

 ALHG/gw (CODEV)  
16.10.2012

cc: Mr. Berger, CO- Kabul  
Mr. Casale, LAB/ADMIN  
ED/DIALOGUE  
DWT-New Delhi  
CO-Kabul  
RO-Bangkok  
Ms. Wubs, CODEV  
Ms. Van Empel, CODEV

**AFG/10/01/USA**  
**TAP 38-61-01**

*Donor Project Reference: IL-21076-10-75-K*

Mr. Steve Marler  
Office of Trade and Labor Affairs  
Bureau of International Labor Affairs  
U.S. Department of Labor  
Room S-5303  
200 Constitution Avenue, NW  
Washington, DC 20210  
[marler-stephen@dol.gov](mailto:marler-stephen@dol.gov)

Grant Officer  
Procurement Services Center  
U.S. Department of Labor  
Room S-4307  
200 Constitution Avenue, NW  
Washington, DC 20210

**17 OCT 2012**

Dear Mr. Steve Marler,

**Submission of Technical Progress Report**

On behalf of the International Labour Organization, I have pleasure in enclosing the technical progress report for the above project covering the period July – September 2012.

May I take this opportunity to express the ILO's appreciation to the U.S. Department of Labor for its continuous support to the ILO's Technical Cooperation Programme.

Yours sincerely,

  
Jürgen Schwettmann  
Director

Department of Partnerships and Development Cooperation

*Some confidential information has been omitted (Aug. 2021).*

# International Labour Organization

## Technical Progress Report (TPR) – Afghanistan

### September 2012

<b>Project donor:</b> USDOL					
<b>Project title:</b> Strengthening Labour Law Governance in Afghanistan					
<b>Project number:</b>  <b>ILO TC Code:</b> AFG/10/01M/USA		<b>Reporting Dates</b>		<b>Preparation date</b>	
		<b>From</b>	<b>To</b>		
<b>Donor Identification Code: (if available):</b>		1 July 2012	30 Sept 2012	15 Sept 2012	
<b>Project budget:</b> <u>Source</u> <u>Amount</u> (US\$) USD 600,000	<b>Start date<sup>1</sup>:</b> 1 March 2011  <b>End date<sup>2</sup>:</b> 28 February 2014  <b>CTA/PC/PD start date:</b> 10 July 2011	<b>Evaluation dates</b>			
			<b>Planned as per PRODOC / Evaluation schedule</b>	<b>Proposed new dates</b>	<b>Actual dates carried out</b>
		<b>Mid-term:</b>	1 Sept 2012	dd month year	dd month year
		<b>Final:</b>	28 Feb 2014	dd month year	dd month year
<b>Contact official in IPEC HQ: (name and e-mail)</b>  Mr. Herve Berger Email: <a href="mailto:bergerh@ilo.org">bergerh@ilo.org</a>		<b>Person responsible for completing the report: (name, title, office address and e-mail)</b>  			
<b>outcomes:</b> (Outcomes as stated in the approved project document <sup>3</sup> ) IO.1. A reformed labour law administration machinery at the central and selected provincial offices for a more effective provision of services.  IO.2. A set of revised labour laws and regulations in line with the ILS which ensure an equitable balance between the need to foster productivity, employment creation and protection of workers' rights and employment security					

<sup>1</sup> Start date as indicated in the donor approved project document.

<sup>2</sup> End date as indicated in the donor approved project document. If these dates have been formally revised, indicate revised dates with "Revised" in brackets after the date.

<sup>3</sup> If the outcomes have been formally revised and approved by the donor, indicate "Revised" in brackets after the relevant outcome.

## **I. Country information and developments**

The Afghan Labour Law, enacted in 2007, covers various important labour issues like prohibition of compulsory work, organizing work relations, observing international treaties, recruitment rules, contract terms, work standards, occupational safety and health issues, special provisions for women workers, participation of employees in trade unions, etc. Also, separate regulations have been enacted under the Labour Law. Now the Government of Afghanistan through the Ministry of Labour, Social Affairs, Martyrs and Disabled (MoLSAMD) has started the revision of Labour Law and Labour Regulations with the cooperation of the ILO under “Strengthening Labour Law Governance in Afghanistan” project. The purpose of this revision is to evaluate Afghanistan Labour Law for its conformity to the international labour standards (ILS) and ratified International Labour Convention as well as to meet the existing needs of the country in the labour front.

The regulation on the High Labour Council and Regulation for orphanages has been sent to the Ministry of Justice for further process and will be sent for approval to the Ministers Council. The process is delayed due to some problems in the Ministry of Justice.

The law for vulnerable persons and families and the law for unsupervised children have been sent to Ministry of Justice for further process. Also the following regulations have been sent to the Ministry of Justice for further process:

- Regulation for Vocational Training Centers
- Regulation for Educational Privileges of Trainers
- Regulation for Compensation of Health Injuries in the Workplace
- Regulation for Orphanages

## **II. Overall progress within the context of the project**

### **II.A Summary**

The Government of Afghanistan through the Ministry of Labour, Social Affairs, Martyrs and Disabled (MoLSAMD) has started the revision of the Labour Law and Labour Regulations as well as strengthening the labour administration in Afghanistan with the cooperation of the ILO under “Strengthening Labour Law Governance in Afghanistan” project.

#### **1. Labour Administration:**

The draft amendments to the labour inspection regulation have been prepared in close consultation with the social partners and the ILO HQ-LAB/ADMIN. (Annex 1)

The initial draft amendments to the Regulation for Dispute Settlement have been prepared in consultation with MoLSAMD. The draft amendments will be discussed further in tripartite working group for finalization next month.

The project has translated four Power Point Presentations on ILO Modules on Labour Inspection from English to Dari language so far. The translation process is in progress for the rest of the modules. The translated presentations will be used in training to be provided by the international consultant to the labour inspectors in the year 2013.

The Regulation on the High Labour Council is pending in the Ministry of Justice (MoJ) and the process is delayed due to priority given to some other laws and regulations by MoJ. As per the meeting with the Minister of MoLSAMD, she will take up this issue with the Minister of Justice in order to speed up the process.

The project is working with ITC Turin on the details of the process for conducting a workshop on social dialogue for members of the High Labour Council in ITC Turin. The workshop will be held once the regulation on High Labour Council is approved.

## **2. Labour Law Reform:**

The amendments to the labour law have been drafted by the national consultants and translated into English. The draft amendments will be reviewed by an international consultant and the ILO HQ before the tripartite consultation. Also the process for hiring an international consultant for labour law reform is in progress and the consultant is supposed to start work in mid October 2012.

The ILO mission, composed of Mr. Coen Kompier the Sr. Specialist on International Labour Standards from ILO Decent Work Team for South Asia, was held in Kabul from 13<sup>th</sup> to 19<sup>th</sup> July 2012. The main agenda of the mission focused on discussions and support to MoLSAMD on issues relating to children in hazardous sectors, Afghan component of the study on Islamic labour law principles and ILS, reporting on ILS, publicity campaign on Labour Law and ILS.

The mission provided clear guidance to MoLSAMD on reporting to ILO conventions as well as how to proceed with the process of drafting the list of hazardous sector for child labour. It was also discussed to hire an international consultant to help MoLSAMD in drafting the list and the project started the process of hiring the consultant.

The hiring process of a national consultant to review and fine tune the draft handbook on Islamic Labour Law Principles and International Labour Standards (ILS) has started his work. The consultant will be engaged to review and fine tune the handbook the whole next quarter before presenting the draft to the national conference in January 2013. The handbook will be finalized end of March 2013.

The project is in the process of conducting training activities for MoLSAMD, Workers and Employers organizations in the field of labour law and negotiation skills in the month of October 2012 with the cooperation of ILO HQ and ITC Turin.

The draft concept note for a Publicity Awareness Raising Campaign and Training for the Labour Law and Islamic Labour Law Principles and ILS has been prepared and shared with other colleagues. The document is in the revision process and will be finalized in the next quarter.

The project has provided technical assistance to the MoLSAMD on drafting the reports to the ILO on ratified conventions for the year 2012.

The translation process of convention 189 on domestic workers has been completed. Domestic work is one of the main areas to be incorporated in the labour law under the current reform process.

### **Efficiency**

- Some activities on labour law reform and labour administration are delayed due to slow technical support from ILO on account of vacant technical posts, security constraints and existing leadership problems in MoLSAMD, as well as delays within the MoJ. *See annex 2 for further details*

### **Effectiveness**

- The activities have been accomplished as per the work plan and allocated resources with some delays due to some problems faced by the project in the labour law reform process as well as labour administration component of the project. *See annex 2 for further details*

### **Relevance**

- The activities mentioned in the report in the field of labour administration and labour law reforms are relevant to the two outcomes of the project (1. Reformed labour law administration machinery at the central and selected provincial offices for a more effective provision of services and, 2. A set of revised labour laws and regulations in line with the ILS which ensure an equitable balance between the need to foster productivity, employment creation and protection of workers' rights and employment security).

### **Sustainability**

- The project assists in creating a lasting and enabling framework for the effective organization and coordination of the labour administration system. Through the revision of existing laws and procedures, as well as extensive training of labour officers and social

partners, the MoLSAMD will strengthen its capacity in the medium and long term to provide better services to workers and employers.

- The project assists the MoLSAMD to maintain a modern labour administration policy linked into labour law compliance. This policy will be a vital factor in transforming the enforcement system beyond the life of the project to come. It will be supported by institutional capacity-building in the form of a sustainable training plan to ensure that the training activities of the project can be replicated, using, in the first instance, the trainers trained by the project and other relevant institutions.
- Knowledge of the labour law and its enforcement, once learned by workers and employers, will remain. Again, the project builds the institutional capacity of social partners, certify a core group of trainers and identify means for them to internalize training. In most cases the project makes every effort to use the national training institutions, consultants and individuals to conduct its activities, rather than renting conference facilities. This contributes to improving their level of services and curricula.
- The establishment of social dialogue mechanisms will contribute to the establishment of a culture of cooperation. By a sustainable support to social dialogue throughout the life of the project, the social partners will develop their capacity to better understand the concerns and interest of other parties, reach consensus, and thus strengthen democracy.

## **II.B. Progress towards Strategic Framework (Outcome 1 and 2)**

**Outcome 1: A reformed labour law administration machinery at the central and selected provincial offices for a more effective provision of services.**

The draft amendments to the labour inspection regulation have been prepared and discussions were held with the social partners. The Tripartite Working Group held meetings to discuss draft amendments to labour inspection regulation and finalize the draft.

The draft amendments have been translated into English and shared with ILO colleagues for their technical inputs. The comments from ILO Headquarters (LAB/ADMIN) on the draft amendments have been discussed with MoLSAMD and have been incorporated in the final draft. The draft amendments will be discussed further in tripartite working group in October and will be sent to the Ministry of Justice for further process in November 2012.

The draft amendments to the labour inspection regulation have been prepared based on examples of other countries and the ILO assessment of the labour inspection system in Afghanistan. The assessment included recommendation and was conducted early this year with the cooperation of ILO consultants detached from the Directorate of Labour Inspection of Brazil. The draft includes 31 articles in five separate chapters.

The initial draft amendments to the Regulation for Dispute settlement have been prepared in close consultation with MoLSAMD. The draft amendments were discussed further with MoLSAMD Board working on draft laws and regulations. The draft amendments will be discussed further in a tripartite working group early October. The finalized draft amendments will be sent to the ILO for technical inputs end of October.

The amendments to the labour dispute settlement regulation have been drafted based on the analysis of the ILO regarding the dispute settlement system of Afghanistan and examples of other countries.

The project is working on the translation of the Power Point Presentation of ILO Modules on Labour Inspection from English to Dari language, which will be used in trainings provided by



the international consultant to the labour inspectors in the year 2013. The four following modules have been translated so far and translation for the rest of the modules is in progress:

- The framework of labour administration system
- Introduction to Labour Inspection
- Policy and planning
- Labour inspection visits

The process for approval of the Regulation on High Labour Council is pending in the Ministry of Justice (MoJ) for seven months. Since the approval process of the regulation took such a long time and delays happened in the process, therefore the Minister of Labour, Social Affairs, Martyrs and Disabled will raise this issue with the Minister of Justice in order to speed up the process and get the approval of the Minister's Council.

The project is working with ITC Turin on the details of the process for conducting a workshop on social dialogue for members of the High Labour Council in ITC Turin. Terms of reference, budget breakdown and some other necessary issues have been prepared for the training. The main objective of the workshop is to help Afghan constituents to develop a tripartite consultative process to address economic and social challenges in the country, to promote better understanding of the respective points of view and to come up with concrete action plans.

**Outcome 2: A set of revised labour laws and regulations in line with the ILS which ensure an equitable balance between the need to foster productivity, employment creation and protection of workers' rights and employment security.**

The two national consultants have completed the initial draft amendments to the labour law and the draft has been translated into English. The draft amendments will be discussed further with MoLSAMD as well as with the tripartite working group in order to be sent to ILO for technical inputs. The amendments have been drafted based on the issues identified in tripartite workshops and the main areas of the labour law reform process include the following:

1. Model contract of employment to be prepared in collaboration with the MoLSAMD
2. Definitions of different categories of workers to be clarified

3. Provision to oblige the employer to provide the contract of employment
4. To reconsider the regime of fixed-term and indefinite-duration contracts of employment
5. Definition and provisions for casual workers, domestic workers, home-based workers
6. Informal workers
7. Probationary period (increasing its duration from 3 months to 5-6 months and differentiating by categories of workers)
8. To introduce dismissals for poor performance and economic reasons
9. To simplify procedures for dismissals (remove notification to and authorization by the MoL)
10. Mass redundancies (to introduce consultation with workers representatives, collective dismissals definition, obligation to provide some training in case of new technology; criteria of selection of workers to be dismissed)
11. More detailed provisions on collective bargaining
12. Right to strike
13. A law on trade unions would be necessary to avoid registration by the Ministry of Justice
14. Legal provisions on protection of trade union officials from dismissals
15. List of prohibited jobs for children
16. Discrimination (definition, direct and indirect, list of prohibited grounds, affirmative action, reversal of the burden of proof)
17. Harassment at work
18. Remove the prohibition of night work for women
19. Introducing provisions on equal pay for work of equal value
20. Separate chapters for women and children
21. Night work
22. Definition of forced labour and exceptions
23. Conditions for training for workers (to respect employers' investment)
24. Private and public employment agencies
25. Minimum wage to introduce in the public sector and the private sector
26. Occupational safety and health (list of hazardous jobs, in collaboration with the Ministry of Public Health)
27. Leaves (in the public and private sectors)

28. Regulation on part-time workers and for casual workers
29. Public and private employment agencies
30. Compatibility of the Civil Servants Law with the Labour Code
31. Clear provisions on domestic workers, dispute settlement and labour inspection

Based on the advice of the Deputy Minister of MoLSAMD, the project has started the process for hiring an international consultant for labour law reform and necessary arrangements have been made. The international consultant will review the amendments drafted by the national consultants and finalize them before presenting to the tripartite working group. The consultant will start his work in mid October 2012.

The ILO mission, composed of Mr. Coen Kompier the Sr. Specialist on International Labour Standards from ILO Decent Work Team for South Asia, was held in Kabul from 13<sup>th</sup> to 19<sup>th</sup> July 2012. During the mission discussions were made with DM Labour as well as various institutions on issues relating to children in hazardous sectors, reporting on ILS, publicity awareness rising campaign on Labour Law and ILS.

As per the follow up to the meeting of the mission with Prof. Fazli from Kabul University, a draft TOR has been prepared which included information about hiring a national consultant to review and fine tune the draft handbook on Islamic Labour Law Principles and International Labour Standards (ILS).

The excoll contract for Prof. Fazli from Sharia Faculty of Kabul University has been prepared and signed. This assignment includes reviewing and fine-tuning the draft handbook on Islamic Labour Law Principles and International Labour Standards (ILS). A tentative work plan for the reviewing and fine tuning of the handbook has been drafted which include detail activities in this front. The consultant will review and fine tune the handbook, which will be presented in the national conference to be held in January 2013. The participants of this national conference will include representatives from Ministries of Labour, Hajj and religious affairs, Justice, Women Affairs; Attorney General's Office; Parliament (relevant Committee members); social partners; members from Judiciary; members from Ulema council; Bar Association; Academics; NGO's (like IDLO, Asia Foundation, CPAU); UN and other regional/international organizations. The

whole process of fine tuning and finalization of the draft handbook will be completed end of March 2013.

The project is in the process of conducting training activities for MoLSAMD, Workers and Employers organizations in the field of labour law and negotiation skills in the month of October 2012. The three day workshop on labour law will be conducted from 15-17 October 2012 and a four day workshop on negotiation skills will be conducted from 20-23 October 2012. The training will be conducted with the help of Senior Labour Law specialist Angelika Muller from ILO Headquarter and Sylvain Baffi an expert from ITC-ILO Turin.

The draft concept note for a Publicity Awareness Raising Campaign and Training for the Labour Law and Islamic Labour Law Principles and ILS has been prepared and shared with other colleagues. The comments from colleagues have been incorporated in the draft concept note and will be discussed further with MoLSAMD as well as Workers and Employers organizations. The main objectives of this exercise are:

- (i) To raise awareness and to strengthen the capacity of the staff of the MoLSAMD at national and provincial levels to inform workers, employers and people more generally of their labour rights, and to take a more proactive role in the implementation of labour rights;
- (ii) To raise awareness and to strengthen the capacity of Workers' and Employers' Organizations to better understand the rights and obligations of workers and employers with respect to the labour law;
- (iii) To raise awareness and to strengthen the capacity of Workers' and Employers' Organizations to take a proactive role in raising awareness of their members to the rights and obligations of workers and employers;
- (iv) To raise awareness of the relevant judicial institutions to the labour law and its application;
- (v) To raise awareness of relevant civil society organizations to the importance of the labour law and its application as part of the protection of fundamental human rights; and

- (vi) To raise awareness of the public at large with a particular focus on the labour force in both formal and informal sectors.

The Publicity Awareness Raising Campaign and Training for the Labour Law and Islamic Labour Law Principles and ILS is planned to be implemented in four phases. The four phases include the following:

1. Planning and developmental Phase: this phase includes Overall Planning of the Publicity Awareness Raising Campaign and Training for the Labour Law, Islamic Labour Law Principles and ILS, and develops training and publicity materials.
2. Training and publicity campaign in Kabul City: this phase includes conducting workshops for tripartite social partners, representatives of all governmental entities and provincial directors of MoLSAMD. Also in this phase publicity campaign on Labour Law and Islamic Labour Law Principles and ILS will be launched in Kabul. Another activity in this phase includes distribution of publicity materials in all Governmental, Workers and Employers organizations as well as civil society organizations in Kabul and also organizing talk shows on TV, audio messages, short messages for newspapers etc to raise the awareness of the public from the labour law, ILS and Islamic labour law principles.
3. Training and publicity campaign in the regions: this task involves activities on conducting series of workshops for all Governmental, Workers and Employers organizations as well as civil society organizations in the regions
4. Implementation of the publicity campaign in each province: This phase includes launching Publicity Campaign to raise the awareness of the public from the labour law, Islamic labour law principles and ILS through talk shows on local TV, audio messages, short messages in local newspapers etc in all provinces as well as distribution of publicity materials all the provinces.

The translation of the convention 189 on domestic workers from English to Dari has been completed and shared with MoLSMAD. The current labour law doesn't have a single provision

on domestic workers; hence, the intension is to include provisions on domestic workers in the labour law.

The project has provided technical assistance to the MoLSAMD on drafting the reports to the ILO on ratified conventions. The regular reports were due for conventions number 100 on Equal Remuneration, 111 on Discrimination (Employment and Occupation) and 137 on Dock Work.

<b>Indicator 16.1 –</b> The number of member States in which constituents, with ILO support, take significant policy and programme actions to eliminate child labour in line with ILO Conventions and Recommendations;
16.1.1. Policies, programmes and/or action plans are adopted or implemented by one or more of the ILO's constituents, to bring them in line with international labour standards to prohibit and eliminate child labour.
16.1.2. Time-bound measures to eliminate the worst forms of child labour as a matter of urgency are implemented by one or more of the ILO's constituents.
16.1.3. Child labour concerns, considering the special situation of the girl child, are included in relevant development, social and/or anti-poverty policies and programmes.
16.1.4. Policies that address child labour are adopted and promoted through global, regional or sub-regional economic and social inter-governmental organizations or groupings.
<b>Indicator 16.2 –</b> Number of member States in which constituents, with ILO support, take action to adopt or modify their legislation or reinforce their knowledge base on child labour
16.2.1. Either Convention No. 138 or Convention No.182 is ratified during the reporting period.
<i>Data provided through central ILO reporting mechanisms</i>
16.2.2. The ILO supervisory bodies have noted with satisfaction or interest progress in the application of the relevant Conventions.
<i>Data provided through central ILO reporting mechanisms.</i>
16.2.3. Mechanisms and systems are established or strengthened so that up-to-date sex-disaggregated data and statistics concerning the situation of child labourers are available.
16.2.4. Targeted data collection and analysis and research are undertaken by constituents and other national partners to expand the knowledge base on child labour and to document lessons learned

**IPEC Additional Progress Indicator:** Children who benefit from ILO action with a particular focus on the worst forms of child labour and the girl child, as reflected by:

- a) those benefiting directly from pilot projects executed by the ILO or its implementing agencies, and
- b) those indirectly benefiting from initiatives executed by other development partners (member States, organizations and other agencies) as a result of ILO support and advocacy.

## **II.C. Direct beneficiaries**

The direct beneficiaries of the project are the Ministry of Labour, Social Affairs, Martyrs and Disabled officials, both in the MoLSAMD and in the selected provincial offices as well as workers' and employers' representatives. The ultimate project beneficiaries are men and women workers and employers in Afghanistan.

### III. Problems/issues materially impairing the achievement of project objectives, proposed solutions and actions taken or to be taken

Major problems/issues referenced here have already been encountered, are currently emerging, or are foreseen over the next 3-6 months. Once a problem/issue has been reported and resolved, it should be removed from this section.

<b>A. Implementation:</b> (include technical as well as management issues, including administrative, financial and budgetary issues)	
Problem/Issues	Proposed solutions and action(s) taken or to be taken (if action necessary, identify person responsible)
<ul style="list-style-type: none"> <li>Less technical support from DWT New Delhi (see annex 2 for further details).</li> </ul>	<ul style="list-style-type: none"> <li>Recruitment of a Labour Law, Industrial relations and Labour Administration Specialist in DWT New Delhi to support activities of the project</li> <li>Support provided with temporary assistance from Delhi upon request.</li> </ul>
•	•
•	•
<b>B. Stakeholders, partners and implementing agencies</b>	
Problem/Issues	Proposed solutions and action(s) taken or to be taken (if action necessary, identify person responsible)
<ul style="list-style-type: none"> <li>Problems with the Ministry of Justice (MoJ) in delaying the process for approval of the regulations.</li> </ul>	<ul style="list-style-type: none"> <li>Discussions with leadership of MoLSAMD in order to approach to MoJ to speed up the process.</li> </ul>
•	•
•	•
<b>C. External factors:</b> (include particularly those external factors identified as being critical assumptions in the project document and/or emerging critical external factors)	
Problem/Issues	Proposed solutions and action(s) taken or to be taken (if action necessary, identify person responsible)
<ul style="list-style-type: none"> <li>Problems in leadership of MoLSAMD</li> </ul>	<ul style="list-style-type: none"> <li>Raise concerns to the related people</li> </ul>
•	•
•	•
<b>D. Other major issues/problems</b>	
Problem/Issues	Proposed solutions and action(s) taken or to be taken (if action necessary, identify person responsible)
•	•
•	•



## Labour Inspection Regulation

Original text	Proposed changes and amendments	Remarks
<p><b>Chapter One</b> <b>General provisions</b></p> <p>Article 1 This regulation is enacted based on article 137 of the labour law for reaching the following objectives:</p> <ol style="list-style-type: none"> <li>1. Monitoring the implementation of the labour related legislations in the organization,</li> <li>2. Inspection of the working condition of workers in the organization for improvement,</li> <li>3. Monitoring the managing of work, social protection, relation between worker and organization in the work place and manner of wage payment and social protection of workers.</li> <li>4. Monitoring the recruitment conditions of workers based on enforced labour related legislations.</li> <li>5. Monitoring the securing of the environmental hygiene of social protection and practical approaches for safety at work place.</li> <li>6. Monitoring the measures taken by the organization for prevention of work related incidents and occupational diseases.</li> <li>7. Organizing the activities and working methods of labour monitors (inspectors)</li> </ol>	<p><b>Labour Inspection Regulation</b> <b>Chapter One</b> <b>General provisions</b></p> <p>Article 1 This regulation is enacted based on paragraph 2 of the article 146 of the labour law for reaching the following objectives:</p> <ol style="list-style-type: none"> <li>1. Monitoring and inspecting the implementation of the labour related legislations in the organization,</li> <li>2. Inspection of the working condition of workers in the organization for improvement,</li> <li>3. Monitoring and inspecting the work management, social security, relation between worker and organization in the work place and manner of wage payment and social protection of workers.</li> <li>4. Monitoring and inspecting the recruitment conditions of workers on the basis of provisions of enforced labour related legislations.</li> <li>5. Monitoring and inspecting the environmental hygiene, social protection and practical approaches for safety at work place.</li> <li>6. Monitoring and inspecting the measures taken by the organization for prevention of work related incidents and occupational diseases.</li> <li>7. Organizing the activities and working ways of labour inspectors.</li> </ol>	

<p><b>Article 2</b></p> <p>The Labour Monitoring Department is established within the structure of the Ministry of Labour, Social Affairs and Disabled and is composed of groups of labour inspectors in the field of labour rights, social security, organizing wage, labour standards and norms, social protection standards and safety. The monitors are hired based on their work experience in the field of monitoring and related educational qualification.</p>	<p><b>Article 2</b></p> <p>The Labour Inspection Department is established within the structure of the Ministry of Labour, Social Affairs, Martyrs and Disabled and is composed of groups of labour inspectors in the field of labour rights, social security, organizing wage, labour standards and norms, social protection standards and safety. The inspectors are hired based on their work experience in the field of monitoring and related educational qualification.</p>	
	<p><b>Article 3</b></p> <p>1. <u>Administration (organizations): Is the ministries, government and non-government agencies, independent commissions, enterprises, private and joint sectors entities, and foreign organizations in the Islamic Republic of Afghanistan where the employees perform productive and service work.</u></p> <p>2. <u>Labour Inspectorate: is the Labour Inspection Department of the Ministry of Labour, Social Affairs, Martyrs and Disabled and its branches in the provinces.</u></p> <p>3. <u>Labour Inspector: is a person assigned by Ministry of Labour, Social Affairs, Martyrs and Disabled to inspect and monitor the organization.</u></p> <p>4. <u>Protocol: is a signed agreement between the organization and the labour inspectorate in order to address the gaps and existing deficits of the organization.</u></p>	<p><b>Added</b></p>
<p><b>Article 3</b></p> <p>The monitors take into account in their activities the provisions of Islamic sharia and other enforced laws and legislations.</p>	<p><b>Article 4</b></p> <p>1. <u>The labour inspectors perform the following oath in presence of the related authorities.</u> ( ).</p> <p>2. <u>The labour inspectors act based on legislative documents in their activities.</u></p>	

Article 4 In order to achieve the objectives of this regulation, the Monitoring Department can hire experts and professionals or can invite them for carrying out specific tasks when needed. This should be done based on agreement of organization	Article 5 In order to achieve the objectives of this regulation, the Labour Inspection Department can hire experts and professionals or can invite them for carrying out specific tasks when needed. This should be done with the agreement of organization.	
Article 5 Provision of this regulation is implemented on those organizations and workers who are covered by the labour law.	Article 6 Provisions of this regulation are implemented equally on all organizations (governmental and non-governmental agencies, independent commissions, enterprises, private and joint sectors entities, and foreign organizations in the Islamic Republic of Afghanistan) and their workers.	
Article 6 Activities of the labour monitors are organized based on the provisions of this regulation and specifically on activities stipulated in first article shall be organized in way that don't interfere the activities of attorney, police and judiciary.	Article 7 1. Activities of the labour inspectors are organized according to the provisions of this regulation and especially contained in article 1 in the way not interfering the activities of public prosecution, police and judiciary. 2. Attorney office, police and other judicial agencies and workers and employers organizations will cooperate with the labour inspectorate when needed.	
Article 7 The organization would take the view of labour monitoring department before starting a production or services project in order to respect the safety standards as well as practical methods of safety and obtain the view of the department in the initial draft of construction project.	Deleted	
Chapter two Functions and responsibilities of Labour	Chapter two Functions and responsibilities of Labour Inspection	

Monitoring Department	Department
<p>Article 8</p> <p>The Labour Monitoring Department conducts labour monitoring visits in the organization based on the work plan.</p>	<p>Article 8</p> <p>1. <u>Based on the work plan, the Labour Inspectorate inspects the manner and conditions of organizing the labour relations between workers and the organization according to the provisions of the labour related laws.</u></p> <p>2. <u>The labour inspectorate inspects the governmental and non-governmental organization without prior notice. The organizations under the inspection should provide all labour related documentations to the labour inspectors.</u></p>
<p>Article 9</p> <p>The Labour Monitoring Department assigns those monitors in the monitoring groups who don't have personal interest in the organization to be monitored.</p>	<p>Article 9</p> <p><u>The Labour Inspectorate assigns those inspectors in the inspection groups who don't have personal interest in the organization under inspection.</u></p>
<p>Article 10</p> <p>Based on the work plan, the Labour Monitoring Department collects and combines the reports of the labour monitors and the organizations stipulated in article 134 of the labour law in specific intervals and they have the responsibility for fulfilling the following:</p> <ol style="list-style-type: none"> <li>1. Comprehensive review of the reports and results of work of the labour monitors groups.</li> <li>2. Issuance of guidance to the organization based on labour related legislations with indicating the duration of implementation of the guidance.</li> <li>3. Requesting the chief of the Ministers or his deputies in order to suspend or temporary stoppage of the activities</li> </ol>	<p>Article 10</p> <p>Based on the work plan, the Labour Inspectorate collects and combines the reports of the labour inspectors and the organizations stipulated in article 3 of the labour law in specific intervals and has to fulfill the following functions:</p> <ol style="list-style-type: none"> <li>1. Comprehensive review of the reports and results of work of the labour inspection groups.</li> <li>2. Issuance of guidance to the inspected organization based on labour related legislations with indicating the duration of implementation of the guidance.</li> <li>3. Requesting the related authorities for suspension or temporary stoppage of the activities of the organization in which occurrence of incidents, unfavorable working conditions or occupational diseases are expected.</li> <li>4. If needed, submitting request for the amendments of provision and completion of labour related legislative documents.</li> </ol>

<p>of the organization in which occurrence of incidents, unfavorable working conditions or occupational diseases are expected.</p> <p>4. If needed, rendering request for the amendments of provision and completion of labour related legislative documents.</p>		
<p><b>Article 11</b> The Labour Monitoring Department can re-monitor the organization based on acceptable reasons.</p>	<p><b>Article 11</b> Based on justifiable reasons, the Labour Inspectorate can re-inspect the organization in order to address the identified deficits.</p>	
<p><b>Article 12</b> The Labour Monitoring Department can request changing the equipments, tools and workplace of the organization to the related authorities.</p>	<p><b>Article 12</b> The Labour Inspectorate can request changing the equipments, tools and workplace of the organization to their related authorities.</p>	
<p><b>Chapter three</b> <b>Responsibilities of labour monitors</b></p> <p><b>Article 13</b> The labour monitors have the following duties and responsibilities:</p> <ol style="list-style-type: none"> <li>1. Legal and professional guidance to the authorities of organizations based on provisions of the law in order to improve working conditions, ensuring social security, managing work and regulating the rights and responsibilities of workers.</li> <li>2. Visiting various sections of the organization.</li> <li>3. Monitoring the organization during the working time.</li> <li>4. Asking explanations from authorities</li> </ol>	<p><b>Chapter three</b> <b>Responsibilities of labour Inspectors</b></p> <p><b>Article 13</b> The labour inspectors have the following duties and responsibilities:</p> <ol style="list-style-type: none"> <li>1. Legal and professional guidance and advice the authorities of the organizations based on provisions of the law in order to address the gaps and improve working conditions, ensuring social security, managing work and regulating the rights and responsibilities of workers.</li> <li>2. Visiting various sections of the organization.</li> <li>3. Inspecting and monitoring the organization during the working time.</li> <li>4. Asking explanations from authorities and workers of the organization based on labour related legislations.</li> </ol>	

<p>and workers of the organization based on labour related legislations.</p> <ol style="list-style-type: none"> <li>Asking for documents needed for monitoring and returning them back to the organization.</li> <li>Pay attention to the reports and explanations of the authorities and workers of the organization on issues related to monitoring.</li> <li>Respecting the principle of fairness and impartiality in carrying out the duty.</li> <li>Provide guidance for addressing the gaps on labour issues.</li> <li>Provide guidance and monitor the implementation of the labour related legislations by the organization.</li> <li>Taking samples of raw material or products for analyzing and after informing the organization returning the sample back.</li> <li>Identifying the specific period for addressing the deficiencies of the organization.</li> <li>Issuance of instructions for temporary evacuation of the work place in case of emergency and then taking the approval of related authorities before 24 hours.</li> </ol>	<ol style="list-style-type: none"> <li>Asking for documents needed for inspection and returning them back to the organization.</li> <li>Pay attention to the reports and explanations of the authorities and workers of the organization on issues related to inspection.</li> <li>Respecting the principle of fairness and impartiality in carrying out the duty.</li> <li>Provide guidance for addressing the gaps on labour issues.</li> <li>Inspection and provide guidance on equal implementation of the labour related legislations in the Governmental and non-governmental organizations.</li> <li>Taking samples of raw material or products for analyzing by Ministry of Public Health and realization of the objectives of this regulation. Returning the sample and materials back to the organization after informing the issue to the relevant authorities.</li> <li>Identifying the specific period for addressing the deficiencies of the organization.</li> <li>Issuance of instructions for temporary evacuation of the work place in case of emergency and then taking the approval of related authorities not exceeding 24 hours.</li> </ol>	
<p>Article 14</p> <p>The labour monitors are responsible for keeping the confidential issues, deficiencies of the organization under monitoring as well as the identification of the complainer and source of complain, approaches for utilizing the tools of production, commerce and all other issues of which they have found out about during the</p>	<p>Article 14</p> <p>The labour inspectors are responsible for keeping the confidential issues, deficiencies of the organization under inspection as well as the identification of the complainer and source of complain, approaches for utilizing the tools of production, commerce and all other issues which they have found out during the inspection.</p>	

monitoring.		
<p>Article 15</p> <p>In case that the keeping necessary documents for monitoring is unsafe in the workplace then the photo copies of those document with stamp from the head of the organization will be monitored with condition that the confidential documents won't be disclosed.</p>	<p>Article 15</p> <p>In case that the keeping necessary documents for <u>inspection</u> is unsafe in the workplace then the copies of needed documents with stamp from the head of the organization will be inspected with condition that the confidential documents won't be disclosed.</p>	
	<p>Article 16</p> <p><u>Violations that entail fines:</u></p> <ol style="list-style-type: none"> <li>1. <u>Recruitment of foreign citizens without working visa: 50,000 Afghani fine.</u></li> <li>2. <u>Non extension of work permit of foreign citizen in the specified time: 30,000 Afghani fine.</u></li> <li>3. <u>Disrespecting the working time announced by Ministry of Labour, Social Affairs, Martyrs and Disabled:</u> <ul style="list-style-type: none"> <li>• <u>Organizations that have more than 50 workers: 10,000 Afghani fine.</u></li> <li>• <u>Organizations that have less than 50 workers: 5,000 Afghani fine.</u></li> </ul> </li> <li>4. <u>Execution of 24 hours work by worker: 20,000 Afghani fine.</u></li> <li>5. <u>Working in two connective shifts: 10,000 Afghanis fine.</u></li> <li>6. <u>Dismissal of worker irrespective of labour law provisions and the contract: 10,000 Afghanis fine and re-recruitment of the worker.</u></li> <li>7. <u>Non-payment of food allowance: 5,000 Afghanis fine.</u></li> <li>8. <u>Lack of health services for young worker under age of 18: 10,000 Afghanis fine.</u></li> <li>9. <u>Nonpayment of financial aid for the deceased</u></li> </ol>	<p><b>Chapter Four</b></p> <p><b><u>Corrective Measures for Organizations</u></b></p> <p><b>Added</b></p>

	<p>employee's family: <u>10,000 Afghanis</u> fine and the payment of financial aid.</p> <p>10. Nonpayment of financial support allowance to the <u>unable (worker incurred a loss during job) or pension due to disability of more than 60%: 30,000 Afghanis</u> fine.</p> <p>11. Non distribution of cloths and safety and health equipments: <u>20,000 Afghanis</u> fine</p>	
	<p><b>Article 17</b> Other violations not listed here and entails fine shall be dealt by a separate procedure. Such procedure is to be prepared by <u>Ministry of Labour in agreement with Ministry of Finance.</u></p>	<b>Added</b>
	<p><b>Article 18</b> In case of nonpayment of fine stipulated in article 16 of this regulation within 5 days after the issuance of fine order, <u>the fine will be collected as follows:</u></p> <ol style="list-style-type: none"> <li>1. In case of nonpayment of fine within 5 days, <u>the fine is doubled and should be paid by violator.</u></li> <li>2. In case of nonpayment of fine indicated in <u>paragraph 1 of this article, the fine is multiplied by four.</u></li> <li>3. In case of nonpayment of fine after expiration of <u>specified duration in paragraph 2 of this article, the violation organization shall be introduced to legal and judicial bodies.</u></li> </ol>	<b>Added</b>
	<p><b>Article 19</b> In case that the fine is proved unfair, <u>the fine shall be refunded to the employer.</u></p>	<b>Added</b>
	<p><b>Article 20</b> <u>The Ministry of Labour, Social Affairs, Martyrs and Disabled sends the report of noncompliance to the labour law by governmental agencies to the Ministers' Council and to the related commission of the National Assembly regularly.</u></p>	<b>Added</b>
<b>Chapter Four</b>		
	<b>Chapter Five</b>	



Final provisions	Final provisions	
<p>Article 16</p> <p>The organizations stated in article 134 of the labour law monitors their organization based on the objectives of this regulation and for proper functioning of the organization, they send the reports to the Labour Monitoring Department.</p>	<p>Article 21</p> <p>The organizations stated in article 3 of the labour law monitors their organization based on the objectives of this regulation and for proper functioning of the organization, they send the reports to the Labour <u>Inspectorate</u>.</p>	
<p>Article 17</p> <p>Labour monitoring will take place in presence of the responsible person of the organization unless the monitoring process needs to be conducted in his absence.</p>	<p>Article 22</p> <p>Labour <u>inspection</u> takes place in presence of the responsible person of the organization unless the <u>inspection</u> process needs to be conducted in his absence.</p>	
<p>Article 18</p> <ol style="list-style-type: none"> <li>1. The results of monitoring of monitors will be incorporated in the agreement and will be signed if both parties agree. If the organization is having negative view about the contents of the agreement, then it should be sent in written to the Labour Monitoring Department.</li> <li>2. Proposals and suggestions of the head of organization under monitoring on issues relating to improving working conditions, social security, prevention of labour incidents etc will be also incorporated in the agreement.</li> </ol>	<p>Article 23</p> <ol style="list-style-type: none"> <li>1. The results of work of labour inspectors are incorporated in the protocol and will be signed if both parties agree. If the organization is having negative view about the contents of the protocol, then it should be sent in written to the Labour Inspectorate. If no agreement is reached, the issue should be sent to labour dispute settlement commission.</li> <li>2. Proposals and suggestions of the head of organization under inspection on issues relating to improving working conditions, social security, prevention of labour incidents etc would be incorporated in the protocol.</li> </ol>	
<p>Article 19</p> <p>The organizations can complain about activities of the labour monitors without having legal documents to the competent authorities.</p>	<p>Article 24</p> <p>The organizations can complain about activities of the labour inspectors without having legal documents to the competent authorities.</p>	

<p><b>Article 20</b> The General Directorate of Labour and Social Affairs provides the ground for capacity building of the labour monitors in the field of religious and professional knowledge through high education and also trainings inside or outside the country with the cooperation of related institutions.</p>	<p><b>Article 25</b> The Ministry of Labour, Social Affairs, Martyrs and Disabled provides the ground for capacity building of the labour inspectors in the field of religious and professional knowledge through high education and also trainings inside or outside the country with the cooperation of related institutions.</p>
<p><b>Article 21</b> The labour monitors will have a special identity card and will be distributed to them by General Directorate of Labour and Social Affairs.</p>	<p><b>Article 26</b> The labour inspectors would have a special identity card and distributed to them by Ministry of Labour, Social Affairs, Martyrs and Disabled.</p>
<p><b>Article 22</b> All those who violate the guidance of labour monitors in the workplace or interrupt the monitoring process, actions will be taken against them based on the law.</p>	<p><b>Article 27</b> All those who violate the legal guidance and advice of labour inspectors in the workplace or interrupt the inspection process, action will be taken against them based on provision of chapter 4 of this regulation.</p>
<p><b>Article 23</b> In case of non compliance to the law by the responsible people of the organization, the labour monitoring office can suggest corrective measures to the related authorities.</p>	<p><b>Article 28</b> In case of non compliance to the law by the responsible people of the organization, the labour inspectorate will take action based on provisions of chapter 4 of this regulation.</p>
<p><b>Article 24</b> The Labour Monitoring Department can suggest corrective measures for the authorities of the organization to the higher authorities if the organization is repeatedly not complying with the law or guidance of the monitors.</p>	<p><b>Article 29</b> In case of repeated nonchalance in complying with the legislative documents after execution of corrective measures, the organization shall be introduced to legal and judicial authorities.</p>
<p><b>Article 25</b> The labour monitors are obliged to inform the</p>	<p><b>Article 30</b> The labour inspectors are obliged to inform the legal and</p>

related authorities if they observe any infringement against the law from the organization or the workers during the monitoring.	<u>Judicial authorities if they observe any criminal infringement against the law from the organization or the workers during the inspection.</u>	
<p>Article 26</p> <p>This regulation is enforced after endorsement and should be published in official gazette and with enforcement of this regulation, the labour inspection regulation number 677 dated 15 aqrab 1367 (6 Oct 1988) is superseded.</p>	<p>Article 31</p> <p><u>This regulation is enforced after endorsement and should be published in official gazette and with its enforcement of this regulation, the labour monitoring and guidance regulation number dated / / is superseded.</u></p>	

## Annex 2

No	Activities	Reason for delays	Steps taken	Recommendations
1.	Activities under <i>Designing &amp; Operationalizing a revised system for dispute settlement</i>	The activities under this output were planned to happen without amending the regulation for dispute settlement. Now it is clear that the regulation should be amended as per the recommendations of ILO first and based on that the new system will be operationalized. Also other activities in this area will be undertaken after the approval of the regulation.	The process for amending the regulation has started and is in progress. Also the international consultant has been identified to help in this area after approval of the regulation.	Discussion with leadership of MoLSAMD in speeding up the drafting process as well as raise the concern of possible delays in Ministry of Justice (MoJ).
2.	Activities under <i>More efficient labour inspection</i>	Departure of Marleen Rueda, Labour Law, Industrial relations and Labour Administration Specialist in DWT New Delhi as well as problems in the leadership of the Ministry	Discussions with ILO HQ have been done in order to recruit replacement of Marleen Rueda. Raised concerns about the leadership problem in the Ministry with related people.	Recruitment of an international specialist to support activities of the project on labour administration. Raising concerns with MoLSAMD leadership about the existing problems in the Ministry which affects the project activities.
3.	Activities under <i>Establishment of Tripartite Social Dialogue Structure</i>	Delays in processing the regulation for High Labour Council in MoJ for almost seven months. Also MoJ doesn't give priority to the labour related regulations.	Regular follow up with MoJ and also informing the Minister of MoLSAMD, Deputy Minister as well as the DG for Labour Law about the delays and seeking their support	Raise concerns with leadership of MoLSAMD about the delays in MoJ and seek their immediate support in speeding up the process
4.	Activities under <i>Strengthening the Department of Improving Working Conditions in the MoLSAMD</i>	Departure of Marleen Rueda and lack of replacement for her in ILO DWT New Delhi.	Discussing the problem with ILO Rep and Jose Luis Daza from HQ	Discussion with <b>HRD</b> ILO HQ and DWT New Delhi about replacement of Marleen Rueda and possible visit to Kabul.
5.	Activities under <i>Drafting a new legal framework in consultation with the tripartite social partners</i>	Problems in the Ministry and disagreement of DM Labour with the process of having National consultants to draft the amendments to the labour law. Also DM Labour asked to hire an international consultant to draft the amendments to the labour law.	The process of drafting has been completed by the national consultants and the process of hiring an international consultant is in progress	Discuss the problem with leadership of MoLSAMD and asking their support in speeding up the process from MoLSAMD side.

**Labor Administration Project Financial report**

BL.Pos	SObj	Budget for 2012	Expend.\$	Expend.\$ in %	Budget balance 12	Budget balance in %	Commit. 12 \$	Commit. 12 \$ in %
11.001		77,000.00	17,541.00				782.00	
		<b>77,000.00</b>	<b>17,541.00</b>	<b>22.78</b>	<b>59,459.00</b>	<b>77.22</b>	<b>782.00</b>	<b>1.32</b>
13.001		30,656.00	25,676.37				4,979.63	
		<b>30,656.00</b>	<b>25,676.37</b>	<b>83.76</b>	<b>4,979.63</b>	<b>16.24</b>	<b>4,979.63</b>	<b>100.00</b>
15.001		17,989.00						
		<b>17,989.00</b>	<b>0.00</b>	<b>0.00</b>	<b>17,989.00</b>	<b>100.00</b>	<b>0.00</b>	<b>0.00</b>
17.001		71,245.00	33,218.51				28,161.49	
		<b>71,245.00</b>	<b>33,218.51</b>	<b>46.63</b>	<b>38,026.49</b>	<b>53.37</b>	<b>28,161.49</b>	<b>74.06</b>
31.001		74,000.00						
		<b>74,000.00</b>		<b>0.00</b>	<b>74,000.00</b>	<b>100.00</b>		<b>0.00</b>
32.001		2,690.00						
		<b>2,690.00</b>		<b>0.00</b>	<b>2,690.00</b>	<b>100.00</b>		<b>0.00</b>
41.001		6,600.00	0.00				1,000.00	
		<b>6,600.00</b>	<b>0.00</b>	<b>0.00</b>	<b>6,600.00</b>	<b>100.00</b>	<b>1,000.00</b>	<b>15.15</b>
51.001		5,500.00	489.39				2,510.61	
		<b>5,500.00</b>	<b>489.39</b>	<b>8.90</b>	<b>5,010.61</b>	<b>91.10</b>	<b>2,510.61</b>	<b>50.11</b>
53.001		3,000.00	1,057.78				1,242.22	
		<b>3,000.00</b>	<b>1,057.78</b>	<b>35.26</b>	<b>1,942.22</b>	<b>64.74</b>	<b>1,242.22</b>	<b>63.96</b>
68.001		37,528.00	10,115.03				0.00	
		<b>37,528.00</b>	<b>10,115.03</b>	<b>26.95</b>	<b>27,412.97</b>	<b>73.05</b>	<b>0.00</b>	<b>0.00</b>
71.001		9,995.00	0.00		9,995.00		0.00	
		<b>9,995.00</b>	<b>0.00</b>		<b>9,995.00</b>	<b>100.00</b>	<b>0.00</b>	<b>0.00</b>
<b>G.Total</b>		<b>336,203.00</b>	<b>88,098.08</b>	<b>26.20</b>	<b>248,104.92</b>	<b>73.80</b>	<b>38,675.95</b>	<b>15.59</b>

Note: Updated on 10-10-2012

ort as of 30-09-12

budget balance after com.	budget balance after com. in %	Observation
		INTERNATIONAL EXPERTS
58,677.00	98.68	Total Budget Line 011
		ADMINISTRATIVE SUPPORT
0.00	0.00	Total Budget Line 013
		TRAVEL COSTS
17,989.00	100.00	Total Budget Line 015
		NATIONAL PROFESSIONAL PERSONNEL
9,865.00	25.94	Total Budget Line 017
		FELLOWSHIPS
74,000.00	100.00	Total Budget Line 031
2,690.00	100.00	
		EQUIPMENT
5,600.00	84.85	Total Budget Line 041
		OPERATION & M'CE OF EQUIPMENT
2,500.00	49.89	Total Budget Line 051
		SUNDRIES
700.00	36.04	Total Budget Line 053
		Program Support cost at @ 13%
27,412.97	100.00	Total Budget Line 068
		Prov. For cost increases
9,995.00	100.00	Total Budget Line 71.001
209,428.97	84.41	