Defining informal/formal sector and informal/formal jobs for Dependent Contractors

Discussion paper

Subgroup 1 Dependent contractors and informality
(Second meeting, Geneva, 30 April 2021)
Background

Dependent contractors are a unique category of dependent workers who share characteristics with independent workers as well as dependent workers. In common with many independent workers, they are in employment for profit and have contractual arrangements of a commercial nature. In addition, they do not have an incorporated enterprise and do not employ one or more persons as an employee. At the same time, they are operationally and/or economically dependent on another entity that exercises control over their productive activities and directly benefits from the work performed by them. This element of control and reduced authority is shared with other dependent workers, in particular employees. This “duality” of dependent contractors is recognized in the 20th ICLS resolution concerning statistics on work relationships that identifies two subgroups of dependent contractors:

(a) those who mainly or only provide their labour; and

(b) those who have invested in significant financial and material assets and therefore can be considered to own and operate an unincorporated household market enterprise.

The in-between situation of dependent contractors is the very reason why they constitute a separate category of status in employment and why there is significant policy interest in them. At the same time, the duality of their situation implies a statistical challenge to determine how to integrate dependent contractors in the future statistical framework for informality with respect to both categorizing the sector as formal or informal as well as to categorizing their jobs as informal or formal.

The categorization of the sector in the 17th ICLS guidelines is built around the worker’s status in employment. For independent workers (employers and own-account workers), this is a categorization of the economic unit that they own and operate, whereas for dependent workers (employees and contributing family workers) it is a categorization of the economic unit on which they depend. For dependent contractors, however, this distinction is less clear. The duality of their status creates a situation where they are located between categories; it can be argued that both the economic unit on which they depend and their own economic unit could be of relevance. This creates different possibilities for the categorization of the sector, which, in line with the current approach used in the 17th ICLS guidelines, could be based on:

i. The economic unit on which they depend: which would be problematic for those who can be considered to own an economic unit

ii. The economic unit, which they own and operate: which would be problematic for those who only provide their labour as input and therefore do not consider themselves to own an unincorporated enterprise.

iii. A combination of the two: which would require a separation between the two different sub-groups.

As with the categorization of the sector, the definition of informal/formal jobs in the 17th ICLS guidelines also depends on the worker’s status in employment. For independent workers the operational definition rests on the type of economic unit that the worker owns and operates. If the worker owns and operates an enterprise in the informal sector, then it follows that the job held by the worker is informal. Contributing family workers have an informal job by definition due to the informal nature of the work. For employees, the definition is based on whether they have effective access to formal arrangements such as, for example, employer’s contributions to social insurance, paid annual leave and paid sick leave. For dependent contractors however, the conceptual basis on
which a definition of informal and formal jobs should rest is less clear, as are the criteria that should be used for operational measurement:

i. **Criteria used for employees**: It is clear that the criteria used for defining informal/formal jobs for employees would not be of relevance for defining informal/formal jobs for dependent contractors. Dependent contractors have a commercial agreement and not an agreement of employment. Employer’s contribution to social insurance, access to paid annual leave, paid sick leave would indicate that there is a relationship of employment and not a commercial agreement. These criteria are therefore more relevant to distinguish between informal employees and dependent contractors than to provide information on informal/formal jobs among dependent contractors.

ii. **Criteria used for independent workers**: Dependent contractors share a number of characteristics with independent workers. It could therefore be argued that the informal/formal nature of the job held by dependent contractors should be defined using the same criteria as those used for independent owner-operators of unincorporated enterprises. The main difference is that dependent contractors are dependent on another economic unit that exercises organizational and/or economic control over their work. However the aspect of dependency and control do not necessarily change the legal or administrative status of the economic unit of the dependent contractor. Similar to other owner-operators of unincorporated enterprises, registration of the enterprise could be viewed as a formal recognition of the economic unit that formalizes not only the economic unit but also the job held by the dependent contractor. At the same time, there is the additional category of dependent contractors who only or mainly provide their labour as input and therefore are more closely related to employees. For this group, the criteria used for defining informal/formal jobs for independent workers might be less useful.

**Conclusions reached so far**

The issue regarding dependent contractors and informality was discussed during the working group meetings held in 2019 and 2020 as well as during the first meeting held by the subgroup on dependent contractors and informality. These discussions have not yet led to a final proposal but important progress has been made regarding some of the issues surrounding the categorization of the sector and definition of informal/formal jobs.

**Differing approaches for the two subgroups**

At the second working group meeting, the ILO presented the possibility of structuring the categorization of the sector and the definition of informal formal jobs for dependent contractors based on the two subgroups of dependent contractors. The idea behind the proposal was to take into account the fact that some dependent contractors only or mainly provide their labour as input while others have invested significant financial and material assets in the activity, and therefore have what can be considered an unincorporated enterprise. According to this proposal, for the latter group the categorization of the sector, as well as the definition of informal/formal jobs, would be based on the economic unit they own and operate, as is the case for independent workers. For those who only or mainly provide their labour the categorization of the sector would be based on the economic unit on which they depend. In addition, their jobs could either be defined by default as formal or informal, depending on the sector, or additional criteria could be used.

This approach would in practice rest on the self-declared status in employment which would have some practical advantages in the sense that countries could continue to use their current approach
and questions for defining informality for dependent contractors. However, as was pointed out during the discussions, there might be a risk of giving the self-declared employment status too much weight when defining the sector and informal/formal jobs for dependent contractors. It is likely that the majority of respondents who initially self-declare as employees belong to the subgroup that only or mainly provide their labour as input. However, some of this group will be fully aware of their non-employee status and will self-declare as self-employed, while most workers in the second subcategory could be expected to self-declare as being self-employed. Two workers in identical situations might therefore be classified differently with respect to informality, depending on their interpretation of the initial question. At this stage we are not aware of any analysis that has been undertaken to shed light on this particular issue.

From a conceptual and analytical perspective, it can also be argued that a definition based on the two subgroups would not recognize that dependent contractors are in fact a specific and unique category with different characteristics from both employees and independent workers. Applying different criteria to the two subgroups could, therefore, be seen as “a step backwards” in the sense that dependent contractors would continue to be statistically treated as if they were respectively employees and independent workers, even though this is not the case. Common definitions with respect to informality for all dependent contractors would more clearly recognize that they are a single group that shares the same key characteristics with respect to status in employment, i.e. that they are dependent workers employed for profit.

Basing the informal/formal sector on the economic unit on which dependent contractors depend

Since dependent contractors are dependent workers, it could be argued that, in common with other dependent workers, the categorization of the sector should be based on the economic unit on which they depend. This view has been supported by some members of the working group. However, other members have pointed out that dependent contractors, irrespective of the specific subcategory, are workers with commercial agreements and that one of the unique traits of dependent contractors is that they are dependent on another economic entity to which there is no recognition of a formal attachment other than the commercial relationship. To categorize the sector on the basis of the entity on which they depend would from that perspective not necessary reflect the sector of the dependent contractor.

Basing the categorization of the sector on the entity on which the worker is dependent would also have practical implications. In particular, this would be demanding information to collect among those dependent contractors who have a dependent relationship to a supplier or intermediary of clients or if from the perspective of the worker, the dependent relationship is to a person and not an enterprise as such. This could for example be the situation for a home-based worker who is dealing with a specific buyer acting as a middle man between the home-based worker and an enterprise or enterprises. In situations like this it would be necessary to collect information regarding whether this person, intermediary, supplier etc. has a registered enterprise, keeps a complete set of accounts etc. which is likely to be challenging.

Basing the informal/formal sector on the dependent contractors economic unit

Based on the discussion so far there seems to be support for categorizing the sector for dependent contractors at least partly on the same basis as for independent workers. Registration of an economic unit would imply the formal recognition of the economic unit as a market producing entity separated from the owner’s household for dependent contractors, in the same way as it is for independent workers. Having a registered enterprise is linked to accessing benefits such as VAT deductions,
obtaining a legal identity for enterprises, and for carrying obligations such as paying business tax and keeping accounts. If the dependent contractor has registered an economic unit which they own and operate this would place the dependent contractor in the formal sector.

However, for those dependent contractors who only or mainly provide their labour as input, the notion of registration of an enterprise (i.e. an economic unit) may be challenging. In these cases, the worker and the pseudo-enterprise that they own and operate are the same entity, and there are no assets that can be deemed to belong to the enterprise. A way to recognize this is to open up the possibility not only to register an enterprise but also to “be registered” in a more general sense. As has been discussed during the working group meetings this could include, for example, registration for payment of tax or registration in relation to a statutory social insurance (which would typically also imply being registered for tax) where being registered would qualify the dependent contractors to be categorized in the formal sector even though no enterprise as such might be registered.

It has also been stressed in the discussions in the working group, that the relationship between the dependent contractor and the economic unit on which she or he depends needs to be taken into account. The element of dependency inherent in the relationship is the reason why the worker is classified as a dependent contractor. It could be argued that the economic unit on which the worker depends can and in some cases should enable or facilitate the coverage of formal arrangements, similar as for employees. This would also be linked to the issue of formalization which, at least for some dependent contractors such as those in digital platform employment, may partly take place through the entity on which they are dependent. There could, for example, be measures that aim towards that the entity on which they depend registering the activities of the dependent contractor or providing or facilitating access to social protection and ensuring payment of taxes. Such a situation would reflect a formalization process that takes place through the entity on which the worker depends.

In summary, it seems that the criteria used for categorizing independent workers have relevance for dependent contractors. In particular registration seems to be a useful criterion that would have high relevance to use when categorizing the dependent contractor in the informal/formal sector. However, the criteria might have to be expanded and not only include registration of the economic unit but also registration of the “worker” or the activities of the worker either by the dependent contractor directly or by the entity on which the dependent contractor depends. In other words, if the dependent contractor has a formal enterprise, or is registered for tax or statutory social insurance either by the entity on which they depend or by “own means” then the dependent contractor would be categorized in the formal sector otherwise in the informal sector.

**Definition of informal/formal jobs for dependent contractors**

There seems to be general support within the working group for defining dependent contractors categorized in the informal sector as having informal jobs by default. This would be in line with the treatment of other statuses in employment. Independent workers have informal jobs, by default, if the enterprise they own and operate is an informal enterprise. Employees, with the changes proposed by the WG (ILO, 2021), and contributing family workers can by definition not have formal jobs in the informal sector. That the future framework does not allow for the existence of formal jobs in the informal sector creates conceptual and analytical clarity. Perhaps more importantly, it implies that from a formalization perspective working for a formal economic unit is a pre-condition for having a formal job, irrespective of the status in employment. Of course, for some categories of workers (employees, contributing family workers) having a job in the formal sector is not a sufficient condition for the job to be defined as formal and additional criteria are needed.
With respect to dependent contractors it would follow that a dependent contractor that does not have a formal enterprise or is not registered for payment of tax or similar, cannot have a formal job. As with other workers, this would reflect the notion that carrying out work within the formal sector would be a pre-condition for considering the job held by the dependent contractor to be formal. If the economic unit is informal or the worker is not registered then it would follow that the activity is not recognized by the legal administrative framework of the country and the job cannot be considered formal.

The remaining issue is then the treatment of dependent contractors in employment in the formal sector. This issue has been discussed within the working group without a clear agreement and more discussions are needed. There are however, different approaches that have emerged during the discussions in the different working group meetings. First of all it seems clear that there should be a possibility for all dependent contractors in the formal sector to have formal jobs. The point was made both during the 2nd WG meeting and the subgroup meeting that no dependent contractors should by default have an informal job if they are employed in the formal sector irrespective of the specific subgroup the dependent contractor belongs to. Similarly, as with the discussion of the categorization of the sector, this points to the need to recognize that dependent contractor is a single category of status in employment and that, therefore the same conceptual treatment for defining informal/formal jobs should be applied whether they only provide their labour as input or have invested in financial and material assets.

The key question is then under what circumstances should the job of a dependent contractor in the formal sector be considered formal or informal. Some arguments have been advanced in favour of defining dependent contractors categorized in the formal sector as having formal jobs. This approach would be similar as the one used for independent workers where independent workers with formal enterprises (i.e. categorized in the formal sector) are defined as having formal jobs. For dependent contractors this would imply that the worker would have a formal job if either the worker have a formal enterprise or is registered in relation to tax or social insurances. For those dependent contractors with formal enterprises this would reflect that dependent contractors share some basic characteristics with other independent workers and the aspect of dependency and control do not necessarily change the legal or administrative status of the economic unit of the dependent contractor. Like other owner-operators of unincorporated enterprises, dependent contractors may or may not have registered their business and may or may not have a complete set of accounts. In parallel with the situation for owner-operators of unincorporated enterprises, registration of the enterprise could be viewed as a formal recognition of the economic unit that formalizes not only the economic unit but also the job held by the dependent contractor. The dependent contractor would, in principle, benefit from the protection of being registered, in matters such as legal protection of the company name or intellectual property, and would have obligations, such as the requirement to keep accounts for tax purposes in the event that the turnover or income is above a given threshold or if the owner wants to deduct VAT. The criterion of having a complete set of accounts for tax purposes could equally also be of relevance and, parallel to the situation of independent workers, be viewed as being linked to compliance with regulations and highly correlated with the criterion of registration.

In the case of dependent contractors that do not have a formal enterprise but are categorized in the formal sector due to that the worker is registered for tax and/or social insurance the formal job would reflect that there is a formal recognition of the existences of the worker and her/his activities that are carried out in relation to that job. The coverage of formal arrangements for this group, which likely would include those cases were the worker and the pseudo-enterprise that they own and operate are the same entity, could in practice be limited. However, the formal status of the job would reflect that
the job is recognized and embedded in the legal administrative framework of the country which is as a pre-condition for having a decent work and access to formal arrangements and protections even if limited.

Some arguments have been advanced that the definition of informal/formal jobs among dependent contractors should not solely be linked to that the worker is categorized in the formal sector but that dependent contractors in the formal sector (similar as for employees in the formal sector) should be able to have informal/formal jobs. This would require the use of additional criteria beyond the criteria used for categorizing the formal sector. One such criterion that has been proposed is the use of the dependent contractors own contribution to social insurance and/or by (partly) contribution from the entity on which they depend. If a dependent contractor in the formal sector contributes to social insurance then worker would be defined as having a formal job and if no contributions are made then the worker would have an informal job even if the worker has a registered enterprise or is registered for tax. This approach can be viewed as a way to ensure that the dependent contractor not only is formally recognized but that a certain level of protection for the worker follows from this.

At the same time, social protection and informality are two separate issues (even if highly linked). Social protection, including social insurance and non-contributory schemes are an essential dimension directly linked to the vulnerability and exposure to risks and shocks for the worker. However, social protection is multi-dimensional and includes multiple types of schemes providing access to protection according to specified rules; notably: the geographical and personal scope of the scheme (target group), entitlement conditions, the mandatory or voluntary nature of the affiliation, the type of benefits, benefit amounts (cash transfers), periodicity and other benefit characteristics, as well as the financing (contributions, general taxation, other sources). Based on the source of financing, schemes can be categorized into non-contributory schemes, requiring no direct contribution from beneficiaries or their employers as a condition of entitlement to receive relevant benefits. They cover a broad range of schemes, including universal schemes for all residents, categorical schemes for certain broad groups of the population and means-tested schemes (such as social assistance schemes). Being entitled or receiving benefit from such non-contributory schemes do not contribute directly to formalization but only indirectly by insuring a certain level of income security.

By contrast, in the case of contributory schemes, contributions made by or for the protected person directly determine entitlement to benefits (acquired rights). The most common form of contributory social security schemes is a statutory social insurance scheme, usually covering workers in formal wage employment and, in some countries, other categories of workers, sometimes on a mandatory basis (in particular for pensions or health), often on a voluntary basis. Viewed from that perspective, social protection and social insurance are a cross-cutting aspect that have relevance not only for employees and dependent contractors but for all workers and persons not in work. From the perspective of informality access to social protection including social insurance would be an important additional piece of information to collect in order to provide a context for the exposure to risks of workers in both informal and formal employment. This is why this aspect needs to be integrated in the supporting indicator framework.

The use of employer’s contribution to statutory social insurance as part of defining informal/formal jobs among employees can be seen as not only capturing whether or not the employee has access to social insurance but also as a criterion that confirms that the employer de-facto recognizes the job held by the employee as formal in relation to the legal administrative framework in the country. This link, between social insurance and the informal/formal aspect of the job, becomes less clear in the case of non-employees. Some countries do have mandatory social insurance schemes covering all workers or targeting independent workers and dependent contractors. However, other countries have
voluntary systems covering these workers, or have universal social insurance systems, or simply do not provide any possibilities for these workers (and also in some cases, other groups in the population) to access social protection. While mandatory systems targeting non-employees would provide a more direct link between the job and the contributions made to the mandatory scheme this would be less clear in the case of voluntarily contributions. Voluntary contributions could potentially include a broad range of schemes that are not necessarily linked to a specific job or even with being in employment. It could, for example, include payments to a private pension fund made on behalf of a spouse in order to ensure pension coverage for that person, or a person could have multiple jobs and contribute to a single voluntary pension scheme. In cases like these the link between the contribution to social insurance and the job relationship would be relatively weak.

Another important aspect which has also been raised during the discussions is that the defining characteristic among dependent contractors is their reduced authority and not necessarily that they are exposed to an increased economic risk. Many dependent contractors are likely to be in an exposed situation due to the dependent relationship however, some dependent contractors might actually have a lesser economic risk than for example some own-account workers. The uniting factor is that dependent contractors are dependent and not necessarily that they are more exposed and vulnerable than independent workers. This also links up to the important aspect of formalization. The introduction of contribution to social insurance by the dependent contractor would point towards a formalization process where the responsibility to formalize is placed on the dependent contractor. This can be viewed as a de-linkage of the relationship with the entity on which the dependent contractor is dependent. Following the discussions regarding digital platform employment it is clear that some formalization processes will directly target the entity on which the worker is dependent. This could include aspects such as the digital platform partly contributing to or facilitating access to social insurances for example a pension scheme. While these elements would not be relevant for all dependent contractors, it seems that the possibility for the entity on which the dependent contractor depends to take responsibility for social protection should be taken into consideration to some extent.

Independent on how the definition of informal and formal jobs for dependent contractors in the end is formulated, the definition will not on its own reflect the multidimensional aspects of vulnerability among dependent contractors. As has been discussed within the broader working group the dichotomy of informal/formal can be viewed as reflecting whether the job held by the worker is acknowledge and recognized by the legal administrative framework of the country. Having a formal job, also for dependent contractors, is therefore a pre-condition for having a decent work and access to formal arrangements and protections. The level and degree of this protection and the level of vulnerability will however, differ depending on a broad range of factors. The current proposal is to include a supporting framework of indicators that will contribute to provide a more complete picture regarding this aspect. This will also include indicators capturing that informality/formality in reality is a continuum and that workers with formal jobs can be considered “more or less” formal. The inclusion of dependent contractors in this framework will be essential in order to complement the definition of informal/formal jobs and to describe the situation of these workers. At the same time a more gradient definition of informal/formal jobs for dependent contractors could also be a possible solution for combining the two different approaches described above. To for example separate between formal jobs and strong formal jobs for dependent contractors might be a way where it would be possible to allow for a relative low threshold for defining the job as formal while using a stricter threshold for defining it as a strong formal job. More discussions would be needed around the criteria that should be used for defining a job held by a dependent contractor as being a strong formal job but it could for example include situations where the worker or the enterprise can be considered formal by registration and were the worker is covered by social insurance.
Possible way forward

Based on the discussion so far, there seems to be support for categorizing the sector on the basis of whether the dependent contractor has a formal enterprise or is registered for tax either by the economic unit on which they depend or by their own actions. In addition, registration in a statutory social insurance scheme could be recognized as a possible form of registration to be used as part of categorizing the sector. This would reflect the unique situation of dependent contractors and the fact that some dependent contractors own what can be considered an unincorporated enterprise while others mainly or only provide their labour as input. To expand the criterion of registration to also include the possibility that the worker and the work activities carried out by the worker are registered for tax and/or in relation to social insurance would create a categorization of the sector that is independent on the specific subcategory of dependent contractor. More discussion would be needed around what type of tax (tax on production, sales, labour income etc.) that would qualify as an eligible criterion as well as the specific types of statutory social insurances that could be of relevance. However, the point being that if an enterprise is registered or the worker is registered then the dependent contractor can be viewed as being recognized by what can be broadly described as the legal administrative framework in the country and would therefore be part of the formal sector. If this is not the case, however, then no formal recognition of the enterprise or the worker would exist and the worker would be categorized in the informal sector. The categorization of the sector would not be directly linked to the economic unit on which they depend, which is the case for other dependent workers, but the link to this entity is recognized by the possibility that registration can take place through this entity. The categorization of the sector for dependent contractors could be formulated as:

Dependent contractors who own and operate a formal enterprise or that are registered for example in relation to tax or statutory social insurance (including registration by the entity on which they depend) are employed in the formal sector.

Dependent contractors that do not own and operate a formal enterprise and are not registered in relation to tax or statutory social insurance are employed in the informal sector.

The next step is the definition of informal/formal jobs for dependent contractors. There seems to be support to define jobs as informal, by default, if the dependent contractor is employed in the informal sector. This would include dependent contractors who do not have a formal enterprise (i.e. registered or do not keep a complete set of accounts for tax purposes) and who are not registered for tax or a statutory social insurance. This would be a situation where there is no formal recognition of an economic unit owned and operated by the dependent contractor or the worker as such or the activities carried out. This could be formulated as:

Informal employment for dependent contractors comprises activities carried out in relation to an informal job defined as:

Dependent contractors who own or co-own an informal household market enterprise and are not registered for tax or statutory social insurance.

The final step is to define informal/formal jobs for dependent contractors in the formal sector. As has been discussed, different approaches can be used. One approach is to define the job held by dependent contractors categorized in the formal sector as formal by default. This would imply that if the dependent contractor either has a formal enterprise or is registered for tax then the job held by the dependent contractor would be formal. The treatment of dependent contractors would, in that
case, be similar to that of other independent workers, but with the important difference that it is not based only on whether an enterprise is considered to be formal but also on whether the “worker” and the activities carried out by the worker are formal by being registered. This could be formulated as:

Formal employment for dependent contractors comprises activities carried out in relation to a formal job defined as:

Dependent contractors who own or co-own a formal enterprise or are registered in relation to tax or statutory social insurance.

A different approach would be to identify criteria that allows for defining informal/formal jobs among dependent contractors in the formal sector. In discussions that have taken place so far regarding the definition of informal/formal jobs for dependent contractor, it has been suggested that having a formal job, for dependent contractors, would need to imply a coverage of some formal arrangements beyond the ones that comes with being registered, similar as for other types of workers. This could be an argument for including dependent contractors own contributions to social insurances as part of defining formal jobs for dependent contractors as an absolute criterion. This would imply that the job held by the dependent contractor could only be considered formal if the worker contributes to social insurance and informal if this is not taken place independent on other criteria. As been previously discussed it would be essential to retain some linkage between the job and the social contribution coverage. This could be ensured by specifying that part of the contributions should come from the specific job and/or that contributing to the specific scheme implies a registration of the worker and the job. In addition, the type of social insurances schemes that could be of relevance could be limited to statutory social insurance schemes which would exclude commercial insurance, private insurances unless they can be considered “statutory private” as is the case in some countries. These different points could be summarized as:

Formal employment for dependent contractors comprises activities carried out in relation to a formal job defined as:

Dependent contractors that own or co-own a formal enterprise or is registered in relation to tax or statutory social insurance: and

That have an effective coverage to formal arrangements such as job-related social insurance

More discussion is needed on how to operationalize this. Different countries have different types of social protection system, including different mixtures of non-contributory and contributory schemes; and for contributory ones, public schemes, private schemes as well as work related and non-work related schemes. A starting point for this discussion could be that it would include statutory social insurance schemes either mandatory schemes or voluntary schemes if the voluntary scheme implies a formal status of the worker. In addition, it needs to be ensured that there is a linkage to the specific job. This could be formulated as:

Dependent contractors’ effective coverage to social insurance includes mandatory or voluntary contributions made fully or partly by the dependent contractor in relation to the specific job, or by the entity on which they depend, to a statutory social insurance scheme, if this implies the formal status of either the economic unit owned and operated by the dependent contractor or the formal status of the worker. It therefore excludes non-contributory social protection schemes as well as voluntary contributions if this does not imply a formal status of the economic unit and/or the worker; commercial insurance and most private insurance if not statutory based.
Furthermore examples of relevant schemes could be stated such as:

*When operationalizing this criterion countries needs to take the national context and social security laws into account. The operationalization should be based on one or more specific statutory social insurances for example pension fund depending on the country context.*

An alternative approach to the two previously described, would be to go beyond the definition of informal/formal jobs and include the possibility of for example, a strong formal job. This approach could as a starting point, use a relatively low threshold for defining the job as formal but introducing a higher threshold for defining the job as a strong formal job. For example the definition of the informal/formal jobs could follow the categorization of the sector i.e. dependent contractors that either have a formal enterprise or is registered for tax or social insurance would be categorized in the formal sector and therefore have a formal job. However, additional criteria are then used to further identify those formal jobs that could be considered strong formal jobs. This could for example include those cases where the dependent contractor is categorized in the formal sector, have a formal job and an effective coverage to formal arrangements such as job-related social insurance. The approach can be viewed as capturing that the dichotomy of informality/formality reflects the formal recognition of the job but a coverage of formal arrangements that protects the worker further strengthens the formal status. This could be summarized as:

*Dependent contractors with a strong formal job is defined as:*

*Dependent contractors that own or co-own a formal enterprise or is registered in relation to tax or statutory social insurance: and*

*That have an effective coverage to formal arrangements such as job-related social insurance*

**Examples and outcomes**

An important aspect when discussing the definition of informal/formal jobs for dependent contractors is whether or not a given definition creates the desirable outcome to inform policy debate. In the following sections we discuss different examples of dependent contractors and the outcomes that different possible definitions would generate. This will hopefully contribute to the discussion of how to define informal and formal employment for this group of workers:

**a) There are two farmers who both own the land that they cultivate. Both have registered their enterprise, they keep a complete set of accounts and neither of them contributes to social insurance. One of them depends on a single client that sets and guarantees the price and the production methods, while the other has multiple clients.**

In this case both workers would be categorized as being in the formal sector, they have both registered their farms and do keep a complete set of accounts and do therefore both operate formal enterprises. The farmer with multiple clients would be defined as having a formal job as he would be an independent worker. However, the farmer who relies on a main client that sets the price would be defined as having an informal job if the criterion of own contribution to social insurance is used. It is not given that the farmer that relies on a main client is in a more vulnerable situation and more exposed to economic risk then the worker who has multiple clients even though this farmer has a lesser degree of authority. If the criterion of contribution
to social insurance were not used then both workers would be categorized in the formal sector with formal jobs.

b) A contractor provides labour to a large company. The type of activities carried out by the contractor is similar as the activities carried out by the employees in the company. The company organizes the work for the contractor to a large extent and the contractor has to provide his/her own social insurances. The contractor is registered in a statutory pension scheme and do contribute to this.

The contractor would be categorized in the formal sector since the worker is registered in a statutory social insurance scheme. This would be the consequence from expanding the categorization of the sector not only to include the aspect of whether the worker has a formal enterprise or not but also to recognize the possibility for the worker as such to be registered. The worker would have a formal job independent on whether the criterion of own contributions to social insurance is used or not due to that the registration in the scheme would categorize the worker in the formal sector. The dependent contractor would be categorized as having a strong formal job if this is to be introduced.

c) A vehicle driver has a service contract with a transport company, which organizes the work, determines the fee, and provides the vehicle. The driver is registered for tax and makes sporadic voluntary payments to a private pension fund. The private pension fund does not require any registration of the worker’s activities and is open for all to contribute irrespective of employment status.

The driver would be categorized in the formal sector due to the registration for payment of tax. Without social insurance coverage as a criterion for defining informal formal jobs for dependent contractors the driver would be defined as having a formal job. If contributions to a statutory social insurance is used as a criterion however, the worker would be defined as having an informal job.

d) A digital platform worker carries out small programing tasks online at the platform that distributes the work and sets the price for the services. The digital platform has registered the worker and reports the activities to the tax authorities. Neither the worker nor the digital platform contributes to any social insurances on the behalf of the worker.

The worker would be categorized in the formal sector due to the registration through the digital platform. If no further criteria are used the worker would have a formal job. If the criterion of social insurance contributions is used then the worker would be defined as having an informal job in the formal sector.

Conclusions
The integration of dependent contractors within the framework of informality will require further work and discussions. However, based on the discussions so far it seems to be possible to draw some conclusions that can be further built on when categorizing the sector for dependent contractors as well as for defining informal formal jobs.

As has been pointed out during the discussions, there are strong arguments to have a single and unique categorization of the sector and if the definition of informal formal employment for all dependent contractors independently of whether they can be considered to have an unincorporated enterprise or only provide their labour as input.
In addition, it is clear that dependent contractors are workers with commercial agreements similar to own-account workers. This might call for categorization of the sector to be based on the economic unit they own and operate. However, there is a need to take into account that dependent contractors also consist of workers who only provide their labour. A way to take this situation into account could be to also include the possibility for workers to be registered for tax or statutory social insurance either through their own registration or through the entity on which they depend. If the dependent contractor either has a formal enterprise or is registered for tax or statutory social insurance the worker would be categorized in the formal sector. If the worker does not fulfil any of these requirements, the worker would be categorized in the informal sector.

During the discussions, there seems to be support for defining jobs as informal, by default if the dependent contractor is categorized in the informal sector. This would be in line with the treatment of other statuses in employment and would reflect that owning a formal enterprise or being registered for tax would be a pre-condition to be considered to have a formal job.

The final step is to define informal/formal jobs for dependent contractors in the formal sector. Different approaches for this could be envisaged and more discussion are needed. One approach is to define the job held by dependent contractors categorized in the formal sector as formal by default. This would imply that if the dependent contractor either has a formal enterprise or is registered for tax or statutory social insurance then the job held by the dependent contractor would be formal.

A different approach would be to introduce additional criteria to define informal/formal jobs for dependent contractors. Contribution to social insurance by the dependent contractor (fully or partly) has been proposed as one possibility for such an additional criterion. If this approach is taken, it would seem important to acknowledge the role of the entity on which dependent contractors are dependent, and the possibility that this entity can contribute to and facilitate a formalization process for dependent contractors. In addition, it would be essential to retain a linkage between the job and the social contribution coverage.

The use of contribution to statutory social insurance could include mandatory schemes that target non-employees as well as voluntary schemes if a linkage to the job is ensured. This could, for example, be the case if the contribution to the voluntary scheme implies registration of the worker and the activities, or if the level of contributions made is linked to income from the employment.

An alternative approach would be to instead introduce a concept of strong formal jobs. This can be viewed as an approach that integrates a more granular concept and that allows for the possibility of using a relatively low threshold for defining the job as formal while a higher threshold is used for defining the job as being a strong formal job. For example, if the sector and the job is defined as formal if the worker either has a formal enterprise or is registered for tax or social insurance then coverage by statutory social insurance could define the job as being a strong formal job.

**Points for further discussion:**

*The sub group is asked to provide input on:*

- Whether the categorization of the sector should be based on the formal status of the economic unit they own and operate in combination with whether the worker is registered for tax or in a statutory social insurance (either by own registration or registration through the entity on which they depend).

- Or are there an alternative preferable approach for categorizing the sector?
• If dependent contractors categorized in the informal sector, similar to other categories of workers, can be considered to have informal jobs by default?

• Can dependent contractors that either have a formal enterprise or are registered for tax or in a statutory social insurance scheme be considered to have formal jobs or are additional criteria needed to define the job formal?

• If additional criteria are needed would then dependent contractors’ own-contribution to social insurance be a relevant criterion or are there alternative criteria?

• Whether the introduction of a concept of strong formal jobs could contribute to clarify and contextualize a definition of informal/formal jobs among dependent contractors?