



ILO EVALUATION

Project Title: Law-Growth Nexus Phase III: Labour Law and the Enabling Business Environment for MSMEs in Kenya

ILO TC/ SYMBOL:



Type of Evaluation:

MID-TERM

Country (ies):

KENYA

Date of the evaluation:

June 29, 2015 –August 10, 2015

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Date project ends:

July 31, 2016

Donor: Country and budget USD

NORAD (USD 1,369,557)

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This evaluation has been conducted according to ILO's evaluation policies and procedures. It has not been professionally edited, but has undergone quality control by the ILO Evaluation Unit.

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LIST OF ACRONYMS AND ABBREVIATIONS

| | |
|---------|---------------------------------------------------|
| BDS | Business Development Service |
| CBO | Community Based Organization |
| CEO | Chief Executive Officer |
| COTU | Central Organization of Trade Unions |
| CTA | Chief Technical Advisor |
| DAC | Development Assistance Committee |
| FKE | Federation of Kenya Employers |
| GDP | Growth Domestic Product |
| ILO | International Labour Organization |
| KCSD | Kenya Commercial Smart Drivers |
| KNPSWU | Kenya National Private Security Workers Union |
| KSIA | Kenya Security Industry Association |
| LGN | Law Growth Nexus |
| MADCOWA | Matatu Drivers and Conductors Welfare Association |
| MoLSSS | Ministry of Labour Social Security and Services |
| MSEA | Micro Small Enterprises Authority |
| MSME | Micro Small and Medium Enterprises |
| MTP | Medium Term Plan |
| NAC | National Advisory Committee |
| NHIF | National Hospital Insurance Fund |
| NLB | National Labour Board |
| NSSF | National Social Security Fund |
| NTC | National Technical Committee |
| NORAD | Norwegian Agency for Development Cooperation |
| NTSA | National Transport and Safety Authority |
| PSIA | Private Security Industry Association |
| PSV | Public Service Vehicle |
| SACCO | Savings and Credit Cooperatives |
| TLB | Transport Licensing Board |
| ToT | Training of Trainers |
| UN | United Nations |
| UNDAF | United Nations Development Assistance Framework |

ACKNOWLEDGEMENT AND DISCLAIMER

This is a report of the independent mid-term evaluation of the NORAD funded Law Growth Nexus III project on 'Labour Law and the Enabling Business Environment for Micro Small and Medium Enterprises in Kenya'.

In the course of this evaluation, we met and spoke to many people representing workers, employers, workers representatives, employer representatives, government officers, and other stakeholders in the MSMEs and specifically in the transport and private securities sub sectors who shared with us invaluable information upon which the synthesis conclusions and recommendations in this report are based. They accommodated us into their daily schedules giving us unlimited attention. Without them this assignment would not have come to fruition. They are the true owners of the information used in the preparation of this report.

The evaluation team remains thankful to International Labour Organization (ILO), the staff in Geneva, the regional office in Dar-es-Salaam, and the Kenya office for their insights on the project and their technical inputs in the preparation of this evaluation. The Kenya County office effectively handled our logistics and supported us through-out the exercise.

We have tried to observe objectivity in this report. However, shortcomings, and errors in interpretations are inevitable and the author takes responsibility for them all.

Munene Charles

Consultant

August 10, 2015.

EXECUTIVE SUMMARY

This is a report of the independent midterm assessment of the phase III of Law Growth Nexus project on Labour Law and the enabling business environment for Micro Small and Medium Enterprises in Kenya. The report gives an independent assessment of progress to date of the project across the major outcomes. The evaluation was carried out in the month of July 2015.

Background and context

The informal economy in Kenya continues to create the most number of jobs in Kenya as seen in the Economic survey of 2015 which reports that the sector accounted for 86 percent of the all jobs created in 2014. However, work done in previous phases of the LGN project show that the sector was yet to unlock its job creation potential mainly because of some inherent challenges including decent jobs deficits which translate to growth constrains. Further the governments' five year midterm development plan also recognizes that overall jobs created in the informal sector were characterized by underemployment and low productivity. These challenges were clearly spelt out in previous phases of the LGN project and further baseline surveys done as part of this project. This project therefore seeks to progressively support the establishment of an enabling environment for MSME to thrive in Kenya. This was to be achieved through 3 objectives which are i) Promotion of a culture that respects the rule of labour laws among micro, small and medium enterprises in Kenya, with a focus on the transport and the private securities sectors, ii) Strengthening the capacity of ILO constituents to engage in social dialogue on the nexus between Labour Law compliance and MSME development and to facilitating sector-specific regulatory reform and iii) strengthening the capacity of MSME to comply with the revised labour law and regulations.

This project is funded by the Norwegian Agency for Development Cooperation (NORAD) over an implementation period of 32 months ending 31st of July 2016. This follows a 6 months no cost extension. The total cost of the project is USD 1,369,557, down from the previous USD 1,489,789. The reduction has been occasioned by the marked strengthening of the US Dollar against the Norwegian currency. The project is being implemented through local partner organizations including the tripartite partners. These are supported by the project management unit headed by a chief technical advisor and based in ILO Kenya office.

Rationale and justification

Despite work done and achievements for the LGN II, the end-term evaluation noted the need for additional support to achieve the needed self-propelled compliance with labour laws. In addition, focus on only one subsector within the broader informal sector was really a scratch in the service. There was need to extend the focus to another similarly vulnerable sector for more impact. It was also noted that there was need to support organization of workers and employers in the sector who largely were not organized and could therefore not jointly pursue their common interests. LGN III offered the right platform for deepening of interventions and expanding the scope for more impact.

Methodology and approach

Qualitative approaches were used whereby project documents were first used and guidelines developed to guide discussions with project stakeholders. Key informant interviews, focus group discussions, and field visits were then used to collect data from the field. However relevant quantitative data was extracted from the documents reviewed and from the field level discussions. This approach allowed for in depth analysis of issues relating to the project within a relatively short period of time. A total of 27 stakeholders were interviewed in the course of the evaluation.

Main findings

Overall, this evaluation notes that the project objectives were relevant to the needs of the stakeholders, both workers and employers. The project sought to improve the working conditions of workers in the informal sector, support creation of decent jobs and consequently unlock the potential of the sector to create more jobs. This mirrors the goals of the country and the strategic objectives of the United Nations Development Assistance Framework (UNDAF). Further the project design was valid having been largely informed by experiences from phase I and II of the project and extensive context analysis both in the project document and in the subsequent baseline surveys reports. The objectives, inputs and outputs are consequential and logically link one another. Causality in the design was easily established. Implementation plans were logical and realistic. The indicators conformed to the SMART principle. The design was equally appropriate given that it allowed for the active participation of stakeholders in the project implementation. The project is for example steered by a committee that brings together the social partners. However, the design needed to bring on board other key stakeholders to the decision making levels in the project so as to create ownership and boost the sustainability potential of interventions.

With respect to immediate objective 1 which sought to nurture respect for the rule of (labour) law among MSMEs in Kenya, substantial mileage had been attained in creating awareness on labour laws. Specifically, the pocket friendly compendium of labour laws worked very well in reaching more workers and employers in the informal sector. An indication by the workers representatives that they were contemplating going to court to push for compliance with laws only serves to show the level of awareness they had and the confidence they had gained in pursuing their rights. Even though, many of the workers were not aware of their rights, and thus the need for more aggressive efforts in awareness creation. This could practically be achieved through increased collaboration with BDS providers and organisations such as the Kenya Commercial Smart Drivers (KCSD) which seeks to promote behaviour change among commercial vehicle drivers.

However the business case was slowly being understood by those MSMEs that have been reached. While most had not fully complied, efforts towards compliance were evident in Prestige Shuttle Services in Nakuru, Orokise SACCO in Kajiado, and WALOKANA and Supermetro Sacco in Nairobi. Discussions with the NTSA further revealed courtesy of the clauses on labour issues introduced in the traffic laws, payment of National Hospital Insurance Fund and National Social Security Fund was mandatory before a vehicle or the respective SACCOs are licensed. Notably, access to NHIF was singled out as a strong pull factor for increased entry of women into the transport and the private securities sectors. More participation of women in previously male dominated sectors is colossal, and a big boost to sustainable development. Awareness creation in the private securities sector was also underway. Workers representatives reported that they take a few minutes to share and discuss the laws during their Timam parades¹, which is a practical and cost effective method of reaching more of their members. Their representatives had attended ToT trainings in Nakuru and these were expected to carry on the awareness creation. Overall the extent of awareness creation and strategies adopted by the project are promising. These need to be stepped up preferably with media campaigns which should also publicise the mobile phone application that was just about to be launched.

Immediate objective 2 is to strengthen the capacity of ILO constituents to engage in social dialogue on the nexus between labour law compliance and MSME development and facilitate sector-specific regulatory reforms. Notably, the stage was set with the highlighting of good practices on issues of compliance and social dialogue as discussed in the baseline surveys. These provide a basis for reference on what needs to be achieved to ensure creation of decent jobs and further to support effective enforcement and compliance. Further, consultation meetings with ILO constituents on appropriate structures to facilitate social dialogue were held and concluded. A National Technical Committee (NTC) and National Advisory Committees (NAC)

¹ TIMAM parades are morning briefing and inspection parades for security guards usually convened by a supervisor for a group of guards under his/her command.

were constituted which allow the constituents to meet quarterly for subject specific social dialogue. These committees continue to play an advisory role to the project and members continue to steer the project implementation. The project, through the national committees continues to facilitate dialogue meetings between MSME owner and worker associations and the employer and worker representative organizations. During the validation workshop for example, the process of bringing together private sector workers representatives and employers was initiated. The two groups had previously not met to dialogue and viewed each other with mistrust.

The project contributed to the incorporation of basic labour laws into the proposed Private Security Regulation Bill 2014, which was going through the parliamentary approval process as at the time of this evaluation. Further, the project had supported the private securities sector in lobbying for the passing of the bill and discussions with them revealed that the lobbying efforts have seen them hold 6 consultative meetings with the respective parliamentary committees. Similar support was extended to workers in the informal sector and through intensive lobbying they were able to introduce labour clauses in the traffic amendment act 2013.

Notably, the stage for social dialogue was set, firstly with the requirements for transport sector employers to join SACCOS. Some SACCOS were reported to have signed recognition agreements with employer representatives. The sector workers association had also gained confidence in articulating their issues as reported by the association chairman. The association was reported to have commenced the process of affiliating to COTU. In the private securities sector, while workers have a strong union, not all were members and interaction between the workers union and the employers was limited. During the validation workshop, the Chief Executive Officer of the Private Security Industry Association (PISA) sought the projects support to first bring the security firms owners together in preparation for a first ever meeting between the owners and workers representatives. Such efforts should be supported and encouraged.

To institutionalise gains made in promoting social dialogue, the wage councils were widely seen as the missing links. The private securities wage council was yet to be gazetted while that of the transport sector was yet to be constituted. The wage councils are recognised as institutions for promoting social dialogue in the national medium term plan. They offer practical and cost effective avenues for registration of wage orders. It is therefore imperative that efforts are focused towards ensuring that the councils are operational.

Immediate objective 3 seeks to strengthen the capacity of MSMEs to comply with the revised labour laws and regulations. Most activities under this objective were ongoing or yet to begin at the time of this

evaluation. However, the project had already partnered with Business Development Service providers to offer tailor made courses to MSMEs. The evaluation noted that a ToT training for BDS providers had been done and MSMEs training was set to be rolled out. The NTSA was reported to be carrying out an audit on compliance levels on SACCOs and companies. Sector actors were however of the view that the audit ought to have been carried out by an independent auditor so as to eliminate any biases, possible malpractices and corruption. This notwithstanding, the importance of keeping track and rewarding compliance to encourage others to comply cannot be underestimated.

Besides awareness creation on laws, an operations/human resource manual for *matatu* SACCOs and companies had been developed and disseminated to operators in the *matatu* sector. The manual offers practical tools that can be easily adopted by SACCOs such as sample employment offers, employment records, leave application forms, and other practical information that should aide the employers to quickly comply with the provisions. Closer linkages with line government departments could add value to some of the activities. For example, it was observed that officers from MSEA had capacity building of MSMEs as one of the key activities in their performance contracts. Discussions with MSEA revealed that some of the content that they would be training the MSMEs on was similar to what was expected to be delivered by BDS providers. Closer collaboration with MSEA would effectively avoid overlaps and possibly increase the total reach.

In general, the project outputs signal prudent use of project resources. A notable case is the mass production of the compendium of laws that was user friendly and applicable across the informal as well as the formal sector. These publications will have a lasting impact in the lives of workers. Integration of labour clauses in the sector related laws was also strategic and a milestone in promoting compliance with labour laws. The project has by and large been managed by the committees comprising the tripartite partners and which has created a sense of ownership. It is also a basis for sustaining the interventions, given that it builds the capacity of partners. However, given the limitations in the capacity of Ministry of Labour, Social Security and Services, there is need to look beyond the tripartite and also forge closer linkages with other relevant government departments.

Two main lessons were noted. The first lesson relates to the importance of actively involving all stakeholders in project activities. This was important given the diverse interests that dominate the selected sectors, where actors viewed each other with suspicion. It was the move by the project to bring all stakeholders to the table that people agreed to sit and dialogue after realizing that interventions were

actually for their own benefit. The second lesson relates to interconnectivity of issues in the target sectors which meant that there was need to closer collaboration among different actors. This lesson was more evident in the transport sector but it was also visible in the private securities sector. The push for compliance touched on so many other actors and not just the sector stakeholders. In relation to good practices, the mobile phone application is seen as an emerging good practice that will require further testing and validation during the end of project evaluation.

Overall it is the honest opinion of the evaluation team that the outputs registered so far are encouraging and offer a compelling reason to fully test formalisation of the informal sector using transport and private securities sectors as practical cases. In order to consolidate the gains made and ensure that the objectives of this project are realized, the midterm evaluation offers the following recommendations;

- i. In light of recommendation 204 of the General Conference of the ILO, adopted on the 12th of June 2015 this project offers the best opportunity to fully test formalization of the informal sector and build a strong case for future efforts in pursuant to this recommendation. It is strongly recommended that formalization of the two sectors should be supported to formalize so as to set precedence for the formalization of other sub-sectors such as construction, mining, and beauty and hairdressing subsectors among other vulnerable sectors.
- ii. There is need to step up awareness creation on labour laws and rights of employees preferably through the media .This campaign could include the marketing of the mobile phone application which is about to be launched.
- iii. Efforts will need to be focused on disseminating and creating awareness on the business case for compliance. This should be carried out by the trained BDS providers ensuring that additional ToTs are trained to effectively penetrate the informal sector.
- iv. The project should support sector workers to lobby and advocate for the gazettment and activation of the private securities sector and transport sector wage council respectively. This will be a significant milestone in institutionalising the dialogue for improved working conditions.
- v. The project should facilitate the formative process of bringing together workers and employers in the private securities sector in a similar way it did to the transport sector. Once this is done the social partners (COTU and FKE) will be expected to play a more active role and effectively reach out to sector workers and employers respectively to organise for more effective social dialogue.
- vi. The project should facilitate closer linkage and collaboration between the project stakeholders and key agencies such as the NTSA. The participation of NTSA has remained lukewarm despite its central role in the overall objective of this project. Such collaboration will resolve many challenges

that currently hinder compliance such as scattered decision making in the sector and different enforcement agencies

- vii. Social partners need to more aggressively lobby for additional support to the MoLSSS. This could be through sensitisation of parliamentary committees and relevant government officers and departments on labour issues. This should go hand in hand with encouraging the government to honour its commitments as a tripartite partner.
- viii. In the meantime, there is need to forge closer partnerships with relevant government ministries and departments for more effective implementation of interventions.

1.0 INTRODUCTION

1.1 Project background and context

The Economic Survey 2015² indicates that the Kenya economy generated about 800,000 jobs in 2014, of which 693,000 were in the informal sector, accounting for about 86 percent of new jobs in 2014. The sector accounts for about 82.7 percent of total jobs. With a contribution of the over 18.4 percent of the country's Gross Domestic Product (GDP), the MSME sector is a significant component of the national development plans as outlined in the Kenya Vision 2030 as well as the second medium term plan 2013-2017³.

Work done in the initial phases of the LGN project did show that to fully unlock the employment creation potential of the MSME sector, a number of development challenges will need to be overcome. Among them is the pronounced decent work deficit that translates into an effective business growth constraint. The second medium term plan 2013-2017, also recognizes that jobs created in the informal sector, albeit many were characterized by underemployment and low productivity which partly result from the decent work deficits in the sector.

A mapping exercise carried out in phase I of the LGN project, baseline surveys carried out in phase II of the project on the public transport sector and another carried out in phase III on the private security sector comprehensively outlined the decent work deficits and challenges that continue to cripple growth and achievement of decent jobs in the respective sectors. The reports noted that some of the salient challenges facing the sectors include job insecurity, poor wages and terms and conditions of employment, absence of institutionalized social protection system, weak workplace safety and health standards, and the absence of mechanisms for enjoyment of fundamental principles and rights at work.

The LGN project has progressively sought to support the establishment of an enabling environment for MSME to thrive in Kenya. This is being achieved through support for three key goals;

- 1) Promotion of a culture that respects the rule of labour laws among micro, small and medium enterprises in Kenya, with a focus on the transport and the private securities sectors
- 2) Strengthening the capacity of ILO constituents to engage in social dialogue on the nexus between Labour Law compliance and MSME development and to facilitating sector-specific regulatory reform,
- 3) Strengthening the capacity of MSME to comply with the revised labour law and regulations.

²Kenya National Bureau of Statistics 2015

³Republic of Kenya 2013

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1.2 Rationale and justification for LGN III

Despite significant progress in creating awareness and support to regulatory reforms in the transport sector as outlined in various project documents, the LGN II evaluation did also note that much remained to be done so as to achieve self-propelled compliance and related advocacy. Further, focus on the transport sector, though significant, was indeed '*a drop in the ocean*' in the larger informal sector. There was, therefore, need to cascade the gains and promote awareness creation and compliance across other MSME sub-sectors. The public transport sub-sector, previously considered too chaotic to get organized, was an appropriate show case of how decency and formalization could be achieved in the informal sector. Support for compliance and deepening of awareness creation was therefore necessary.

Workers and employers in the informal sector and specifically the public transport sub-sector remained outside the structured workers and employer organizations. With the gains made, tripartite partners were keen to tap on the membership from MSME, where respect for rule of labour laws was gaining root. The LGN III provides an opportunity for the tripartite partners to aggressively pursue this goal.

Finally, 2012 saw the transition from the Transport Licensing Board (TLB) to the National Transport Board of the National Transport and Safety Authority (NTSA), mandated with the management and regulation of all aspects of the transport industry. Guided by the Traffic Act, NTSA enforces compliance including the labour law aspects introduced through the 2013 amendments to the Act. The LGN III continues to offer important supportive role to the transport sector by supporting the sector actors to comply. This is for example attested by the publication of the operations and human resources manual for *matatu* SACCOs and companies, which shows templates of sample employment offer letters, letter of temporary appointment, letter of appointment, employment records, leave application forms, reference certificates and a sample of job description. This complements the NTSA mandate.

1.3 Project objectives and activities

Overall, the project supports an enabling environment for MSME development in Kenya, the outcome of which will be increased and better jobs in the MSME sector, which directly contributes to the national goals of employment creation. Through the implementation of the immediate objectives, a change in perceptions among the MSMEs actors is envisaged such that there will be a better understanding of the rationale behind the labour laws and regulatory reforms in labour laws that are driven by social dialogue among the ILO constituents. This builds a solid case for self-regulation which would guarantee decency in jobs created in the MSME sector. The overall outcome is more and better jobs in the MSME sector in Kenya. This is to be achieved through three immediate objectives;

- i. Nurture respect for the rule of (labour) law among micro, small and medium enterprises (MSMEs) in Kenya with particular emphasis on the selected priority sectors; transport sub-sector and the private security sector
- ii. Strengthen the capacity of ILO constituents to engage in social dialogue on the nexus between Labour Law compliance and MSME development and to facilitate sector-specific regulatory reform,
- iii. Strengthen the capacity of MSME to comply with the revised labour law and regulations

The project's strategy is informed by the market systems development framework. The transport and private securities sectors are in this case viewed as systems that comprise entities that purposefully interact to generate economic benefits. This framework assumes interconnectivity in each system between the service providers and consumers (public service transport service providers, and commuters on one hand and private security service providers and users of private security). This interaction is regulated by existing rules and regulations but it is also highly influenced by the norms, values and perceptions held by the actors in the sector. LGN III deliberately brought the sector players to dialogue on the same table, but at the same time sought to support various complementary interventions to the framework including support for regulatory reforms, and awareness creation aimed at changing the norms, attitudes and perceptions held about the sector. As noted the objective was to build a business case for compliance with labour laws and regulations and trigger self-regulation which would translate to more decent jobs.

1.4 Purpose and scope of the evaluation

This is an independent mid-term evaluation. It serves two main purposes which are;

- i. To give an independent assessment of progress to date of the project across the major outcomes; assessing performance as per the foreseen targets and indicators of achievement at output level; strategies and implementation modalities chosen; partnership arrangements,

- constraints and opportunities in Kenya;
- ii. Provide strategic and operational recommendations as well as highlight lessons to improve performance and delivery of project results

The clients of the evaluation include: project staff, ILO CO Dar, DWT Pretoria, ROAF, the donors and constituents, in particular the national technical and advisory committee.

The evaluation covers all aspects of project implementation. It is threefold in the sense that it focuses on the assessment of the following: (i) overall project design and implementation; (ii) individual project components implemented by the project; and (iii) ILO processes and working methods in light of the results-based framework that the project is contributing toward. Field evaluation visits were made in Nairobi, Nakuru and Kajiado to assess the progress, achievements, challenges and lessons learned in the implementation of activities. The evaluation was led by Charles Munene, a consulting researcher.

1.5 Evaluation criteria and questions

The evaluation was conducted following UN evaluation standards and norms⁴ and the *Glossary of key terms in evaluation and results-based management* developed by the OECD's Development Assistance Committee (DAC). In line with the results-based approach applied by the ILO, the evaluation focused on identifying and analysing results through addressing key questions related to the evaluation concerns and the achievement of the outcomes/immediate objectives of the project using the logical framework indicators. Overall, the evaluation addressed the ILO evaluation concerns as defined in ILO policy guidelines for results-based evaluation⁵. These include relevance and strategic fit, validity of design, project progress and effectiveness, efficiency of resource use, effectiveness of management arrangements and impact orientation and sustainability. Gender concerns were taken into consideration as the ILO Guidelines on Considering Gender in Monitoring and Evaluation of Projects (September, 2007). The evaluation was guided by the following set of evaluation questions.

Relevance and strategic fit

- Is the programme directly supporting the national development priorities and the Kenyan DWCP?
- How well does it complement other relevant ILO projects in Kenya?
- What links are established/being established with other similar activities of the UN or non-UN international development organizations at country level?

⁴ ST/SGB/2000 Regulation and Rules Governing Programme Planning, the Programme Aspects of the Budget, the Monitoring of Implementation and the Methods of Evaluation

⁵ ILO policy guidelines for results-based evaluation: Principles, rationale, planning and managing for evaluations, 2012

Validity of the design

- Was the design process adequate?
- Do outputs causally link to the intended outcomes/objectives?
- Did the project adequately consider the gender dimension of the planned interventions?
- How has the design integrated the role of women in the sector?

Efficiency

- Were resources (human resources, time, expertise, funds etc.) allocated strategically to provide the necessary support and to achieve the broader project objectives?
- Were the project's activities/operations in line with the schedule of activities as defined by the project team and work plans?
- Were the disbursements and project expenditures in line with expected budgetary plans? If not, what were the bottlenecks encountered? Are they being used efficiently?

Project progress and effectiveness

- What outputs have been produced and delivered and has the quality of these outputs been satisfactory?
- Are women and men benefiting from project outputs?
- What effects (expected/unexpected) are the interventions likely to have on gender relations?
- What progress has been made towards achieving the programme objectives/outcomes?
- In which area (geographic, component, issue) does the project have the greatest achievements so far? Why and what have been the supporting factors?
- How effective were the backstopping support provided so far by ILO (DWT Pretoria and Geneva) to the programme?

Effectiveness of management arrangements and efficiency of resource use

- Are the available technical and financial resources adequate to fulfil the project plans?
- How effectively does the project management monitor programme performance and results? Was a monitoring & evaluation system in place and how effective was it? Is the data disaggregated by gender?
- Have the project received adequate administrative, technical and - if needed - political support from the ILO office in the field (Dar es Salaam), field technical specialists (Pretoria) and the responsible technical units in headquarters?
- Has the project received adequate political, technical and administrative support from its national or implementing partners? Is information being shared and readily accessible to national partners?

Sustainability

- Is there any progress in local partners' capacity to carry forward the project and is there a growing sense of national ownership?
- Does the project succeed in integrating its approach into local institutions?
- Does the project succeed in developing a replicable approach that can be applied with modifications to other sectors?
- What are the possible long-term effects of the project on gender equality?

Lessons learned and emerging good practices

- What lessons have you learnt in this project? What are the emerging good practices

2.0 EVALUATION METHODOLOGY AND APPROACH

The evaluation employed a mix of methods involving review of relevant project materials⁶, and field data collection using qualitative approaches. Some of the materials reviewed include the project document, project progress reports, baseline evaluation reports and minutes from the project technical committee meetings. Even though qualitative approaches were used, relevant quantitative data was elicited where necessary. Qualitative approaches were chosen because they offered quick and effective methods of examining issues in detail within a short time frame.

The evaluation began on 1st of July 2014 with initial briefing from the evaluation manager. This was followed by more detailed briefing by the project staff. Field level consultations with project stakeholders took place from the 13th of July 2015 through to 31st of July 2015. Consultations with stakeholders were guided by a checklist of issues⁷ that fed into the evaluation objectives. Interviews with stakeholders were done through informant interviews technique and further complimented by actual visits to stakeholder offices, inspection of random documents that signal compliance and informal discussions with beneficiaries and other stakeholders met and randomly sampled on site. Different stakeholders were interviewed in Nairobi, Kajiado and Nakuru⁸. These include project staff, *matatu* sector employers and workers representatives, protective security industry workers and employer representatives, and relevant government representatives. Data analysis was thematically done, where findings were grouped into themes and sub-themes in line with the evaluation objectives.

Methods chosen were in our considered opinion valid in generating the desired results. First, the evaluation team was totally independent of the project and the tripartite partners. Second, data collection tools were well designed to respond to the evaluation objectives and the evaluation criteria. Third, data triangulation was used to boost validity through seeking views and opinions from different project stakeholders. Investigator triangulation was also used especially in analysing information from the literature reviewed and data collected. Objectivity was maintained in carrying out all interviews.

Following the initial data analysis and reporting, a stakeholders' validation workshop was convened in Nairobi. During the workshop, findings from the evaluation were shared with stakeholders whose inputs were consolidated into this report. The workshop participants validated the report to be a true reflection of the situation on the ground, subject to incorporating their comments. This was done. An estimated 20

⁶List of materials reviewed is shown in the Bibliography

⁷A checklist of issues that guided data collection is appended to the report

⁸A more detailed list of all people interviewed is appended to this report

stakeholders drawn from social partners, transport sector employers' and workers' representatives, private securities workers' and employers' representatives and officers from line government departments attended the validation workshop.

3.0: EVALUATION FINDINGS

This section presents analysis of the main findings from the mid-term evaluation. The analysis is based on views and opinions of different project stakeholders interviewed in the course of the evaluation, materials reviewed and consultant's impressions from the various consultations and field visits.

3.1 Relevance and strategic fit of the project

Despite the MSME sector's contribution to growth and development in Kenya, it has continued to face numerous challenges including significant deficits in the rights of workers, low compliance with labour laws, indecent working conditions, and limited employee rights among others, all of which have slowed growth and productivity of the sector and stifled the achievement of decent employment opportunities. LGN III directly contributes towards the achievement of the ILO Decent Work Country Programme for Kenya underwritten by the government and its social partners, in particular, to outcomes KEN 130 and KEN 131. These outcomes link directly to the Kenya vision 2030 and to Kenya's Second Medium Term Plan (MTP II) 2013 – 2017, where, for example, getting more groups under social protection coverage is a stated priority⁹.

The project furthermore contributes directly to all strategic result areas of the United Nations Development Assistance Framework (UNDAF) for Kenya¹⁰ which took effect in 2014. UNDAF's strategic result areas include transformation governance whose outcomes include operational policy and institutional framework and respect for democratic participation and human rights, both of which directly relate to interventions in this project, especially on the right to associate and the right to enjoy rights related to employment. The strategic result 2 on human capital has one of the outcomes as a more effective social protection policy, while reforms in business environment is an outcome of the strategic result 3 on inclusive and sustainable economic growth.

The project also contributes to the global outcomes of the ILO Mid-Term Strategy Framework and, in particular, to Outcome 3: *'Sustainable enterprises create productive and decent jobs'*. Under this global outcome, the project will report into Indicator 3.1 *'Number of member States that, with ILO support, have reformed their policy or regulatory frameworks to improve the enabling environment for sustainable enterprises'*. The LGN III overall objective is to contribute to an enabling policy environment for MSME in Kenya, while the overall outcome is more and better jobs in the MSME sector.

The choice of the transport and private security sub-sectors was spot on with respect to employment related

⁹Republic of Kenya 2013

¹⁰Info.kenya@one.un.org

challenges that the two sectors faced. They both represent a significant number of workers in the informal sector yet face significant labour rights challenges. The evaluation further notes that the project sought to leverage on developments that were taking place in other government departments and partners. Bringing on board other line departments and closely involving the tripartite partners was crucial in attaining the integration of project activities into the normal operations of the tripartite partners and government departments. This would result into a cascade effect across more sectors and also build on the sustainability of the interventions. This is evidenced by the extent to which the project has continuously sought to build the capacity of different stakeholders in and outside the government. It was also evidenced by the fact that key among the performance indicators in the Micro and Small Enterprises Authority (MSEA) was the number of enterprises trained using ILO developed tools such as the SIYB, which ultimately contributes to the broader objective of this project.

3.1.1 Relevance to the needs of target groups

Workers: These were the majority among the target audience in this project. Previously, workers were generally unaware or ignorant of basic labour laws and labour rights. Levels of compliance were low, and decent work was a foreign word in the working environments of the sub-sectors under focus. This situation is exacerbated by limited capacity of the government institutions tasked with the role of sensitization and active implementation of the labour laws and aspects of labour rights provided for in various pieces of legislation. For instance, the low number of skilled staff in the Ministry of Labour Social Security and Services (MoLSSS) significantly limits their capacity to effectively enforce labour laws. This is well elaborated in the baseline reports. For example, one inspectorate officer in the MoLSSS was expected to serve about 155,000 people in 2014 up from about 37,000 in 1996. The international standard is about 40,000 workers for each labour inspector.

The project, through lobbying and advocacy by the sector workers, contributed to ensuring that labour aspects were introduced to the traffic amendment Act 2013, which mandates the NTSA to ensure compliance with among others, aspects on labour rights such as employment by contract and payment of a monthly salary. While MoLSSS has not been able to fully enforce and monitor compliance with these provisions, gains are slowly being realized for workers. The NTSA is able to ensure compliance with some aspects of the provisions such as the statutory deductions whose payment was a pre-condition for licensing of Public Service Vehicle (PSV) operators. Drivers and conductors were therefore increasingly being covered by formal social protection systems.

More importantly, awareness creation on labour laws and rights was effectively addressed by the project. A

simplified version and a pocket friendly hand book that is easily understandable by the sector workers were developed. This is an easy read that workers easily carry with them and read at their convenient time. Underway, is a mobile phone application that will offer relevant information on labour laws and exchange interface with labour experts. When this finally goes live, it will offer quick access to information and solutions people seek on employment challenges that they face. In addition, several workers benefitted from ToT workshops on relevant laws also supported by the LGN III Project. The ToTs were expected to continue passing over the information to others, effectively creating the so much needed awareness of labour laws and rights. Further, through ILO trainers, the project partnered with the Kenya Commercial Smart Drivers (KCSD), a Community Based Organization (CBO) in Kiambu County to offer training to the *matatu* crew. KCSD focuses on individual drivers and trains them on behaviour change, customer service, counselling and psychosocial support.

Sector level employers/business owners: For a long time, employers in the public transport service lacked ownership of their businesses. Though they were the investors, they practically operated at the mercy of their employees who handled the cash and made the decision on how much to pay their employers at the end of each day. Despite the situation, employers were reluctant to comply with laws arguing that compliance was costly. Through engagement and sensitization from the LGN III on the business case model, investors in the sector started appreciating that while compliance cannot fully be free of cost, it made a stronger business case to comply than not to comply. Employment of drivers and conductors on monthly terms and payment of monthly salaries remains of particular interest to employers who finally saw a good opportunity to reclaim their businesses back. The business case was echoed by efforts by the sector workers and government to introduce the cashless payment system in PSV sub-sector. For the days that this was piloted, gains in revenue were registered by all participating operators.

It was also rare for employers in the sector to sit and dialogue with the government or other regulatory agencies. There was inherent mistrust between them. The government viewed the sector as disorganized, a deathbed due to frequent vehicle accidents and generally a menace in the transport sector. On the other hand, the sector operators viewed the government as only interested in collecting revenue and doing very little to facilitate an enabling environment. This project played a facilitative role in bringing the two together and more consultative approaches in addressing the sector challenges were reported by both the government and the sector operators.

Further, employers previously had little or no control over their employees. It was possible for a driver to

cause an accident with one vehicle one morning and drive a different vehicle the same afternoon. Such tendencies will be a thing of the past once compliance with the current provisions are effectively implemented. The provisions require, among other things, formal employment of a driver or conductor by only one Savings and Credit, Cooperatives (SACCO) or company. Similarly, the protective security sector was not immune to similar challenges. Failure by the employers to regulate and profile their employees remained a challenge to the sector. It is anticipated that sector regulations will be achieved with the passing of the regulatory bill, which was going through the parliamentary readings at the time of this evaluation.

Government & tripartite: These form the tripartite partnership of the ILO. The project supports the organization of the two sub-sectors that hitherto the government had little grasp on. Previous efforts by government, to create sanity in the public transport sector had achieved little with the exception of the famous *Michuki*¹¹ rules. These rules were popular with the public not with operators who had made all attempts to try block them. A key achievement for the government is the 'broken ice' between the transport sub-sector players and government agencies. Both can now sit and dialogue. Better management and organization of the private security was also in the interest of the government given the increased insecurity and threats of terrorism.

The project further offers opportunities for social partners to engage and tap on membership from better organized workers and employer organizations in the two sectors. Both the transport sector workers and private security workers remained largely unorganized, meaning they were yet to reap the benefits of associations and affiliation to national workers trade unions. This evaluation found out that there were ongoing efforts especially among workers in the transport sector to organize and affiliate to the national and sectoral trade unions. This, without a doubt, will result to better representation of the interests of workers in the two sub-sectors.

3.1.2 Relevance to the needs of the country

The MSME sector remains the most promising in addressing the challenge of unemployment in Kenya. This is attested by the high level of employment absorption compared to the formal sector. Further, achievement of the Kenya vision 2030 is dependent on the extent to which more decent jobs can be created across the different sectors. The work under this project offers sound lessons on how the informal sector could get organized and eventually formalize. Better organized sectors further tend to attract more participation by women, as attested by the increasing number of women in both the transport and the protective securities sub sectors. Any additional decent job created translates to improved welfare of workers and their immediate

¹¹ Michuki rules were implemented in 2003. Among others the rules provided for a reduction of the number of passengers in public service vehicles, painting of a yellow line for all PSVs, and uniforms and identification badges for the driver and conductor.

dependants. Furthermore, the project interventions were expected to result to better service delivery in the sector. It has been repeatedly noted in previous project reports that the *matatu* sub-sector was simply chaotic and all stakeholders including the general public were in agreement that there was need to create sanity in the sector. There was a general consensus among people interviewed that progress was being made towards achieving this goal.

It was also notable that the project design was keen to address the gender issue, which is a key indicator of inclusivity provided for under the Kenya constitution. The project document indicates that a minimum of 25 percent of all jobs created or improved will be held by women. This goal as stated earlier was visible and stakeholders met acknowledged that participation by women in the two sub-sectors was on the rise. The project also sought links with other projects that are of relevance to the country needs such as YEF East African project which seeks to promote youth entrepreneurship. Youth are the majority of the workers in the two priority sectors, and form the bulk of the labour force, meaning most of them remain unemployed.

3.2 Validity of project interventions and design

Validity of the project interventions and design typically evaluates the extent to which the project interventions and the design were consistent and compelling. The key question in relation to validity is; how do the two link in-order to produce the desired goal? This section therefore looks at several aspects that build onto the discussion on validity of the project interventions and design. These include 'adequacy, appropriateness, partners' roles and performance and linkages between inputs and outcomes among others.

3.2.1 Adequacy of project design process

The project design was logical and coherent. It was informed by a comprehensive problem analysis. Challenges facing MSME sector were adequately investigated through the baseline surveys to further build into the understanding that had been created through the initial scoping exercises. Stakeholders had the chance to discuss and build a consensus of the priority sectors of focus. For example, initial plans were to work with the private security sub-sector and the cosmetics sub-sector. Through mutual agreements, the cosmetics sector, also previously proposed was dropped and private securities sector chosen owing to shortage of funds, more pronounced labour law deficits in the private securities amongst other compelling reasons. Furthermore, partners continued to play key roles in project activities within the technical committees, besides being tasked with other specific assignments. For example, the baseline survey in the transport sector was coordinated by COTU, FKE coordinated the Regulatory Impact Assessment, while the MoLSSS developed the user friendly compendium of labour laws. This has created ownership in the project. Overall, the design has promoted a consultative approach which to a large extent has contributed to the gains

made in the project.

The problem analysis has consequently been logically linked to the overall project objective which links quite directly to the immediate objectives and the activities. For example, activity A.3.2.1 '*seeks to reward MSMEs identified through constituents and sector specific apex organizations such as SACCOs*'. This activity directly links to the third immediate objective which is '*to strengthen the capacity of MSMEs to comply with the revised labour law and regulations*'. Similarly this directly links with the immediate objective 3 and to the overall objective. The same applies to all other activities.

3.2.2 Appropriateness of project design process

The actual preparation of the project design may not have included all stakeholders but it was informed by the views of a wide cross section of stakeholders. Likewise the project implementation phase has also been participatory and consultative with most stakeholders actively involved through the National Technical Committee (NTC). Generally, all stakeholders interviewed were of the view that they had walked the journey through this project together as stakeholders. As observed, the active stakeholder involvement in the day to day project activities created a strong stakeholder buy-in, which has contributed to the achievement of the project outputs. However, more active participation of the NTSA¹² at the decision making level, would have strengthened project synergies with relevant government agencies, that would result to more effective enforcement of compliance with the existing laws. The project had however made efforts to sensitize stakeholders across board, including the NTSA, MSEA, workers and employer representatives. Furthermore, project activities were preceded by preparatory studies such as baseline surveys which further informed the design and eventual implementation modalities.

3.2.3 Internal and external influences

The outcome of interventions in the transport sub-sector was partly influenced by the passing of the traffic amendment Act 2013 within the project period. This provided a great opportunity for the project to integrate labour aspects into the law, a process which would otherwise have taken a long time to achieve. While it was through the project's support that workers' representatives strongly lobbied for the inclusion of the labour clauses, the fact that the amendments coincided with the project activities worked well in registering quick gains in the law. At the time of this evaluation intense lobbying was taking place for the passage of the private security regulation Bill 2014, which similarly included clauses relating to employee rights and labour laws. The project has also supported workers' representatives in the sector to play a central role in developing the law through trainings and advocacy. It was reported that the workers' representatives had met about 6 times with

¹²We were not able to meet the registration and licensing department of the NTSA to gain understanding of any efforts to work closely with other agencies like ministry of labour for more effective enforcement of compliance. The project was nevertheless forging closer working relationship with NTSA, and a meeting with Senior Directors of NTSA and ILO had been scheduled at the time this report was being done

the relevant parliamentary committee to lobby for their support for the bill. If passed this will be yet another milestone in integrating labour laws into the day to day operations of the private securities industry.

The project has also been influenced by other government interventions aimed at organizing the transport sub-sector. These include the regulations that all public transport vehicles must be registered under a SACCO or a company and the establishment of the NTSA through an Act of parliament of 2012, whose mandate is among others, to ensure compliance with the traffic laws. Notably, the focus on the private security industry came at a time when there was significant attention to security matters in Kenya following a series of terrorism related attacks. Physical inspection of people entering to most buildings and public transport vehicles across the country has been heightened. This, inevitably, has resulted to more female participation in the sectors, an aspect that also touches on the project goal on gender equality.

3.2.4 Causal linkage between outputs and outcomes

The project has one overall objective, three immediate objectives and six outputs. The overall objective is to contribute to a more enabling policy environment for MSME development in Kenya. The immediate objectives and the corresponding outputs are shown below;

IMMEDIATE OBJECTIVE1
Nurture respect for the rule of (labour) law among micro, small and medium enterprises (MSMEs) in Kenya with particular emphasis on the selected priority sectors; transport sub-sector and the private security sub-sector
OUTPUTS: 1) *MSMEs in Kenya have increased knowledge of the labour law*
2) *MSMEs have increased knowledge about the business case underpinning labour law compliance*

IMMEDIATE OBJECTIVE 2
Strengthen capacity of ILO constituents to engage in social dialogue on the nexus between Labour Law compliance and MSME development and to facilitate sector-specific regulatory reform,
OUTPUTS:1) *MSMEs have increased knowledge through increased social dialogue with tripartite constituents and other sector stakeholders about best practice in facilitating an enabling policy environment for MSMEs growth.*
2) *Proposals for sector-specific regulatory amendments endorsed by tripartite stakeholders and submitted to government*

IMMEDIATE OBJECTIVE3
Strengthen the capacity of MSME to comply with the revised labour law and regulations
OUTPUTS: 1) *Improved access for MSMEs to business development services aimed at boosting their capacity to comply with the labour law and regulations*
2) *Increased access for labour law compliant MSMEs to business finance or government supplier contracts or organizational capacity development support.*

The project objectives will result from the achievement of the outputs from implementation of corresponding activities in each area. Immediate objective 3 for example, will be attained through outputs 1 and 2. The same logic applies in all the other objectives and the causality is evident in the project results.

3.2.5 Project objectives, results and appropriateness of indicators

Project indicators were clearly spelt out in the Logical Framework (LOGFRAME) matrix. This evaluation notes that the indicators conform to the SMART principle as they are Specific, Measurable, Accurate, Realistic and Time Bound (SMART). The log-frame is further elaborated in the performance plan which systematically shows the specific milestones. The performance plan is further used to develop annual work plan showing schedules activities and timelines. Overall the performance plan is clear and logical, the indicators, end target and the milestones are clearly spelt out. However it would make referencing easier for project staff if the performance plan was updated with the baseline data.

Overall, it is the view of this evaluation that the project design is relevant, contextual and strategic to the achievement of the project objectives. The inputs, activities and expected results were logically linked to each other. The set targets are realistic and no wonder most of them are on schedule. However, the monitoring and evaluation plan could have been strengthened so as to continually involve all the stakeholders as most of them were not aware of their roles and the specific indicators to look out for.

3.3 Project effectiveness by immediate objectives

The project has three immediate objectives,

- i. To nurture respect for the rule of (labour) law among micro, small and medium enterprises (MSMEs) in Kenya with particular emphasis on the selected priority sectors; transport sub-sector and the private security sub-sector
- ii. To strengthen capacity of ILO constituents to engage in social dialogue on the nexus between Labour Law compliance and MSME development and to facilitate sector-specific regulatory reform
- iii. To strengthen the capacity of MSME to comply with the revised labour law and regulations

These objectives feed into one overall objective which is to contribute to a more enabling policy environment for MSMEs development in Kenya. This would be achieved through implementation of several activities all of which have respective outputs. This section presents an assessment of the project effectiveness and achievements in each of the immediate objectives, making reference to the respective outputs.

As noted previously LGN III focuses on two sub-sectors, transport and private securities. The private securities sector was identified as the second priority sector of focus following consultations among ILO constituents. Selection of the sector was based on the labour rights deficits and poor working conditions as extensively elaborated in the baseline survey. The survey, completed in March 2015 notes that some of the

challenges facing the sector include *'poor terms and conditions of employment; violation of fundamental principles and rights at work by some employers and absence of a standardized and recognized training procedure and framework for the private security officers'*;

3.3.1 Immediate objective 1: To nurture respect for the rule of (labour) law among MSMEs in Kenya

The main outputs in this objective are increased knowledge of labour laws and increased knowledge about the business case underpinning compliance with labour laws. To this end, a number of activities have been carried out or were planned for. Development of advocacy materials was done with an initial production of 7,000 copies of the simplified popular version of the labour laws. Distribution of the produced materials was on-going. More than 300 workers from the transport sub-sector had directly been reached with information about the project. Furthermore, 2,000 MSME in matatu sector had been reached through mass media during the Annual Delegates Conference held in Nairobi. Several other meetings had been held with matatu owners. Additionally, development of a framework for the mass media based law advocacy campaign was underway and was expected to be completed later in August 2015. This will be followed by support to tripartite constituents to implement the advocacy campaign. This support had not been done but was expected to be carried out between July and October 2015.

An update of labour laws to include new and simplified legislations is complete. Furthermore, the introduction of basic labour laws into the amended traffic act 2013 went a long way to create awareness on the labour laws. It was noted that increasingly, sector stakeholders were becoming more aware of the laws as they formed part of the compliance package before the SACCOs or companies and their affiliate vehicles could be licensed by the NTSA. Translation of the simplified labour law booklet into Kiswahili had not been achieved, but this was underway. The evaluation noted that the development of a labour laws mobile application had been commissioned. Piloting of the application was scheduled for August 2015 through to 2016. Awareness campaign meetings had commenced with Training of Trainers (ToT) session in Naivasha, which brought together representatives from all stakeholders. At the time of this evaluation, the trained ToTs were preparing their work plans for awareness creation. Awareness creation was planned to continue through to November in the 2015 work plan, by then more MSMEs will have been reached. Efforts to incorporate the LGN tool-kit into the drivers and conductors training curriculum had been started but this had not been achieved.

Observations on effectiveness in the implementation of immediate objective 1

Findings from the evaluation show that significant mileage has been gained in relation to creating awareness on the labour laws. This is through the development of pocket friendly compendium of labour laws, which

worked very well in reaching more workers and employers in the informal sector. While under LGN II a booklet targeted to the matatu sub-sector had been produced, a more generic booklet of laws was produced during LGN III and was at the time of this evaluation progressively being distributed to workers in the informal sector. An indication by Matatu Drivers and Conductors Workers Association (MADCOWA) that they contemplated going to court to seek guidance given the slow pace in implementation of the provisions of the law only serves to show the extent of knowledge gained on labour laws and employee rights. The organisation however noted that most of their members were yet to be sensitized on the laws both in target cities and in other parts of the country. Similarly employers in the matatu sub-sector had also benefited from the sensitization efforts.

Additionally, the partnership between LGN III and the Kenya Commercial Smart Drivers KCSD – a CBO in Kiambu County registering favourable results for the project.. KCSD mobilizes matatu crew and trains them on various topics including labour laws and the need to comply. This intervention had gathered a lot of interest among the matatu workers, a situation that was highlighted by WALOKANA Sacco, whose management reported notable changes among their members, especially the sector workers, which overall, made the SACCOs work easier. This was after the SACCO members were trained by KCSD.

The business case for compliance was well understood by those MSMEs that had been reached by the project. While echoing the benefit of monthly pay and contractual engagement of drivers and conductors, a matatu owner noted,

'...this gives an opportunity for matatu owners to own their businesses and stop being employed by their employees....'

Owners were hopeful that the cashless payment system that was being introduced in public service vehicles could soon be fully rolled out as this would resolve many of the challenges in the sector and increase their earnings. The business case for compliance will need to be shared widely among the employers and actors in the transport sector, so that all could appreciate the logic behind compliance. This notwithstanding, it was observed that compliance was hindered by several factors including scattered decision making on compliance where different government institutions gave different directives and presence of different law enforcement agencies including the county governments, NTSA, traffic police, regular and administration police. This creates confusion.

Fortunately, there are cases of improved compliance such as witnessed from Prestige Shuttle Services in Nakuru, Orokise SACCO in Kajjado, Walokana SACCO, OMA SACCO and SuperMetro SACCO all in Nairobi among others. While these had not fully complied, they had made significant steps in ensuring improved

environments for both workers and employers. Discussions with the Prestige Shuttle Services management for instance revealed that following the collaboration with the project which led to better understanding of the need to comply, their staff had become motivated. They observed that in some months, their monthly incomes had increased by more than 30 percent. This was attributed to reduced expenditures following compliance with basic laws such as those relating to speed, carrying capacity of the vehicle, client management and general condition of their vehicles. SuperMetro SACCO on the other hand reported that they had begun a savings scheme for their drivers, conductors and owners. The savings scheme comes with rules and regulations which, on the whole had tended to forge ownership of the business among the three stakeholders. Drivers and conductors had become more responsible given the stake they had in the savings.

Furthermore, payment of statutory deductions by the SACCOs and companies was made mandatory before renewal of licences. This has pushed the sector employers to comply. Drivers and conductors representatives we spoke to confirmed that most of their members were now members of the National Hospital Insurance Fund (NHIF) and the National Social Security Fund (NSSF). Stakeholders further observed that the statutory deductions and more particularly NHIF were contributing significantly to the participation of women into the transport sector, which was previously male dominated. The simple fact that their medical costs and those of their children will significantly be paid for by the insurance was a major attraction for women. Compliance with these provisions by players in the informal sector could therefore possibly improve gender participation in the informal sector.

It was observed that the project activities triggered the need and search for information by the different players in the sector, and the materials developed, summarizing the various pieces of labour laws, have provided very useful information in this regard. These have been used in the PSV SACCOs training with very profound results. The information is also useful in sensitizing the incidental audience in the youth SACCOs comprising of groups that are also formalizing their activities in keeping with sessional paper no 2 of 2005¹³. This is therefore an additional plus for the project, meaning that it has a multiplier effect that is a hallmark of a transformative intervention. Stakeholders' object lesson from the success of this project is that creating ownership by the stakeholders, right at the start is critical in ensuring positive and sustainable results.

LGN III has similarly engaged with the private security sector, though for a shorter time period compared to the transport sector, given that the sector was incorporated in the LGN project in 2013. However, discussions with private sector stakeholders revealed that a few of their members had attended trainings and forums

¹³ This session paper is on development of micro and small enterprises for wealth and employment creation for poverty reduction

where issues relating to labour laws were discussed. These trainings were in Safari Park and Olive Gardens hotel and a ToT training held in Nakuru. Those trained were expected to share the information more widely with other workers in the sector. The sector also continues to receive and make use of the sensitisation materials developed by the project such as the compendium of laws. One major engagement on the labour law and rights was a sensitization meeting was done at the Tononoka grounds in Mombasa, where hundreds of private security sector workers were successfully sensitised on labour laws and rights. Typically, the private security union is capitalizing on the TIMAM parades for the project related training. One key challenge though, was that the HIV/AIDS scourge had taken a toll on the workers and therefore, there was need to incorporate this training into the LGN III training content. Overall, knowledge and understanding of labour laws in the private securities sector was promising given the time that the sector has collaborated with this project. Awareness was growing progressively.

Without a doubt, awareness creation in the priority sectors was bearing fruit and this should be sustained. Training of more ToTs will go a long way to ensure that this goes on. The rolling out of the mobile phone application will also boost the reach. For more sustained progress, awareness creation and sensitisation on the business case for compliance will need to be more integrated into the operations of the sector regulators such as the NTSA and other line departments within government, such that they go beyond reprimanding those that have not complied and focus as much on supporting them to comply. Efforts towards compliance as stated later in this report should be rewarded, noting that full compliance will remain a challenge with the current state of the economy where for example wages are generally low for a majority of the people.

3.3.2 Immediate objective 2: Strengthen the capacity of ILO constituents to engage in social dialogue on the nexus between labour law compliance and MSME development and facilitate sector-specific regulatory reforms.

Objective 2 has two main outputs. The first is that MSMEs have increased knowledge through increased social dialogue with tripartite constituents and other sector stakeholders about best practice in facilitating an enabling policy environment for MSMEs growth, while the second is that proposals for sector-specific regulatory amendments endorsed by tripartite stakeholders and submitted to government

The baseline survey did highlight some good practices in facilitating enabling environment for MSME enterprise growth. The survey for example explained in detail the various provisions of the law that support decent employment and effective dialogue between stakeholders. It also highlights ideal situations in ensuring effective enforcement of labour laws. It notes, for example, that the ideal situation is to have 1 labour inspector for every about 40,000 workers. But in Kenya, one labour inspector covers about 150,000

workers meaning that they cannot be as effective as is expected. This, to a large extent, affects the level of compliance. Similar analysis was done in relation to working hours and wages in the baseline report of the private securities sector. These are examples of good practices as seen in the baseline surveys.

According to the project reports, consultation meetings with ILO constituents on appropriate structures to facilitate social dialogue were held and concluded. A National Technical Committee (NTC) and National Advisory Committees (NAC) were constituted which allow the constituents to meet quarterly for subject specific social dialogue. These committees continue to play an advisory role to the project and members continue to steer the project implementation. The project, through the national committees continues to facilitate dialogue meetings between MSME owners and worker associations and the employer and worker representative organizations. During the validation workshop for example, the process of bringing together private sector workers' representatives and employers was initiated. The two groups had previously not met to dialogue. They continued to view each other with suspicion and mistrust.

It was also reported that the project had significantly contributed to the basic labour laws amendments that have been incorporated into the proposed Private Security Regulation Bill 2014, which was going through the parliamentary approval process as at the time of this evaluation. Furthermore, the project had supported the private securities sector in lobbying for the passing of the bill and discussions with them revealed that the lobbying efforts have seen them hold 6 consultative meetings with the respective parliamentary committees. Similar sensitisation and awareness creation efforts targeting transport sector workers and consequent support from the project for lobbying and advocacy spearheaded by the sector workers led to the successful integration of labour aspects into the traffic amendment act 2013. The project continues to offer technical support to the National Labour Board (NLB), the project advisory and technical committees and other regulatory bodies on areas that still required reforms.

To support the dissemination of the business case the project was working closely with the Women Entrepreneurship Development and Economic Empowerment (WEDEE) project to develop issue papers that show the nexus between business growth and labour law compliance. This is based on the understanding that self-regulation works best when based on clear understanding of why it is important to comply. Efforts towards compliance seen among sector actors as discussed earlier will offer good lessons for championing the business case.

Finally, discussions with officers from the MoLSSS and workers representatives from the two sectors

echoed the need to activate the wage councils as avenues where faster gains could be achieved in legislating rights of workers. The transport sector wage council was yet to be formed and efforts towards its formation were reported to be ongoing. It was however observed that more support was needed for this goal to be realised. Stakeholders interviewed noted that the process was moving too slowly within the MoLSSS which was supposed to convene a committee meant to discuss the appointees to the council. Sector workers will therefore need support, in lobbying and advocating for speedy setting up of the wage council. The private security sector wage council had been constituted but was awaiting gazettelement. This wait was reported to be frustrating the stakeholders. For example, no new wage order had been registered which could trigger gains in meeting the basic rights in the sector. Notably, it was in the interest of the MoLSSS to speed up the gazettelement of the wage council a structure envisaged in the Second Medium Term plan of the government as one of the labour market institutions for facilitating social dialogue. The respective sector workers however have the responsibility to step up their lobbying efforts, courtesy of the knowledge gained from this project and experience gained in lobbying for the passage of the bill.

Observations on the effectiveness in the implementation of immediate objective 2:

Significant gains have been made in building the capacity of ILO constituents to engage in social dialogue. The national level technical committees have for example been active and they do meet quarterly to dialogue on sector specific issues. At the apex, social dialogue was happening. At the lower sector levels, social dialogue seemed to be taking root but much remained to be done. Discussions with MADCOWA representatives in Nairobi and Nakuru noted that there was more respect and appreciation of one another between the employers that have been sensitized and the workers. Similarly, the security workers union was now able to sit and dialogue with the employer, a scene that was previously rare. It was reported that there were significant achievements to this extent as reflected in the signed recognition agreements between the Kenya National Private Security Workers Union (KNPSWU) and all the 30 Kenya Security Industry Association (KSIA) members and several Private Security Industry Association members (PSIA).

While this is commendable, social dialogue needs to translate to gains for the workers and employers alike. This has not yet been achieved. According to PSIA, there was a challenge in mobilizing the business owners to come together so that they could deliberate on related issues, a situation that was slowing down progress in the social dialogue. It was reported that, the common guards would only interact with the company management through the Chief Executive Officers (CEO) who are also employees but hardly would they get a chance to interact with the real owners of the businesses, who carry the ultimate decision in negotiations affecting the workers. Notably, efforts to get the workers in the private securities sector to

meet and dialogue with owners were initiated following a request by the PSIA CEO to ILO to facilitate a meeting of all owners, as a precursor to a meeting between owners and workers. ILO was viewed to be a neutral party and therefore best placed to facilitate the process. This is progressive and needs to be supported.

Another impediment has been the slow pace at which workers in the priority sectors are getting organized and affiliating themselves with umbrella workers organizations. Their voices therefore remain weak. It was nevertheless noted that COTU was in consultation with the workers representatives in the transport sector on modalities of affiliation. The workers union also reported that they had signed a recognition agreement with one of the SACCOs and that MADCOWA chairman was reported to have been recognized as a Secretary General. Such efforts were bound to give a voice to workers. The importance of organizing and ability to negotiate for better terms of employment cannot be underestimated. Workers' organizations offer the most practical avenues for negotiating. It is through the worker organizations that Collective Bargaining Agreements (CBA) are negotiated and signed and these later translate into wage orders. It is therefore necessary that the project through the tripartite partners lays more emphasis on supporting organization of workers and employers in the target sectors. This will guarantee the fruition and sustenance of the gains made.

3.3.3 Immediate objective 3: Strengthen the capacity of MSMEs to comply with the revised labour laws and regulations

The outputs in this objective are two. The first is improved access for MSMEs to business development services aimed at boosting their capacity to comply with the labour law and regulations while the second is increased access for labour law compliant MSMEs to business finance or government supplier contracts or organizational capacity development support.

Most activities under this objective were ongoing or yet to begin at the time of this evaluation. The project had already partnered with Business Development Service providers to offer tailor made courses to MSMEs. The evaluation noted that a ToT training for BDS providers had been done and MSMEs training was set to be rolled out. The process of developing a business tracking tool for assessing business compliance levels was on course and was expected to be completed in October. The NTSA was however reported to be carrying out an audit on compliance levels across PSV SACCOs and companies. Sector actors were however of the view that the audit ought to have been carried out by an independent auditor so as to eliminate any biases, possible malpractices and corruption. The importance of keeping track and rewarding compliance to encourage others to comply cannot be underestimated. It was reported that the project planned to discuss the modalities of how to achieve this with NTSA, the institution mandated in law

to ensure compliance. The compliance audits were expected to provide reliable data on the extent to which MSMEs working with LGN III project were providing decent jobs. This would then form the basis for tracking jobs created or improvements in MSMEs working with the project.

Further, an operations/human resource manual for *matatu* SACCOs and companies had been developed and disseminated to operators in the *matatu* sector. The manual offers practical tools that can be easily adopted by SACCOs such as sample employment offers, employment records, leave application forms, and other practical information that should aide the employers to quickly comply with the provisions. This support towards compliance was expected to continue to 2016. Although access to development finance was not a major challenge in the *matatu* sector as most are able to access credit through their respective SACCOs and from banks using their vehicles as collateral, targeted training and capacity development of MSMEs was timely in promoting compliance.

It was also reported that there was need to incorporate other relevant trainings within the current workshops so as to achieve a holistic behaviour change amongst the stakeholders. Such trainings include HIV/AIDS and drug abuse which had taken a heavy toll on many workers within the sector. There were efforts by KSCD to incorporate some of these in the trainings. But there is still need for a structured and elaborate framework so as to have a major impact. MADCOWA on the other hand had launched the “*Kaa Sober Initiative*” a project that aims to reduce the consumption of illicit brews amongst the crew members.

Observations on effectiveness in the implementation of immediate objective 3:

As noted above the activities under this objective were underway. The training of ToTs among the BDS providers had started and was expected to assist in reaching out to more MSMEs. It is however also noted that closer linkages with line government departments could add value to some of the activities. For example, it was observed that officers from MSEA had capacity building of MSMEs as one of the key activities in their performance contracts. Discussions with MSEA revealed that some of the content that they would be training the MSMEs on was similar to what was expected to be delivered by BDS providers. Closer collaboration with MSEA would effectively avoid overlaps and possibly increase the overall reach. In general, stakeholders were of the opinion that the government needed to do more in involving all stakeholders, especially the sector workers and employers. It was for example observed the *matatu* sector stakeholders are not represented on the NTSA board, yet the board makes decisions that significantly impact on the sector. Such inclusivity would create ownership of decisions made by the board which would boost compliance.

NTSA was reported to be in the process of tracking compliance among the PSV SACCOs. Lessons learnt from this process were expected to inform the development of a business tracking tool for assessing business compliance levels with labour laws, including the private securities sector. Upon completion of the tracking, it was expected that a compliance reward system will be agreed by stakeholders. When this is finally implemented, it will work as a motivation for sector workers to comply. Compliant businesses will further be linked to other support structures such as in finance and other targeted training. This will improve their business growth and prospects. This activity is on track and was expected to be completed in December 2015. The compliance tracking that NTSA was undertaking forms the basis for the rewards and business linkages. Its completion will therefore unlock these activities. Trainings of sector workers had begun and this was expected to go on till the end of the project, and possibly carried over by organisations that collaborate with the project such as BDS providers, MSEA and KCSD.

3.4 Efficiency of resource use

The evaluation is of the general view that the project exercised prudence in the use of available resources. Firstly, the project was able to recruit qualified technical staff, some with significant previous experience working with stakeholders in the matatu sector. This made it easier for the project to penetrate the sector previously viewed as disorderly, effectively saving time. The staffs were able to moderate entrenched interests that had previously overshadowed efforts to collaborate with the sector actors. Two of the project staff are ladies, a departure from the sector norms where male dominate. Secondly, looking at the project achievements, much has been achieved with minimal costs. For example, the publication and distribution of compendium of laws was reaching thousands of people with valuable information that cannot be delivered in workshops or in seminars. Similarly, the use of morning parades (TIMAM) for private security sector workers to sensitize them on labour laws was cost effective and efficient.

Notably, delays were experienced in the project owing to internal factors and sector level dynamics. It is noted that overall, the wide involvement of stakeholders was often likely to cause delays in decision making. This is the cost the project had to pay to get results that are more likely to be sustained. Further, it was reported by all stakeholders interviewed that the time allocated for this project was short. There is only so much than can be achieved in 26 (extended to 32) months in sectors with diverse and entrenched interests. Much of the time is spent moderating the interests at the expense of core project activities. While gains have been made in achieving increased awareness much more needs to be done to support compliance.

3.5 Project management, monitoring and governance

The project was managed by the Project Management Unit (PMU) comprising of a Chief Technical Advisor (CTA), a national project coordinator and support staff. The CTA received technical backstopping from an

enterprise specialist at Geneva ILO Headquarters as well as the enterprise specialist in the Decent Work Support Team for Eastern and Southern Africa based in Pretoria, and was administratively supervised by the director of the ILO Country Office for Kenya, Tanzania and Uganda. After 26 months into the project (i.e. from December 2013 – January 2016) the CTA will be phased out and coordination for the last six project months (i.e. from February 2016 – July 2016) will remain the responsibility of the national project coordinator. By the end of the project implementation cycle, sole responsibility for the use of the approaches and tools will be handed over to the respective meta-level, macro-level and micro-level stakeholders, and the national technical and advisory committees will continue providing the forum for the coordination of the activities of these organizations. This appears to be in line given that actors at the different levels have been actively involved in virtually all project activities. This nevertheless assumes that self-propelled compliance will have been achieved. Much more effort will need to be put towards building the capacity of sector level stakeholders to willingly comply.

It is however noted that ILO only plays a facilitative role while national project committees drive the project. They for example decide on project activities, selection of national experts and so on. This not only created ownership in project activities but the close involvement of key stakeholders ensured that overall things were done correctly. Further this is a strong pointer to project sustainability as local institutions, workers and employer representatives will easily carry on with the interventions.

3.6 Impact orientation and project sustainability

Based on this evaluation, the project is expected to achieve the set objectives despite the slight challenges experienced. Most activities are on schedule as per the work plan, save for slight delays in a few. All are however expected to be completed in time. The results so far are encouraging and in some cases commendable as discussed in the preceding sections. Awareness creation is singled out as an investment in knowledge, which will benefit the sector actors for the rest of their lives. Integration of labour clauses in the traffic amendment act 2013 and into the private securities regulation bill 2014 were major achievements in ensuring sustainability of the core of the project interventions.

The project has by and large walked along with the primary stakeholders, which has significantly created a sense of ownership by them especially the social partners and some line government departments such as cooperatives and MSEA. This implies that the project goal and interventions are likely to be carried on by these stakeholders even when the project finally comes to a close.

To ensure that these gains were consolidated and sustained, there is need for increased capacity building

amongst the stakeholders through continued training programs, ICT enabled outreach, publications, advocacy and campaigns. The mobile phone application offers the best bet for achieving sustained learning and dialogue on labour laws. Workers representative will need to be supported so as to maintain pressure and push for the gazettelement of the private security sector wage council and establishment of the transport sector wage council. These offer the most practical and cost effective avenues to gain significant mileage in pursuit of the rights of workers.

Efforts towards social dialogue are encouraging; however, the distance between employees and employers was still being felt in both sectors. The project should strive to agitate for strengthened social dialogue among employees and employers. This will mean social partners play a stronger role in facilitating and promoting such dialogue. More importantly, the capacity of the MoLSSS was noted to be overly limited. The ministry requires more and better qualified personnel and additional budget allocations for it to effectively discharge its mandate, more so in light of the anticipated outcomes of the strengthened social dialogue. Already stakeholders observed that the ministry was taking too long to register the signed CBAs in the private securities sector.

This notwithstanding, as lobbying continues to better equip and resource the MoLSSS, it is important to seek synergy and look beyond the MoLSSS, to embrace and strengthen roles that other relevant government departments play that may be of value to the project objectives. A good case in point is that the NTSA was involved in enforcing compliance on labour issues, which ideally is a mandate of the MoLSSS. It makes sense therefore, to strengthen what NTSA does and find ways in which the NTSA could respond to the needs of the project. Similarly, the MSEA was involved in training of MSMEs, a role that may overlap with that of BDS. Closer collaboration with MSEA would increase the number of MSMEs trained.

Finally, this project provides the most clear example yet of how to formalize the informal sector. This is well in pursuit of recommendation 204 of the General Conference of the ILO, adopted on the 12th of June 2015. The progress towards this recommendation has been systematic and all indications were that formalization of the subsector was actually on course. It would appear ill advised at this point in time to let go the support to the sectors at a time when expectations and the morale are high especially among the workers. Although the laws and government institutions are in place, there is much more that needs to be done in promoting the business case for self-regulation.

4.0. Lessons learned and emerging good practices

A number of lessons were learnt by stakeholders involved in this project. Two were however outstanding and most frequently mentioned by those that we spoke to. The first lesson relates to the importance of actively involving all stakeholders in project activities. This was important given the diverse interests that dominate the selected sectors, where actors viewed each other with suspicion. It was the move by the project to bring all stakeholders to one table that saw them agreed to sit and dialogue after realizing that interventions were actually for their own benefit. Sector employers in the transport sector, workers in both sectors and social partners benefited most from this active involvement, which resulted to improved capacities across all of them. A workers' representative was for example quoted saying that he and others had gained confidence to walk into any office and to stand and talk before any forum. While this may have delayed decision making, it has set the basis for ownership of project interventions and for sustainability.

The second lesson relates to interconnectivity of issues in the target sectors which meant that there was need to closer collaboration among different actors. This lesson was more evident in the transport sector but it was also visible in the private securities sector. The push for compliance touched on so many other actors and not just the sector stakeholders. The department of cooperatives was for example at the centre of the interventions supporting the SACCO approach, MSEA was also in the middle of the interventions with support for business development in the sector. The NHIF and NSSF were brought on board following the integration of statutory deductions into the traffic act. These, particularly, NHIF was widely reported to have attracted the participation of women into the transport sector, given that it offers health insurance for them and their children. The same was reported to be happening in the private securities sector. It therefore alludes to the possibility that compliance with these provisions in other sub-sectors of the informal economy was likely to improve gender participation in the informal sector. While more linkages can still be created, interventions are indeed taking place in a system of many actors all of whom need to be involved closely. There is therefore need to map out all those touched by interventions and clearly understand their role for improved and more effective collaboration. Increased collaboration may consume time but it is more effective when each party is left to discharge on its mandate, and it promotes ownership and sustainability.

The mobile phone application was noted to be an emerging good practice in creating awareness and availing information about the labour laws to a wider audience. Through the application, interested people including workers and employers in the two sectors and any other interested party will be able to refer to labour laws using the phone platform, and at the same time interact with experts on labour issues through the same arena. This is based on the understanding that mobile phone penetration in the country was high and that

internet connectivity using mobile phones was on the increase. These conditions offer a strong case for rolling out of the application. Ideally it is believed that the more information people can access the more they are likely to make informed choices when seeking employment or when they demand their rights. Access to information is the foundation for creation of decent job opportunities. This application is replicable and already similar applications such as one on the constitution of Kenya are widely in use. It is however the first to consolidate information on employment rights and labour laws. This practice is candidate for more critical examination and testing as a good practice during the final project evaluation.

5.0 MAIN CONCLUSIONS AND RECOMMENDATIONS

Without any doubt the project has made significant gains in the transport sector. These include the awareness creation on labour laws, supporting their integration into the traffic laws, and addressing issues related to child labour in the act. Furthermore, sector workers enjoy social protection benefits through the mandatory deductions. Through the project, social dialogue is being promoted and for example sector stakeholders who rarely met are able to sit and reason together. In addition there is promising progress towards improved respect for labour laws as attested by the issuance of contracts to sector workers, monthly pay proposals and so on. Efforts to organise were also visible through the affiliation to SACCOs for employers and to COTU for the sector workers. Published materials for awareness creation and to support compliance will remain useful reference materials for stakeholders in the sector. Absence of wage council for the sector remained a major impediment to attaining the desired workers' rights.

In the private securities sector, awareness creation had begun in earnest and sector stakeholders were confident that the materials produced would come in hand. About half the sector workers were yet to join the union which greatly reduces their voice and the overall impact of the union. But the sector has a strong workers' union, which has facilitated the signing of several CBAs. A regulatory bill was underway, which when passed will legislate the labour related clauses. However, absence of the wage council continues to slow progress in attaining the rights of workers.

Overall there are significant challenges with the capacity of the MoLSSS to effectively discharge its mandate. There is therefore need to lobby for improved capacity and more funding of MoLSSS preferably by the social partners, starting with appraising the parliamentary committee for labour on labour issues. In the meantime, there is need to look beyond the MoLSSS and seek to synergize with other relevant departments.

In conclusion, it is the honest opinion of the evaluation team that the outputs registered so far are encouraging and offer a compelling reason to fully test formalisation of the informal sector using transport and private securities sectors as practical cases. In order to consolidate the gains made and ensure that the objectives of this project are realized, the midterm evaluation offers the following recommendations;

- ▶ In light of recommendation 204 of the General Conference of the ILO, adopted on the 12th of June 2015 this project offers the best opportunity to fully test formalization of the informal sector and build a strong case for future efforts in pursuant to this recommendation. It is strongly recommended that formalization of the two sectors should be supported to formalize so as to set

precedence for the formalization of other sub-sectors such as construction, mining, and beauty and hairdressing sub-sectors among other vulnerable sectors. This will require additional time and resources.

- ▶ There is need to step up awareness creation on labour laws and rights of employees preferably through the media .This campaign could include the marketing of the mobile phone application which is about to be launched.
- ▶ Efforts will need to be focused on disseminating and creating awareness on the business case for compliance. This should be carried out by the trained BDS providers ensuring that additional ToTs are trained to effectively penetrate the informal sector.
- ▶ The project should support sector workers to lobby and advocate for the gazettelement and activation of the private securities sector and transport sector wage council respectively. This will be a significant milestone in institutionalising the dialogue for improved working conditions.
- ▶ The project should facilitate the formative process of bringing together workers and employers in the private securities sector in a similar way it did to the transport sector. Once this is done the social partners (COTU and FKE) will be expected to play a more active role and effectively reach out to sector workers and employers respectively to organise for more effective social dialogue.
- ▶ The project should facilitate closer linkage and collaboration between the project stakeholders and key agencies such as the NTSA. The participation of NTSA has remained lukewarm despite its central role in the overall objective of this project. Such collaboration will resolve many challenges that currently hinder compliance such as scattered decision making in the sector and different enforcement agencies
- ▶ Social partners need to more aggressively lobby for additional support to the MoLSSS. This could be through sensitisation of parliamentary committees and relevant government officers and departments on labour issues. This should go hand in hand with encouraging the government to honour its commitments as a tripartite partner.
- ▶ In the meantime, there is need to forge closer partnerships with relevant government ministries and departments for more effective implementation of interventions.

List of people interviewed

| NAME OF RESPONDENT | Organization and Designation |
|-----------------------|-------------------------------------------------------------------|
| Nairobi | |
| Damaris Muhika | COTU, Project Officer, Training |
| Isaiah Kirigua | Ministry of Labour, Senior Deputy Labour Commissioner |
| Isaac Kiema | FKE, Project Manager |
| Nicholas Mugambi | MSEA, County Enterprise Development Officer |
| John Waihenya | Ministry of Industrialization & Enterprise Development |
| Samson Wainaina | MADCOWA, Chairman |
| Morris Oduor | MADCOWA, Treasurer |
| Richard Kanoru | MOA, CEO |
| George Githinji | MOA/OMA Services |
| Njeru Kyengo | MOA, Nairobi County |
| John Mburu | KECSD |
| Dr. Jacob Omollo | Consultant |
| Cosmas Mutava | Private Security Industry Association, Treasurer |
| Gibson Kamau | Driver |
| Daniel Ndiati | Conductor |
| Joshua Soita | KNPSWU |
| Isaac Andabwa | KNPSWU |
| Dennis Wendo | KNPSWU |
| Grace Sebageni | Chief Technical Advisor ILO, LGN III |
| Eunice Mathenge | National Coordinator, ILO Kenya LGN III |
| Hellen Magutu Amakobe | Evaluation Manager, and National Project Coordinator HIV and AIDS |
| Nakuru | |
| Steve Wambua | Prestige Shuttle, MD |
| Muli | Prestige Shuttle, CEO |
| George Masese | FKE, Senior Legal Officer |
| Teresiah Kinyua | MSEA, County Enterprise Development Officer |
| Charles Nyangute | BDS provider |
| Mr. Njuguna | Secretary LADCO SACCO |
| Kajiado | |
| Lucy Mathenge | Serian Sacco (Formerly Secretary Orokise SACCO) |

ILO Lesson Learned Template

Project Title: Law-Growth Nexus Phase III: Labour Law and the Enabling Business Environment for MSMEs in Kenya

Project TC/SYMBOL: M25008100890

Name of Evaluator: CHARLES MUNENE

Date: 31.08.2015

The following lessons learned have been identified during the course of the evaluation. Further text explaining the lessons may be included in the full evaluation report.

| LL Element | Text |
|------------------------------------------------------------------------------|----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| Brief description of lesson learned (link to specific action or task) | <p>It is important to actively involve all stakeholders in project activities.</p> <p>This was important given the diverse interests that dominate the selected sectors, where actors viewed each other with suspicion. Through support from the project, all stakeholders in the transport sector, who previously saw each other as competitors were convened to the same table where they agreed to sit and dialogue after realizing that interventions were actually for their own benefit. In addition sector employers in the transport sector, drivers and conductors guards in the private securities sector and social partners benefited most from this active involvement. They improved their capacities to handle issues. A workers' representative was for example quoted saying that he and others had gained confidence to walk into any office and to stand and talk before any forum. While this may have delayed decision making, it has set the basis for ownership of project interventions and for sustainability.</p> |
| Context and any related preconditions | <p>The rights and welfare of workers in the transport and private securities sector were never viewed with the seriousness they deserved both by the employers as well as the workers. The most significant impediments to this being lack of awareness about the rights and to some extent mistrust between the employers and workers. Yet progress could not take place without dialogue. This project plays a facilitative role in the meeting of workers and employers, which is the very first step towards forging more meaningful dialogue.</p> |
| Targeted users / Beneficiaries | <ol style="list-style-type: none"> 1. Primary sector actors (owners and workers) and their representatives 2. Tripartite partners 3. Other relevant government departments |
| Challenges /negative lessons - Causal factors | <p>The main challenge is the time and other resources spent before people agree to sit and dialogue. This can easily delay other project activities. However the flip side is that little or no progress may be achieved without the blessing and participation of key stakeholders. Delays are well the price that one needs to be prepared to pay in exchange of project ownership and sustainability</p> |
| Success / Positive Issues - Causal factors | <p>Stakeholders are the true owners of project interventions. Their involvement not only creates ownership but it also improves effectiveness and efficiency in the delivery of outputs, which to a large extent mirror their felt needs. This results in positive project impact and directly contributes to sustainability of interventions.</p> |
| ILO Administrative Issues (staff, resources, design, implementation) | <p>Future designs need to allow for a mapping of all relevant stakeholders alongside the most relevant roles for them, to ensure all play a role in the proposed project</p> |
| LL Element | Text |

| | |
|------------------------------------------------------------------------------|-----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| Brief description of lesson learned (link to specific action or task) | <p>Different sectors are closely interconnected which requires closer collaboration;</p> <p>The lesson here was that many things work in a web like system which connects different components. This was for example very evident in the transport sector though it was also visible in the private securities sector. The push for compliance touched on so many other actors and not just the sector stakeholders. The department of cooperatives was for example at the center of the interventions supporting the SACCO approach, MSEA was also in the middle of the interventions with support for business development in the sector. The NHIF and NSSF were brought on board following the integration of labour laws into the traffic act. These, particularly, NHIF was widely reported to have attracted the participation of women in to the transport sector, given that it offers health insurance for them and their children. The same was reported to be happening in the private securities sector. Things work best when each part of the system is capacitated and allowed to perform its role</p> |
| Context and any related preconditions | <p>The interventions supported by this project touched on the activities of very many other actors outside the immediate project stakeholders. For example the simple support towards respect for labour laws that project sought to deliver, went beyond the employers and workers into other interested parties. As such the project needs to have mechanisms to ensure meaningful collaboration with other emerging parties. Some, for example the NTSA in the case of the transport sector may emerge to be so instrumental to be overlooked.</p> |
| Targeted users / Beneficiaries | <p>Tripartite partners, project management,</p> |
| Challenges /negative lessons - Causal factors | <p>The challenge is that the direct link between the project and other emerging institutions may not be very visible. This is for example the case of the NTSA in the transport sector. Deliberate efforts would need to be made to appraise the relevant parties on the linkage and why it matters to partner. Further resources required for such collaboration may not have been factored into the project, which calls for creativity when seeking such collaboration to ensure their cost effectiveness.</p> |
| Success / Positive Issues - Causal factors | <p>Meaningful collaborations add value to the project interventions and lead to more visible impact. The NTSA was for example reported to be carrying out an audit on compliance. It would have been useful to have closer coordination with the project to ensure aspect related to the project were adequately incorporated into the audit</p> |
| ILO Administrative Issues (staff, resources, design, implementation) | <p>Project designs need to allow for quicker activation of partnerships with other stakeholders not previously anticipated, but whose role turns out to be significant to the achievement of the project objectives.</p> |

ILO Emerging Good Practice Template

Law-Growth Nexus Phase III: Labour Law and the Enabling Business Environment for MSMEs in Kenya

Project TC/Symbol: SOM/10/03/EEC Name of Evaluator: CHARLES MUNENE

Date: 31:08:2015 The following emerging good practice was identified during the course of the evaluation. Further text can be found in the full evaluation report.

GP Element Text

| | |
|----------------------------------------------------------------------------------------------------------------------------|----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| <p>Brief summary of the good practice (link to project goal or specific deliverable, background, purpose, etc.)</p> | <p>Mobile phone application on Labour Laws and Employment Rights. The application seeks to make it possible for workers in the informal sector and indeed any other interested person to access labour laws and employment rights from their mobile phones. This is based on the understanding that an enabling environment is one that really the actors have access to information that is relevant to them. Awareness creation was noted to be an important ingredient to the eventual compliance with labour laws. The application will contribute to creation of awareness in addition being a quick and accessible reference for anyone which a pressing question or issues that touches on their employment rights. Given the mobile phone penetration in the country was high and that internet connectivity using mobile phones was on the increase, the application is expected to benefit virtually all interested workers across the country.</p> |
| <p>Relevant conditions and Context: limitations or advice in terms of applicability and replicability</p> | <p>The application is based on availability of mobile phone device, or another electronic device which can connect to the internet. The limitation is that internet usage from mobile devices among people in the informal sector may still be limited given that it was relatively costly. Fortunately these costs are increasingly coming down. Effective use of the application will need to be preceded by massive awareness creation. The application will also need to be very easy to access and with language options that fit most people, possibly English and Kiswahili. The application is replicable and similar ones for example one that features the Kenya Constitution, the bible and the Koran are already in use.</p> |
| <p>Establish a clear cause-effect relationship</p> | <p>Ideally it is believed that the more information people can access the more they are likely to make informed choices when seeking employment or demand their rights where they are being violated. Access to information is the foundation for creation of decent job opportunities.</p> |
| <p>Indicate measurable impact and targeted beneficiaries</p> | <p>The application has potential to be useful to all workers and employers, in both formal and informal sectors, in the country as well as students learning labour laws. These categories also stand out as the main beneficiaries</p> |
| <p>Potential for replication and by whom</p> | <p>Already other similar applications are in use. When it's finally launched, its effectiveness in the informal sector may just provide practical answers on how information previously only available for formal sector workers can be made available to the informal sector workers. The government may use similar applications to create awareness on other issues such as OSH, taxation, health matters such as HIV/ Aids and so on.</p> |
| <p>Upward links to higher ILO Goals (DWCPs, Country Programme Outcomes or ILO's Strategic Programme Framework)</p> | <p>Emerging GP contributes to UNDAF's strategic result area on transformation governance whose outcomes include operational policy and institutional framework and respect for democratic participation and human rights,</p> |
| <p>Other documents or relevant comments</p> | <p>The application is nevertheless subject to more rigorous assessment and evaluation to establish if it qualifies as a GP at the end of the project.</p> |