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Executive summary

This report presents the findings of an independent, external evaluation of the Law-Growth Nexus project. The Norwegian Agency for Development Cooperation (Norad) funded the project, which began on 1 March 2008 and ended on 31 August 2010, the month of the evaluation. With a total budget of US\$599,870, this was a relatively small project, yet it set ambitious goals to deal with a topic of great importance to the work of the ILO.

The ILO in Geneva commissioned Simon White to undertake the evaluation to provide an overall assessment of the project design and the results the project achieved. The evaluation was also conducted to compare the project with a similar Norad-ILO project underway in South Asia, known as the Labour-Related Laws and the SME Growth Trap Project. The Law-Growth Nexus project was found to focus more on informality issues than the South Asia project, which appears more concerned with enterprise growth and responding to “growth traps” in the legal and regulatory framework. The Africa project was more ambitious in its scope when compared with the South Asia project.

The Law-Growth Nexus project was designed as an action-research project. It sought to collect information on the issues surrounding labour law regimes and the extent to which MSEs are able or encouraged to comply with these. It looked for good practices in the design and application of labour law and labour-related laws in relation to MSE employment and sought to distil these practices into lessons learned and recommendations for policy makers, social partners and practitioners.

The project has its origins in research conducted by SEED since 2003, which led to substantial attention being given to this topic in 2006 by the ILO’s Governing Body’s Committee on Employment and Social Policy. The Committee’s discussions focused on the dilemma of striking a balance between minimizing the cost of the regulatory burden on MSEs and enhancing the prospects for competitiveness and growth, without compromising the application of International Labour Standards. One of the outcomes of the discussion was the encouragement the Committee gave to the ILO to examine the “win-win territory” where it is possible to reduce compliance costs for MSEs and simultaneously improve protection for workers in those enterprises. It was within this context that the Law-Growth Nexus project was conceived.

The Law-Growth Nexus project was designed to contribute to filling the gaps in information and knowledge regarding the influence labour and labour-related laws and regulations have on MSE employment and particularly on the growth prospects of MSEs, their decisions regarding formality and the quality of the jobs MSEs create.

The project's **achievements towards its outputs** are summarized below.

| OUTPUT | | PROGRESS TOWARD OUTPUT |
|--------|---|---|
| 1 | The labour code and related laws and their coverage and application to MSEs in about 12 countries mapped. | Fully Achieved: 12 countries mapping reports produced (Burkina Faso, Cameroon, Ghana, Kenya, Liberia, Mali, Mozambique, Rwanda, Senegal, South Africa, Tanzania and Zambia). |
| 2 | Six country case studies elaborated which present interesting examples or innovative approaches to the application of labour and labour related laws in MSEs. | Fully Achieved: Six country reports produced (Kenya, Liberia, Rwanda, South Africa, and Zambia) – these were extended versions of the Phase 2 reports). Three national workshops conducted (Kenya, Liberia and Zambia) and workshop reports produced. |
| 3 | Support to the implementation of agreed labour law/administrative reforms in one country | Achieved to a very limited extent: The project provided technical contributions to the MSE Bill in Kenya and the draft Employment Act in Zambia, but these reforms have not focused on labour law or administration and have not been completed. The publication of a guide and the preparation of a training package have not been completed. |
| 4 | Improved social dialogue centred on labour and labour related laws and MSEs | Partially Achieved: While the project facilitated social dialogue in Kenya and Zambia (and held a workshop in Liberia), it cannot be claimed that dialogue on this topic has been improved. Partial achievement is assessed on the basis that the research reports have better informed dialogue on this topic. |

The **project's results** are assessed against its progress in meeting the indicators assigned to the immediate objective: "Good practice guidelines for labour and labour related laws for MSEs developed". These are summarized below.

| IMMEDIATE INDICATOR | | OBJECTIVE PROGRESS |
|---------------------|---|---|
| 1 | Development and adoption of good practices or policy reforms by governments | Achieved to a very limited extent: There was no evidence found that participating governments have adopted good practices or reforms. However, the project appears to have contributed to the promotion of good practices and the design of reforms which may be realized in the future. |
| 2 | Guide and training materials prepared | Achieved to a very limited extent: A first draft of the guide has been prepared, but was not completed by the end of the project (i.e., 31 August 2010). The training material has not been prepared and is not even at the stage of a complete draft. |
| 3 | Establishment of tripartite dialogue on policy reform in six countries | Achieved to a very limited extent: While the project facilitated social dialogue in Kenya and Zambia (and held a workshop in Liberia), it has not come close to establishing dialogue in six countries. |

Overall, the project has not achieved its outputs and results to the level of its ambition. This appears to be, in part, because the scope of the project was broad, while the timeframe and funding was limited. In addition, a poorly formulated logical framework set goals that were very difficult to achieve. Furthermore, a decision to shift focus mid-way through the project and attempt to support reform processes in two countries rather than one created a situation where resources were more disbursed and led to the project not being able to complete two of its major anticipated knowledge products.

However, it would be wrong to conclude that few results were produced. At the global level, the project has contributed to establishing the issue of labour and labour-related laws and MSEs as an important and relevant field of enquiry and assistance in the promotion of sustainable enterprises. The project has forged links with the ILO's Social Dialogue Department and while there have been tensions found in this relationship, it is clear that an MSE perspective can contribute significantly to the ILO's broader body of knowledge and work in this field.

At the country level, the project supported social dialogue on the topic in Kenya and Zambia. While this dialogue does not appear to have been as broad and inclusive as some country-level respondents would have liked, it is clear that a good start has been made. Many social partners in Kenya and Zambia are now more aware of the issues affecting MSE compliance with labour and labour-related laws and informality and it is hoped that this will contribute to longer term efforts to better understand these issues and improve the business environment. The project has also contributed to reform efforts underway in Kenya and Zambia, although these reforms have not been completed.

The ILO's Small Enterprise Programme (SEED) in the Job Creation and Enterprise Development Department in Geneva implemented the project. While it was originally envisaged that the ILO's sub-regional offices in Harare, Addis Ababa, Yaoundé and Dakar would provide advice and support to project activities in the countries covered by these offices, the overall impression gained through interviews with ILO field staff and country-level respondents is that the project was highly centralized and did not create sufficient opportunities for local engagement in key project management and strategy decisions. These respondents indicated that there was no local assessments undertaken before selecting the countries in which the project would operate. However, this view is strongly disputed by the Geneva-based project managers who indicated that ILO field officers were engaged to undertake the relevant consultations and assessments.

The management team formed in Geneva performed a loose advisory function, rather than providing clear managerial guidance. However, interpersonal conflicts appear to have hampered project coordination and collaboration. The linkages between this project and the Labour-Related Laws and the SME Growth Trap Project in South Asia were poor. These could have been improved through better knowledge management in Geneva, such as through the sharing of reports and methodologies across project personnel.

The greatest criticism of the project stems from the lost opportunities in distilling key research findings, lessons learned and good, best and bad practices. The project generated a high volume of useful information that has not been properly synthesized and used to produce information products that could shed more light on the law-growth nexus. The six hypotheses on which the project was based provided a clear and valuable focus for research, but these were not pursued. The testing of these hypotheses would have produced extremely valuable information for the ILO, especially SEED and the Social Dialogue Department, as well as the ILC and constituents.

Greater attention could have been given to involving country-level project participants in the overall project activities. Rather than focus only on the results of national research and dialogue, the project could have shared the results of other country studies and involved these participants in activities that distil key findings, lessons and practices. This would have built local ownership and capacity, and would have strengthened the sustainability of the project's achievements. However, it is recognized that the project's budget was limited and such levels of local engagement could not be accommodated.

The report concludes with a list of lessons learned in project design and management, followed by recommendations for the future. Among these, it is proposed that greater attention should be given to designing platforms (i.e., events, publications or web-based mechanisms) that can be used to distil key research findings and discuss these in order to ensure the project's investigations are relevant and contribute to the broader body of knowledge in the field. When designing a project that engages the social partners or any other project partner, ILO field specialists should pay special attention to identifying current related activities occurring at the country-level and consulting with these partners as the project is designed or when its design is validated (i.e., at the inception stage).

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List of abbreviations

| | |
|-------|--|
| ESP | Committee on Employment and Social Policy, ILC |
| ILC | International Labour Conference |
| ILO | International Labour Organization |
| ILS | International Labour Standards |
| MSE | Micro and small enterprise |
| Norad | Norwegian Agency for Development Cooperation |
| SEED | Small Enterprise Team, ILO, Geneva |
| SME | Small and medium-sized enterprise |
| US\$ | United States Dollar |

1 Introduction and background

Micro and small enterprises (MSEs) are a major source of employment in developing economies around the world, in addition to the significant contribution they make to value addition and economic growth. However, the quality of jobs in many MSEs is often very poor. A key challenge for the International Labour Organization (ILO) and its member States is how to devise a legal and regulatory framework for MSEs that promotes Decent Work, but which also facilitates economic growth.

Labour and labour-related laws can be an important means of promoting Decent Work. They typically promote International Labour Standards (ILS) and provide mechanisms for ensuring the quality of employment. However, MSE owners and managers in developing economies often fail to comply with labour and labour-related laws, which they perceive as imposing unsustainable regulatory burdens and costs.

In November 2006, the ILO's Governing Body Committee on Employment and Social Policy (ESP) discussed this topic. This discussion focused on the dilemma of striking a balance by minimizing the cost of the regulatory burden on MSEs and enhancing the prospects for competitiveness and growth, without compromising the protection of those who work in MSEs.

The ESP noted the range of factors that typically prevent MSEs from complying with labour and labour-related laws:

- Many MSEs are in a precarious financial position;
- Legislation is typically not well-adapted to MSEs;
- High transaction costs, such as the costs associated with accessing information, legal and bureaucratic procedures and labour inspection have created barriers for compliance by MSEs in many countries;
- A high tax on labour that can discourage formal employment and stimulate informality;
- The outreach of authorities to enforce labour and labour-related laws in MSEs is very uneven across countries and often insufficient;
- The exclusive reliance on the traditional enforcement approaches, with a strong focus on sanctions, has not necessarily resulted in widespread compliance among MSEs and has, in fact, contributed to circumstances that increase corruption;
- Procedural weaknesses hinder compliance by MSEs; and
- There is typically a lack of information about labour legislation provided to MSE employers and workers.

One of the outcomes of the discussion within the ESP was the encouragement the Committee gave to the ILO to examine the “win-win territory” where it is possible to reduce compliance costs for MSEs and simultaneously improve protection for workers in those enterprises. It was within this context that the Law-Growth Nexus project was conceived.

This report presents the findings of an evaluation of the Law-Growth Nexus project, which was conducted in August 2010, the final month of the two-year project. The Norwegian Agency for Development Cooperation (Norad) funded the project, which was implemented by the International Labour Organization (ILO) in Geneva.

The Law-Growth Nexus project focused its activities in twelve African countries, while a similar Norad-funded project, known as the Labour-Related Laws and the SME Growth Trap project, was located in South Asia. This evaluation deals with the Law-Growth Nexus project, but makes comparisons with the Labour-Related Laws and the SME Growth Trap project where relevant.

1.1 The Law-Growth Nexus Project

The Law-Growth Nexus project began in March 2008 and concluded in August 2010. Norad provided US\$599,870 for this two-year project. The ILO's Small Enterprise Programme (SEED) in the Job Creation and Enterprise Development Department in Geneva implemented the project. It was envisaged that the ILO's sub-regional offices in Harare, Addis Ababa, Yaoundé and Dakar would provide advice and support to project activities in the countries covered by these offices. In addition, the ILO's Social Dialogue Department provided occasional technical inputs.

The overall objective of the project, as described in the *Project Document* (ILO-Norad 2007) was to "promote better business environments for workers and employers in MSEs" by "developing good practice guidelines for labour and labour related laws for MSEs". The project sought to help the ILO to develop training and capacity building tools and guidance on good practices. It was to inform the ILO's policy work in this area and build the capacity of constituents to participate in policymaking and reform processes. Ultimately, by developing good practice guidance on labour law and MSEs, the project would help governments to develop a legal and regulatory framework that is conducive to the formation and growth of enterprises and to the realization of Decent Work objectives embodied in labour and labour-related laws.

The project was designed in three phases.

The first phase involved a desk-based mapping of labour and labour-related laws and regulations and their coverage and application to MSEs in twelve countries in sub-Saharan Africa. These countries were not identified in the *Project Document*, but after a process of consultation with ILO sub-regional offices the following were selected: Burkina Faso, Cameroon, Ghana, Kenya, Liberia, Mali, Mozambique, Rwanda, Senegal, South Africa, Tanzania and Zambia. This phase intended to fill an identified gap in understanding how labour and labour-related laws and regulations are formally extended to, implemented and enforced in MSEs.

The second phase involved the identification of six countries in which more detailed case studies would be prepared. The selected countries were Liberia, Kenya, Rwanda, Senegal, South Africa and Zambia. The purpose of this phase was to illustrate relevant examples or approaches for further analysis, and identify the costs and benefits of different labour law regimes on the formation and growth of MSEs. Wherever possible, the perspective MSE owner-managers and their employees were sought.

In three of the participating countries (i.e., Kenya, Liberia and Zambia) the case studies were to be presented at national workshops in which the tripartite representatives discussed them and considered their implications on the design and enforcement of labour law. This was expected to lead to increased capacity of governments to effectively implement labour and labour-related laws with respect to coverage of MSEs and to the adoption of good practices or policy reforms by governments.

The third phase of the project involved promotional and capacity building activities that were designed to implement an agreed set of reforms in Kenya and Zambia. This phase was also designed to produce a guide on the law-growth nexus and a training package, both of which would integrate lessons learned from the project.

1.2 The purpose, scope and methodology of the evaluation

The ILO in Geneva commissioned Simon White to undertake this external project evaluation to achieve two purposes. First, the evaluation was to provide an independent assessment of the project design and the results achieved in all three project phases. Second, the evaluation would compare the project with the South Asia project to identify the relative strengths and weaknesses of the project's design and implementation.

The evaluation is to assist the ILO in its considerations of any future project initiatives and to inform Norad of the outcomes of the project. It should also help to distil lessons learned from the project and to make recommendations regarding further work in this field.

The evaluation has sought to determine:

- Whether or not the specified outputs and outcomes were achieved and the extent to which these contributed to the achievement of the project's objectives;
- Whether the project was effective and efficient in its use of resources in producing its outputs
- Whether the programme presented a logical and strategic approach to achieving its desired objectives (i.e., assessment of the project design and log-frame and strategy)
- Success in terms of management and sustainability
- Lessons that can be learned for policy makers and practitioners (this would include any "good practices" identified)

Appendix 1 contains the full terms of reference for the evaluation.

The evaluation involved a review of all project documents provided to the evaluator. This included the original *Project Document* (ILO-Norad 2007) and all consultant reports (e.g., mapping and country review reports), workshop reports, mission reports and project progress reports. The review also covered a number of key reference reports produced by the ILO on the topic of labour and labour-related laws and MSE employment. See Appendix 2 for a list of the documents reviewed.

The evaluator was also provided with a list of key informants from Kenya, Liberia, South Africa and Zambia who could be approached. A questionnaire was developed to guide these consultations. In

addition, the evaluator consulted with a number of ILO officials and project staff in Geneva and in various sub-regional offices. Appendix 3 contains a list of all respondents.

1.3 Structure of the report

This report is organized as follows: Chapter 2 provides background on the issues of labour and labour-related laws and MSEs. This chapter intends to position the project within the broader context of how the ILO approaches the topic of labour law and MSE growth.

Chapter 3 examines the manner in which the project was designed and the strategy it employed. This is done by assessing the design processes that were applied as well as examining the rationale behind choice of project strategy.

Chapter 4 evaluates the project outputs and results and reports on the way in which the project was managed. The effectiveness and efficiency of the project in achieving its outputs and results are scrutinized.

Chapter 5 presents conclusions, lessons learned and recommendations. Specific attention is paid to the key evaluation questions listed in Section 1.2, above. Lessons learned deal with project design and management issues, as well as with specific technical issues related to the topic. Finally, recommendations are presented for future similar projects on how to design and implement a project of this sort and particular attention is given to the next phase of the Law-Growth Nexus Project, which is planned to run from 2010 to 2012 in Kenya, South Africa and Zambia.

2 The impact of labour and labour-related laws and regulations on MSE employment and Decent Work

This chapter examines the context in which the project was developed. It presents the importance of MSE compliance with labour and labour-related laws and regulations, and the challenges faced in promoting Decent Work in the MSE sector.

Recent ILO reports on the impact labour and labour-related laws and regulations have on MSE employment have identified a number of broad concepts and dynamics that are relevant to reforms designed to improve MSE compliance and the quality of work created in this sector. Faundez (2008), for example, claims that the ILS regime has, since its inception, been responsive to the special needs and interests of MSEs and has evolved in line with economic, social and cultural changes. Some of the factors the conventions take into account are related to the size of the enterprise and the practical problems MSEs can face when complying with the labour regime. His survey of national MSE policy and legislation shows that labour legislation in developed and developing countries makes ample use of the exemptions and exclusions allowed by the ILS regime. However, while the ILO fully endorses efforts to adapt and tailor labour law provisions to the needs of MSEs, these adaptations can only be justified if they contribute towards a more effective application of the fundamental principles and rights at work. Such reforms “should not involve any lowering of core labour standards”.

Fenwick, *et al.*, (2007) argue that labour regulation should pursue three inter-related and mutually reinforcing objectives: promoting human capabilities, improving job quality and encouraging the formalization of MSEs. Furthermore, the basic values of the Decent Work agenda should underpin labour reform and should recognize that all those who work have rights. Labour regulation should also be responsive: it should be designed through participatory processes and make use of periodic reviews; it should take into account the enforcement and application of labour regulation; and it should be targeted specifically at MSEs.

Across this broad field there are a number of topics of that are particularly pertinent to the ILO’s Decent Work agenda and the broader demand for economic growth and poverty reduction. Two topics in particular have emerged.

The first concerns the connection between labour and labour-related laws and growth. There is a pervasive view in the development community, led in part by the World Bank, which suggests that labour and labour-related laws and regulations contribute to the stifling of business and economic growth. The Employing Workers Index in the annual World Bank *Doing Business* assessments, for example, have been especially criticized in this regard. In the past, this index was found to disregard the provisions set forth in numerous International Labour Conference (ILC) Conventions and to dismiss the view that labour laws are often part of a package of complementary laws and policies designed to achieve a particular policy objective (Berg & Cazes 2007). A recent World Bank report on the effects of business environments on development suggests that labour regimes are one of the most significant issues of business environment reform that appear to affect enterprise growth (Xu 2010). Within this

and similar debates, further knowledge is required to better understand the link between labour and labour-related laws and business growth, and especially the link with MSEs and economic growth.

The second topic that has arisen within this field concerns the linkages between labour and labour-related laws and the formalization of informal enterprises. The concept of “formalization” refers to the process of encouraging an enterprise to move from various states of informality to becoming fully compliant with the legal and regulatory framework. The role of labour and labour-related laws and regulations in encouraging informality or discouraging formality is a central concern to the ILO. Fenwick, *et al.* (2007) demonstrates a critical inter-linkage between the goals of job quality for MSE workers and the formalization of MSEs. “It is not sufficient for regulation to be aimed broadly at formalization of MSEs”, they say, “without targeting job quality issues”. While labour and labour-related laws appear to play an important role in the formality-informality dynamic, more needs to be understood about the relative importance of this compared with other domains, such as taxation.

Norad has supported the ILO to undertake two projects that examine these issues: one in Africa, the other in South Asia. These projects have responded to the different regional and country contexts in which they operate and have been designed and managed differently. However, together they attempt to provide further knowledge on the connection between labour and labour-related laws and MSE employment.

2.1 Rationale for the Law-Growth Nexus Project

While the title of this project highlights the nexus between labour and labour-related laws and growth, much of the project’s rationale has focused on informality. The *Project Document* (ILO-Norad 2007) describes a continuum between enterprise formality and informality, indicating that enterprises may operate formally in some ways, such as by paying certain taxes, but also informally, such as by avoiding registration. The implementation of labour law among MSEs is likely to be poor and evasion or avoidance of laws and regulations is also likely to be particularly pronounced among MSEs.

The challenge for this project was described as the need to identify which approaches are best suited to both broaden and deepen the coverage of labour and labour-related laws to include MSEs. In particular, the challenge is to identify the “win-win territory” where it is possible to reduce MSE compliance or efficiency costs whilst not compromising the protection that should be afforded to workers through, for example, the implementation of international labour standards. Equally important, is the need to bridge the theory of legal provision with the practice of implementation.

The *Project Document* indicates that labour and labour-related laws are taken to include:

- Collective bargaining and freedom of association;
- Anti-discrimination and equal employment opportunity;
- Prohibitions on forced labour and child labour;
- Minimum wage;
- Overtime and working time limits;

- Paid time off;
- Social security (i.e., retirement, disability, death, sickness and health benefits);
- Unemployment insurance;
- Workers' compensation;
- Protection against unjust dismissal;
- Occupational health and safety standards;
- Parental and family leave;
- Employee consultation;
- Protection of rights and entitlements on transfer of undertaking; and
- Type of employment contract.

The *Project Document* describes three broad approaches that can be adopted to help labour and labour-related laws embrace MSEs.

The first is to exempt MSEs from the labour and labour-related laws. In some countries all enterprises below a certain threshold size, generally ten workers, are excluded from the scope of application of all labour laws. In other countries, some categories of workers are excluded due to narrow definitions of the employment relationship concerning for example "daily workers".

The second is to provide partial exemptions from certain specific statutes. This is where labour legislation covers all workers, but exempts MSEs from certain sections of the general statute (e.g., requirements to establish an occupational safety and health committee in the enterprise or the regulations concerning collective dismissal).

The third is to establish parallel labour regimes. A number of countries have adopted specific MSE laws as stand-alone texts separate from the principal labour laws. Countries have created parallel labour regimes for MSEs with lower standards regarding matters such as hiring and firing, paid vacations, working hours and social security as well as simplified administrative procedures.

The working hypothesis pursued at the outset of the project was:

1. Legal institutions and laws have a direct bearing on the formation and growth of enterprises.
2. Labour law is an important component of the broader enabling environment for sustainable enterprise development, but it typically presents a conundrum: striking a balance in terms of minimizing the cost of the regulatory burden on MSEs and thus enhancing the prospects for competitiveness and growth, without compromising the laws and regulations designed to protect those who work in MSEs.
3. Most countries in Africa have large informal economies and in practice, most MSEs in Africa operate in the informal economy, typically beyond the purview of laws and regulations. For many MSEs the decision to remain informal is deliberate because the costs and procedural burden of joining the formal economy outweigh the benefits of staying in the informal economy.

4. Workers in such MSEs typically lack job protection and benefits such as access to health and safety provisions, wage protection, insurances, pensions and unions. Informal MSEs also have restricted access to investment and credit. By being outside the formal regulatory framework, informal activity cannot be taxed which represents lost revenue to governments. Thus, MSEs operating in the informal economy can be a barrier to broader and sustainable economic development.
5. There is a continuum between formality and informality meaning that enterprises may operate formally in some senses (e.g., by paying certain taxes), but informally in other senses (e.g., by avoiding registration).
6. The implementation of labour law among MSEs is likely to be poor and evasion and avoidance of laws and regulations is also likely to be particularly pronounced among MSEs.

Based on the above working hypotheses the *Project Document* indicated the project would identify which approaches (i.e., regulatory and non-regulatory) are best suited to both broaden and deepen the formal coverage of labour and labour-related laws to include MSEs, increase efficiency of implementation and compliance by MSEs and at the same time improve the prospect of sustainability and growth of the MSE. The overall objective of the project was to promote better business environments for workers and employers in MSEs and to develop good practice guidelines for labour regulations for MSEs.

2.2 The Labour-Related Laws and the SME Growth Trap Project

In 2008 and earlier, Norad and the ILO initiated a parallel project dealing with this topic in South Asia. This project had a different genesis than the Law-Growth Nexus project. It grew out of a series of policy and legal assessments the ILO had previously conducted in India, Nepal and Pakistan, some of which Norad had also funded. These assessments identified policy and legal thresholds that exempted enterprises from full compliance with labour laws on the basis of enterprise size and contributed to policy-induced “growth traps”.

The Labour-Related Laws and the SME Growth Trap Project costs US\$432,691 and was designed to provide a framework for “brainstorming” and practical dialogue in two countries: India and Nepal. This brainstorming would be based on country cases drawn from sub-regional discussions and a global issues paper, which would be prepared by the ILO in Geneva (ILO-Norad 2007, *Project Document*). The dialogue was to take place among the ILO country constituents drawing in a range of policy makers, legal experts, individuals and organizations experienced in labour and labour-related laws, and others able to represent the interests of MSEs. The discussion points were to centre on:

- How the potential of MSEs for creating productive jobs can be harnessed better for the economic growth of the respective countries;
- How the compliance requirements of labour-related laws affect the growth and job creation potential of MSEs in these countries; and
- How the “growth trap” for MSEs can be eased while extending appropriate labour law requirements to MSEs so as both to ensure protection for their workers and to create an enabling environment for employment growth.

The existing knowledge base in India and Nepal on what constitutes a conducive policy and regulatory environment for the creation of quality jobs through growth of MSEs was to be consolidated and extended using case studies and cross references to similar ILO work being undertaken in other countries in and beyond the South Asia sub-region, such as the Law-Growth Nexus project in Africa.

The dialogue supported by this project was expected to result in:

- An agreed set of required labour law reforms or required improvements in labour law administration;
- An agreed set of pointers for policy formulation and implementation mechanisms;
- A set of capacity building measures with implementation strategies and achievement indicators for each of the ILO constituents in order to further their contribution to resolving the issues raised by the dialogue; and
- An inventory on the knowledge base and practical resources available to ILO constituents in resolving the relevant issues.

The project was originally designed to assess the labour and labour-related laws and MSEs in Bangladesh and Sri Lanka. However, since the launch of the project, there appear to have been a number of significant changes made to its design and strategy. These include the inclusion of Pakistan and Sri Lanka into the project and a decision to focus only on one state in India. Thus, the project has developed a broader South Asia focus.

The objective of the project is to contribute to policy and legal reforms that enhance the growth of MSEs in South Asia. Although the project refers frequently to dialogue and consultations, it is highly research-oriented. Three kinds of studies are involved:

Study 1: Review of the direct and indirect impact of labour laws on MSEs in the context of the overall business environment;

Study 2: A survey of MSEs in all four countries designed to assess the impact of labour and labour-related laws and other regulatory and non-regulatory barriers on employment growth in MSEs; and

Study 3: Ways of enhancing MSE coverage, enforcement and compliance with labour laws and labour-related laws.

This project places a high degree of emphasis on what it calls “growth traps”. ILO studies on the role of policies and laws on MSE employment have found that while governments in some countries have created mechanisms that exempt MSEs from full compliance with the labour law, this not only leaves workers unprotected, it also creates growth traps for enterprises close to the maximum threshold for the exemption. Exemptions of this kind may undermine the incentives for MSEs to upgrade their production and to produce for more demanding markets.

While these studies found that most MSE employers do not identify labour laws and regulations as a principal constraint to growth, general exemptions appeared to reinforce a view that MSEs should be

treated differently. Thus, the regulatory system can promote or hinder MSE growth, as can various kinds of non-regulatory instruments. General exemptions of MSEs from labour laws and regulations leave many workers unprotected and have a negative effect on job quality. Exemptions create a growth trap by providing incentives for enterprises close to the exemption threshold size to either stop hiring workers or to hire informally. To examine the possible effects of sized-based regulatory-thresholds, the project will survey firms above and below the thresholds in each country or state to determine the extent to which labour law contributes to or hinders growth, compared with other regulatory and non-regulatory items.

The role of labour and labour-related laws in inhibiting or enabling employment growth in MSEs is the central concern of this project. However, there is also an interest in determining the extent to which regulations influence enterprise growth. Results from the first reports highlight the role of business licensing procedures in inhibiting growth, as well as the role of incentive and subsidy schemes in promoting growth. This includes the practice of exempting MSEs from taxation. Thus, the MSE survey endeavours to assess the extent to which labour law and other regulatory instruments enable or inhibit employment growth in MSEs, and will compare these to determine which instruments are most influential.

2.3 General remarks on information and knowledge gaps and the two labour and MSE projects

Both Norad-funded projects have sought to contribute to the broader discussions on the links between labour and labour-related laws and MSE employment and are essentially knowledge or research-based projects.

The Law-Growth Nexus project in Africa has sought to work across a wide range of countries: twelve countries in the first nine months, six countries in the following nine months, and two in the last six months – although the project had originally planned to work in only one country in the last phase. The project began with a general mapping of the labour and labour-related laws and institutions in twelve countries and then deepened this in a subsequent study in six countries.

The Labour-Related Laws and the SME Growth Trap project in South Asia began with a focus on two countries and expanded this to four countries. While the *Project Document* indicates the project would provide a framework for dialogue, to-date significantly greater attention has been placed on a detailed survey of MSEs in the four countries, which focuses on growth traps. These surveys are currently being conducted.

Despite its name, the Law-Growth Nexus project has focused more on the relationship between labour and labour-related laws and informality than on enterprise or economic growth. While growth is referred to when contextualizing and justifying the project, this issue is not given much attention in the project's analysis. The Labour-Related Laws and the SME Growth Trap project focuses on one aspect of growth: the dynamics of labour and labour-related laws and growth traps.

The Labour-Related Laws and the SME Growth Trap project appears to provide a short list of very clear questions or issues that the project is attempting to address. These provide a valuable framework for understanding how the project will contribute to the gaps in knowledge on this topic.

In contrast, the Law-Growth Nexus project provides some very broad statements on the links between labour and labour-related laws, MSEs and informality. Most of these statements appear to have been taken from the ILO's background report prepared for the ESP discussions (ILC 2006). The project identifies six hypotheses which, presumably, will be tested by the project. Most of these are clear and valid, but it is unclear how the project would effectively interrogate them. This matter is addressed in the following chapters.

One respondent to this evaluation indicated that the challenge in this field of work is not with diagnosing the problem, but with finding solutions. It is assumed by this comment that there is a general understanding that labour and labour-related laws have a negative impact on MSE growth and formality. If this is the case, then the challenge is to find ways to reform labour and labour-related laws for MSE employment, without undermining the social gains enshrined in the ILS. However, the challenge in this field may not be so straightforward. If, indeed, there is a negative relationship between labour and labour-related laws and MSE growth and formality, then this relationship needs to be better understood.

From an ILO perspective, there is a bottom line to the kinds of reforms that can be introduced in this field without undermining the core labour standards, as argued by Faundez (2008). Thus, both projects are searching for "win-win territory". However, finding this territory, if it exists, requires careful analysis of the problem as well as closely documenting experiments and pilot reforms to find out what works and what doesn't. It also requires careful monitoring of existing reform efforts and the identification of good, best and bad practice in this field.

One area where the diagnosis may be already well established is the perception of MSE owners and managers. A great deal of attention appears to be given to how MSE owner-managers perceive the labour and labour-related legal and regulatory framework and its influence on enterprise growth.¹ It is not surprising to discover that many MSE owners and managers perceive this negatively. Here, it is clear that the diagnosis of the problem needs to move on and go deeper.

Overall, the influence labour and labour-related laws have on MSE growth, formality and job quality is a highly relevant field of research and dialogue for the ILO. There is much to be learned and the Norad-funded projects appear to provide a significant opportunity to do this.

¹ A number of the Phase 2 reports cite MSE owner perceptions of the legal and regulatory framework, while the MSE surveys conducted under the Labour-Related Laws and the SME Growth Trap project in South Asia also focus on this issue.

3 Assessment of project design and strategy

This chapter examines the manner in which the project was designed and the strategy it employed. Overall, the Law-Growth Nexus project has been designed as an action-research project. It has sought to collect information on the issues surrounding labour regimes and the extent to which MSEs are able or encouraged to comply with these. It has looked for good practices in the design and application of labour law in relation to MSE employment and sought to distil these practices into lessons learned and recommendations for policy makers, social partners and practitioners.

3.1 Project design and strategy processes

Officials from SEED, in consultation with Norad, designed the project in Geneva. In an interesting anecdote, the draft proposal was sent to Norad for comment as a work in progress, but within a few days Norad responded indicating the proposal had been approved. Thus, there were aspects of the *Project Document* that its drafters considered incomplete or in need of revision. Some respondents have indicated that the small size of the project, when compared with other ILO projects, was perhaps one reason why greater attention was not given to ensuring the *Project Document* was carefully reviewed before it was implemented.

Upon approval, SEED moved quickly into the process of implementing the project and recruiting staff. While the issues associated with the project's implementation are described in the following subsection, it is relevant to note that the project's design continued as ILO officials in Geneva commenced consultations with the relevant sub-regional offices in Africa. A key role of field specialists located in the sub-regional offices was to ensure that national stakeholders contributed to the final preparation of the project. However, this does not appear to have occurred.

In May 2008, a project inception meeting was held in Dar es Salaam, Tanzania. While this meeting signified the start of project implementation (i.e., project inception), it also provided the first opportunity for ILO officials in Geneva to engage directly with the enterprise specialists located in the sub-regional offices. However, a number of ILO field specialists indicated that they considered this process as too little, too late. This view is contested by Geneva-based staff who claimed it was not possible to consult with field specialists any earlier.

Some enterprise specialists expressed their concern during the Dar es Salaam meeting about the difficulties that would arise in the gathering of information required for country mapping and considered criteria for the selection of countries to be involved in Phase 1. Four factors were identified as especially interesting for the justification of country choices (Paurell Mission Report, May 2008):

1. Differentiation and balance in represented legal traditions;
2. Balance between sub-regional offices;
3. The country's "beneficence" from the project – which, presumably, refers to the extent to which local reform processes and stakeholders would benefit from being a part of the project; and

4. The projects “beneficence” from including the country – which, presumably, refers to the value for the project that would be created by including the country.

At the country level, many respondents indicated they were not involved in the design of the project in their country. The project was seen as a Geneva-conceived and designed project in which they had little or no part to play. One respondent put it this way: “We had no choice but to comply with the donor’s desires”. Furthermore, many country-level respondents indicated they had never seen the *Project Document* or any other documents related to the research and dialogue undertaken in other participating countries. Indeed, a number of respondents did not realize the activities were part of a specific project. Instead, they understood it to be a part of normal ILO activities. Geneva-based ILO officials have indicated that it is not normal to share project documents with project partners in a project of this kind. These officials do not share the view that the project management was overly centralized. Indeed, this project differs from many other ILO projects in that it originated from discussions that were held in Geneva, rather than from the field. However, while the origins of the project are acknowledged, it is clear that more could have been done to involve ILO field specialists and selected country representatives in the final stages of the project’s design.

3.2 Assessment of the logical framework

The project’s logical framework describes the development objective as: “Better business environments for workers and employers in MSEs”. The project’s contribution to this objective is measured by:

- More MSEs operate in the formal economy; and
- Better implementation of labour and labour related laws among MSEs.

The link between the development objective and the immediate objective, described below, is tenuous. The ILO’s Decent Work agenda and its focus on the promotion of sustainable enterprises highlight the importance of better business environments for MSE employers and workers. However, this appears to be beyond the reach of a two-year project of this sort. While a development objective should be far-reaching, it would have been more realistic and strategic to frame this in a manner that more clearly shows the link between this project and the broader development aspirations of the ILO’s enterprise development work. For example, the development objective could have referred to the generation of knowledge that would improve reform processes or building the capacity of tripartite actors to engage in reforms that improve the business environment for MSE employers and workers.

It is unclear whether this development objective is located within one or all of the participating countries or in every country. If it is assumed that the objective applies to only the project countries, then are these the twelve countries participating in Phase 1, or the one or two countries selected for Phase 3? While it may have been intended that the development objective would provide a long-term desirable impact that the project would contribute to, it reads as idealistic and unrealistic.

To date, there has been no assessment of the above indicators to determine whether or not these changes have occurred. The terms of reference for the current evaluation (i.e., this report) do not include an assessment of these broader issues of the project’s impact.

There is one immediate objective described in the project logical framework: “Good practice guidelines for labour and labour-related laws for MSEs developed”. This is a poor objective for a project of this kind, especially since the guide is repeated as an indicator of the objective.

The objective of the project should have been framed around the use of the outputs and the results this achieved. For example, indicators could have been formulated to measure the success of the project in increasing awareness among project partners in six countries of the challenges of promoting growth in MSEs while complying with the ILS and formulating reform strategies that successfully address these challenges. The focus of the objective should have been on the generation of knowledge (including the testing of the project’s hypotheses) and the project’s contribution to dealing with the challenges found in the law-growth nexus. Producing a set of guidelines is a valuable output of the project, but not an objective.

The three indicators of success in achieving the immediate objective cited in the *Project Document* are equally problematic:

1. Development and adoption of good practices or policy reforms by governments through:
 - a) developing an understanding of the role and dynamics of legal requirements, including labour law, in creating a conducive environment for growth of small enterprises and jobs;
 - b) an agreed set of parameters for policy formulation and implementation mechanisms;
 - c) an agreed set of required labour law reforms and/or required improvements in labour law administration;
 - d) a set of capacity-building measures with implementation strategies and achievement indicators for each of the countries.
2. Guide and training materials prepared;
3. Establishment of tripartite dialogue on policy reform in six countries.

The first indicator listed above suggests that an assessment would be conducted to determine if the capacity of governments has increased to effectively implement labour and labour-related law reforms with respect to MSEs. No baseline data has been prepared by the project to determine this capacity before the project began or as it got started; an assessment of this sort is beyond the scope of this evaluation. Thus, this indicator does not appear to have been treated seriously.

There are two other major problems with this indicator.

The first problem is that the improvement of government capacity appears to be an objective, rather than an indicator. Typically, indicators would be used to measure how capacity has been improved (e.g., improved skills, increased awareness, new practices introduced, better access to resources).

The second problem is that the indicator does not appear to match the activities performed by the project. In the three countries the project focused on in Phases 2 and 3 (i.e., Kenya, Liberia and Zambia) a few workshops were held with tripartite representatives. In Liberia only one workshop was held. These workshops involved a handful of government representatives. Thus, it is unrealistic to imagine that the capacity of the Governments of Kenya, Liberia and Zambia improved as a result of the project's interventions.

The second indicator of success cites an awareness survey of law reform among governments, donors and social partners. To date, no survey of this kind has been conducted and it appears that the project activities were not designed to meet this indicator.

The third indicator refers to the implementation of reforms in one country. This is a broad and ambitious indicator for a two-year project such as this. While the project's Phase 3 activities in Kenya were focused on supporting the implementation of a reform agenda, it is shown in the following chapter that this was an unrealistic expectation. Reform-support programmes need to be well targeted and, typically, provided over a significant period of time.

The critique of the above objectives and their indicators is not semantic. It concerns the strategic focus of the project and its contribution to desired broader development outcomes. There is an obvious demand for this project internationally, as expressed by member States, Employers' Organizations and Workers' Organizations in the ILO. There also appears to be a clear demand for this project within some developing economies, where most employment is found in the MSE sector. However, poorly framed objectives and inappropriate indicators undermine the potential contribution this project can make to meeting these demands.

The *Project Document* describes four outputs:

1. The labour code and related laws and their coverage and application to MSEs in about twelve countries mapped.

This is an appropriate output – it is a specific product resulting from project activities.

2. Six country case studies elaborated which present interesting examples or innovative approaches to the application of labour and labour-related laws in MSEs.

This is an appropriate output – it is a specific product resulting from project activities.

3. Support to the implementation of agreed labour law/administrative reforms in one country.

While the ILO claims that this output was a specific request of the donor (i.e., Norad), it does not appear to be an appropriate output because its achievement is dependent on the use of other outputs that are beyond the control of the project. It is not possible for the project to guarantee that a reform is implemented and *support* for implementation is not, in itself, an output. The implementation of a reform by government is a relevant outcome of the project, rather than an output.

An additional concern with this output is its feasibility within a two-year timeframe. Legal reforms can take time and it is unrealistic to imagine that this project could support a full reform process within two years.

4. Improved social dialogue centred on labour and labour-related laws and MSEs.

As with the third output, this output appears to be an outcome of the project. The project cannot produce improved dialogue. This can only be achieved if the partners to the dialogue make use of the project outputs and adapt their behaviour based on this.

As argued above, the production of good practice guidelines, which was presented as the objective of the project, would in fact, have been better stated as an output. Indeed, as the following chapter explains, the production of guidelines and training curriculum appear to be valuable planned outputs of this project.

In summary, the design of the project's logical framework could have been improved by addressing four issues.

Firstly, the immediate objective might have been better framed around the desired impact of key project outcomes based on the use of project outputs, such as "improved social dialogue centred on labour and labour-related laws and MSEs". Within a two-year timeframe, it is realistic to envisage that social dialogue on this topic could be improved. Increasing the capacity of government, currently an indicator of the project's immediate objective, could be a relevant objective (rather than indicator), but this would require a much greater investment into government capacity building than what the project envisaged.

Secondly, the development objective could be more focused. While the broader goal of producing better business environments for workers and employers in MSEs is understood, this project's contribution to this can only be limited. Thus, it may have been better to design a development objective that is more closely linked to the immediate objective. For example, the development objective might have focused on improving compliance by MSEs to labour law. Alternatively, the project could be contributing to a broader understanding of the labour law and growth nexus, such as through reforms that promote enterprise growth and improve the quality of MSE employment, in participating countries.

Thirdly, the indicators of achievement of the immediate objectives need to be formulated to measure this objective, rather than restate or duplicate the objective. Furthermore, if a survey of government, donor and social partners is required to measure this objective, then it should be planned within the project activities. This does not appear to have been done.

Fourthly, the outputs should be designed as easily measurable products that result directly from the project's activities and are not dependent on the actions of external actors.

Good project design supports effective project management and can contribute to effective outcomes and impact. A good project design should describe how an action-research project such as this contributes to broader development outcomes. This was a relatively small project for the ILO in financial terms, but very ambitious in terms of scope and timeframe. It dealt with a topic of great importance to the ILO and its social partners.

4 Assessment of project outputs and results

This chapter evaluates the project outputs and results and reports on the way in which it was managed. The effectiveness and efficiency of the project in achieving its outputs and results is scrutinized, including the flexibility and adjustability to implement the activities according to real conditions.

4.1 Project outputs

The project's progress towards achieving its four outputs is evaluated below.

Output 1: The labour code and related laws and their coverage and application to MSEs in about twelve countries mapped

Progress toward achievement: Fully Achieved

The project has produced twelve country mapping reports. These reports appear to provide a useful basis for learning more about labour and labour-related laws in these countries and their application to MSEs. The reports also provided a basis for the selection of the six countries for further investigation (See Box 1).

Box 1: Phase 1 mapping reports

Burkina Faso, produced by Ahmed Sadj, July 2008

Cameroon, unknown unspecified, undated

Ghana, produced by Graeme Buckley, April 2008 (first draft only)

Kenya, produced by Charles O.Nyang'ute, July 2008

Liberia, Produced by Jonas Paurell, undated (draft only)

Mali, produced by Hammou Haïdara, April 2008

Mozambique, author unspecified, October 2008

Rwanda, author unspecified, October 2008

Senegal, produced by Ahmed Sadj, July 2008

South Africa, author unspecified, October 2008

Tanzania, produced by Alvaro Ramirez, May 2008 (draft only)

Zambia, produced by Silane K Mwenechanya, November 2008

The project produced a common mapping template for researchers to use when preparing their reports. Local consultants were generally commissioned to write these reports, with the exception of three, which ILO officials or project staff prepared.

Many respondents expressed dismay that there was very little local engagement with these reports. In most of the 12 countries, no validation or stakeholder workshops were conducted. The reports were simply prepared and sent to Geneva. While this may not have been the intention of the project (which largely sought to use selected countries as units of research), the organizing of local research did appear to build up local expectations that were then largely unfulfilled. In addition, at least three of the 12 reports produced from this phase of the project still appear to be in draft form.

ILO field specialists were involved in the process of recommending local consultants and often provided backstopping support to the consultants. However, very few of the specialists interviewed were involved in reviewing the draft reports and in most cases they simply provided a local link for the Geneva-based project.

While the *Project Document* does not stipulate it, it is disappointing to see that the project was not able to prepare some kind of synthesis report on the outcomes of this phase and on the general findings of the twelve studies. It is assumed that the selection of twelve countries for mapping and review was on the basis that there would be some value in comparing the findings of these studies. This would allow the project to determine common characteristics and common challenges or issues that require further investigation. While the project planned to produce a guide and training package on these matters at its conclusion, it would have been very useful to synthesize the findings of the first phase of the project and to explicitly show how these findings were used to contribute to the second two project phases.

Output 2: Six country case studies elaborated which present interesting examples or innovative approaches to the application of labour and labour-related laws in MSEs

Progress toward achievement: Fully Achieved

Six country reports were produced covering Kenya, Liberia, Rwanda, South Africa, and Zambia. These were largely described as extended versions of the Phase 2 reports. They were intended to “illustrate interesting examples or approaches for further analysis, identifying the costs and benefits of different labour law regimes on the formation and growth of MSEs (from the perspective of both entrepreneurs and those who work in MSEs)” (*Project Document* ILO-Norad 2007, p. 6).

These studies were to be used as a basis for “country level workshops and policy dialogues” in order to “increase awareness of the effects of legal structures, laws and specific labour and labour-related laws on the development of MSEs”. This would lead to increased capacity of governments to effectively implement labour and labour-related law with respect to coverage of MSEs and to the adoption of good practices or policy reforms by governments.

The reports and subsequent policy dialogue were designed to assess (*Project Document* ILO-Norad 2007, p. 6):

- The potential of MSEs for creating decent and productive jobs and how this can best be harnessed for the economic growth of the respective countries;
- The compliance requirements of labour and labour-related laws and how they affect the growth and job creation potential of MSEs in these countries;
- How the “growth trap” for MSEs can be eased while extending appropriate labour law requirements to MSEs so as to create an enabling environment for employment growth whilst protecting the rights of workers;
- The key aspects of the broader legal structure and institutions which impact on the formation and growth of MSEs; and
- Emerging international good practices.

While it is clear that these reports contain a variety of useful information, there appears to be a lack of consistency in their focus, quality and outcomes. While each of the six countries are different and a degree of variation in the reports is to be expected, the comparative value of the findings presented in these reports appears to be undermined by the different purposes and approaches used (See Box 2).

Box 2: Overview of the Phase 2 reports written in English

Phase 2 Report: Kenya (and East Africa)

Report title: *Second phase study: Labour related and MSE development in Kenya; East African community labour harmonization framework*

Date of final version: November 2009

Author: Unstated

Study aim or purpose

The goal of this Second Phase of the Study is to compliment the outcomes of Phase One of the Law-Growth Nexus study. The broad objective of Phase Two is to explore if a rights based approach to enterprise development, that is, combining access to commercial incentives with labour law requirements can promote sustainable formal employment and promote a decent work agenda within the MSEs.

The specific objectives of the study are to:

- Provide a complete image of how MSEs are regulated and how they respond to these regulations;
- Analyse the employment relationship in the MSE sector;
- Identify and explore factors fostering MSE development in the current labour law and regulatory regime;
- Explore the kind of incentives that labour laws and regulatory framework is providing/could provide to promote vertical growth of the MSEs;
- Explore and analyze the key areas in the commercial legal and regulatory framework that are most likely to contribute to the graduation of MSEs from informal to formal enterprises, and thus could be used as incentives for MSEs for compliance to basic labour laws and regulations;.

- Explore innovative procedural arrangements to promote labour laws in the informal economy and in particular the role of social partners; and
- Provide brief information on the harmonization of the national labour law and regulatory frameworks within the East African Community.

Study methodology

This study was conducted in two parts.

Part one involved a desk research on the East African Community's (EAC) regional framework in regard to labour and the harmonization of national labour, legal and regulatory frameworks. The main reference materials were reports from the ILO's Strengthening Labour Relations in the East Africa (SLAREA) project, the country/regional position and discussion papers of the EAC and its member states and Articles of the EAC. Vital secondary information was also obtained through review of relevant research reports, and government policy documents.

Part two involved consultations with relevant ILO constituents and other stakeholders in Kenya. This process was conducted by the consultant and the ILO personnel (Jonas Paurell). The consultations involved an assessment of relevant laws and regulations and their impact on the formalization of MSEs. The consultations also focused on establishing a rights-based approach to application of the labour laws and identification of appropriate incentives that labour laws and the regulatory frameworks can provide to facilitate graduation of MSEs into growth-oriented enterprises with capacity to create productive and durable employment opportunities. These views were collated and presented to the partners and stakeholders in a National Labour Growth Nexus Workshop held in Nairobi on 31st March to 1st April, 2009. The views expressed in the workshop were also analyzed and incorporated into the report as appropriate.

Phase 2 Report: Liberia

Report title: *Study of legal constraints to development of MSEs in Liberia*

Author: Agency for Economic Development and Empowerment

Date of final version: March 2010

Study aim or purpose

This study is concerned with the PLRF [policy, legal and regulatory framework] and will address the three-folded challenge of creating an environment that advocates Decent Work, lowers the cost of operating an MSE and increases the benefits of formalization. It will explore how a 'rights-based approach to enterprise development' (i.e. the coupling of access to commercial incentives with labour law requirements) can take on this challenge to promote sustainable formal enterprises and Decent Work. The purpose of this study is to: (i) identify binding constraints in the business PLRF to the promotion of sustainable MSEs, (ii) identify actions that will promote Decent Work, and (iii) identify regulatory (or non-regulatory) actions that will increase the benefits of formalization.

Study methodology

The following methodology was applied:

Desk review of labour, transport, and commercial laws was conducted. The drafted Micro Small and Medium Enterprise (MSME) policy and the Decent Work Bill respectively were also major sources of information for this study.

Consultations and key informant interviews: including the ministries of labour, commerce and transport, the Liberia Chamber of Commerce, the National Investment Commission, the Liberian Business Association, Liberia Labour Congress, the Fulani Governor, the Cattle Union Association of Liberia, and the Transport Union Association.

Focus Group Discussions with actors across the Fulani group and the transport sector (49 participants in total, two of whom were women).

Phase 2 Report: South Africa

Report title: *Report on Compliance to Labour Law by MSEs (micro and small enterprises) in South Africa*

Authors: Christine Bischoff, Anton Roskam and Edward Webster

Date of final version: 28 April 2010

Study aim or purpose

The aim is to examine the factors hindering compliance to labour law by the MSEs and recommend practical ways of increasing the compliance. Specifically, the study focuses on the provisions contained in the key labour legislation that present practical difficulties for the MSEs in order to provide protection to the workers and attain enterprise growth beyond the application thresholds of the legislation.

The following challenges and issues were identified as likely areas that posed practical difficulties for compliance by the MSEs:

- conditions of work (i.e., dismissals, recruitment, working time, leave and sectoral determinations);
- employment equity (discrimination against and representation of previously disadvantaged groups); and
- atypical workers (i.e., outsourcing, labour brokering and part-time contracts minus informal and self-employment) engaged in the MSEs.

Study methodology

The methodology for the inquiry involved the following:

- Completing the remaining information on the 'Profile' prepared during the First Phase
- Review of the Labour Law relevant for the MSEs in South Africa and literature regarding application and compliance
- based on specific compliance requirements of the Labour Law

- Consultations with 30 labour law “informants”.

The investigation for this study centred on the following questions:

- What are the specific provisions in the labour law (specific to the MSEs including exemptions) affecting workers’ protection and enterprise growth?
- Are the MSEs fully aware of the compliance requirements? How do the MSEs deal with the compliance requirements to the above provisions?
- What are the costs and burdens associated with compliance as well as non-compliance?
- Are the workers fully aware of the labour law protection accorded to them? How do the workers perceive the merits and demerits of compliance to the above provisions from the view of their own interests?
- How far is the State aware of the compliance behaviour and worker attitude in the MSEs? What measures are being discussed to increase compliance?

While the legal provisions, bureaucratic procedures and enforcement capabilities are important for the application of the labour law, compliance behaviour of the MSEs was obtained through field research using the survey method.

The survey followed three distinct stages:

- A draft questionnaire drawn up and piloted in May 2009 at a small leather belt factory in Gauteng. Arising out of this face-to-face interview with the owner of the factory to test the questionnaire, it emerged that face-to-face contact with the companies was necessary. This required more time than originally budgeted.
- Choosing four to five key enterprises in three sectors, namely clothing manufacturing, leather (footwear) and metal and engineering industries and visiting fourteen enterprises to carry out a “focused survey” of their compliance to labour law.
- Analyzing the data from the interviews and developing a series of propositions on compliance which we then discussed with key informants. The thirty key informants were drawn largely from consultants in the sectors and included key decision-makers such as trade union officials, government officials and bargaining council officials.

Phase 2 Report: Zambia

Report title: *Labour related and SME Development in Zambia*

Author: Unspecified

Date of final version: February 2010

Study aim or purpose

The aim or purpose of the study is not described in the report.

Study methodology

The report does not contain any explanation or justification of the methodology employed. From a review of the report, the methodology mainly involved a review of literature and a mapping of key actors. There does not appear to have been any survey or consultations carried out and many of the claims made appear to be unsubstantiated.

It appears that while a common template was used to guide consultants in the first phase country mapping, no such templates were provided to the consultants commissioned to produce the six Phase 2 country reports. The Phase 2 reports differed from the Phase 1 reports in that they focused on specific concerns and interests raised in the Phase 1 reports.

Three national workshops were conducted in Kenya, Liberia and Zambia and workshop reports produced. However, it is unclear why the other three countries did not conduct workshops on the findings of the research. Many respondents indicated this was a major shortcoming of the project. It created a situation where local actors, such as government officials, Employers' Organizations, Workers' Organizations and representatives from other civil society organizations, were approached by the national consultants for information relevant to the study they were undertaking, without any follow-up or report-back on the findings of this study.

A number of respondents raised concerns regarding the workshops and meetings held in Kenya and Zambia. The *Project Document* suggests that workshops and other forms of local engagement would take place using existing social dialogue structures in order to discuss the findings of the national research. However, while there were a number of workshops and technical meetings held in Kenya and Zambia, the content of these discussions did not deal substantially with the content of the Phase 2 reports. Thus, the link between the national assessment and the social dialogue appeared to be missing. In the case of Zambia, two respondents indicated they had never seen the Phase 2 report and were unaware it had been produced.

As with the completion of the first phase, it is surprising that there were no documents prepared that attempted to compare the findings of the six reports and workshops in order to distil common characteristics and concerns, or good or bad practices. It would have been particularly useful to synthesize the six study findings in terms of the six hypotheses that the project was designed to test. There is no evidence to suggest that these hypotheses have been used to frame or analyze the research or its findings.

Output 3: Support to the implementation of agreed labour law/administrative reforms in one country

Progress toward achievement: Achieved to a very limited extent

The project worked in Kenya in all its three phases. By August 2010, it was clear that the project provided technical advice to the MSE Bill in Kenya. However, at the time of writing, the bill has not been passed, although this was expected to pass later in 2010.² It should be noted that very little reference is made in the MSE Bill to labour law and the challenges faced by MSEs. In general, the project's advice on this bill focused on a range of ILO concerns and ensuring these were contained in the bill. Thus, the

² Interestingly, on 5 August 2010, the Business Day in Nairobi carried an article titled "Stalled Bill Hurts SME Investors" in which representatives of the MSE sector express their concerns with government's lack of urgency toward the passing of the bill. See: <http://allafrica.com/stories/201008060025.html>

project's contribution to reform was not focused on labour law and MSEs. Indeed, the reform, in the shape of the MSE Bill, has not been implemented.

In Zambia, the project provided technical advice on the draft Employment Bill. This advice was presented in workshop discussions with the tripartite parties and in a formal memorandum. However, it is clear that this reform is a long way from being implemented.

Another indicator cited in the *Project Document* was the publication of a guide on labour laws for MSEs. This guide is currently a 108-page draft document, which has not been completed and is being peer-reviewed. A consultant was commissioned under the Project Manager's direction to prepare the guide and this was reviewed by Colin Fenwick from the ILO's Social Dialogue Department. The current draft guide does little to report on the testing of the six hypotheses that were used to frame the project.

The final indicator on this output was the preparation of a training package on MSE labour laws. This output has not been completed and the project manager was unwilling to allow this document to be reviewed for the purposes of the evaluation because much more work is required on it.

While it appears that the original purpose of this training package was to form a part of the broader business environment reform programme offered by the International Training Centre in Turin, Italy, it seems this is no longer the plan. The project manager has indicated that the training package is currently being prepared based on the workshops that were run in various countries. It would contain case studies and is intended for "local organizations". It is also being designed in a format that requires a person knowledgeable in labour law.³

Output 4: Improved social dialogue centred on labour and labour-related laws and MSEs

Progress toward achievement: Partially Achieved

While the project supported a range of dialogue discussions between tripartite partners in Kenya and Zambia, it is not possible to determine whether or not social dialogue has been improved. Where a survey was to be conducted on this issue, which presumably would have shown changes in the social partners' capacity to engage in social dialogue on this matter, this survey did not occur.

Based on the stated project outputs alone, this project has not performed well. While it has produced the reports required in the first two phases of the project, the quality and value of these reports vary greatly. The project's contribution to implementing agreed reforms has been minimal, while its improvement of social dialogue in participating countries has been ad hoc.

However, these outputs and the project's achievement toward them are an inadequate representation of what the project has achieved. This discussion is taken further in the section below where the results or outcomes of the project are considered.

³ Email correspondence: Jonas Paurell, 17 August 2010.

4.2 Project results

The desired results of the project are best expressed through its immediate objective: “Good practice guidelines for labour and labour-related laws for MSEs developed”. However, as indicated in the previous chapter, this objective does not appear to be well framed within the logical framework: good practice guidelines are an output of the project rather than a result.

The logical framework identified three indicators of achievement of the immediate objective, which are discussed below.

Results indicator 1: Development and adoption of good practices or policy reforms by governments

Progress toward achievement: Not achieved

There is no indication that any of the participating country governments have developed and adopted good practices or policy reforms through the project’s interventions. However, in defense of the project, this indicator is unrealistic and inappropriate. As indicated previously, it takes time for partner-governments to develop and adopt good practices and policy reforms.

Results indicator 2: Guide and training materials prepared

Progress toward achievement: Achieved to a very limited extent

As indicated above, the guide and training package have not been finalized by the time of the evaluation. The 108-page draft guide is still being reviewed and a first complete draft of the training package has not yet been produced.

The training package has not been produced.

Results indicator 3: Establishment of tripartite dialogue on policy reform in six countries

Progress toward achievement: Achieved to a very limited extent

While tripartite dialogue workshops on possible policy reforms were held in Liberia, Kenya and Zambia (i.e., three countries and not six), it is not possible to claim that dialogue on these issues has been established or sustained. While the project’s activities included the facilitation of dialogue in three countries, there is no evidence to suggest that a result of the project was that this dialogue has been established in six countries.

4.3 Project effectiveness and sustainability

The project outputs and results clearly show an inadequacy of the project in achieving what it set out to achieve. However, it would be wrong to draw a conclusion from this that the project produced few results. Indeed, in many areas the lack of progress towards achieving the outputs and results were hampered by a poorly formulated logical framework.

Country-level respondents have indicated that the project did provide valuable information on labour laws and MSEs and succeeded in raising these issues as important concerns among the participating social partners. Furthermore, it is clear that the project provided useful and relevant technical advice to reform efforts that were underway in Kenya and, to a lesser extent, Zambia. These are significant country-level effects that the project can be proud of and which appear to be appropriate for an action-research-based project such as this.

While difficult to measure, it is assumed that there will be some degree of sustainability to these awareness-raising efforts. It is likely that the social partners in Kenya and Zambia will be able to continue their efforts in considering labour law reforms and, at the very least, ensure this topic remains a reform agenda. The second Labour-Law Nexus project planned for 2010-2012 in Kenya, Zambia and South Africa will clearly boost the sustainability of these initiatives. However, no further project support is proposed for the other countries that participated in the project.

At a global level, the effectiveness of the project is difficult to measure. By the end of the project (i.e., end of August 2010) the two global products or project outputs (i.e., the guide and training package) have not been finalized. As a result, it is difficult to evaluate or assess the quality of these products and their contribution to the global knowledge of labour law and MSEs.

The current draft of the guide is an extensive document that takes a lot of effort to draw key findings from. There are few references to lessons that policy makers or reformers can apply and, in general, the document is more descriptive than analytical. The major recommendations contained in the guide tend to over simplify the issues and are not what can be considered new, especially when compared with the ILO documents produced on this topic in recent years, some of which were cited in Chapters 1 and 2 (See Box 3).

Box 3: Recommendations contained in the current draft guide

- Dialogue: Ensuring informal actors participate in the reform process;
- Disaggregate the informal economy: Tailor reforms to the different sectors of micro, small and medium-sized enterprises;
- Affordability: Reduce the cost for SMEs to comply with legal and regulatory requirements;
- Accessibility to the law: Simplifying complex laws and providing access to general education and sector-specific training;
- Accountability: Create a structure for greater accountability between state and informal actors;
- Spread the word: Dissemination of labour laws, regulations and policy to the informal economy; and
- Follow-up: Monitor changes in the informal economy and survey reforms that work/do not work for micro, small and medium-sized enterprises.

While the country mapping reports (Phase 1) and country reports (Phase 2) vary in quality and usefulness, it is clear that the collection of these reports contains a wide range of valuable information that can be synthesized and used to address the current global knowledge gap concerning labour laws and MSEs. However, the project has not yet succeeded in drawing out this information. The guide and training package would have provided good platforms for doing this, but these have not been completed.

The project appears to have contributed to highlighting the political and technical significance of this topic to the Job Creation and Enterprise Development Department. While other ILO departments and units work on job quality concerns, this project's focus on MSE employment places it firmly in the terrain of enterprise development and importance of job quality in the promotion of sustainable enterprises.

Finally, more attention could have been given to discussing the synthesis of findings that come from the country mapping and country reports. While it is acknowledged that limited project funds constrained this kind of activity, greater effort should have been given to the organization of regional seminars on the topic and the findings of the reports. This would have been a useful means through which project partners, staff and ILO officials could better understand the findings of the research and contribute to the process of turning the findings into valuable policy advice.

The above shortcomings undermine the sustainability of the project to contribute to global knowledge on this topic.

4.4 Project management

At the beginning of the project, a consultative team located in SEED in ILO, Geneva, provided guidance on project management. This team included Martin Clemensson, Manager, SEED, Graeme Buckley, Senior Enterprise Specialist in SEED (with responsibilities for business environment reform), Gopal Joshi Senior Enterprise Specialist in SEED, Alvaro Ramirez Bogantes, SEED (who left the unit in 2009) and Jonas Paurell, the project manager. Colin Fenwick of the Social Dialogue Department in Geneva was an occasional participant in the team. Dag Larsson, a senior advisor in Norad in Oslo attended some meetings of the project team. In the early stages of the project, it was reported that some members of the team met regularly. However, it appears that over time the frequency of these meetings declined.

While originally conceived as a management team, it has been reported that the above group tended to provide general guidance and advice. Most management issues were left to the project manager who reported to the backstopping officer.

It was originally envisaged that ILO enterprise specialists from the relevant field offices would participate in the management of the project, especially by backstopping local project activities and coordinating consultations and workshops. However, as reported earlier, most respondent specialists indicated they were only invited to perform a minimal role in this regard and were not able to contribute to broader project management discussions.

Jonas Paurell, a recent law graduate from Sweden specializing in labour law, was originally recruited to the project as a technical advisor. He then became the project co-ordinator and, shortly afterwards, the project manager. The project manager was responsible for managing all the activities of the project.

Various ILO officials who participated in the project team provided guidance to the project manager and engaged in discussions concerning strategic decisions of the project. The team also provided a platform on which the findings of the project could be discussed. Some of these people had previously participated in ILO discussions on the connection between labour laws, growth and MSE employment or had prepared resource materials for these discussions. They included experienced professionals in business environment reform and enterprise development. Thus, there was a breadth of knowledge and experience, particularly in the early stages, which was useful in positioning the project and ensuring its outputs could link up with other technical work undertaken by SEED.

The project did not develop any management or coordination mechanism within the countries it worked in during any of its phases. There was considerable concern raised about this by the country respondents, with a number of respondents indicating there could have been a greater range of stakeholders involved in the project activities at the country level.

All project activities, whether global, regional or national, were managed and coordinated by the project manager in Geneva. Country-level participants, such as ministries of labour, Employers' Organizations, Workers' Organizations or other MSE membership organizations were invited to participate in workshops and other discussions, but were not provided with opportunities to discuss the strategy or management of the overall project. Even when designing country-level project activities, country respondents report that they were not invited to participate in these processes.

The above management mechanism appears to have been effective for a technical, action-research project of this size. It was small, flexible and responsive to opportunities that arose during the project. While there could have been more done to engage social partners in the design of country-level project activities and to ensure country-level partners learned more about the broader activities and research findings of the project, the project did well to achieve the level of engagement that it did.

One consequence of the Geneva-based management structure that was raised by respondents was the significant amount of travel the project manager was required to undertake. There was also a concern expressed that ILO sub-regional offices were only peripherally involved in the project. Some country level respondents lamented the lack of a local organizing structure.

There are a number of concerns that were identified with the management of the project, from which lessons can be learned.

Firstly, the project management team could have given more support and guidance to the project manager. The project manager displayed a high degree of energy and initiative. He clearly contributed constructively to the activities and direction of the project. However, he was often left to carry out many of the project activities on his own with very little practical support or professional guidance from the management team. When guidance was provided, it has been noted that such guidance was not always

accepted and could have been more systematically taken on board. Project management needed also more effective coordination and a better working relationship with other units and colleagues. For all of these reasons, an important lesson is to define a clear management structure, with a clear division of responsibilities and roles, accountability to accommodate technical advice, and monitoring and evaluation of project management.

Secondly, while a small management team enhanced the flexibility of the project, it also created a danger that the project could drift from its central purpose. This danger was realized in some ways by the increasing emphasis given to supporting reform processes with technical assistance. In the last half of the project term, the emphasis of the project appeared to shift from being a research-focused project that engaged in social dialogue to providing technical assistance to reform processes in Kenya and Zambia. While the engagement with social partners in these countries was useful and apparently appreciated, it distracted the project from the other key activities concerned with quality control of research reports, synthesizing the findings of various country reports and preparing training curriculum. In the end, the project produced limited results in terms of its support for reforms and has not been able to produce the global knowledge products.

It has been suggested that Norad was eager to see the project focus more on providing technical assistance (i.e., to “getting things done”), than on research and knowledge generation. This may be so, and the views of the donor are important in this regard. However, the project appears to have been established by Norad and the ILO as an action-research project. This indicates that the project was designed to undertake primary and secondary research and to use this research to inform social dialogue and contribute to capacity building. It is a mistake to imagine that a two-year project such as this can meaningfully contribute to the implementation of reforms. The action side of an action-research project such as this would typically focus on facilitating social dialogue, building the capabilities of social partners to engage in this topic and supporting the preparation of reform proposals.

Finally, there appears to have been some tension regarding the project’s management. Two issues were identified.

Firstly, there appears to have been very little interaction between the Law-Growth Nexus project and the South Asia Labour-Related Laws and the SME Growth Trap project. While these projects are located in different parts of the world, Geneva provides an ideal venue for ensuring some degree of information sharing. Such sharing may have occurred informally on occasions, but it is clear there was no process or structure established for this purpose. This appears to be a lost opportunity, especially given that both projects are connected to SEED, have the same donor and are engaged in the same topic.

Secondly, there appears to have been some tensions between the project staff, its management team and some colleagues from the ILO Social Dialogue Department. While examples of collaboration can be cited (e.g., joint participation in a workshop in Liberia in 2008), it appears that the Social Dialogue Department considered this work to be occurring in isolation to the broad support the ILO provides to labour and labour-related legal reform. Clearly, the project’s focus on MSEs is unique and provides a

valid rationale for the location of the project in SEED, but this should not be at the expense of close collaboration and coordination with the Social Dialogue Department.

Conflicts can occur in any project. However, the challenge is how to deal with them through project management structures and processes. It appears that little attention was given to formally resolving these conflicts through the project management structures.

As a research or knowledge-based project, the Law-Growth Nexus project should consider the Social Dialogue Department as one of the key recipients of what it produces. The project's origins in the Governing Body discussions highlight the importance of this topic for the whole ILO. It is possible, that the tensions between the project and the Social Dialogue Department stem from the increasing attention the project gave to providing technical assistance and the concern that this assistance did not integrate broader ILO approaches. As stated above, the project's move into technical assistance in the last twelve months distracted it from its focus on research and knowledge-generation.

5 Conclusions, lessons learned and recommendations

This chapter presents conclusions, lessons learned and recommendations. Specific attention is paid to the key evaluation questions listed in Section 1.2. Lessons learned deal with project design and management issues, as well as with specific technical issues related to the topic. Finally, the recommendations are presented for future similar projects on how to design and implement a project of this sort and particular attention is given to the next phase of the Law-Growth Nexus Project, which is planned to run from 2010 to 2012 in Kenya, South Africa and Zambia.

5.1 Conclusions

The Law-Growth Nexus project has been designed to contribute to filling the gaps in information and knowledge regarding the influence labour and labour-related laws and regulations have on MSE employment and particularly on the growth prospects of MSEs, their decisions regarding formality and the quality of the jobs MSEs create. If only because of the extremely high number of women and men who are employed by MSEs in developing countries, this is an extremely relevant and important field of work.

The Law-Growth Nexus project is one of two Norad-funded projects that the ILO is implementing within this field. However, there appears to be very little information sharing or synergies established between these projects.

The project developed six hypotheses that it proposed would be tested in its two-year timeframe. It worked in twelve countries in its first phase and produced country-mapping reports, which were used to identify the landscape for labour and labour-related policy, legal and regulatory frameworks and institutions. These reports were also used to select six countries in which a deeper review of these frameworks and institutions was undertaken, along with, in some cases, an assessment of MSE concerns.

The project was successful in producing 18 reports in total. However, some of these are still in draft form and their quality and content vary considerably. Very little effort has been given to extracting the key findings and lessons from these reports and synthesizing this into a consolidated report that the ILO and its social partners can use. Most of this has been left to the end of the project, with a long and unwieldy draft guide being the only significant product of this kind.

The greatest shortcoming of the project to-date has been its failure to complete the production of key information products. The planned guide is a rough draft and the proposed training package has not yet reached the complete first draft stage.

While this presents a generally negative view of the project and its achievements, there are a number of important contributions the project has made.

At the global level, the project has contributed to establishing the issue of labour and labour-related laws and MSEs as an important and relevant field of enquiry and assistance in the promotion of sustainable enterprises. The project has forged links with the ILO's Social Dialogue Department and while there have been tensions found in this relationship, it is clear that an MSE perspective can contribute significantly to the ILO's broader body of knowledge and work.

At the national level, the project has contributed to social dialogue on the topic in Kenya and Zambia. While this dialogue does not appear to have been as broad and inclusive as some country-level respondents would have liked, it is clear that a good start has been made. Many social partners in Kenya and Zambia are now more aware of the issues affecting MSE compliance with labour and labour-related laws and informality and it is hoped that this will contribute to longer term efforts to better understand these issues and improve the business environment.

The project has also contributed to reform efforts in Kenya and Zambia, although these reforms have not been completed.

The greatest criticism of the project is reserved for the lost opportunities in distilling key research findings, lessons learned and good, best and bad practices. The project generated a high volume of useful information that has not been properly synthesized and used to produce information products that could shed greater light on the law-growth nexus. The six hypotheses on which the project was based provided a clear and valuable focus for the research, but these were not pursued. The testing of these hypotheses would have produced extremely valuable information for the ILO, especially SEED and the Social Dialogue Department, as well as the ILC and constituents.

The absence of specific project activities designed to validate research findings and share lessons learned was apparent at global and national levels. The project created frustration in a number of countries it operated in where the results of research were not shared or validated with key stakeholders, including the social partners.

Another major area of concern with the project stems from its logical framework. While it is unclear whether or not a better logical framework would have improved the performance of the project, it is likely that it would have created a more favourable result in terms of this evaluation. Many of the outputs and outcomes contained in the logical framework were inappropriate and, in some cases it seems unfair to be evaluating the project's performance against these. An improved logical framework would have helped the project manager to focus the project efforts and to ensure the project remains on track and consistent with its objectives.

The project has shifted focus over its two-year lifespan. While this kind of flexibility is to be praised, it has made these shifts at the expense of not achieving its central objective. The balance between research and technical assistance appears to have been lost in the last twelve months of the project. Increased project resources were committed to supporting reforms in Kenya and Zambia, resulting in a failure of the project to produce its research-focused outputs (i.e., the guide and training package).

Greater attention could have been given to involving country-level project participants in the overall project activities. Rather than focus only on the results of national research and dialogue, the project could have shared the results of other country studies and involved these participants in activities that distil key findings, lessons and practices. This would have built local ownership and capacity, and would have strengthened the sustainability of the project's achievements.

5.2 Lessons learned

Two kinds of lessons learned are presented below: lessons in project design and lessons in project management.

5.2.1 Lessons in project design

The following lessons in project design can be drawn from the findings of this evaluation:

- This project has suffered from the combined effects of high ambition and low budget. The lesson to be drawn from this is the need to be realistic when proposing results based on the project's budget, timeframe and scale (i.e., number of participating countries).
- Care should be given to designing a logical framework for a project of this type (i.e., a short-term action-research project). The products or outputs produced by the project should be clearly defined and achievable within the timeframe, while the results or outcomes of the project should be based on how the products are used and the relative contribution these can make to the broader development objective.
- Supporting policy, legal or regulatory reform, including the reform of administration and enforcement institutions, takes time. Unless there are compelling reasons to the contrary, short-term projects such as this should not attempt to support these reform efforts directly and should not measure their success on whether or not these reforms were effectively completed.
- When designing cross-country comparative research studies, care should be taken to ensure these studies apply a common analytical framework that allows the results of national research findings to be compared with other countries.
- Greater attention should be given to designing platforms (i.e., events, publications or web-based mechanisms) that can be used to distil key research findings and discuss these in order to ensure the project's investigations are relevant and contribute to the broader body of knowledge in the field. This includes knowledge that informs the content and presentation of technical assistance, social dialogue and capacity building. These platforms should not be reserved for use at the end of the project only, but should be used regularly throughout the project, such as at the end of each phase.
- When designing a project that engages the social partners or any other project partner, special attention should be given to identifying current related activities occurring at the country level and consulting with these partners as the project is being designed or its design is validated.
- When similar projects are implemented in other regions, clear elements of reference should be established to allow for useful comparison, lesson learning and common and different issues.
- Given the complexity and numerous issues involved in labour and labour-related laws and MSE development, consideration should be given to whether to focus only on a limited set of issues so as to provide for a better and more detailed treatment of issues.

5.2.2 Lessons in project management

The following lessons in project management can be drawn from the findings of this evaluation:

- The initial stages of a project should involve the preparation of a project inception report, which contains a more detailed articulation of the original project document and outlines the ways in which the project will be implemented, managed and monitored. The inception report should also identify any requirements for baseline information and should describe the monitoring and evaluation system the project will employ. It should clearly describe the division of responsibilities and accountability within the project, the technical resources needed, the means of coordination with different units and field offices, and the mechanism through which other technical experts and ILO units can give advice and guidance.
- While a project such as this combines action (i.e., social dialogue, capacity building, technical assistance) with research, it can be easy to lose the balance of these. Project management requires a careful monitoring of these components in order to ensure this balance.
- While it is accepted that a project of this kind will rely on local consultants, care should be given to monitoring and ensuring the quality of this work. This applies to the quality and relevance of the research methodologies employed by national consultants, as well as to the quality of the writing and the structure of the reports produced, and the analysis of the research findings. It is too easy for research reports to simply describe research findings, rather than to analyse these findings in more detail and formulate lessons, recommendations, principles or trends that can provide a more valuable input to a research and knowledge-based project of this sort.
- Research and knowledge-based projects of this sort should pay close attention to the distilling of research findings and the outcomes of dialogue processes. This requires careful attention to the documentation of project processes, including the documentation of workshop proceedings and outcomes. Special attention should be given to ensuring cross-country comparisons are formulated and shared with all project partners and other clients of the project (e.g., ILO Social Dialogue Department).
- Coordination with the implementation of similar projects in other regions should be defined with clear targets, coordination mechanisms and activities, and timing to ensure that synergies are developed.
- Clear methods of monitoring are required, along with deadlines for mid-term evaluations that allow for adjustments during project implementation.

5.3 Recommendations

The following recommendations are presented for future similar projects, including the forthcoming second Law-Growth Nexus project that is planned for 2010-2012 in Kenya, South Africa and Zambia:

1. The Law-Growth Nexus project should not move on to a second stage without completing the following:
 - Finalize the country reports that the project produced which are currently still in draft form.
 - Complete the law-growth guide – ensuring that this guide focuses on the six hypotheses used to frame the project and identifies specific lessons. The guide should be presented in a short summary form of about six pages as well as in a more extended form of about 50 pages.
 - Based on the information contained in the guide, the project should prepare a project termination report that identifies the outstanding research questions that the project has been unable to answer and any new research questions that have emerged during the project.

- Complete the training package. This should be done in close liaison with the Enterprise Department of the International Training Centre, Turin, Italy.
- The Nexus 2010-2012 project should take care to specify the anticipated outcomes of any technical assistance it offers. As a short-term project, this assistance has to be carefully timed and relevant to the dynamics of any reform processes that are occurring on the ground.
- Clear processes and mechanisms should be established to ensure that information and research findings are shared between the Nexus 2010-2012 project and the current South Asia project in order to compare these results and better understand the dynamics of the labour-growth nexus. This could be achieved by appointing one or two staff who are linked to one project to sit on the management committee of the other project, or through a joint-seminar or conference, or through the production of a joint report.
- The ILO should host a global conference on the labour-growth nexus that presents the findings of the Africa and South Asia projects and the implications of these findings for the work of the ILO and its technical programmes. SEED and the Social Dialogue Department should jointly organize and host this conference. Obviously, funds would have to be mobilized for this event.
- A clear monitoring and evaluation framework should be established within the first two months of the project.

Appendix 1: Terms of reference for the evaluation

The evaluation will:

- Provide an overall assessment of all the phases of the project with a particular focus on countries covered in Phase 3 (Kenya and Zambia) to illustrate the results.
- Do a focused comparison, particularly on the design, of the relative strength and weaknesses of the project approach in relation to a similar ILO project in South Asia, the “Labour-related laws and the SME Growth Trap in India, Nepal, Sri Lanka and Bangladesh”.

The evaluation report will be presented to the ILO for consideration of any future project initiatives, to NORAD as an input to their evaluation of the project and to stakeholders for lesson learning. The main clients would thus include: EMP/ENTERPRISE, ILO Geneva; relevant ILO field offices; DIALOGUE, ILO Geneva; NORAD; ILO Constituents in Kenya (Central Organization of Trade Unions, Federation of Kenya Employers, Kenya National Federation of Jua Kali Associations, Ministry of Labour and HRD) and Zambia (Federation of Free Trade Unions of Zambia (Ministry of Labour and Social Security, Zambia Chamber of Small and Medium Business Associations, Zambia Congress of Trade Unions, Zambia Federation of Employers).

Key evaluation questions/analytical framework

In line with international good practices for evaluations, the evaluation will assess the following: (i) relevance and strategic fit of the intervention; (ii) validity of intervention design to assess the extent to which the design is logical and coherent; (iii) project progress and effectiveness; (iv) adequacy and efficiency of resource use; (v) effectiveness of management arrangements; and (vi) sustainability.

The evaluation would thus seek to determine:

- Whether or not the specified outputs and outcomes were achieved and the extent to which these contributed to the achievement of the project objectives;
- Whether the project was effective and efficient in its use of resources in producing its outputs;
- Whether the project presented a logical and strategic approach to achieving its desired objectives (i.e., assessment of the project design and log-frame and strategy);
- Success in terms of management and sustainability; and
- Lessons that can be learned for policy makers and practitioners (this would include any "good practices" identified).

Main output of evaluation

The main output of evaluation is the report.

Methodology

In consistency with the framework outlined before, the methods for the identification and gathering of information would include sampling, selection of case studies and desk-based examination according to:

- A desk-based examination involving an assessment of relevant country reports, policy briefs, and documents of the Law-Growth Nexus project.
- A qualitative survey and/or interview involving between 7 to 10 stakeholders.
- As needed, inclusion of other project stakeholders (i.e., donor, ILO staff including field offices, etc) in the qualitative survey and/or interview.
- Focused comparisons, particularly on the design, of the project approach in relation to a similar ILO project in South Asia, the “Labour-related laws and the SME Growth Trap in India, Nepal, Sri Lanka and Bangladesh”.
- Zambia and Kenya would be used as the two case studies to illustrate the results of the project.

Management arrangements, work plan and timeframe

The evaluation would be performed by an external international consultant. The ILO evaluation manager is Mr. Mario Berrios (EMP/SEED). The consultant will conduct the evaluation according to the present Terms of Reference, liaise with the ILO and present the report to Mr. Berrios for comments and approval. The assignment is expected to be completed in 33 working days (see below the estimated time frame) to be allocated approximately between the beginning of the project on 26 July and 8 September 2010.

The estimation of the time frame is as follows:

2 August 2010: Consultant submits report outline

16 August 2010: Consultant submits draft report

20 August 2010: ILO provides comments on draft report

31 August 2010: Consultant submits final report.

The main tasks are estimated as follows: (i) an initial examination of issues and coordination/discussions with ILO staff; (ii) full desk-based examination involving an assessment of relevant country reports, policy briefs, and documents of the Law-Growth Nexus project; (iii) a qualitative survey and/or interview involving between 7 to 10 stakeholders to be drawn from the sample of contacts listed in Annex 3 (see below); and (iv) focused comparisons with the ILO project “Labour-related laws and the SME Growth Trap in India, Nepal, Sri Lanka and Bangladesh”.

Appendix 2: List of documents reviewed

- Berg, J. and Cazes, S. (2007) *The Doing Business indicators: measurement issues and political implications*, Economic and Labour Market Paper 2007/6, Employment Analysis and Research Unit, Economic and Labour Market Analysis Department, ILO, Geneva
- Chacaltana, J. (2009) *Economic implications of labour and labour-related laws on MSEs: A quick review of the Latin American experience*, Employment Sector Employment Working Paper No. 31, ILO, Geneva
- Fenwick, C., Howe, J., Marshall, S. and Landau, I (2007) *Labour and labour-related laws in micro and small enterprises: innovative regulatory approaches*, SEED working paper no. 81, ILO Geneva
- Faundez, J. (2008) *A view on international labour standards, labour law and MSEs*, Employment Sector Employment Working Paper No. 18, ILO, Geneva
- International Labour Conference (2002) *Conclusions concerning decent work and the informal economy*, ILC 90th Session, Geneva, June
- (2006) *Business environment, labour and micro-and small enterprises*, ILC 95th Session, Geneva
- (2006) *Debate concerning business environment, labour law and micro- and small enterprises*, Committee on Employment and Social Policy, 297th Session, Geneva, November
- ILO (2006) *Labour-related laws and the MSE growth trap in India and Nepal*, New Delhi, June
- (2009) *The Law-Growth Nexus Workshop - labour law and the enabling business environment: creating conducive environments for workers and employers in micro and small enterprises*, Workshop Report, Lusaka, Zambia, 20-23 January
- (2010) *Labour Laws, the Business Environment and the Growth of MSEs in South Asia (LL&MSE); an ILO-NORAD Study and Dialogue Project*, New Delhi
- (2010) Stakeholders' Comments on the Kenyan Micro and Small Enterprise Bill of 2009 (first draft for comments), 26 March
- (2010) *The Law-Growth Nexus Project; the effect of labour laws on MSMEs in sub-Saharan Africa – a guide* (draft for comments only), Geneva
- (undated) *The Law-Growth Nexus; A mapping of labour law and MSE development; Mapping Framework*, Geneva

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Appendix 3: List of evaluation respondents

The following respondents participated in the evaluation, either through direct personal interviews, telephone discussions or email correspondence:

Jane Arang'a, Ministry of Labour, Nairobi, Kenya

Francis Atwoli, Congress of Trade Unions, Nairobi, Kenya

Cheickh Badiane, Enterprise Specialist, ILO Dakar, Senegal

Christine Bischoff, SWOP Institute, University of the Witwatersrand, Johannesburg, South Africa

Graeme Buckley, SEED, Job Creation and Enterprise Development Department, ILO Geneva, Switzerland

Harrington Chibanda, Zambia Federation of Employers, Lusaka, Zambia

Jealous Chirove, Chief Technical Advisor, Broad-based Wealth and Job Creation project, Lusaka, Zambia
(formerly acting Enterprise Specialist, ILO Addis Ababa)

Martin Clemensson, former Manager of SEED, Job Creation and Enterprise Development Department,
ILO Geneva, Switzerland

Colin Fenwick, Social Dialogue Department, ILO Geneva, Switzerland

Gopal Joshi, Job Creation and Enterprise Development Department, ILO, Geneva

Andreas Klemmer, Enterprise Specialist, ILO Pretoria

Owen Mgemezulu, Ministry of Labour, Government of Zambia, Lusaka

Joni Musabayana, Deputy Director, ILO Pretoria (formerly Enterprise Specialist, ILO Addis Ababa)

Delux Mwansa, Federation of Free Trade Unions of Zambia, Lusaka, Zambia

Jonas Paurell, Project Manager, Law-Growth Nexus project, ILO Geneva, Switzerland

Fredie R. Taylor, Attorney and Managing Partner, Kemp & Associates, Legal Consultancy Chamber,
Monrovia, Liberia