to replace the words “the challenges these practices raise” with the words “the possible challenges that these practices may raise”.

395. The Worker Vice-Chairperson [M] and Government Vice-Chairperson [M] supported the second amendment but could not support the first amendment as the term “algorithmic management” was necessary to give context to the remainder of the draft conclusions.

396. The Employer Vice-Chairperson [F] reiterated her preference for the term “algorithmic governance” or the term “governance of algorithms”, recalling arguments she had made during the discussion of paragraph 18, explaining that the Employer experts could not agree to the term “algorithmic management”.

Subparagraph (f)

397. No amendments to subparagraph (f) were received.

Subparagraph (g)

Create a repository of, among others, data, research papers, reports, laws, regulations and court decisions relevant to platform work, and ensure that such information and knowledge is easily accessible to governments and social partners;

398. The Employer Vice-Chairperson [F] proposed an amendment to insert the word “representative” before the words “research papers”.
399. The Worker Vice-Chairperson [M] proposed a subamendment to replace the word “representative” with the word “independent” or “authoritative”, as it was not clear how the research could be deemed to be representative.
400. The Government Vice-Chairperson [M] could support the subamendment.
401. The Employer Vice-Chairperson [F] supported the subamendment, clarifying that the term “representative” referred to the need for a sample size that could ensure the quality and reliability of research.

Subparagraph (h)

402. No amendments to subparagraph (h) were received.

Subparagraph (i)

Propose an operational definition of platform work, both from the legal and statistical perspectives, which would capture different types of platform work;

403. The Employer Vice-Chairperson [F] introduced an amendment to insert, after the word “Propose”, the words “, in consultation with social partners,”.
404. The Worker Vice-Chairperson [M] did not support the amendment as an operational definition did not require a consultative process.
405. The Government Vice-Chairperson [M] proposed a subamendment to replace the words “, in consultation with social partners,” with the words “, in tripartite consultation,”.
406. The Employer Vice-Chairperson [F] supported the subamendment.

Subparagraph (j)

407. No amendments to subparagraph (j) were received.

► Closing remarks

408. The Employer Vice-Chairperson [F] noted that as the discussion had exceeded the allotted time, the Employer experts had to end their participation in the Meeting. The Employer experts had participated in the spirit of constructive engagement in a discussion of ways to advance decent work in the platform economy, while highlighting its opportunities and challenges. The role of the Employer experts was to represent the views of employers, including entrepreneurs and self-employed, as well as platform companies and the small- and medium-sized businesses operating in the platform sector, which was a role they took seriously. The agenda for the Meeting had been ambitious given the complexity and diversity of the topic and had not allowed sufficient time for

negotiations. Views had diverged significantly on algorithmic management, wages, working time, the employment relationship and collective bargaining – and even on the definition of the term “worker” and the inclusion of both employees and self-employed within its scope. Many of those issues represented red lines to the Employer experts. She challenged in particular the Worker Vice-Chairperson’s [M] contention that the Employer experts’ proposed amendments with respect to collective bargaining were not in line with the international labour standards. The Employer experts held the position that the principles of Convention No. 98 were applicable only to employment relationships. Moreover, there had been no consensus on regulatory gaps or the relevance of the existing international labour standards to a number of different challenges in the platform economy. The Employer experts believed that the existing international labour standards were relevant, appropriate and applicable to the platform sector and could not agree that they were insufficiently applicable merely because of the delivery mechanism for obtaining access to work and services that the platform economy represented. Finally, a number of issues that had been raised by the Worker experts – namely working time, time on call and decisions about refused access to platforms – were not within the Meeting’s purview. More research and a deeper understanding of some of those issues was necessary before a consensus could be reached.

- 409.** The Employer Vice-Chairperson [F] noted that a consensus had been reached on 12 subparagraphs of paragraphs 16 and 17, which provided recommendations on measures for ensuring decent work in the platform economy that could be tailored to the national context, as well as recommendations for future actions by the Office. Those were the only sections of the draft conclusions for which a consensus had been achieved and therefore only those portions of the draft conclusions should be submitted to the Governing Body, with an invitation for further guidance on the next steps given that the Meeting had not completed its mandate. The remaining discussions should be confined to the record of proceedings. She reiterated the commitment of the Employer experts to the ILO and to the Governing Body, and that the work of the ILO had to be balanced, taking into account each of the tripartite partners.
- 410.** The Worker Vice-Chairperson [M] expressed disappointment that the Meeting had not reached a consensus on a consolidated set of conclusions and that the Employer experts had not participated in the spirit of tripartism and social dialogue. The Government experts had made a number of generous contributions, which he appreciated. As the negotiations had not been concluded, he could not support the Employer Vice-Chairperson’s [F] proposal to adopt and submit to the Governing Body only paragraphs 16 and 17 of the draft conclusions.
- 411.** As guidance to the Governing Body, the Worker Vice-Chairperson [M] submitted that the majority of the experts at the Meeting, made up of both Government and Worker experts, had concurred that several of the international labour standards were relevant and applicable to advance decent work on both location-based and web-based platforms; however, they had also observed that some aspects of platform work were not adequately covered by the international labour standards, including counting and remuneration for time spent waiting for tasks and the right to digital disconnection; the protection and governance of workers’ personal data and right to privacy, including the portability of digital reputation; the governance of algorithmic management, including the fairness and transparency of automated decisions such as ratings and deactivation from the platform and other penalties and surveillance; individual and collective information and consultation rights; the existence of adequate dispute-resolution mechanisms; effective labour inspection and access to relevant data and records by the competent authorities;

the cross-border nature of platform work; the regular payment of wages and rates; commission charges and fees; and platform work contracts. The majority of the experts at the Meeting were open to the principle of setting a new international labour standard on decent work in the platform economy, given the existing decent work deficits and regulatory gaps and the need for the ILO to act as the lead international organization on that matter and to adequately respond to requests for technical assistance by Member States. The Worker experts therefore recommended that the Governing Body place an item on the agenda of the International Labour Conference in 2025 for setting a new standard to address those regulatory gaps. The Worker Vice-Chairperson [M] also requested that the draft conclusions as prepared by the Office be attached to the record of proceedings of the Meeting. He stated that freedom of association and the right to collective bargaining for all workers was protected by the ILO Constitution and Conventions Nos 87 and 98, which were indeed human rights. It was unacceptable that those principles should be challenged. He reiterated that the term “worker” meant all workers in the broadest sense possible. He recalled that the tripartite experts had noted the importance of Recommendation No. 198 and the recognition of the employment relationship as important tools that should be promoted by the Office.

- 412.** The Government Vice-Chairperson [M] stated that the Governments of the countries represented at the Meeting had taken care to nominate experts with deep expertise in the matters at hand, including regulators, policymakers, inspectors and academics. The Government experts had achieved common positions on issues of decent work in the platform economy, including a unanimous openness to standard-setting. They had engaged in the Meeting in good faith, in pursuit of the mandate to provide guidance to inform future ILO action with respect to achieving decent work in the platform economy. There were opportunities in the platform economy – but also deep challenges for all workers, including both employed and genuinely self-employed people. There were regulatory gaps that demanded the urgent attention of the ILO and policymakers at national and global levels on issues such as algorithmic management, gender equality and inclusion in digital platforms. The Government experts had understood that there was a common understanding on key paragraphs and had engaged in good faith to reach a consensus in order to agree on meaningful conclusions. The Government and Worker experts had made significant compromises on paragraphs 16 and 17 in the interests of consensus. The draft conclusions proposed by the Office were strong and balanced and should be reproduced and attached to the record of proceedings of the Meeting, with a note stating that they had received the full support of the Government experts. The Government experts were prepared to continue the discussions and he was confident that they would continue to help efforts to achieve decent work in the platform economy.
- 413.** The Chairperson [M] stated that the Meeting had missed a historic opportunity to give guidance to the Governing Body, the Office and most importantly to Member States, and that the outcome might not be remembered kindly. The Meeting could have made a contribution to the development of an emerging sector in the context of decent work. He recalled the ILO principle of a “human-centred approach” and that human beings were at the core of the platform economy – it was people who mattered. The platform economy presented excellent opportunities that should be embraced. There were also challenges that would need to be addressed, lest they become worse. Not addressing the challenges would only allow relatively good economic models to cause social challenges, with broad impacts on governments and individuals, including children. Among the international organizations, it was the ILO that best recognized that people

were at issue. The Meeting had missed the opportunity to inform the Governing Body of the opportunities of the platform economy and how those could be leveraged to improve standards of living. Although the agenda was ambitious, the experts could have achieved an outcome.

▶ Annex 1

Meeting of experts on decent work in the platform economy

Geneva, 10–14 October 2022

▶ Draft conclusions

1. Having met in Geneva from 10 to 14 October 2022, the Meeting of experts on decent work in the platform economy affirmed that the International Labour Organization should take the lead in defining pathways to ensure that all platform workers have access to decent work, while maximizing the opportunities that this segment of the economy brings for growth, job creation and innovation.
2. The platform economy is diverse and complex and is growing and evolving rapidly. It comprises different business models, spans different sectors and involves multinational companies and small businesses alike. Digital platforms also differ in the ways in which they engage with workers and interact with labour markets.
3. Considering its mandate, the International Labour Organization should focus on “digital labour platforms”, namely platforms that involve the individual work of people. A distinction can be drawn between location-based platforms, where work is performed in a particular geographical area, and web-based platforms on which work is performed online. They share, nonetheless, commonalities regarding how work is performed and can therefore be considered together.

I. Opportunities and challenges

4. The platform economy brings about many opportunities as well as risks. It creates unprecedented opportunities for business to access a larger and more geographically dispersed client base. It benefits consumers who have improved access to products and services, particularly in underserved areas.
5. It also offers workers an opportunity to make a living or complement their labour income, particularly at a time of high unemployment, high inflation and stagnant wages. During the COVID-19 pandemic, digital labour platforms offered income opportunities in the face of significant disruptions in labour markets. However, the net job creation is difficult to quantify considering the process of employment creation, destruction and transformation.
6. Platform workers are often young, male and better educated than average. Some are highly skilled. Platform work may be a source of inclusive employment by making it easier for youth, people with disabilities, migrants or other groups, who face greater difficulties in participating in the labour market, to do so because of the relatively low entry barriers. Platform work may

also enable workers to combine paid work from home with care responsibilities, although it bears the risk of reinforcing gender stereotypes and inequalities at home and at work. In fact, women's participation in the platform economy is lower than in the offline economy and women are over-represented in household and care services.

7. Platform workers highly value the schedule flexibility and autonomy the digital labour platforms offer. Such flexibility is a condition for many to get access to new income opportunities. At the same time, flexibility should not be incompatible with the benefits of employment protection. However, sometimes, flexibility may be limited in practice by the low level of remuneration, which may lead to long working hours, and by the use of algorithms that penalize workers who decline tasks.
8. The complete traceability of activities on digital labour platforms offers an unprecedented opportunity for governments to monitor and ensure compliance with laws and regulations, thereby facilitating the formalization of platform workers. This is contingent though on the collaboration and information-sharing between platforms and the competent national authorities. Some platforms, by contributing to the upskilling of informal workers and facilitating their access to credit and markets, can enhance their ability to transition to formal employment. On the other hand, the casualization of labour and the lack of clarity regarding the regulatory framework that applies to digital labour platforms, in particular the employment status of workers, may contribute to informality.
9. The correct classification of platform workers is a crucial issue since the employment relationship is the gateway to labour and social rights. While some platform workers are genuinely self-employed, others may be misclassified as independent contractors, depriving workers from due labour and social protection, generating legal liabilities for platforms, inducing unfair competition and producing losses in tax revenues and social security contributions.
10. Litigation on the classification of platform work arrangements has been increasing around the world in recent years. Court decisions in certain cases have reclassified platform workers as employees, particularly in the case of location-based platform workers, including ride-hailing drivers and couriers, while, in others, they have confirmed their classification as self-employed. On the other hand, case law has so far been scarce as regards the status of workers engaged on web-based platforms. Furthermore, court proceedings are often costly and lengthy, and workers may hesitate to resort to them by fear of being disconnected from the platform.
11. The classification of platform workers is a complex matter given the diversity of legal systems, types of platforms and business models. The existence of a relationship between the platform, the worker and the client, and the cross-border nature of some of the activities performed add to the challenge. Countries have given different responses to this situation. In addition to the categories of "employees" and "self-employed", some have introduced a third, intermediate, category of workers and extended some basic labour and social protection rights to the latter. Evidence suggests that this has not necessarily translated into enhanced legal certainty or has put an end to legal proceedings for the reclassification of platform workers. Other countries have sought to clarify and reduce the grey zone surrounding the existence of an employment relationship. Several countries have adopted legislation aiming at lightening the burden of proof to demonstrate the existence of an employment relationship, including through rebuttable presumptions, or at extending some labour rights to platform workers, regardless of their employment status.
12. Platform work may bring challenges regarding working conditions and social protection, although some of these challenges are not unique to the platform economy. Platform workers

may face a lack of transparency and predictability of working conditions. Relatively often, they do not benefit from negotiated or statutory minimum wages and labour oversupply leads to lower wages. In addition to unpaid waiting times, pending the allocation of tasks by the platform, they are typically remunerated by task and need to pay substantial commissions to platforms. The constant connection entailed by platform work blurs the boundaries between work and rest periods. Possibilities of training and career development are reduced, and access to dispute settlement and grievance mechanisms limited, if any.

13. The use of automated monitoring and decision-making systems may have a significant impact on working conditions. The use of algorithms to allocate and evaluate work performance may entail challenges concerning the protection of workers' personal data and their right to privacy. It may result in increased psychosocial risks and may exacerbate the risk of occupational accidents and diseases. A lack of transparency in the design and use of algorithms may lead to unjustified rejection and thus non-payment of work by clients, arbitrary ratings and sometimes withholding of jobs or automatic suspensions. Algorithmic management can also conceal the existence of subordination and control of workers. Equally important is ensuring the accountability of platforms and that automated decisions are reviewed by humans.
14. Access to social protection is essential for all workers. Many workers in the platform economy, particularly those for whom platform work is the main source of income, have limited or no access to social protection. This can be related to several factors such as eligibility requirements, including the lack of coverage of self-employed workers, weak compliance mechanisms or misclassification of workers. Some countries have taken steps to improve social security coverage, in line with the Social Security (Minimum Standards) Convention, 1952 (No. 102), and/or the Social Protection Floors Recommendation, 2012 (No. 202) which provides guidance for the establishment of basic social security guarantee and the progressive inclusion in higher levels of social security to as many people as possible.
15. The principles of freedom of association and the effective recognition of the right to collective bargaining are essential to ensure decent working conditions for all workers in the platform economy, to guarantee the efficient functioning of markets and contribute to social peace. However, difficulties in the effective access to and exercise of these rights may arise due, *inter alia* to: (i) the misclassification of the workers concerned; (ii) the determination of the personal scope of application of the right to collective bargaining, in particular with regard to self-employed workers; (iii) the identification of the responsible employer; (iv) the channels available for trade union organizations to communicate with workers; and (v) the identification of possible anti-union discrimination practices when labour and employment decisions are taken by algorithms. At the same time, national policies aimed at addressing these challenges are developing at a rapid pace. Different approaches emerge, including regarding access of self-employed, or certain categories of them, to collective bargaining mechanisms.

II. Measures to ensure decent work in the platform economy

16. Measures should be put in place, or strengthened, to ensure decent work for all platform workers. While strategies need to be tailored to the specific national context, level of development and the different modalities of platform work, governments, employers and workers may want to consider the following:
 - (a) *Fostering social dialogue to maximize the opportunities and address the decent work deficits on digital labour platforms.* National regulatory initiatives to foster decent work in the platform economy should be subject to tripartite social dialogue. The meaningful involvement of the social partners is crucial to ensure that new regulations reflect the

realities and diversity of the rapidly evolving platform economy. Explore novel forms of social dialogue, including at the sectoral level, that reflect the specificities of the evolving platform economy and could contribute to achieving decent work;

- (b) *Harnessing the fullest potential of the platform economy to achieve decent work and sustainable development.* Measures should be taken, in line with the Centenary Declaration for the Future of Work, to ensure that the platform economy realizes its full potential for decent job creation, entrepreneurial opportunities and innovation. Particular attention should be paid to ensure that groups with greater difficulties in accessing the labour market have equal access to platform work, including by overcoming the digital divide;
- (c) *Applying relevant international labour standards to ensure decent work in the platform economy.* Priority should be given to the proper implementation of existing ILO standards that offer a relevant framework for advancing decent work in the platform economy as regards, in particular, fundamental principles and rights at work, the classification of workers, working conditions and social protection;
- (d) *Ensuring access to freedom of association and the effective recognition of the right to collective bargaining.* An appropriate legislative and institutional framework should be put in place to facilitate the effective access to and exercise of freedom of association and the right to collective bargaining in the platform economy. This includes, among others, ensuring that access to and exercise of these rights is not hampered by: i) the absence of rules governing industrial relations in the platform economy or the inadequacy of such rules; ii) difficulties related to the classification or misclassification of workers and employers. Mechanisms should be put in place to identify and effectively sanction possible anti-union discrimination practices and explore appropriate measures to facilitate communication among workers;
- (e) *Promoting other fundamentals principles and rights at work, including the right to a safe and healthy working environment.* Special attention should be given to preventing and eliminating forms of platform work that do not respect fundamental principles and rights at work. Measures should be set to guarantee that all platform workers, irrespective of their employment status, benefit from occupational safety and health protection, and to ensure the prevention of occupational accidents and diseases, including by platforms;
- (f) *Facilitating transition from the informal to the formal economy.* The cooperation and exchange of information between platforms and relevant authorities should be strengthened to fully realize the potential of the complete traceability of platform work for the successful transition of platform workers to the formal economy. The establishment of legal frameworks on the sharing of relevant information should be complemented by incentive mechanisms, as well as measures to address the lack of awareness or willingness to comply and simplify procedures. Additional relevant measures should be adopted in line with the Transition from the Informal to the Formal Economy Recommendation, 2015 (No. 204);
- (g) *Ensuring appropriate classification of platform workers.* National policies for implementing the Employment Relationship Recommendation, 2006 (No. 198), should be formulated and applied, to combat disguised employment and ensure the appropriate classification of all workers, including platform workers. Digital labour platforms should actively collaborate with national public authorities, including through sharing of all relevant data, to ensure that the employment status of platform workers is in line with applicable legal provisions, based on the primacy of facts principle;

- (h) *Protecting platform workers' personal data and regulating algorithmic management.* A strong regulatory framework and compliance mechanisms should be put in place to ensure the adequate protection of platform workers' personal data and right to privacy, in particular as regards the regulation of digital monitoring, workers' access and control over their data and data portability. The use of algorithms in the platform economy, notably to allocate tasks, assess work performance and discipline workers, should also be regulated and controlled, including as regards workers' right to a human review of automated decisions. Digital labour platforms should ensure that the design of algorithms they use are fair, transparent, and devoid of discriminatory biases;
- (i) *Providing access to adequate social protection for all platform workers.* Strategies seeking to achieve universal access to comprehensive and sustainable social protection systems in line with the Social Security (Minimum Standards) Convention, 1952 (No.102) and the Social Protection Floors Recommendation, 2012 (No. 202) should be promoted and include all platform workers. This calls for a dual strategy that combines the appropriate classification of all workers with the extension of social protection to workers in all types of employment. The effective collaboration of platforms, based on a combination of legal obligations and incentives, should leverage the traceability of platform work to ensure compliance with social security and other obligations, contributing to the financial sustainability of social protection systems while securing fiscal space for extending social protection to all;
- (j) *Ensuring fair remuneration and decent working time:* Measures should be taken to ensure that platform workers are paid for all tasks performed, including those arbitrarily rejected, and that remuneration take into consideration the time spent logged on to the platform, waiting for tasks or services. Measures should also be taken to ensure that rest periods and the right to disconnection are guaranteed;
- (k) *Dispute mechanism and compliance:* Agile dispute resolution mechanisms adapted to the specificity of platform work should be established and effective access for platform workers to a labour inspectorate with sufficient resources and expertise to monitor this kind of work should be ensured.

III. Recommendations for future action by the Office

17. The diversity of the platform economy, the speed of technological change, and the existence of diverse national and regional initiatives on platform work make it necessary for the Office to help Member States address the challenges it presents, while taking advantage of the opportunities it offers. The Office should, in particular:
 - (a) Continue to conduct analyses to better understand the applicability of existing international labour standards and other ILO instruments to work on digital labour platforms and identify existing regulatory gaps, including those related to the cross-border nature of platform work;
 - (b) Promote the ratification and implementation of relevant international labour standards, including those that apply to specific sectors of the economy in which platform work is present, and provide technical assistance to member States regarding their ratification and implementation with a view to ensuring decent work in the platform economy, taking national circumstances into account;
 - (c) Continue to build empirical evidence on platform work using surveys or case studies in ILO Member States. A multidisciplinary perspective should be applied to better

- understand how digital labour platforms organize work in diverse sectors and through which business models, and their impact on workers, notably women and disadvantaged groups, and businesses, including in developing countries;
- (d) Conduct research to understand why firms of different sizes and across sectors use platforms to provide their services and how the platform economy and the offline labour market interact;
 - (e) Conduct research on the use of digital monitoring of workers and algorithmic management and their impact on working conditions, and on the extent to which existing regulatory frameworks and compliance tools at the international, regional and national levels help address the challenges these practices raise;
 - (f) Conduct impact assessments of regulatory interventions on platform work on job creation, working conditions and the sustainability of platforms' business models;
 - (g) Create a repository of, among others, data, research papers, reports, laws, regulations and court decisions relevant to platform work, and ensure that such information and knowledge is easily accessible to governments and social partners;
 - (h) Strengthen the capacity of tripartite constituents to understand and take action to ensure decent work for platform workers. Particular attention should be placed on the implementation of relevant international labour standards, including as regards labour inspection in the platform economy and the correct classification of workers;
 - (i) Propose an operational definition of platform work, both from the legal and statistical perspectives, which would capture different types of platform work;
 - (j) Play a proactive role in advancing policy coherence with the multilateral system for the promotion of decent work in the platform economy.

IV. Recommendation for future action by the International Labour Organization

18. The experts concurred that existing ILO standards provide useful guidance to advance decent work on both location-based and web-based platforms. However, they also observed that some aspects of platform work are not adequately covered by existing international labour norms. These include: (i) counting and remuneration of time spent waiting for the allocation of tasks assigned by the platform and the right to digital disconnection; (ii) protection of workers' personal data and right to privacy, including portability of digital reputation; (iii) governance of algorithmic management, including fairness and transparency of automated decisions such as ratings and deactivation from the platform; (iv) existence of adequate dispute resolution mechanisms; (v) effective labour inspection and access to relevant data and records by the competent authorities; and (vi) the cross-border nature of some forms of platform work.
19. While the experts were open to the principle of setting a new international labour standard on decent work in the platform economy, their views diverged regarding the appropriate timing for such a course of action. For some experts, the time is ripe for a standard-setting on this subject, given existing decent work deficits and regulatory gaps, and the need for the ILO to act as the lead international organization on this matter and to adequately respond to requests for technical assistance by Member States. At the same time, the Office should continue to undertake further research. For other experts, priority should be given to developing a critical mass of knowledge and experience on the topic and to acquiring a better understanding of

the scope, thrust and full implications of a possible new standard, before engaging in or considering a standard-setting process on decent work in the platform economy.

► **Annex 2**

Meeting of experts on decent work in the platform economy

Geneva, Switzerland, 10 – 14 October 2022

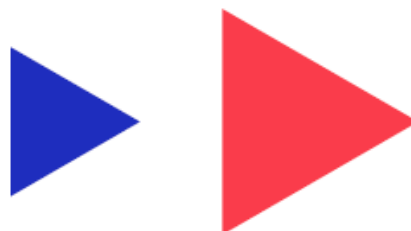
Réunion d’experts sur le travail décent dans l’économie des plateformes

Genève, Suisse, 10 – 14 octobre 2022

Reunión de expertos sobre el trabajo decente en la economía de plataformas

Ginebra, Suiza, 10 – 14 de Octubre de 2022

Final list of participants
Liste finale des participants
Lista final de participantes



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