**Employers’ Statement**

Thank you, Chair.

The issue of the ILO’s cooperation with the tobacco industry is an extremely important issue for the Employers, so I want to ask for the indulgence of the Chair since our statement on this issue is relatively long. But we think it is important to set out our position very clearly since how we address this issue will set a precedent that will reach far beyond the tobacco sector:

- First, tobacco growing and tobacco products are part of a legal business sector that is regulated by States and are thus—by definition—legitimate business activities. As such, we must be extremely careful to avoid creating any arbitrary or discriminatory policies that apply to one legal business sector but not to others.

- And second, tobacco is certainly not the only business sector with social or environmental risks, so how the Governing Body decides to address this question could set an extremely damaging precedent for how the ILO engages with any number of other legal sectors with social or environmental risks.

Indeed, many interest groups are already pushing to apply this approach to a growing number of other sectors, including: oil and gas, mining and coal, chemicals, food and agriculture (such as sugar and palm oil), alcohol, including beer, wine and spirits, forestry and paper, beauty products, and many others.

So none of us here today should think that this issue is only about tobacco, or that it won’t affect us just because our country isn’t a major tobacco producer. If we end ILO cooperation with one legal sector, then we open the door to ending ILO cooperation with any legal sector, this, in fact, negates the right of business to operate.

**Turning to the specific issue of ILO cooperation with the tobacco industry:**

The Employers want to state very clearly at the outset that we understand and support the role of national public health authorities and the World Health Organization in promoting public health policies with respect to tobacco control. This is important work and deserves our support. But the ILO’s mandate to promote Fundamental Principles and Rights at Work in the tobacco sector, including through cooperation with the tobacco industry, is just as important and is fully in line with our commitment to work to achieve the 2030 Agenda and the Sustainable Development Goals.
Moreover, it is our view that these objectives are consistent with and mutually supportive of each other, and that, as a result, continued ILO cooperation with the tobacco industry does not create any legal issues for Parties to the Framework Convention on Tobacco Control. Our position is based on five main points:

**First, the tobacco sector falls within the ILO mandate:**

ILO needs to put people and social rights first. As a legal and regulated business activity, the tobacco sector falls squarely within the ILO’s mandate to promote decent work and fundamental principles and rights at work. As the Office paper makes clear, the tobacco industry employs millions of people in many countries. An ILO report on employment trends in the sector noted that "tobacco growing, in contrast to manufacturing, still functions as a safety valve which safeguards livelihoods for millions of people who, for the most part, belong to vulnerable social groups". For many farmers, tobacco crops occupy a fraction of their land but generate the bulk of their revenue and income. As a result, there are few easy substitutes for tobacco for the families and countries that rely on it for jobs and incomes. For example, over 70% of Malawi’s foreign exchange earnings and 10% of its gross domestic product are derived from tobacco exports. We cannot simply choose to ignore this sector and the role it plays in providing jobs and supporting incomes in many countries. ILO cannot simply pick up those sectors, it needs to work with all of them in line with its mandate to implement the decent work agenda.

The paper also makes clear that cooperation with the tobacco industry has had a major impact in ILO development cooperation projects aiming to eradicate child labour and forced labour. Funding from the tobacco industry has been instrumental in reducing child labour in tobacco growing communities in Brazil, Malawi, Tanzania, Uganda and Zambia. An independent evaluation in 2011 confirmed that, in its first phase, the project’s goals were met or surpassed: many children were withdrawn or prevented from engaging in child labour; viable income generating alternatives were provided to many families; farmers were trained on the hazards of child labour; and sustainable systems were created for child labour monitoring and for supporting policies and plans, including expanding education and strengthening legal frameworks. Another evaluation in 2014 found that the project had met or surpassed its targets and that it was a “High Impact-Low Scale” intervention. Again, we cannot simply ignore that child labour exists in tobacco growing and that it is our mandate to address this.

**Second, ILO cooperation with the industry has significantly contributed to achieving Decent Work outcomes:**

As noted in the Office paper, ILO cooperation with the tobacco industry has successfully raised $15.5 million dollars from the industry to support ILO projects and programmes to reduce child labour in tobacco growing, which has been extremely important given the clear challenge of securing alternative sources of
funding. But ILO cooperation with the tobacco industry isn’t just about funding. Cooperation with the industry facilitates engagement with tobacco growing communities, leverages existing community development programs and enables the wider dissemination of education and training materials and programs in all the areas mentioned above. In these ways, cooperation with the industry goes beyond up-front funding and supports implementation of the projects in ways that enhance their scale and impact. This aspect of ILO cooperation with the industry should not be overlooked.

But on the issue of funding, we feel it is necessary to point out that governments themselves receive billions of dollars in total every year in taxes from the tobacco sector through both income and sales taxes. That tax revenue goes into the national treasury and is used, in part, to fund UN agencies, including the ILO. It seems highly inconsistent to say that UN agencies, which are financed by governments that receive funding from the tobacco industry, should not themselves receive funding from the same industry. This is particularly true given the important contribution such funding has made in reducing and preventing child labour and the apparent lack of alternative sources of funding.

Third, the Agenda 2030 Declaration highlights the fundamental imperative of inclusiveness and shared responsibility to achieve the SDG goals.

The Agenda 2030 calls for a broader and more ambitious partnerships, involving the private sector. More specifically it contains:

a) the pledge that that no one will be left behind, and the need for global partnerships with the participation of all countries, all stakeholders and all people. Excluding millions of workers and industries from the tobacco sector would be inconsistent with this approach;

b) a call for Partnership in a spirit of global solidarity, bringing together Governments, the private sector, civil society, the United Nations system and other actors and mobilizing all available resources.

c) A specific target, target 8.7, which is and must remain a priority for ILO: the need for immediate and effective measures to eradicate forced labour, end modern slavery and human trafficking and secure the prohibition and elimination of the worst forms of child labour, by 2025.

Fourth, the ILO doesn’t work on public health policies related to tobacco:

ILO cooperation with the tobacco industry is entirely consistent with efforts by public health authorities and the WHO to promote public health policies with respect to tobacco control. This is because the ILO’s cooperation with the tobacco
industry has never had anything to do with such policies, which are the sole focus of the main instruments in this area.

Article 5.3 of the WHO Framework Convention on Tobacco Control, states that:

- “In setting and implementing their public health policies with respect to tobacco control, Parties shall act to protect these policies from commercial and other vested interests of the tobacco industry in accordance with national law.”

The non-binding Guidelines for Implementation of Article 5.3 of the Framework Convention state that:

- “The guidelines apply to setting and implementing Parties’ public health policies with respect to tobacco control” and that “the tobacco industry should not be a partner in any initiative linked to setting or implementing public health policies.”

And the non-binding Model Policy is also directly linked to Article 5.3, stating that:

- “Article 5.3 of the Convention provides the policy framework for protecting public health policies with respect to tobacco control from the commercial and other vested interests of the tobacco industry.”

Since the ILO’s work in the tobacco sector, including its cooperation with the industry, has never sought to address or had any impact on “public health policies with respect to tobacco control”, it falls completely outside of the scope of these instruments. The Office paper did not directly address this point, but it is central to the question of whether ILO cooperation with the tobacco industry is consistent with the objectives of FCTC Article 5.3, the implementing guidelines and the Model Policy.

So we want to ask the Office this question: Have any of the PPPs with the tobacco industry ever sought to address or had any impact on “public health policies with respect to tobacco control”? In our view, the clear answer is that they have not and, thus, ILO cooperation with the industry falls completely outside of the scope of these instruments. As a result, ILO cooperation with the tobacco industry does not create any legal issues for Parties to the FCTC.

Fifth, and last, the ILO is clearly free to determine its own approach:

To start with, we need to correct the record on one key point in the Office paper: the ECOSOC resolution did not “endorse” the Model Policy, as is claimed in Footnote 2 and in the draft decision. The ECOSOC resolution merely “recalled” the model policy and did so in the preamble, which, as well all know, isn’t part of the operative text of the resolution. When ECOSOC has endorsed things in the past, it has used the active verb “supports” and has placed it in the operative part of the text, not the preamble, so this is clearly not an endorsement.
Moreover, the key part of the operative text of the ECOSOC Resolution makes it clear that it is not binding on the ILO, stating that ECOSOC:

- “Encourages members of the Task Force, as appropriate and in line with their respective mandates, to develop and implement their own policies on preventing tobacco industry interference, bearing in mind the model policy…”

And the Model Policy itself states that:

- “It is primarily based on the recommendations of the guidelines for implementation of Article 5.3 of the WHO FCTC and the [UN] agencies should select the most appropriate ones that are applicable to their case.”

We are thus encouraged to develop our own approach on cooperation with the tobacco industry in line with our mandate to promote decent work and fundamental principles and rights at work in the tobacco sector, using appropriate safeguards that are applicable to our case.

And in that regard, we think the Office paper failed to consider all the options for what such a policy might look like. In paragraph 29, the paper presents one option, where the ILO doesn’t adopt a Policy at all, and in paragraph 30, the paper presents a second option, where the ILO essentially adopts the Model Policy in full. But there is clearly a third option, which is for the ILO to develop an approach in line with its mandate, as called for in the ECOSOC resolution, but one that is not based entirely on the Model Policy and continues cooperation with the tobacco industry.

**Possible Way Forward:**

Which brings us to the three elements of the possible way forward proposed in the Office paper.

First, we can agree with the first element of the proposed strategy to strengthen safeguards to ensure that ILO cooperation with the tobacco industry prevents any interference in public health policies with respect to tobacco control, as called for in the FCTC Article 5.3, as well as related issues such as use of the ILO logo etc.. However, we need to be very clear that, once those safeguards are in place and if they are met, there should be no additional or arbitrary restrictions on cooperation with the tobacco industry, either in terms of funding or other activities. It simply doesn’t make sense to institute additional safeguards to prevent interference and still preclude cooperation with the sector. The whole point of any additional safeguards would be to ensure that any funding from the sector doesn’t lead to interference.
Similarly, we can agree with the second element of the proposed strategy to increase cooperation with the UN Inter-Agency Task Force to eliminate child labour in tobacco-growing communities in line with the ILO’s mandate.

In terms of the third element, we agree with the proposal to mobilize additional funds from other sources. However, we do not agree with the remainder of the paragraph as it seeks to impose limits on ILO cooperation with the industry that go beyond the additional safeguards, and is thus contradictory to the first element of the strategy. If the ILO institutes additional safeguards, and if PPPs with the tobacco industry meet those safeguards, then there is simply no need to grant the DG “discretion to consider the possibility of extending the PPPs for a limited period.”

Indeed, granting that discretion would mean that, if alternative funding is secured, PPPs with the tobacco industry could be restricted or even ended. Again, this is a legal and regulated business activity and thus a perfectly legitimate sector that should not be subject to arbitrary or discriminatory policies or procedures in the ILO. Moreover, this is exactly the type of bad precedent that must be avoided as it would certainly be applied to a range of other legal business sectors that have social or environmental risks. In our view, the safeguards should apply to all PPPs, and any PPPs that adhere to the safeguards, including those that involve cooperation with and funding from the tobacco sector, should be permitted and/or extended as any others would be.

**Conclusion**

In conclusion, I want to reiterate our four key points:

- First, the tobacco sector is a legal and regulated business activity that falls squarely within the ILO’s mandate to promote decent work and fundamental principles and rights at work. The precedent of banning cooperation with a legal industry is not acceptable to Employers as it would undoubtedly be applied to other legal sectors.

It is hard for us to understand proposals which will mean, in practical terms that we leave 60 million of workers and communities, including children, with weaker protection. It is not acceptable for ILO to renounce to its intrinsic mandate. Alternative funding will not fill the gap and the credibility of the ILO is at stake.

Let me also remind you again that some countries and economies depend almost entirely on tobacco export. Let me also stress how incredibly incoherent it is for some governments, first, to benefit from huge tax incomes from the tobacco sector, second, to enhance trade cooperation with tobacco, and, at the same time request the UN system to stop receiving funding from
the same sector which funds have been used to combat child labor and other fundamental causes.

It is difficult for us to understand how Workers representatives and some Governments can propose such an approach. In practical terms this is also questioning the entire PPP approach of ILO, and goes against what we agreed in this GB, and also against what has been unanimously agreed by UN under its 2030 Agenda. If this is the case then we have a serious problem, which goes beyond Tobacco.

• Second, ILO cooperation with the tobacco industry goes beyond funding and supports implementation of projects in ways that enhance their scale and impact.
• Third, since the ILO’s cooperation with the tobacco industry doesn’t address “public health policies with respect to tobacco control”, it falls outside of the scope of FCTC Article 5.3, the implementing guidelines and the Model Policy.
• And fourth, the ILO is free to determine our own approach that responds to our mandate and also ensures consistency with the goal to prevent interference in public health policies on tobacco control. But that approach must not create arbitrary or discriminatory policies or set a damaging precedent for other sectors.

With these remarks, we propose the following revisions to the draft decision:

Draft decision

_The Governing Body, taking note of the Model Policy for agencies of the United Nations on preventing tobacco industry interference, endorsed referred to by the ECOSOC Resolution E/RES/2017/8, requests the Director-General to further develop and implement the strategy on ILO’s continued engagement with the tobacco sector with the safeguards outlined in paragraphs 37–39, taking into account views expressed by its Members._