



International Labour Organization

iTrack

Evaluation

ILO EVALUATION

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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 Office

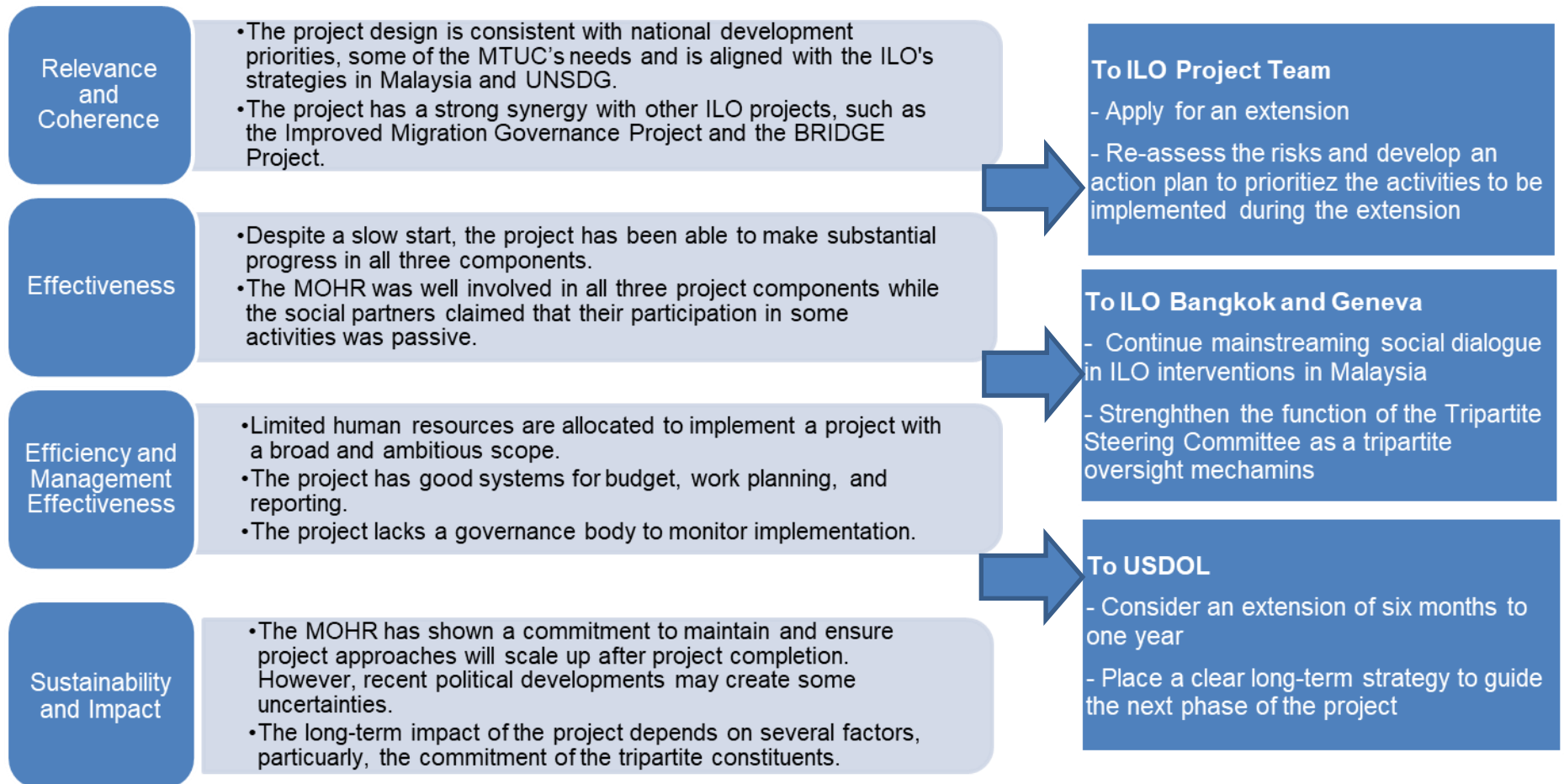
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Infographic summary on key findings and recommendations

Key Findings

Recommendations



List of Acronyms and Abbreviations

DAC	Development Assistance Committee
DGIR	Director General of Industrial Relations
DWCP	Decent Work Country Programme
EQ	Evaluation Questions
FDG	Focus Group Discussion
HRBA	Human Rights Based Approach
IMG	Improved Migration Governance
ILO	International Labour Organization
ILS	International Labour Standard
MPG	Management Procedures and Guidelines
KII	Key Informant Interviews
MEF	Malaysian Employers Federation
MOHR	Ministry of Human Resources
MTUC	Malaysian Trades Union Congress
PMP	Performance Monitoring Plan
Prodoc	Project Document
ROAP	Regional Office for Asia and the Pacific
SCP	Strategic Compliance Planning
SDG	Sustainable Development Goals
TOC	Theory of Change
TOR	Terms of Reference
TOT	Train of Trainers
TPP	Trans Pacific Partnership
TPR	Technical Progress Reports
USDOL	US Department of Labour
USDOS	US Department of State

I. Background

This evaluation report presents the findings and conclusions of an end of project evaluation for the Labour Law and Industrial Relations Reform Project in Malaysia. The Project is funded by the US Department of Labour (DOL) with an amount of USD 1.55 million over the course of 30 months. The Project officially commenced in October 2016, and implementation started in October 2017. Though the Project was originally scheduled to end in March 2020, it was granted an extension to September 30, 2020. This evaluation follows the evaluation criteria of the Development Assistance Committee, examining the relevance, coherence, effectiveness, efficiency, as well as sustainability and impact of the Project. It also discusses the good practices and lessons learned emerging from project implementation. At the end of the report, several recommendations are proposed to the project team, ILO regional office and HQ, as well as the donor.

1. Country Context

Malaysia is one of the most dynamic and rapidly developing countries in South-Eastern Asia, setting ambitious goals for its socio-economic growth and well-being. In the past few decades, Malaysia has risen from the ranks of a low-income economy in the 1970s to an upper-middle-income economy since 1992. Economic growth has been inclusive, whereby the share of households living below the national poverty line (USD 8.50 per day in 2012) fell from over 50% in the 1960s to less than 1% percent present-day. In that regard, Malaysia has succeeded in nearly eradicating poverty. At the same time, according to government data, life expectancy has increased (by more than 10 years) to an expected 75 years, while education levels have improved significantly, with 27% of the labour force obtaining tertiary level of qualification. With a young and growing population at a median age of around 30, youth provide a great opportunity for further economic and social development.

In spite of the above achievements, Malaysia still faces several challenges. These challenges include income inequality, low compensation to employees, as well as dependence on and management of foreign workers. Furthermore, Malaysia's rapidly expanding economy, increasing urbanization, and relatively low labour force participation among women continues to create a significant demand for migrant labour. As a result of these challenges, Malaysia's industrial relations system has not managed to keep pace with the country's overall transformation.

- **Restriction on freedom of association and collective bargaining**

Malaysia's Constitution grants the right for all citizens to form and join a trade union. In reality however, existing laws, regulations, and internal policies place essential restrictions on these rights. On top of some the restrictions created, there is inadequate promotion of the right to collective bargaining.

The key pieces of labour legislation governing freedom of association, collective bargaining, and industrial relations are the Employment Act of 1955 (Act 265), the Trade Union Act of 1959 (Act 262), and the Industrial Relations Act of 1967 (Act 177). These are supplemented by numerous regulations and internal policies. The Trade Union Act provides comprehensive restrictions, and grants a broad discretion to the Ministry of Human Resources (MOHR) in exercising its authority under the law. Restrictions on collective bargaining rights, strike and dispute settlement matters are found in both the Trade Union Act and the Industrial Relations Act. These include restrictions on the scope of bargaining over issues defined as management prerogative.

As a result of these restrictions and low protections, the trade union movement in Malaysia has remained weak and fragmented, with only 3% of private sector workers organized and less than

2% covered by collective agreements. Additionally, public servants have not been granted the right to bargain collectively over wages, remunerations, or other employment conditions. Consequently, the union movement (as well as the employers' associations) play only a marginal role in shaping the industrial relations landscape in Malaysia.

- **Employment practices related to women falling short of international labour standards**

There are considerable barriers which prevent women from having equal opportunities or engaging in in the workforce of Malaysia. The Employment Act gives the Minister extensive powers to make orders that prohibit the hiring of women. For example, there are specific provisions that prohibit the employment of women for shift-work at night time, or underground work. Some of these measures in legislation were initially motivated to protect women from unsafe work conditions, but in practice resulted in exclusion of women from some employment opportunities.

- **Limited capacity in labour inspection**

With regard to labour inspection, the capacity and effectiveness appears to be limited. There is little evidence of strategic planning, including the efficient use of existing personnel or deployment of targeted inspection campaigns. Overall, inspection planning seems to be absent, and the capacity for inspectors to genuinely enforce the law (for example, through the imposition of fines) is not clear.

- **Weak labour dispute resolution system**

As for Malaysia's labour dispute resolution system, there is an apparent need for training of the conciliators at the MOHR (housed in the Industrial Relations Department) to improve their skills and techniques. Particularly, both conciliators at MOHR and judges of the Industrial Court (an administrative tribunal controlled by the executive, and not part of the judiciary) need training on international labour standards. The government has conducted a review of the functioning of the Industrial Court, with the aim to improve Malaysia's labour dispute resolution system.

In response to weaknesses in the labour dispute system, which can significantly affect the country's economic performance and trajectory of future growth, the government adopted the New Economic Model in 2010. This Plan focuses on further developing a skilled workforce, reducing socio-economic inequality, improving people's living standards and strengthening institutional frameworks. This works toward the goal for Malaysia to reach high-income status (more than USD 15,000 national annual income per capita) by 2020. Furthermore, the government in 2015 presented its Eleventh Malaysia Plan 2016-2020, a five-year strategic development plan which lays out the strategies to achieve Malaysia's aspiration of becoming an advanced nation by 2020.

2. ILO in Malaysia

- **Tripartite system in Malaysia**

In the 1980s, the Government of Malaysia initiated a tripartite system through the establishment of the tripartite National Labour Advisory Council, with the participation of Malaysian Trades Union Congress (MTUC) and the Malaysian Employers Federation (MEF). In addition, the government took measures to improve the protection of workers' rights, by enhancing protections against the trafficking of persons and enacting the National Wages Consultative Council Act in 2011. Under this Act, a tripartite body known as the National Wages Consultative Council was formed to make recommendations on the minimum wage to the government. Tripartism also extended to a number of other bodies such as the Industrial Court, Employees'

Provident Fund, the Social Security Organization and the National Productivity Council. The Federal Government is responsible for the legislation, administration, and participation of industrial relations system throughout Malaysia.

Presently, the tripartite constituents in Malaysia include the MOHR, MTUC, and MEF.

- The MOHR is the ministry responsible for: skills development, labour administration, occupational safety and health, trade unions, industrial relations, industrial court, labor market information and analysis, and social security.
- The MTUC is a federation of trade unions and registered under the Societies Act, 1955. It is the oldest national center representing Malaysian workers. The unions affiliated with the MTUC represent all major industries and sectors, comprised of approximately 500,000 members.
- Established in 1959, the MEF promotes and safeguards the rights and interests of employers. It provides a forum for consultation and discussion among its members on matters of common interest, and also seeks the adoption of sound principles and practices for human resources and industrial relations.

- **ILO's technical assistance**

Malaysia has been a member of the ILO since 1957. Through ILO's technical cooperation work, Malaysia has ratified 18 ILO Conventions, of which 14 are currently in force for the country.¹ In 1990, the government denounced Convention 105 on Abolition of Forced Labour, one of the ILO's eight core conventions. Of the remaining seven fundamental conventions, Malaysia has ratified all but Convention 87 on Freedom of Association and Convention 111 on Discrimination (Employment and Occupation).

The ILO works on a number of programmes and projects in Malaysia, either through direct support by the ILO Regional Office for Asia and the Pacific (ROAP) in Bangkok, Thailand, or through implementation of projects on the ground. It does not have a country office in Malaysia. Consistent with Malaysia's status as a high middle-income country, ILO technical cooperation has focused on building relevant capacities of the Government of Malaysia, the MEF, and the MTUC; facilitating tripartite dialogue; providing technical advice; and promoting international labor standards (ILS).

In line with Malaysia's significant resource capacity, technical cooperation is largely implemented through direct trust funds based on the employment-related provisions of the Malaysian Government's "New Economic Model" and Eleventh Malaysia Plan. This commitment is supplemented by multi-year Development Cooperation Projects supported by international development partners. Targeted outcome and output of these development cooperation projects are set out in the Decent Work Country Programme (DWCP) Malaysia. In support of this, the ILO contributes programme coordination, specialist technical advice, and capacity development support in areas of agreed priority.

3. Project Description

The Malaysian Government has embarked on an overhaul of its industrial relations system with intentions to ensure alignment with the modern economic developments of the country and follows international good practices. Despite the government's efforts, by 2016 considerable work was still required to ensure Malaysia's industrial relations system conformed to international standards and good practices. More specifically, concerns remained regarding a

¹ Recently, in June 2016, it ratified Convention 131 on Minimum Wage Fixing, which has entered into force in June 2017, that is, one year after its ratification.

number of Malaysia's labor laws and practices related to freedom of association and collective bargaining; forced labour; child labour; and employment discrimination. The Labour Law and Industrial Relations Reform Project (the Project, or LLIRR Project) was developed in response to a request by the government for the ILO to assist in this endeavour, in consultation with tripartite partners, namely the MOHR, the MTUC, and the MEF.

Funded by the USDOL, the Project officially commenced in October 2016, and implementation started in October 2017. Though the Project was originally scheduled to end in March 2020, it was granted an extension to September 30, 2020. The Project was planned to be provided with incremental funding pending availability up to 10 years, totalling an amount of USD 5 million, depending on the availability of funding; initial obligation of funds was USD 1.55 million over the course of 30 months. One of the project beneficiaries, the MOHR, is the government counterpart of the Project.

The Project's objective is to increase compliance with labour law and ILO fundamental principles and rights in the workplace. To achieve this, the Project pursues three distinct and mutually reinforcing Components: (1) Legal and regulatory reform; (2) Labour inspection assessment, strategic planning, and capacity building; and (3) Reform and improvement of the systems for the resolution and adjudication of disputes.

The targeted beneficiaries of the Project include the following:

Direct beneficiaries are government officials involved with drafting legislation, regulations, policies, and other legal instruments. In particular this includes: (1) officials of the Trade Union Affairs Department, Industrial Relations Department, and the Department of Labour of the MOHR; (2) workers' and employers' representatives who participate in tripartite and other consultations (liaised through awareness-raising campaigns), such as representatives of the MTUC and MEF; (3) officials of the labour inspectorate, including labour inspectors at central and local levels; (4) dispute resolution officials and judges, including MOHR conciliators and Industrial Court judges participating directly in training; (5) and workers' and employers' representatives who receive capacity building support on collective bargaining.

Indirect beneficiaries, who are also the ultimate beneficiaries, include the workers, their families, and employers affected by changes to laws and practices, but who did not receive services or training of any kind directly from the Project.

II. Evaluation Background

1. Evaluation Purpose

According to the ILO Evaluation Guideline and consistent with the Management Procedures and Guidelines (MPG) agreed upon between the USDOL and ILO, the Project is subject to a mid-term evaluation managed by the USDOL (which was undertaken in July/August 2018), and a final evaluation managed by the ILO. The main purpose of this evaluation is to ensure accountability to donor and ILO constituents, and for internal learning. Specifically, the evaluation has the following key objectives:

- To assess the extent to which the project has or has not achieved its objectives;
- To assess project effectiveness vis-à-vis achieving its work plan, Performance Monitoring Plan (PMP) and indicators;
- To assess the relevance and validity of project design and strategy, including its Theory of Change (ToC) (The Project results framework flowchart is attached as Annex 1);

- To identify lessons and good practices for increasing country conformance with international labour standards and ILO fundamental principles and rights at work.

2. Evaluation Scope

The final evaluation should cover all stages of the Project, including the inception phase and all components of the Project. The following aspects should be addressed: design, synergy with other interventions, significant results, management for results, as well as human rights and gender mainstreaming. The findings of the evaluation are expected to guide corrective actions to be taken before the end of the Project on September 30, 2020.

3. Clients of evaluation

The primary clients of the evaluation are:

- Donor: USDOL
- Project constituents: MOHR, MTUC, and MEF
- Other donors or international organizations
- Direct beneficiaries
- Indirect beneficiaries
- ILO project team
- Relevant ILO Offices (Regional Office, HQ)

4. Evaluation Criteria and Questions

The Terms of Reference (ToR) (Attached as Annex 2) has specified that the new standard evaluation criteria of the DAC - namely: relevance, coherence, effectiveness, efficiency, effectiveness of management arrangements, and sustainability and impact - should be applied to this evaluation. The DAC criteria are evaluated through the evaluation questions (EQs), which are incorporated in the Evaluation Matrix (Attached as Annex 3), forming an overarching tool and foundation of the evaluation methodology. These EQs are consolidated based on the initial questions proposed in the ToR, and slightly adjusted based on the discussion between the evaluator and the ILO during the inception phase.

Table 1 Evaluation Criteria and Questions

Evaluation Criteria	Evaluation Questions
Relevance, and strategic fit of the project	<ul style="list-style-type: none"> - How does the project align with and support ILO's strategies in Malaysia (DWCP, international labour standards, etc.) and UN SDG? - Was the project design consistent with national development priorities, such as the New Economic Model and the Eleventh Malaysia Plan (2016-2020)? - Is the project design consistent with constituents' priorities and needs, in the areas of freedom of association, union organization and collective bargaining, and employment discrimination? How has the project baseline data been used to develop project targets and identify direct beneficiaries, and inform project design and activities? - Are the project objectives and critical assumptions appropriate for achieving the planned outcomes?
Coherence	<ul style="list-style-type: none"> - How do current efforts build on previous experience, and/or the synergies realized with other ILO interventions?
Project progress and effectiveness	<ul style="list-style-type: none"> - To what extent has the project achieved its planned objectives? What factors influenced the effectiveness of project activities? - How and to what extent have tripartite constituents been involved in project implementation? Are there any intended or unintended positive or negative effects on constituents and intended beneficiaries?

	<ul style="list-style-type: none"> - How effective is the project's knowledge sharing and communication in helping deliver the changes the project aims to generate?
Adequacy and efficiency of resource use	<ul style="list-style-type: none"> - Does the project have adequate staff capacity to implement the project? What could have been done more or differently? - Does the project have good systems for budget, work planning, and reporting? Do they allow for efficient use of time and resources? - To what extent has the project been able to build on other ILO initiatives and create synergies that allow for more efficient use of resources?
Effectiveness of management arrangements	<ul style="list-style-type: none"> - Is the institutional framework and governance structure of the project clear to all stakeholders? Have the structures and its operation been effective in guiding the project? Is the Project Advisory Committee (PAC) active, effective, and clear about their roles and responsibilities in regards to the project implementation? - What M&E tools have been developed and used? How has the project's PMP been used to improve project activities? - Were the project management arrangements, which include PAC, project staff, and ILO technical units, effective in managing risks and monitor project implementation? - Has the project received adequate administrative, technical and, if needed, political support from the ILO Regional Office, and technical specialists and technical units at HQ? How effective was the internal coordination among technical units to support the Project?
Sustainability and Impact	<p>Sustainability</p> <ul style="list-style-type: none"> - To what extent has the project adhered to USDOL's requirements with respect to sustainability strategy? - How well does the project fit and strategically synergize with other ILO projects in Malaysia to increase its sustainability? - How likely is it that the project approaches and results be maintained or scaled up by the government and social partners after completion of the project? What is needed for further capacity building to increase the likelihood? <p>Impact orientation</p> <ul style="list-style-type: none"> - To what extent have the project's results contributed in making (1) the Malaysian legal framework more consistent with international labour standards, (2) the Malaysian labour inspection system more effective at enforcing labour laws, decrees, regulations and other enforceable instruments, and (3) labour disputes in Malaysia resolved more effectively and efficiently? - If possible, please identify the social, economic and environmental impact of the project.
Cross-cutting issues	<p>Promoting international labour standards, human rights, and gender equality:</p> <ul style="list-style-type: none"> - Have project activities been based on the foundations that respect, promote, and realize fundamental rights principles? - Has the project been effective in mainstreaming gender equality in its works and processes?

III. Evaluation Methodology

1. Data Collection Methods

As indicated in the ToR, the ILO Guidance Note No.4: Integrating Gender Equality in Monitoring and Evaluation of Projects (March 2014)² should also be considered in this evaluation exercise. To note, this evaluation follows UN Evaluation Standards and Norms, as well as evaluation ethical safeguards. The evaluator has applied an evaluation methodology based on a combination of diverse techniques and tools, including both qualitative and quantitative data collection methods.

² https://www.ilo.org/eval/Evaluationreports/WCMS_165986/lang--en/index.htm

The following evaluation activities were carried out: extensive document review, key informant interviews (KIIs), and focus group discussions (FGDs). An inception report was submitted after document review in early February. A field mission to Malaysia was conducted during the second week of February 2020. A draft evaluation report was submitted at the end of February.

Desk review

Before and during field visits, the evaluator received extensive documents from the ILO, including but not limited to: existing project documents, various outputs and reports, and the mid-term evaluation report. In addition to the documents provided by the Project, the evaluator also consulted existing literature on relevant subject matters. A complete list of documents consulted is provided in Annex 4.

Semi-structured key informant interviews (KII)

A mission was carried out in Malaysia to conduct several face-to-face semi-structured KIIs. The informants included four women and twelve men, who represented key stakeholders from the ILO project team, the USDOS, and the tripartite institutions. In addition, the evaluator interviewed a representative of the USDOL and ILO technical backstopping specialists in Bangkok and Geneva through Skype calls. A detailed list of key informants is attached as Annex 5.

Table 2: Statistics on key informant interviews

Organizations		National & International Levels		Total
		F	M	
ILO	LLIRR Project team		2	2
	Other project teams	1	2	3
	Technical backstopping specialist		2	2
US Department of Labour and Department of State		1	1	2
MOHR		2	2	4
MEF		2	2	4
MTUC			2	2
Total		6	13	19

Focus group discussions (FGD) with direct beneficiaries

In order to elicit opinions and information on the subject matter at hand, the evaluator conducted a FGD with 10 participants from the MOHR, of which six were female and four male. These participants covered all MOHR departments and agencies that have been involved in project implementation. A complete list of the participants in the FGD is attached as Annex 6.

2. Evaluation Limitations

The evaluation has the following limitations. Firstly, the originally scheduled duration of the field mission was too short and had to be extended. In the ToR, only three days were budgeted for the field mission in Malaysia. After discussion during the inception phase between the evaluator and the ILO, one more day was added to the mission. However, during the mission, the meetings with stakeholders were limited to ILO's tripartite constituents. In some cases, meetings with the same tripartite institution had to be arranged twice as the participants of the first meeting did not have enough knowledge of the project to provide feedback. As a result, the evaluator had to spend two more days to conduct KIIs. Secondly, the evaluator was not able to obtain the perspectives of non-tripartite participants or non-ILO staff of the project, such as consultants to the project. Lastly, the field mission was limited to the capital city of Kuala

Lumpur and the seat of Government, Putrajaya. The evaluator was not able to visit Sabah and Sarawak where numerous project activities took place. As a result, limited source of information has an impact on the findings in this evaluation report.

IV. Evaluation Findings

1. Relevance

Is the project design consistent with national development priorities, such as the New Economic Model and the Eleventh Malaysia Plan (2016-2020)?

The project design is consistent with the priorities provided in the New Economic Model adopted in 2010 and the Eleventh Malaysia Plan (2016 – 2020) adopted in 2015, as confirmed by the MOHR. As discussed in the Background Section, these national policies focus on further developing a skilled workforce, reducing socio-economic inequality, improving people's living standards, strengthening institutional frameworks, and set a target for the country to reach high income status and become an advanced nation.

To achieve these goals, several challenges remain in a number of Malaysia's labour laws and practices related to freedom of association and collective bargaining, forced labour, child labour, and employment discrimination. The Project timely responded to the country's needs in economic development and brought the labour legislation in line with ILS. In providing support to the government and social partners, the Project has focused on the following issues: (1) government discretion in registering, cancelling, and suspending trade union registrations; (2) scope of associational rights; (3) legal restrictions on trade union membership and leadership; (4) legal restrictions on the scope of bargaining; (5) legal limits on the right to strike; (6) definition of essential services; (7) administrative discretion in dispute resolution; (8) use of subcontracting to undermine freedom of association; and (9) legal protections against employment discrimination.

In 2018, the newly elected government revisited the Eleventh Malaysia Plan and announced that one of the new foci of the Plan was to strengthen labour rights through legislation. In the upcoming Twelfth Malaysia Plan (2021- 2025), the strengthening of worker's rights will remain a priority item.

Is the project design consistent with constituents' priorities and needs, in the areas of freedom of association, union organization and collective bargaining, and employment discrimination? How has the project baseline data been used to develop project targets and identify direct beneficiaries, and inform project design and activities?

The ILO conducted scoping missions in June 2016 and April 2017 in response to a request by the Government to assist in overhauling the Malaysian industrial relations system to better align with ILS. Information collected from consultations and discussions with tripartite constituents and other key stakeholders formed a baseline to inform the design of the Project and identify direct beneficiaries, targets, and activities, particularly in the area of legal reform. An assessment of Malaysia's labour inspection system was carried out in 2017 by the Bangkok-based ILO labour inspection specialist, together with two senior ILO labour inspection officials from Geneva. The assessment team also engaged a former Malaysian labour officer/inspector, whose local expertise was used to gather background information and documents. The findings from the assessment contributed to the design of activities to improve strategic compliance planning (SCP), develop more human resource skills and capacity of inspectors, spur more efficient coordination between the three inspection authorities, and to increase leverage of information technology by the inspectorate.

During the evaluation, various departments in the MOHR confirmed to the evaluator that the project design was consistent with their priorities and needs, elaborated under the Strategic Plan of the MOHR (2016 – 2020). In particular, the Project contributes to the achievement of Core Strategy 3 on Nurturing and Improving Industrial Relations and Core Strategy 4 on Practicing a Safe, Healthy and Dynamic Work Culture.

As an organization for employers, the MEF needs to ensure whatever legislation being enforced will not detriment members' business operations. In the view of the MEF, to some extent, the LLIRR Project promotes ease of business operation by reducing some red tape and related cost of conducting business. For example, the SCP approach is well accepted by employers as it moves away from the traditional punitive method of enforcing compliance of laws and regulations. On the other hand, the MEF pointed out that some measures proposed by the Project would increase business costs in other areas for employers, for example, increasing female workers' maternity leave. A balance has to be struck between protecting the labour rights of workers and ensuring the profitability of businesses.

Only some of MTUC's priorities and needs are met by the Project. In particular, the Project meets the MTUC's needs to comply with ILS through various capacity building activities. However, in the areas of freedom of association, union organization and collective bargaining, the Project is not yet responsive enough. Today, union membership stands at only about six per cent of the workforce in Malaysia and the majority of workers remain unorganized. According to the MTUC, the Project does not adequately address issues relating to the formation of trade unions in unorganized sectors. Moreover, the Project does not do enough to raise workers' awareness on the importance of freedom of association, which always goes hand-in-hand with collective bargaining.

How does the project align with and support ILO's strategies in Malaysia (DWCP, international labour standards, etc.) and UN SDG?

The Decent Work Country Programme (DWCP) is established as the main vehicle for delivery of ILO support to its member States. In the case of Malaysia, its first DWCP was finalized after the LLIRR Project had already been launched. As such, the Project was able to provide inputs for the development of the DWCP. This DWCP is expected to cover a period of seven years, i.e. an initial period of two years (2019-2020), followed by a five-year period (2021-2025) to be determined based on the results of the first phase. It will serve as a framework for cooperation between the Government of Malaysia, social partners, and the ILO. The overall goal of the DWCP is to "promote, inclusive and sustainable economic growth, full and productive employment and decent work for all." The LLIRR Project contributes to the achievement of the Malaysian DWCP through Priority 1: Rights at Work, namely "protecting, promoting rights at work and recognizing the importance of compliance with International Labour Standards (ILS)". In other words, the DWCP has reaffirmed the government's commitments to the LLIRR Project objectives and activities.

Malaysia adopted the UN 2030 Agenda for Sustainable Development, which includes a set of 17 Sustainable Development Goals (SDGs) to end poverty, fight inequality and injustice, and tackle climate change by 2030. The Project directly supports Malaysia in implementation of SDG 8: Promote sustained, inclusive and sustainable economic growth, full and productive employment, and decent work for all. Malaysia is also one of the countries that are voluntarily reporting to the UN High-Level Political Forum on their progress made in mainstreaming the SDGs, including in particular, with respect to SDG Indicator 8.8.2: "Increase in national compliance of labour rights (freedom of association and collective bargaining) based on ILO textual sources and national legislation, by sex and migrant status."

Are the project objectives and critical assumptions appropriate for achieving the planned outcomes?

The design of the Project was based on several critical assumptions, which are the following:

- 1) The government will follow through on its commitment to reform its labour legislation and industrial relations system.
- 2) After promulgation of the new and amended laws and regulations, the government will remain committed to, and will allocate sufficient resources for, their implementation and enforcement.
- 3) The political situation in Malaysia will remain stable and secure.
- 4) Employers' organizations and their members will be committed to workplace compliance with the new legislation.

Some of these assumptions have proved to be appropriate during most of the project implementation, such as assumptions 1), 2) and 3). The election in May 2018 in the country did not bring any instability to the country and in fact accelerated labour law reform on the governmental side in the following 21 months. In February 2020, Malaysia's Prime Minister resigned and a coalition of former opposition parties came into power. A new Minister of the MOHR was appointed in early March. In spite of these domestic political developments, the senior officials of the MOHR reassured the project team that the tabling of key labour laws in Parliament, namely the Trade Unions Act and the Employment Act, would proceed as planned during the next session in May 2020. The project team is cautiously optimistic that the Project will continue under the new government as planned.

At the moment of evaluation, amendments to the Industrial Relations Act had been recently passed. However, according to social partners, they are still unclear about what will be included in amendments to other major labour legislations, such as the Employment Act and the Trade Union Act. Thus, it is still early to conclude whether the commitment of tripartite constituents to implement new legislation will remain. There is no doubt that the amended laws will affect the interest of each constituent differently. The strong commitment from the MTUC is also indispensable for achieving the planned outcomes, which unfortunately was not included as a potential risk in the Project Document (Prodoc). To address these uncertainties, the Project should timely update the risk assumptions, as part of the standard risk management and mitigation process, based on a thorough assessment of the risks related to implementation and enforcement, once amendments to the Employment Act and the Trade Union Act are passed.

2. Coherence

How do current efforts build on previous experience and/or the synergies realized with other ILO interventions?

The Project has closely collaborated and coordinated with other ILO projects targeting forced labour, child labour, and migrant workers in order to ensure integration of activities related to labour law reform, labour inspection strategy, and training and capacity building, to the extent possible while avoiding duplication.

Synergy with the Improved Migration Governance (IMG) Project

The IMG Project (June 2016 – March 2020) aims to ensure that migrants in domestic and plantation work are better protected through labour migration agreements and employment contracts that are aligned with international labour standards; enhanced access to information and services; and improved recruitment and employment practices. This project is directly related to the labour law reform in two aspects:

1. Collaboration in Labour Law Reform

Domestic workers in Malaysia have thus far been excluded from work-related benefits provided in the Employment Act. The LLIRR project team consulted with the IMG team on how to better protect migrant workers through amendments of the current law. Based on this consultation, the LLIRR project team proposed several changes to the Employment Act, including (1) expanding the coverage of the whole Employment Act to domestic workers, (2) granting the domestic workers one-day off per week (under the current practices, these workers do not enjoy any day-off), and (3) clarifying rules with regard to sick-leave.

The Project's collaboration with the IMG Project also reflects in the expansion of coverage of the Workers' Minimum Standard of Housing and Amenities Law, which was initially only applicable to workers living on plantations. In the amendment law passed last year, workers in other sectors also became entitled to the benefit of minimum housing, including domestic workers, of which 99% are women.

2. Collaboration in Labour Inspection

One objective of the IMG Project is to enhance the rights of plantation workers. The two projects jointly implemented a four-day event on labour inspection in December 2019. During this event, a National Strategic Compliance Planning Workshop was delivered to 18 senior officials from Government. Moreover, a Capacity Building Workshop was delivered to 20 labour inspectors in the palm oil industry, which focused on inspection skills to combat child labour and forced labour; OSH hazard identification and mitigation, and investigation and interview techniques. This workshop included site visits to a palm oil plantation and palm oil processing mill.

Synergy with the Protocol to Practice: A Bridge to Global Action on Forced Labour (Bridge) Project

The Bridge Project (June 2017 - December 2019) aimed to strengthen Malaysia's compliance with international labour standards, particularly on forced labour and child labour, and to promote the ratification and application of the Forced Labour Protocol. It is another development cooperation project that supports Priority 1 of the Malaysian DWCP: Rights at Work.

1. Collaboration in Labour Law Reform

Advocacy and technical support on legal and policy reform is a key component under the Bridge Project. Under this component, the Bridge project conducted a situation and gap analysis on forced labour in 2018. The objective was to take stock of the progress made on forced labour, and highlight remaining gaps to enable the future development of comprehensive policies and programs toward the elimination of forced labour and the onward ratification of the Forced Labour Protocol. The LLIRR Project provided input to the analysis, and findings of this analysis was shared with the LLIRR Project in return.

Furthermore, the Bridge team members attended meetings and expert consultations with the Ministry on labour law reform (organized by the LLIRR Project), including amendments to the Trade Unions Act, the Industrial Relations Act, and the Employment Act. The two projects collaborated to propose an amendment on forced labour in the Employment Act. This proposed amendment would further clarify the definition of forced labour in order to satisfy requirements in the ILO Convention 29 (Forced Labour Convention). A specialist of the LLIRR Project facilitated this activity. With support from the LLIRR Project, the Bridge team also provided input to provisions on digital payment in the Employment Act and provisions on passport detention under the Minimum Standards of Housing and Amenities Act.

2. Collaboration in Labour Inspection

The Bridge team benefited from the Assessment of Labour Inspection System conducted under the LLIRR Project. Findings and recommendations of this Assessment Report informed project

design of the Bridge Project by helping the project team understand the background and needs of labour inspection in Malaysia. The Assessment Report also confirmed that the Labour Inspection Department of the MOHR should focus on issues related to child labour and forced labour.

It should also be mentioned that the Bridge Project provided input to the previously mentioned four-day event on labour inspection in December 2019, which was jointly implemented by the LLIRR Project and IMG Project. The information from that workshop assisted the Bridge Project's development of its sector specific interventions.

3. Effectiveness

To what extent has the project achieved its planned objectives? What factors influenced the effectiveness of project activities?

The LLIRR Project encountered several delays at the beginning. The project manager was only recruited in September, 2017, nearly one year after the ILO and USDOL signed the cooperative agreement. Hiring of the national project coordinator was also delayed due to administrative issues. During project implementation, between November 2017 and April 2018 the ILO office underwent two major relocations due to the termination of lease agreements, which set things behind. Moreover, the national elections were held in May 2018. The subsequent government transition process brought the MOHR to a virtual standstill for an extended period of time; before, during, and after the elections. Finally, development of the Project Document Package took a substantial amount of time and effort that detracted from other project activities; only being finalized in mid-2018.

Although these delays slowed down the progress in the first year of implementation, the Project team was able to catch up and gradually brought timelines back on track. Here follows a summary of progress achieved under each component.

Under the labour law reform component, the amended Industrial Relations Act was passed by the lower house in October 2019 and was adopted unanimously by the Senate in December 2019. It should be noted that the passage of this amended law was supported by both the then-Government and the opposition jointly. The passage of the proposed amendments has been recognized as a game changer in the Malaysian industrial relations landscape. ILO offices in Bangkok and Geneva consider this amended law largely compliant with ILO Convention 87. The amended Workers' Minimum Standards of Housing and Amenities Act was also adopted by Parliament in July and promulgated in September 2019. The benefit provided in this law will expand beyond the plantation industry to cover all other industries.

Amendments to the Trade Unions Act and the Employment Act will be discussed by Parliament in March or April 2020. Currently, it is still unclear to social partners what amendments have been included in the drafts, while the Project team expects these acts will contain important changes to address major concerns previously raised by the ILO. Some key issues, such as plurality of trade unions, which was established in the amended Industrial Relation Act, will be further confirmed and detailed.

Furthermore, valuable progress has been made in the harmonization of the Sabah and Sarawak Labour Ordinances with the proposed amendments to the Employment Act, as well as the newly promulgated Workers' Minimum Standards of Housing and Amenities Act. It is expected that most (if not all) of the above amendments will be incorporated into the Ordinances.

Under the labour inspection component, the Project team has introduced an SCP approach to the MOHR for labour inspection. This new approach provides the labour inspectorate with new methodology to achieve greater compliance outcomes, even with limited resources, by

focusing on priority areas and high-risk companies. This has resulted in the development and agreement of a new national Strategic Compliance Plan for the palm oil sector in December 2019. In conjunction, the establishment of an MOHR Strategic Compliance Task Team will serve to replicate the palm oil sector's success in other priority industrial sectors. In the same vein, several capacity development activities have been carried out for inspectors, covering important areas such as occupational safety and health through Train of Trainers (TOT) methodology. At the time of this evaluation, no data was available on the indicator for "the number of inspections carried out in targeted sectors and/or issues", as the palm oil sector was identified, with a corresponding SCP outline being developed, only at the end of 2019. The short passage of time did not yield results on this indicator yet.

Under the labour dispute resolution component, the Project team has carried out capacity building activities, targeting MOHR conciliators and union officials that are involved in collective bargaining. As per the work plan, a full review of the process of labour dispute resolution has been undertaken and completed late 2019. Supplemental project support will be required for the implementation of recommendations from the review. With support from the ILO, 18 conciliators from the Industrial Relations Department of the MOHR have successfully completed the six-day TOT conciliation/mediation course conducted in September 2019 and have obtained certification by the International Training Center of the ILO.

The table below shows actual outcomes against targets for different performance indicators of the overall project objective and each outcome on an annual basis. A complete PMP data tracking table is attached as Annex 7.

Table 3 Project outcome measured against target indicators

PERFORMANCE INDICATOR	BASE-LINE VALUE	TARGET vs. ACTUAL	2017	2018	2019
Project's Objective: Increased compliance with labour law and ILO fundamental principles and rights at work					
Number of inspections carried out in targeted sectors and/or issues	-	Target	-	-	-
		Actual	-	-	-
Percentage of cases disposed by the Industrial Court within 16--month time	63.20%	Target	-	65%	75%
		Actual	63.20%	69.88%	75.51%
Outcome 1: The Malaysian legal framework is more consistent with ILS					
Percentage of relevant laws, etc. amended and promulgated	0	Target	-	12.50%	87.50%
		Actual	0	12.50%	25.00%
Number of provisions (issues) in laws, etc. contrary to ILS	40	Target	-	37	3
		Actual	40	40	31
Outcome 2: The Malaysian labour inspection system is more effective at enforcing labour laws, decrees, regulations, and other enforceable instruments					
Number of inspections carried out in targeted sectors and/or issues ³	-	Target	-	-	-
		Actual	-	-	-
Number of sanctions issued by the labour inspectorate in targeted sectors and/or issues ⁴	0	Target	-	-	-
		Actual	-	-	-
Outcome 3: Labour disputes are resolved more effectively and efficiently					
Percentage of cases disposed by the Industrial Court within 16--month time	63.20%	Target	-	65%	70%
		Actual	63.20%	69.88%	75.51%
Percentage of awards handed down by the	85.70%	Target	-	87%	80%

³ To be determined after promulgation of (key) labour laws.

⁴ As some key labour law amendments are not made yet, the specific value of this indicator cannot be determined.

Industrial Court within 3--month time frame		Actual	85.70%	92.55%	92.16% (November 2019)
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Annex 8 includes a detailed list of activities carried out under each component. It shows that most time and effort was spent on promoting labour law reform under component 1. On the other hand, resources spent on activities under components 2 and 3 has been to a much lesser extent.

The table below shows that 930 person-times participated in Project-organized workshops, seminars, and other capacity building activities. Among them, 581 were from the MOHR, 310 from the MTUC, and only 35 from the MEF.

Table 4 Summary of training participants

Component	Participants						
	MOHR	MEF	MTUC	Others	F	M	Total
Component I	165	15	156		101	207	336
Component II	321	19	85	4	158	271	429
Component III	95	1	69		71	94	165
Total	581	35	310	4	330	572	930

While many positive results were realised, several factors have also limited achievements of the Project.

Major positive factors

- The election of the new Malaysian coalition government in May 2018 brought new opportunities for the advancement of the Project, especially in light of the coalition’s Manifesto pledging to comply with ILO standards. The change in administration and national priorities allowed the project to approach the MOHR with renewed focus and perspectives to help expedite the process of labour law and industrial relations reform. As discussed in the Relevance Section, the project team is cautiously optimistic that the recent change of government in Malaysia in February 2020 will not have a major impact on project implementation, as the senior officials of the MOHR have reaffirmed the Ministry’s commitment to the labour law reform.
- Good quality of human capital allows Malaysia to absorb transfer of knowledge and better understand international good practices. Knowledge, skills, and improvements in healthcare that people have accumulated over the course of people’s lives has been a key factor contributing to sustained economic growth and minimised poverty reduction rates in Malaysia. It also allows the ILO projects to select capable national staff to run projects.
- Effective and timely support from ILO specialists and experts in the ROAP and HQ has been indispensable for the Project and its achievements. This will be further discussed in the Good Practice and Lessons Learned Section.

Major negative factors

- The withdrawal of the US Government from the Trans Pacific Partnership Agreement (TPP), which motivated Malaysia to reform its labour laws in accordance with international standards, and its consequences on the status of the US-Malaysia Labour Consistency Plan’s (LCP’s) status was a key factor in development of the Project and its implementation. For example the withdrawal led to a decline in support for labour law reforms from employers, as any anticipated preferences and improved trade access with the US under the TPP would no longer be realised.

- The dynamic among the tripartite constituents in Malaysia also had an impact on performance of the Project. Some social partners pointed out that although the ILO's interventions were helpful, their input ultimately could not be adopted in the labour law reform. For example, two ILO consultants sought the MTUC's input on several issues regarding labour dispute settlement. The MTUC's feedback to the evaluator praised the findings in the consultants' report for being helpful, especially for raising awareness and sharing good practices of other countries. Moreover, their report highlighted important concerns and perspectives raised by the MTUC. Unfortunately, these concerns were not given enough attention by the Ministry once the report was finally submitted to the MOHR.
- The outbreak of Covid-19 has brought a significant change to the normal pace and routine of work in Malaysia. Currently, Malaysia has enforced partial lockdown amid outbreak. As a result, many project activities, such as training and workshops, cannot be carried out as scheduled.
- As mentioned at the beginning of this section, several factors contributed to initial delays in project implementation and timelines.

How and to what extent have tripartite constituents been involved in project implementation? Are there any intended or unintended positive or negative effects on constituents and/or intended beneficiaries?

The extent to which tripartite constituents were involved in the project varies. The MOHR was well involved in all three project components, as confirmed by the FGDs with participants from different departments of the MOHR. The Project also facilitated MTUC affiliates in attending trainings and workshops. These capacity building events successfully enabled MTUC affiliates to prepare themselves not only for the process of consultation and discussion relating to labour law reform, but on how to effectively voice their concerns.

Contrastingly, the social partners commented that they were not at all involved in the first stages of amendment proposals. Only after the amendments were already proposed, that social partners were asked to provide feedback. The project team clarified that the initial amendment proposals were largely in line with the Labour Consistency Plan, which was developed and agreed between Malaysia and the US, after consultations with social partners.

According to the MTUC, labour inspection is one of the most important focus areas within its mandate. However, they were only given limited opportunities to attend activities organized by the Project under Component 2. What is more, their participation was quite passive, considering that they were not informed in advance about what subjects or objectives were selected for these activities. There was no real dialogue with the Project team to ensure their priorities were addressed by these activities. Adding to this, the MTUC felt that it was excluded from communication between the ILO and the MOHR, as the ILO did not share such information with the MTUC. From the perspective of the project team, labour inspection is a public function and therefore much of the project's focus under this component has been on the Ministry. Nevertheless, the project has encouraged the Ministry, as part of the SCP initiative, to regularly consult with social partners, and to this end has built tripartite dialogue sessions into all its SCP workshops.

As for unintended positive effects, it is interesting to see that the SCP for labour inspection has inspired the Inspectorate Malaysia to focus on the palm oil sector. This sector has always been considered by trading partners and ILO constituents as a sector deserving greater attention, but has also always been a politically sensitive area due to it being an economically important sector for the country that is also very dependent on a large migrant workforce. Drawing from

the success of project activities in the palm oil sector, the Inspectorate has requested the ILO to replicate project activities in the States of Sabah and Sarawak.

An unintended negative effect could be seen in the conflict between the MEF, the MTUC and the Government over consultations surrounding labour law reforms, although this is probably not so much a problem with the project but rather a political problem stemming from the diverging interests and perceived interests between constituents.⁵

How effective is the Project’s knowledge sharing and communication in helping deliver the changes it aims to generate?

Knowledge sharing and technical communication has been an important tool employed by the Project team to enhance institutional learning of tripartite constituents. A list of outputs from knowledge-sharing and communication efforts is presented in Table 5.

Table 5 Summary of knowledge and communication

Component	Time	Outputs on Knowledge Sharing and Communication
Component I	04/2018	Written advice on C.144 issue
	06/2018	Written advice on penal sanctions in regards strikes
	08/2018	Technical Note on issues related to Employment Act
	10/2018	Note on hours of work and overtime
	11/2018	Written comments on draft Employment Act
		Written comments on draft Minimum Standard of Housing and Amenities
	12/2018	Written comments on draft Industrial Relation Act
		Written comments on draft Trade Union Act
		Written advice on various issues related to Industrial Relation Act
	01/2019	Written advice on plurality of unions
	02/2019	Written advice on definition of forced labour (to US Embassy /US
	03/2019	Additional written advice on plurality of unions
		Examples of legislative texts on paternity leave
		Written advice on registration of union
	05/2019	Written comments on draft Code of Conduct for Industrial Harmony
	06/2019	Written comments on draft Employment (Domestic Employee)
		Additional written advice on plurality of unions
	07/2019	Written comments on draft NIOSH Act
	08/2019	3-day Activity by consultant to assist MTUC in finalizing draft
	09/2019	4-day Activity by consultant to assist MTUC in finalizing draft amendments
11/2019	Clarification on issue of plurality of unions	
12/2019	Written advice on Art 2 of C.87 vs. Art 3 of C.98	
	ILO Note on Industrial Relation Act Amendment Bill	
Component II	01/2018	Draft Report on Labour Inspection Needs Assessment

⁵ ILO Convention 144 on the Tripartite Consultation (International Labour Standards), which Malaysia has ratified in 2002, does not apply to national labour law reform but only requires consultations for matters concerning the normative activities of the ILO. However, in keeping with the spirit of Convention 144 and noting paragraph 5(c) of the Tripartite Consultation (Activities of the International Labour Organisation) Recommendation 152, the ILO encourages discussions between Government and social partners in relation to “the preparation and implementation of legislative or other measures to give effect to International Labour Conventions and Recommendations”. Obviously, discussion, or consultation, differ from ‘adoption’ or ‘consensus’, which in practice is often difficult or impossible to achieve.

	10/2018	Note on Private Compliance Initiatives
	11/2018	Note on IT with recommendations
	04/2019	Summary Note on Workflow with recommendations
	06/2019	Consolidated SCP Report
	12/2019	Draft report on HR and Capacity Development Reviews
	01/2020	SCP (palm-oil) report
Component III	09/2018	Written advice on frivolous claims before the Industrial Court
	01/2019	Written advice on dispute resolution issues, incl. grievance procedure
	12/2019	Report on Review of LDR System with recommendations (to be published)

Under Component 1, the Project team has conducted regular technical consultations with the MOHR to explain ILS, to comment on draft amendments, and to provide examples of legislative texts on various issues. Such technical advice covered not only the key laws to be amended, but also touched upon other relevant legislations, such as the National Institute of Occupational Safety and Health Act. The MOHR confirmed to the evaluator that the ILO's knowledge-sharing and communication on technical issues has been instrumental in the preparation and drafting of amendments. Not only does knowledge sharing from the ILO to the tripartite constituents help to clarify and justify the amendments, it also creates a platform for them to discuss and form an agreement on major law labour law reform issues. Without the ILO's facilitation, it is sometimes hard for the tripartite constituents to reach a consensus.

On labour inspection reform, the Project introduced a new concept of SCP, a more sophisticated approach focusing on compliance. In December 2019, the ILO completed a Technical Memorandum on Labour Inspection, Human Assessment, and Capacity Building. Based on the road map defined in the memorandum, the subsequent ILO capacity building activities addressed policy and operation gaps in labour inspection. Knowledge sharing enabled relevant stakeholders to strike the right balance between preventive, punitive, and social policing interventions when developing inspection policies. It also sparked stakeholders to rethink their mission and purpose, and formulate new objectives, targets, and operational interventions that make the best use of available resources.

Under component 3, the Project team commissioned a Study and Review of Malaysia's Labour Dispute Resolution System. The study results proposed systematic changes for the MOHR to consider. In response the government was receptive to addressing issues identified by the Review. Currently, the Ministry is in the process of implementing some of these recommendations, including streamlining of labour disputes through the establishment of an appellate procedure from the Industrial Court to the High Court. The MOHR is also committed to further implement these recommendations for the remaining time of the Project.

4. Efficiency

Does the project have adequate staff capacity to implement the project? What could have been done more or differently?

The Project is managed by an internationally recruited Chief Technical Advisor (CTA) specialized in labour law and industrial relations. He is fully responsible for the project implementation and compliance with ILO and donor requirements. His responsibilities include delivering technical advice on issues across three components, providing draft texts for government officials to consider, and reporting to the ROAP in Bangkok. The CTA is supported by a National Project Coordinator (NPC) who is responsible for liaising with the tripartite constituents. In addition, a Finance and Administrative Assistant provides the necessary financial and administrative support for the Project. Originally the project only started with a half-

time assistant. Due to increased workload, the administrative support was increased to 150% full-time staff. The Deputy Regional Director of ROAP, based in Bangkok, Thailand, provides management support and supervision of the project to managers while regional technical experts, based in Bangkok and Geneva, provide technical backstopping.

The scope of the Project is broad and ambitious, as each of the three components can be a stand-alone intervention. Both the labour law reform component and the labour inspection reform component themselves are heavy and complex, involving a lot of activities. Upon reflection, the project should have had more than one national coordinator to focus on different components.

In spite of the limited human resources, the Project team has managed to provide technical support in an efficient and timely manner after the initial delay in implementation. This has been well recognized by the government counterpart. When it comes to organizing training and other activities, some tripartite constituents reflected that due to limited manpower, the Project tends to give short notice leaving inadequate time for the constituents to prepare for their participation.

Does the project have good systems for budget, work planning, and reporting? Do they allow for efficient use of time and resources?

The regional finance office provides support for the project, specifically to the administrative assistants, on the ILO's financial system and software. The original project duration was two-and-a-half years, covering a period from September 2016 to March 2019. Due to various delays, no-cost extensions were granted which pushed the end-date of the Project to September 2020 and warranted realignment of the budget based on these changes.

The table below shows Project budget and expenditure as of January 2020. It should be noted that in addition to the grant approved by the USDOL, the ILO has also contributed about US\$80,000 from its regular budget to the Project. As the table indicates, 90% of the budget under Component 1 has been expended, while only about 70% of the budget under Components 2 and 3 have been spent. These numbers are in line with findings in the Effectiveness Section, suggesting that the Project has made more progress under Component 1 than the other two components.

Table 6 Project budget and expenditure as of December 31, 2019

Item	Amount Budgeted (USD)	Amount Expended	Difference (USD)	Percent Spent
		(USD)		
Project Implementation Expenses				
Component 1	143221	130103	13118	90.84
Component 2	176498	122792	53706	69.57
Component 3	201437	141722	59715	70.36
Sub-total	521156	394617	126539	75.72
Project Management Expenses⁶				
International Personnel	573830	423047	150783	73.72
National Personnel	154998	103173	51825	66.56
Travel	26871	22730	4141	84.59
Office Operations	74594	55378	19216	74.24

⁶ Direct labour costs also contribute towards achieving activity outcomes through the delivery of substantive advice, development of materials, etc. to the government and social partners on labour law and institutional reform.

M&E	20232	232	20000	1.15
Sub-total	850525	604560	245965	71.08
Program Support Expenses				
Indirect Costs	178319	129817	48502	72.8
Sub-total	178319	129817	48502	72.8
Total	1550000	1128994	421006	72.84
Additional ILO regular budget funding	79773.29	73773.29	6000	92.5

Although the Project has good systems for budget, work planning, and reporting, to provide accountability to the donor, information about the budget and work plan was not clearly shared with the social partners. According to the social partners, if they were better informed of fund allocations, they could have better proposed modules of training to meet their needs, and made complementary contributions to maximize the effectiveness of project activities.

The project team managed all the project funds all by itself and the social partners don't receive project funding to organize activities. Sometimes, social partners had to pay the participants attending activities in advance in order to cover their participation costs, and then wait to be reimbursed by the Project. Lack of human resources has led to the project team's delay in providing reimbursement to the tripartite partners. In an extreme case, participants in a Project activity reported inadequate reimbursement.

The reporting of the Project will be discussed in the M&E session.

To what extent has the project been able to build on other ILO initiatives and create synergies that allow for more efficient use of resources?

As discussed in the Relevance Section, there is strong synergy between the LLIRR Project and other ongoing ILO projects in Malaysia. Such *synergy allows for efficient* execution of project activities which would otherwise require an extensive utilization of scarce financial and human resources from multiple projects. The LLIRR Project and the IMG Project were able to shared costs to conduct research on migration in Indonesia and the Philippines. Research on migration patterns contributed to a better understanding during the SCP (particularly in Sabah and Sarawak) on migrant workers from Indonesia coming to work in the oil palm plantations in Malaysia. Moreover, the labour inspection workshop on SCP, held in December 2019, was fully funded by the IMG Project. The synergy and collaboration among the ILO projects has enabled efficient use of project resources and better increased impact, as integration of various efforts are managed at a strategic level. It should also be noted that the LLIRR Project shares Office space with the BRIDGE, IMG, and several other ILO projects. This arrangement facilitates the ease of communication and collaboration among the ILO project teams.

5. Effectiveness of Management Arrangements

Is the institutional framework and governance structure of the project clear to all stakeholders? Have the structures and its operation been effective in guiding the project? Is the Project Advisory Committee (PAC) active, effective, and clear about their roles and responsibilities in regards to the project implementation?

According to the Prodoc, the ILO ROAP is the executing agency of the Project, responsible for overseeing the technical and administrative aspects of the project implementation. The ILO project team, in consultation with tripartite partners, directly develops and implements activities which serve to provide technical advice or conduct any of the following: assessments, training

programmes, meetings, and workshops. In addition, implementing partners are specifically designated to undertake certain activities under the project, within its monitoring framework. These implementing partners could include: the MOHR (in particular the Trade Union Affairs Department, Industrial Relations Department, and the Labour Departments of Peninsular Malaysia, Sabah, and Sarawak), the MEF, the MTUC, the Industrial Court, the Attorney General's Chambers and the Malaysian Bar; and their counterparts in Sabah and Sarawak.

As observed by the mid-term evaluation, the representatives from the stakeholders often confused different ILO projects and project managers. Similarly, during interviews of this end-of-project evaluation, the evaluator usually had to explain the main components and key personnel of the project under evaluation. This is caused in part by the fact that there are several ongoing ILO projects at the same time, and in part by the frequent internal movement of personnel within the different tripartite constituents.

The Prodoc also provides that a Project Advisory Committee (PAC) will be established. The PAC is an advisory body composed of high-level representatives from each of the tripartite partners (MOHR, MEF and MTUC). Chaired by a representative from the MOHR, the PAC is supposed to provide political and operational support to the CTA, as well as review and approve an annual project work plan during an annual meeting.

In reality, such a governance structure has never been established for the Project. Almost no tripartite partner interviewed by the evaluator is aware of the plan to establish a PAC. According to the Project team, the Ministry was disinclined to establish separate PACs for each of the multiple ILO projects in the country, but instead pursued establishment of one joint PAC for all the projects. This eventually became the Tripartite Steering Committee established under the DWCP agreed between Ministry and social partners. This approach was consistent with donor guidance as well, as confirmed by the USDOL representative. The first meeting of the DWCP Tripartite Steering Committee was held on March 12, 2020, where the MOHR reaffirmed its commitment to the DWCP agenda, including labour law and institutional reforms, in spite of recent political changes in the country.

Without a PAC as a governance and decision-making body, the Project team mainly communicates with the MOHR on daily operational issues, and the MOHR in turn relays relevant information to the social partners. On whether this has been an effective arrangement, the tripartite constituents gave different feedback. According to the Ministry, this approach has avoided inefficient communication among members of the PAC and allows for effective implementation of the Project, as the three parties would never agree upon decisions. From the Ministry's perspective, compared to completing objectives, is the presence of a governing body is less important. In contrast, the social partners feel that the existence of a PAC would be essential to ensure transparency of project operations. It could serve as a channel for them to voice their views and concerns and enable them to get more involved in the design and implementation of project activities.

What M&E tools have been developed and used? How has the project's PMP been used to improve project activities? Were the project management arrangements, which include a PAC, project staff, and ILO technical units, effective in managing risks and monitoring project implementation?

In terms of monitoring and evaluation (M&E), the project has an M&E framework consistent with both the ILO Evaluation Policy and the agreement reached between the ILO Evaluation Office (EVAL) and the USDOL for sole source awards. In the Prodoc, it proposed that monitoring should be carried out through the establishment of the tripartite PAC to oversee implementation of the Project. Since the PAC has never been established, the project team itself conducts data collection and analysis on a regular basis in order to prepare the quarterly Technical Progress

Reports (TPRs). According to the MPG, these progress reports are meant to serve as an official record of project progress and performance. There are two types of TPRs. An abbreviated report without attachments covering just the previous quarter is required two quarters per year (due January 30 and July 30), while a full report that includes attachments covering the previous 6-month period (including the quarter covered by the previous TPR) is required during the other two quarters of the year (due April 30 and Oct 30). For abbreviated TPRs, the project team is only required to fill out the report through Section V of the MPG. For full TPRs and Final TPRs, the project team is required to fill out the entire report and submit all required attachments, including the updated Data Tracking Tables with results compared to targets for each performance indicator listed in the project's PMP. Data should be disaggregated by sex wherever possible. As pointed out by the donor, the project team has not been able to include the required performance data as per the MPG in the TPRs all the time. This weakness in monitoring and reporting is one area that the Project needs to further strengthen in the remaining project duration.

To assure that the Project was making progress in the right direction, an external mid-term evaluation was conducted from 23-July to 10-August, 2018. The Project team then discussed the recommendations presented by the external evaluation with the USDOL. By the time the final evaluation was to take place, the project team had already implemented most of the recommendations successfully. Staying in line with the recommendations, the Project has been focusing on activities that are of higher priority to the Ministry, such as labour law reform and labour law enforcement. The Project has also strengthened lines of communication with the Ministry, the MEF, and the MTUC. Thanks to the Project's appropriate response to guidance put forth by the mid-term evaluation, a more comprehensive sustainability plan, building on the sustainability Prodoc, has also been finalized.

Has the project received adequate administrative, technical, and political support (if needed) from the ILO Regional Office, or technical specialists and technical units from HQ? How effective was the internal coordination among technical units to support the Project?

As discussed in the Background section, the ILO does not have a permanent presence in Malaysia. The LLIRR Project falls under the political, administrative, and financial responsibility of the ROAP. Technical backstopping for the Project has been provided by relevant specialists from the Decent Work Technical Support Team of Bangkok and HQ in Geneva, in different subdomains (i.e. international labour standards, industrial relations and wage setting, labour law, labour inspection, workers and employers).

Being the focal point for the Project, the Labour Administration and Inspection Specialist based in Bangkok has been engaged in the Project since the design stage. During project implementation, he made nine trips to Malaysia to provide technical support, conduct inspection assessment, provide training, and also reviewed various reports remotely.

In terms of level-of-substance, the project has received very helpful support from Bangkok, especially on the labour inspection component. It also received additional support from labour standard specialists and an industrial relations specialist. Experts in Geneva have been engaged in providing technical advice, comparing good practices, and providing comments on drafted legislation. The Head of the Labour Law and Reform Unit has also conducted meetings and workshops related to the Project in Malaysia. All of the recommendation and advice provided by the project team were endorsed by either the Bangkok or Geneva office, or both, before being shared to the tripartite constituents.

These backstopping specialists provide technical support to a dozen projects region-wide or worldwide. Their participation brings to the project good practices and lessons learned, not only

from developed countries, but from other countries with a similar situation to Malaysia. Altogether the Project team highly complements the timeliness and usefulness of the supervision and technical support received from the ILO's regional office and headquarter.

6. Sustainability and Impact

To what extent has the project adhered to the USDOL's requirements with respect to sustainability strategy?

MPG applicable for the Cooperative Agreements funded by the USDOL requires that grant recipients must submit a sustainability strategy as part of the initial draft Project Document Package, along with a strategy for building local capacity as a means to promote project results that extend beyond the life of the project. The original Prodoc included a section addressing a Sustainability Plan and Exit Strategy. Based on suggestions from the mid-term evaluation, the project team further developed the Strategic Plan in February 2019 to be fully compliant with the MPG's requirements. Following the standard MPG template covering indicators, resources, responsible organizations, resources required, and timelines, the Strategic Plan describes the long-term and medium-term outcomes that the project intends to persist and how these outcomes will be sustained once the project ends.

How well does the project fit, and strategically synergize, with other ILO projects in Malaysia to increase its sustainability?

All ILO projects are designed to ensure Malaysia's industrial relations system conforms to international standards and good practices. The LLIRR is well positioned to promote the long-term sustainability of project results through synergies with other ILO projects. As discussed in the Coherence Section, co-organized research activities, workshops, and training events by the LLIRR Project and other projects have enhanced participants' knowledge and capacity in carrying out labour inspection responsibilities, while simultaneously introducing new institutional practices on labour inspection.

It should also be noted that amended labour laws under the Project will introduce a new labour law framework that is broadly applied to the industrial relations and employment landscape of Malaysia. In this sense, the project has established strong connections with other ILO projects focusing on advancing the rights and interests of specific disadvantaged groups, including but not limited to domestic workers and migrant workers. Many of these projects entail interventions to further develop rules, regulations, and policies in order to properly implement new amendments that protect specific vulnerable groups. Taking the Employment Act as an example, it is believed that after the amendments to the Act are passed, the MOHR will propose concrete regulation to protect domestic workers. The complementary nature and cooperation between the LLIRR and other ILO projects will ensure the long-term sustainability and impact of acts amended under the LLIRR.

Correspondingly, new concepts and practices introduced under the Labour Inspection Component have been piloted in selected industries, such as the palm oil sector. It is expected that these industries will serve as examples, offering valuable good practices and lessons learned, and help with the mainstreaming of new inspection practices across different industries more broadly.

How likely is it that the project approaches and results be maintained or scaled-up by the government and social partners after completion of the project? What is needed for further capacity building to increase the likelihood?

The recent political development in Malaysia has brought some uncertainties to the Project. However, judging from its recent communication with the MOHR, the project team is cautiously

optimistic that the MOHR still has a strong commitment to maintain and ensure project approaches will scale up after project completion. Cultivation of specialized staff capable of enforcing the amendments will be a priority of MOHR. Once the amended acts are passed, the Ministry will initiate their own training programs to further equip their staff with the skills necessitated by the new amendments. Several concrete capacity building measures have been contemplated by the MOHR, including (1) merge of existing training institutions in order to offer on-going training year-round; and (2) sending officers to the bar association to attend courses dedicated on mediation and negotiation. The MOHR expects that their officers will gain exposure to the practices in other countries which are in a similar situation to Malaysia, such as practice in the plurality of union in South Korea. The project team will have more discussion with the MOHR once the lockdown caused by the Covid-19 is lifted.

The MOHR will continue to use the ToT approach for human skill building and knowledge-based transfer of conventions. They expect continuous support from the ILO to equip potential trainers in Turin with the skills to gather broad and comparative perspectives on core issues in industrial relations. Moreover, for staff to better benefit from ILO training courses, the MOHR plans to invite ILO trainers to the country to provide in-person coaching. These activities could be done on a cost-sharing basis.

During a meeting with the evaluator, the social partners have shown commitment to continue labour law reform in the country. So far, only the amendment to the Industrial Relations has been passed. After the amendments to the Employment Act and Trade Union Act are completed in March, the MTUC will expect the ILO to support them in conducting trainings on the new amendments, and to build the capacity of their affiliates to cope with changes in the law, especially those related to collective bargaining rights.

Plurality of union is a new practice to all tripartite constituents in Malaysia. How to register and manage plural union is a common challenge for the government, the employers' organization, and the employees' organization. They expect the ILO to provide guidance and best practice on this subject matter.

Although all tripartite constituents are optimistic that amendments to all major labour laws will be passed before the completion of the Project, they also stress that ILO support on labour law and industrial relation reform should be long-term in order for the country to comply with ILS. If the Project completely stops in September 2020, not all planned activities and technical support can be completed, and sustainability of the project's achievements may be jeopardized. As a result, an extension would be crucial to ensure necessary steps are taken to facilitate a smooth transition toward next steps.

To what extent have the project's results contributed to making (1) the Malaysian legal framework more consistent with international labour standards, (2) the Malaysian labour inspection system more effective at enforcing labour laws, decrees, regulations, and other enforceable instruments, and (3) labour disputes in Malaysia being resolved more effectively and efficiently?

(1) The Malaysian legal framework more consistent with international labour standards

As discussed before, the main focus of the Project has been labour law reform. Among the key labour law legislations, only the Industrial Relations Act had been amended at the time of evaluation. There is lack of clarity as to what changes have been included in the amendments to the Employment Act and the Trade Union Act. Thus, it is still premature to comment on how these amendments would affect the employment landscape in Malaysia. That being said, some positive developments have been observed from the component on labour law reform component.

The key changes to the amended International Relations Act enhances the consistency of the Malaysian legal framework with the ILS by relaxing restrictions on union formation and collective bargaining, as well as limiting the discretion of the government. In conjunction, the amended Industrial Relations Act further strengthens employees' rights to unionize and choose their own representative to conclude collective labour agreements. A new provision provides that if there is more than one trade union that can represent employees, employees will be given the right to vote by secret ballot to determine their preference for the trade union, which shall have the sole bargaining rights to represent them. Although Malaysia has not ratified ILO Convention 87 of Freedom of Association and Protection of the Right to Organise Convention (C87), the amended Industrial Relation Act has cleared the major barriers and made substantial progress towards the eventual ratification of C87.

(2) The Malaysian labour inspection system more effective at enforcing labour laws, decrees, regulations, and other enforceable instruments

The main takeaway of the legal inspection component is that the Project has introduced a SCP approach. The Project has laid a good foundation for the following: improvement of human resource skills and capacity development of inspectors, strengthening of internal coordination among different inspection authorities of the government, and encouragement of better use of information technology by the inspectorate. Under this new approach, the Ministry is seeing more stakeholder engagement from employers and unions.

This new approach will also change the business practices of employers. Instead of using punitive measures to force employers' into compliance with inspection requirements, the new approach focuses on identifying the causes of non-compliance and incentivises employers to explore alternative solutions. For example, if an employer really needs employees to work overtime, it can seek a work permit to hire more migrant workers instead of pushing workers to work overtime without pay which violates regulation. In this sense, new measures introduced in the practice of inspection will help to promote a culture of compliance among businesses and employers.

To realize the full benefit of this new approach and translate it to action in the Malaysian context, several challenges still need to be overcome. First, there needs to be a central authority or mechanism that is able to guide and lead inspection agencies to cooperate and by demonstrating the benefits of collaboration. Building a shared information and case management system would be an important part of this effort. Second, investing in skill development and specialization of inspection officers will be key to the success of the new inspection system. Currently inspection agencies and their officers handle multiple tasks, thus resources dedicated to labour inspection is limited.

(3) Labour disputes in Malaysia resolved more effectively and efficiently

Under the amended Industrial Relations Act, the task of referring complaints of unfair dismissal to the Industrial Court in the event that parties are unable to reach a settlement, will now be undertaken by the Director General of Industrial Relations (DGIR) instead of the Minister of Human Resources. This means in the event parties cannot settle the matter before the Industrial Relations Department, the referral will be automatic and does not involve the discretion of the DGIR.

Moreover, representation at the conciliation meeting is widened. The employer and employee are permitted to appoint "any other person except an advocate and solicitor" to represent them in the conciliation meeting, so long as such authorisation is in writing and approved by the DGIR. Moreover, the amendments allow any party who is dissatisfied with an award of the Court

to appeal to the High Court within 14 days from the date of receipt of the award. This amendment accelerates the decision-making process on the merit of cases.

Although the LLIRR Project has brought about significant changes to the industrial relations landscape in Malaysia, the stakeholders have also expressed certain concerns. For instance, it is unclear whether the transfer of duty to refer complaints to the Industrial Court, from the Minister to the DGIR, will necessarily reduce any backlog. The automatic referral could potentially result in floodgates being opened, as all unsettled complaints of unfair dismissal, regardless of merit, will end up in the Industrial Court. It is unclear whether the Industrial Court has sufficient capacity to handle the potential increase in volume of claims without sacrificing efficiency.

The ToR requests that the evaluation should identify the social, economic and environment impact of the project. Given the short duration of project and its implementation status, it is premature to further elaborate on the long-term impact of the Project on society, economy and environment.

7. Human Rights and Gender

The ILO Declaration on Fundamental Principles and Rights at Work (2008) and its Follow-up requires all member States to respect, to promote and to realize, in good faith and in accordance with the ILO Constitution. The fundamental principles and rights at work are universal and applicable to all human beings in all States, regardless of the level of economic development: (1) freedom of association and the effective recognition of the right to collective bargaining; (2) the elimination of all forms of forced or compulsory labour; (3) the effective abolition of child labour; and (4) the elimination of discrimination in respect of employment and occupation. The project activities have been designed and implemented based on the foundations that respect, promote and realize these fundamental principles. As discussed above, the project has contributed to promoting rights at work either independently or through collaboration with other ILO interventions.

In particular, the project has made substantial effort in mainstreaming gender equality in its work and process. Project data collected in surveys and other activities reports are gender disaggregated and shows women's active and meaningful participation in activities. In some activities, women's attendance is higher than men. Gender equality has been a key priority guiding the legal reform. Moreover, the passed- and draft amendments to key labour legislations have addressed specific gender-related issues. For example, the amended Industrial Relation Act has abolished the employers' approval for women to work at night or work underground. It is expected that the amended Employment Law will increase female workers' maternity leave from 60 days to 90 days.

The same provisions on employment discrimination were initially included in both the draft amended Industrial Relations Act and the draft amended Employment Act. As this approach was considered nonsensical and confusing, the proposed provisions were removed from the amended Industrial Relation Act. It is expected that the amendments to the Employment Act are supposed to include the gender-inclusive anti-discrimination provisions.

8. Case Studies

Case study 1. Baseline assessment of Malaysian labour inspection system

Improving workplace compliance through labour inspection in Malaysia is an important component of the LLIRR Project. In preparation for the project's technical assistance on labour inspection, a planning meeting was held between the ILO and senior MoHR officials in early 2017. It was agreed that an assessment of the labour inspection system in the country,

including the skills and knowledge needs of labour inspectors, would be a useful exercise prior to identifying specific institutional and human capacity development activities. Such an exercise would also provide a reference for work over the course of the project, while stimulating dialogue between various Government actors and the social partners on improving workplace compliance through labour inspection in the country.

Subsequently, an ILO-led labour inspection assessment was carried out in Malaysia in March 2017. The ILO held meetings with a number of representatives of related government agencies (including in Sabah and Sarawak) as well as with the social partners to better understand the context and challenges facing the labour inspection system in the country. The preliminary findings of the assessment were presented and discussed with constituents at the conclusions of the mission and recommendations were shared with Government representatives during the International Labour Conference in Geneva in June of 2017 and a final validation of the report was concluded in 2018.

The recommendations in the report covered several themes, including the functions of the labour inspection system; co-operation and collaboration of the inspection services; the number as well as recruitment and training of inspectors; inspection resources; inspector powers; notification of accidents and diseases; inspector impartiality and confidentiality; inspection visits; legal procedures; and inspection reporting. The findings and recommendations of this report fed into the technical assistance planned under the LLIRR Project. This included a number of priority areas of technical assistance, such as strategic compliance planning, the development and delivery of a training plan for labour and safety and health officers, the addition or improvement of inspection procedures and tools, and improving the use of information technology for strengthened case-management and objective-based planning. In October 2018, the Project organized a labour inspection awareness workshop for MTUC, as well as workshops and activities on SCP and IT. Activities on labour inspection continued throughout 2019.

Case study 2 Study tour to Australia's Fair Work Commission

Under Component 3 on labour dispute resolution, the Project organized a tripartite study tour to Australia's Fair Work Commission in Melbourne in July 2019. The Australian industrial relations system is well established due to the evolution of its laws since 1900 to its current status. The Commission is a tribunal dealing with industrial dispute resolution as well as a regulator that sets certain standards of employment in an instrument known as an award. The study tour was intended to learn lessons from and avoid pitfalls of the Australian system. A total of 15 officers participated in this study tour, including high-level delegates from the Ministry, Industrial Court, MEF and MTUC who were directly involved in the labour law reform process.

The visit included discussion sessions at the Fair Work Commission, the Fair Work Ombudsman and the Federal Court of Australia. The delegation also spent time with representatives of the major employer and worker law firms. The delegation issued a report of the study tour in August 2019. In this report, the delegation shared its observations on the key issues related to labour dispute resolution, including but not limited to commission and federal court, modern awards, wage review, unfair dismissal, collective bargaining, and enforcement. In addition, the delegation concluded that the tripartite body in Malaysia need to explore the possibility of emulating some good practices in the Australian system so that there is justice to the weak and poor workers in this country. In particularly, the following key areas were identified for further consideration: (1) the quality of panel of judges hearing the case; (2) the mediation quality and the experience of staff dealing with such matters; (3) the powers of the tribunal under the law, and (4) right of entry for unions to enter premises to conduct union work.

The findings and recommendations of the study tour were reflected in the ILO Report on Review of Malaysia's Labour Dispute Resolution System where appropriate. The lessons learnt from

this study tour informed the legislative amendments, including in relation to the establishment of an employment appeals tribunal to reduce the time taken for disputes to be resolved.

V. Good Practices and lessons learned

Several emerging good practices and lessons learned (listed in Annex 9) can be summarized based on the document review, KIs, and FGDs.

1. Good practices

Mobilizing resources from the ILO. Although the LLIRR Project team is highly specialized, the size of the project team is very small. The broad coverage of the Project requires expertise in multiple thematic areas, ranging from labour law and ILS, to labour relations and labour inspection. While the ILO has no permanent presence in Malaysia, the institutional arrangement of the Project allows the Project team to leverage technical expertise from Bangkok and Geneva. The backstopping specialists have been deeply involved in the project from the design through to the implementation stage. They provided substantial in-kind support to the Project through provision of expertise and technical advice through their participation in a large number of project activities.

In addition to technical support, the Project was also able to mobilize financial support from the ILO. Due to unanticipated demand for increased project support and activities to optimize results, in combination with the project's high delivery rate, the need emerged to ensure supplemental funding. To this end, the project was able to mobilize an additional, regular budget funding of nearly US\$80,000 from the ILO Regional Office in Bangkok, to cover the cost of activities near the end of 2019. This was a good example of how ILO budget resources can seamlessly complement donor funding in contributing to shared project objectives. It is expected that some more funding from the ILO's regular budget will be made available in early 2020, to allow for the undertaking of a number of specific, additional capacity building initiatives.

Sharing international good practices. Under the LLIRR Project, international good practices on labour law reform have been introduced to Malaysian stakeholders. In particular, a study tour to Australia was organized. The purpose of this study tour was to enable Malaysian delegates to gain first-hand knowledge on the workings of the Fair Work Commission by observing the proceedings of the Commission, as well as having meetings with their counterparts in the Commission. Based on this study tour, several recommendations were proposed to reform labour law in Malaysia. All the tripartite delegates found this comparative approach very useful for helping them cope with the situation in Malaysia.

In addition, work done on the labour inspectorates (development of a strategic compliance plan for the palm oil sector) are now being used by the ILO to influence similar approaches in neighbouring Indonesia, which is the world's largest palm oil producer. This is a positive knock-on effect that could contribute to improving working conditions in the palm oil industry among two of the largest producers and employers in the sector.

2. Lesson Learned

The project experienced serious delay in the first year. It took about one year to recruit the CTA. After arriving in the office, the CTA had to spend considerable time to set up infrastructure, which involved relocating the project from one office to another, and recruiting additional staff. As discussed previously, these things contributed to delays in implementation. In fact, some other ILO projects in Malaysia have also experienced initial delay in implementation. The ILO regional office should further look into this and address it as an organizational matter.

Project objective is too ambitious. The ILO's intervention approach was clear and logical: first amend key labour legislation, then build capacity to implement amended laws. Various research

and studies provided solid evidence and information to guide the design of activities. However, the Project's coverage was too broad, especially given that the size of the project team was extremely modest. For example, outputs and activities under Component 2 Labour Inspection were quite ambitious. While in line with the findings of the labour inspection needs assessment, the requested inspection and technical assistance was perhaps more than the ILO could deliver within the scope of the project. This was particularly the case given that there were five separate labour inspection authorities in Malaysia (the Department of Occupational Safety and Health, the Social Security Organization (SOCSO), the Labour Department, as well as two separate Labour Departments for the States of Sabah and Sarawak respectively). Furthermore, many of the inspection outputs under the Project (e.g. the IT system, SCP) required work across institutional divisions, where collaboration was not particularly strong. One recommendation from the mid-term report was that "The LLIRR should re-evaluate its activities, outputs, and resources it has planned under each component to determine whether it can realistically achieve its indicator targets and spend its funds by March 31, 2020." However, the issue remained when the final evaluation was conducted.

VI. Conclusions

Industrial relations in Malaysia has gone through various changes and reforms in the past few decades, with economic development has being one of the driving forces behind that. The LLIRR Project has responded timely to the Government of Malaysia's national development priorities set in the New Economic Model and the Eleventh Malaysia Plan (2016-2020). In line with the DWCP 2018-2020, the LLIRR Project has initiated a reform of the labour law regime in Malaysia that involves several key areas. Among them is the inclusion of freedom of association, trade union organization, and collective bargaining. The key labour laws which would see amendment to provide better protection for workers are the Trade Unions Act 1959, the Occupational Safety and Health Act 1994, the Industrial Relations Act 1967, and the Employment Act 1955. Taking a holistic reform approach, enhancement of the capacity of labour inspection and labour dispute resolution are also important components under the LLIRR Project, in order to ensure that both the provisions and the implementation of the amended laws will be in accordance with international standards.

The Project was not without challenges, experiencing a one-year delay at the start of the implementation. Such a delay was caused by the slow recruitment of key staff, physical relocation of the project office, as well as the slow legislative process of the Parliament. Despite a slow start, the Project has been able to make substantial progress in all three components, particularly in the component of labour law reform. The Industrial Relations Act was amended in late 2019. There are also positive prospects that the amendments to the Trade Union Act and the Employment Act will be considered by the Parliament in March or April 2020. More importantly, the amended Industrial Relations Act has introduced several game-changing norms and rules, including but not limited to union plurality, representation during conciliation meetings for unfair dismissal claims, and referral of unfair dismissal claims to court, or appeals against an award to the High Court. Though it is still unclear what amendments will be proposed by the MOHR in the Trade Union Act and the Employment Act, it is expected by the project team that these amendments will further strengthen the principles established by the amended Industrial Relations Act. For example, the amended Employment Act will bring more clarity with regards to anti-discrimination.

Under Component 2, the Project has conducted a thorough analysis on the labour inspection system in the country and introduced SCP to allow for more effective allocation and deployment of inspection staff. It is also supporting a Strategic Compliance Task Team to plan future priority targets.

In contrast, implementation of activities under Component 3 has just recently commenced. A comprehensive review of Malaysia's dispute resolution system has already been completed. Now the Project will provide on-going support to the government to adopt the recommendations from this review. It should be noted that some key stakeholders raised a concern about the broad nature of the scope of the Project, given that each component could have been designed as a stand-alone intervention, despite being inter-related.

The extent to which the ILO tripartite constituents have been engaged in the project design and implementation varies. The project design fully reflected the needs and the priorities of the relevant departments and agencies within the MOHR. The implementation process has been featured as government-led. However, social partners reflected that they were excluded from some communications between the ILO and the government. The lack of transparency on issues, such as budgeting, and the justification of specific activities, has prevented them from maximizing the benefits received of the project, as they are not able to plan their own activities that complement project results. It should also be noted that a PAC has never been established as a coordinating and decision-making body to oversee the project implementation. That being said, the MTUC acknowledged that the Project provided opportunities for its affiliates to enhance their knowledge on subject matter, improve their capacity to engage in labour law reform, and voice their concerns. The MEF confirmed that the newly introduced SCP, moving away from the traditional punitive approach, would bring new incentives for employers to comply with labour inspection requirements. At the time of evaluation, there have been 930 person-times in Project-organized workshops, seminars, and other capacity building activities. Among them, 581 were from the MOHR, 310 from MTUC and only 35 from MEF.

The LLIRR Project is operated by a small but specialized team, and their expertise and efficiency has been applauded by the MOHR. Although the ILO has no permanent presence in Malaysia, backstopping support from the ROAP and headquarters has enabled the Project to leverage technical expertise on various subject matters within the ILO system. Frequent visits by ILO senior management and specialists have also brought necessary political support to the project.

The project has a very strong synergy with other ILO interventions in Malaysia. The project has also provided inputs for the development of the DWCP. In collaboration with the IMG Project and the Bridge Project, the LLIRR Project has conducted joint research, proposed suggestions to amendments key labour legislations, and co-organized capacity building activities. These synergies have allowed for more efficient use of resources. More importantly, reform brought about by other projects offer good opportunities to implement the amended acts in pilot sectors, such as the palm oil industry, and for selected vulnerable groups, such as domestic workers and migrant workers. The key informants expect that experience drawn from these pilots will further inform the future replication and scaling of implementation of amended acts. These strategic synergies also enhance the sustainability of Project results.

The positive aspects of the passed- and proposed amendments have been well recognized by the stakeholders. Through limiting the discretion of the government and allowing workers to join a union of their own choice, the labour legislation in Malaysia would become more compliant with ILS, particularly ILO Convention 87 on Freedom of Association. The capacity building activities for labour inspection and labour dispute resolution will further improve the human capital and institutional infrastructure required for the implementation of the amended acts. The long-term impact of the Project depends on several factors. Critically, the Government's commitment would be essential. The Mahathir Mohamad government took office in May 2018, and provided a golden opportunity for the project to become fully fledged. Any political change in Malaysia may bring uncertainties on the governmental side in terms of its commitment to comply with ILS. It is still too early to draw any conclusion on what impact the recent change of

government in February 2020 may bring to the project. Based on its current communication with the MOHR, the project team does not expect it to have a major impact on the labour law reforms and project implementation. Moreover, the new labour law regime affects the interests of social partners in significant ways. For example, with this amendment in the Industrial Relations Act, the trade unions in the country will have to work harder and provide the best service to their members. It will be a continuous challenge for them to further maintain their awareness and understanding of the core changes, and enhance their capacity to comply will be a continuous challenge.

VII. Recommendations

Based on the findings of this mid-term evaluation, the following recommendations are proposed for the remaining period of the Project.

To the ILO Project team

- 1. The Project team should apply for an extension. Based on the extension duration approved by the donor, the Project team should develop an action plan to prioritize the activities under different components. Moreover, the Project team should further improve its reporting practice to comply with the USDOL requirements.**

The Project team should apply for an extension. For the remainder of the original project timeline and during the extension, the Project team should consider conducting the following activities:

- Under Component 1, provide further technical and capacity building support to the Ministry and social partners with respect to implementation of amended laws, including the development of implementing rules and regulations; formulation of new and revised policies; and necessary reforms of the institutions that will ensure appropriate enforcement of the amended and existing laws, i.e. the labour inspectorate and the labour dispute resolution system.
- Under component 2, provide the required support to implement recommendations from the HRD and capacity development assessment, to allow for more effective allocation and deployment of inspection staff, and to bolster the capacity development of inspectors and their managers. Additional assistance would also be useful for supporting the implementation of the national strategic compliance plan for decent work in the palm oil sector, agreed on by the various inspection agencies in December 2019. More support would further solidify the work of the Strategic Compliance Task Team in planning future priority targets as well as improving coordination between the inspection agencies.
- Under Component 3, provide support for the implementation of recommendations from the review of Malaysia's dispute resolution system, regarding the Ministry's conciliation functions, the labour courts, and the Industrial Courts.

Based on the extension duration approved by the donor, the Project team should develop an action plan to prioritize the activities mentioned above, so as to re-assess the risks and use time and resources efficiently. Moreover, the Project team should further improve its reporting practice to comply with the USDOL requirements.

Priority	Timeframe for follow up	Resource implication
High	Three months after the completion of the final evaluation	Internal time and effort needed. If some activities are externally commissioned, more cost will incur.

To ILO Bangkok and Geneva

- ILO ROAP and HQ should continue mainstreaming social dialogue in ILO interventions in Malaysia. The function of the Tripartite Steering Committee under DWCP as a joint body of all ILO projects in Malaysia to coordinate tripartite mechanism and monitoring project implementation should be further strengthened.**

Tripartism and social dialogue are central to the planning and implementation of a coherent and integrated ILO programme that provides assistance to constituents in member States. ILO ROAP and headquarters should continue mainstreaming social dialogue in ILO interventions in Malaysia. The function of Tripartite Steering Committee under DWCP as a joint body of all ILO projects in Malaysia to coordinate tripartite mechanism and monitoring project implementation should be further strengthened. Such a tripartite oversight mechanism will increase the transparency of decision-making processes and increase the legitimacy of labour law reform in the country.

Priority	Timeframe for follow up	Resource implication
High	Three to six months after the completion of the final evaluation	Internal time and effort needed.

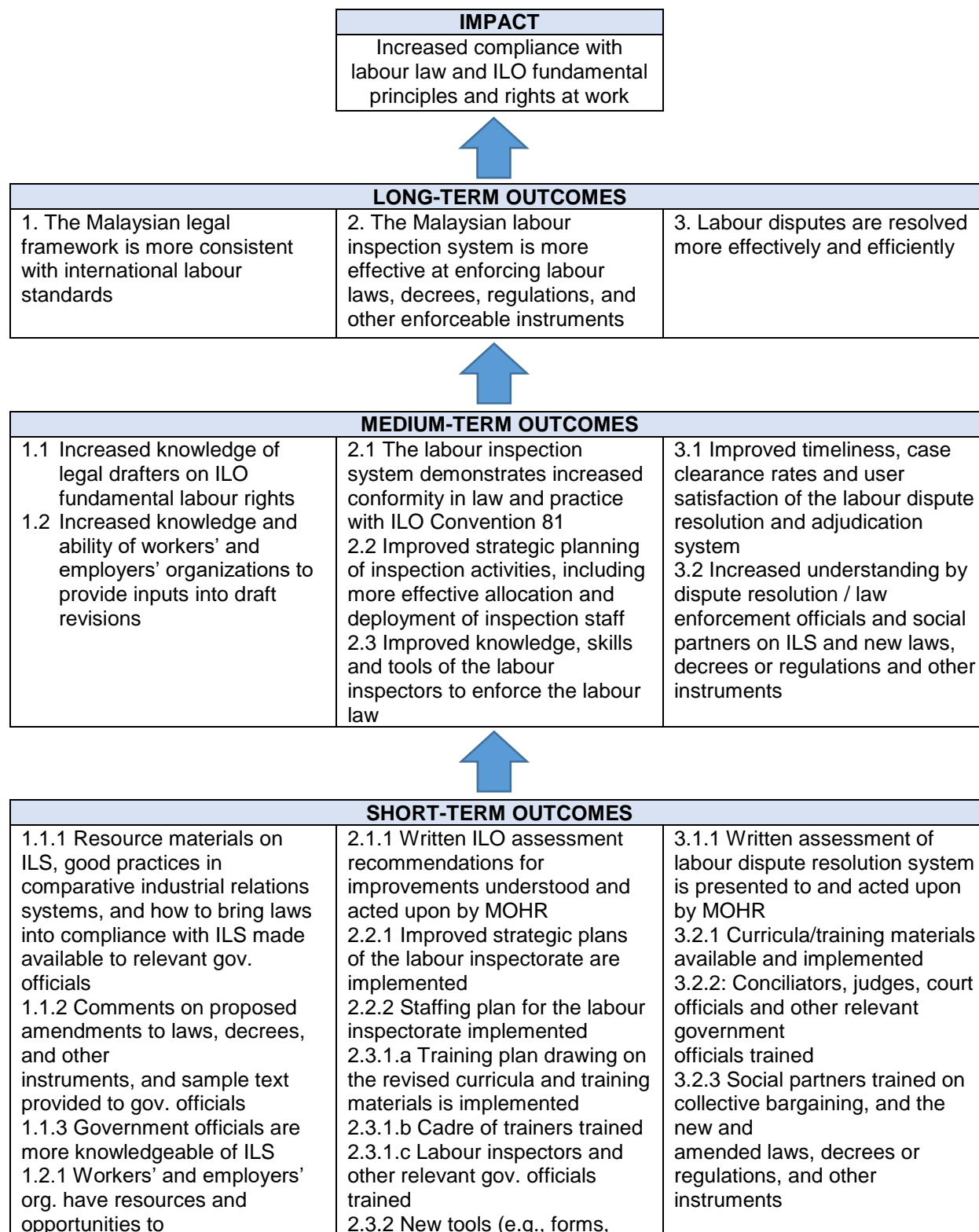
To USDOL

- The donor should consider an extension of at least one year in order for the Project to follow through its plan. Depending on the duration of the extension, there should be a match between project objectives, timeframe and available human resources.**

The US government has a long-term commitment to promoting Malaysia's industrial relations system to comply with ILS. According to the Prodoc, USDOL funding for this project will be provided incrementally up to a total amount of USD 5 million, pending availability. The period of expected performance of the project is up to 10 years. However, while the initial obligation of funds is USD 1.55 million, the LLIRR Project does not benefit from a clear road map for a 10-year intervention. The Project design and implementation has been for a short-term intervention less than three years. Given the initial delay and the fact that building trust with tripartite constituents takes time, the actual implementation duration of the Project is even shorter than three years. The donor should consider an extension of at least one year in order for the Project to follow through its plan. More importantly, the donor should place a clear long-term strategy to guide the next phase of the project. Depending on the duration of the extension, there should be a match between objectives, timeframe and available human resources.

Priority	Timeframe for follow up	Resource implication
High	Three months after the completion of the final evaluation	Staff time for communication on both sides of the donor and the project team. Technical support may be necessary from the backstopping experts at the ILO in designing the interventions in the extended contract.

Annex 1. Project Results Framework



<p>improve their knowledge of ILS and to engage effectively in LL reform</p> <p>1.2.2 Workers' and employers' organizations trained on ILS and their relevance and implications for labour law revisions and changes to the industrial relations systems and institutions</p> <p>1.2.3 Inputs from workers' and employers' org. on LL reform drafts provided</p>	<p>checklists, guidelines) for conducting effective labour inspections are created and used</p> <p>2.3.3 Curricula/training materials for LI managers and leadership are used in training on how to conduct efficient and effective labour inspections</p> <p>2.3.4 An improved electronic information system for LI is used</p>	
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Annex 2 Terms of Reference



Terms of Reference for Independent Final Evaluation
ILO Labour Law and Industrial Relations Reform Project
MYS/16/01/USA

1. Introduction and Rationale for Evaluation

The ILO/Labour Law and Industrial Relations Reform Project in Malaysia aims to increase compliance with labour law and ILO fundamental principles and rights at work. The project officially started in October 2016, but implementation started in October 2017. The project will end on September 30, 2020. However, the project was initially planned to be provided with incremental funding pending availability up to 10 years.

According to the ILO Evaluation Guideline and consistent with the MPG agreed between USDOL and ILO, the project is subject to a mid-term evaluation, managed by USDOL (which was undertaken in July/August 2018), and a final evaluation, managed by the ILO. Now that the project is nearing its end of March 2020, the project is planning to carry out a final evaluation to review key achievements and lessons from the project. The findings of the evaluation are expected to guide corrective actions to be taken before the end of the Project on September 30, 2020.

2. Project Background

The government of Malaysia has embarked on an overhaul of its industrial relations system through a holistic review and revision of its main labour acts and accompanying institutional and policy reforms in a number of key areas covering freedom of association, union organization and collective bargaining; forced labour, trafficking and migrant workers; child labour; and employment discrimination, to ensure conformity with international obligations and with a view to bringing the industrial relations system in line with the overall transformation process of the country. In line with Malaysia's Decent Work Country Programme 2019-2025, which serves as a framework for cooperation between the ILO, the Government of Malaysia and social partners, the Malaysian authorities have pledged to move forward with amendments to the country's labour laws as a means of boosting the economy's overall competitiveness.

Despite efforts made by the government, by 2016 much work was still required to ensure Malaysia's industrial relations system is in conformity with international standards and good practices. In particular, concerns remained regarding a number of Malaysia's labour laws and practices related to freedom of association and collective bargaining; forced labour; child labour; and employment discrimination.

Key concerns was in the following areas: (1) government discretion in registering, cancelling, and suspending trade union registration; (2) scope of associational rights; (3) legal restrictions on trade union membership and leadership; (4) legal restrictions on the scope of bargaining; (5) legal limits on the right to strike; (6) definition of essential services; (7) administrative discretion in dispute resolution; (8) use of subcontracting to undermine freedom of association; (9) legal protections against employment discrimination; (10) forced labour legal protections, victim services and enforcement; and 11) lack of a comprehensive hazardous work list for children and lack of a minimum age for light work.

The government of Malaysia wanted to address the above-noted concerns, including as part of the Strategic Plan of the MOHR 2016-2020 (in particular Core Strategy 3 on Nurturing and Improving Industrial Relations and Core Strategy 4 on Practicing a Safe, Healthy and Dynamic Work Culture).

The project has been developed in response to a request by the government for the ILO to assist the government in this endeavour, in consultation with the tripartite partners, the Ministry of Human Resources (MOHR), the Malaysia Trades Union Congress (MTUC) and the Malaysian Employers Federation (MEF). In the long term, the project aims for (1) the Malaysian legal framework is more consistent with international labour standards, (2) the Malaysian labour inspection system is more effective at enforcing labour laws, decrees, regulations and other enforceable instruments and (3) labour disputes are resolved more effectively and efficiently. To achieve these outcomes, the project has cooperated and coordinated with another USDOL funded project, BRIDGE (Bridge to Global Action on Forced Labour), as well as with other ILO projects in Malaysia to ensure integrated activities.

3. Purpose of Evaluation

The main purpose of this evaluation is for accountability to the donor and to ILO constituents and for internal learning.

Specifically, the evaluation has the following key objectives:

- To assess the extent to which the project has or has not achieved its objectives,
- To assess project effectiveness vis-à-vis achieving its work plan, Performance Monitoring Plan (PMP) and indicators,
- To assess the relevance and validity of the project design and strategy, including its Theory of Change

- To identify lessons and good practices for increasing country compliance with international labour standards and ILO fundamental principles and rights at work.

4. Scope and Clients of Evaluation

The final evaluation will cover all stages of the project, including inception phase and all components of the project.

The following aspects should be addressed:

- **Design:** provide inputs and recommendations to the project design, scope, size, and geographical coverage
- **Constituents' capacity:** to what extent the project has increased the capacity of tripartite constituents to reform the relevant legal and regulatory framework; labour inspection system; and the system for resolution and adjudication of disputes; and to what extent the constituents have leveraged their increased capacity to achieve such reforms.
- **Synergy with other interventions:** to what extent the project has made linkages to other interventions (other ILO interventions, other USDOL interventions and others') for better and more effective results and sustainability.
- **Significant results:** analyse results achieved so far (including tools for replication); the contributions made to tripartite constituents and direct and indirect beneficiaries; the contributions made to ILO Malaysia DWCP, ILO Global P&B, and UN SDG; and identify factors and processes which were responsible for the achievement of those results.
- **Managing for results:** a) what were the strengths and weaknesses in the project's M&E system, including human capabilities, physical/infrastructure; capabilities, technological capabilities, financial resources, etc and b) to what extent the project has adapted to both opportunities and risks and what are the contributing factors.
- **Human rights:** to what extent the project has succeeded in respecting, promoting and realizing fundamental principles and rights at work as key human rights?
- **Gender mainstreaming:** to what extent the project has succeeded in mainstreaming gender equality in its work (outputs/outcomes) and its processes?

Whilst the four cross-cutting policy drivers are equally important, the gender equality and non-discrimination dimensions in particular should be reflected throughout the methodology, deliverables and final report of the evaluation. This requires the involvement of men and women of all ages in the consultation, evaluation analysis and evaluation team. Moreover the evaluation should review data and information that is disaggregated by sex and other gender dimensions, and assess the relevance and effectiveness of gender-related strategies and outcomes that improve the lives of women and men, of all ages but in particular young men and women. All this information should be accurately included in the inception report and final evaluation report.

The primary clients of the evaluation are:

- Donor: USDOL
- Project constituents (Ministry of Human Resources (MOHR), the Malaysia Trades Union Congress (MTUC) and the Malaysian Employers Federation (MEF)).
- Other donor or international organization activity: TRIANGLE II, MWEA, IMG, SAFE and FAIR and BRIDGE projects.
- Direct beneficiaries: government officials involved with drafting legislation, regulations, policies and other legal instruments, in particular officials of the Trade Union and Industrial Relations Departments and the Department of Labour of MOHR; workers' and employers' representatives who participate in tripartite and other consultations and who are reached by awareness-raising campaign, in particular representatives of MTUC and MEF; officials of the labour inspectorate, including labour inspectors, at central and local levels; dispute resolution and judges, including MOHR conciliators and Industrial Court judges, participating directly in training; and workers' and employers; representatives who receive capacity building support in collective bargaining.
- Indirect beneficiaries: workers and employers affected by changes to law and practice, but who did not receive services or training of any kind directly from the project.
- ILO project team
- Relevant ILO Offices (Regional Office, HQ)

5. Evaluation Criteria and Questions

ILO evaluations usually look at the relevance of the programme to beneficiary needs, the validity of the programme design, project effectiveness and efficiency and project sustainability as defined in the ILO Policy Guidelines for Results-based Evaluation: principles, rationale, planning and managing for evaluations (2013). ILO Guidance Note No.4: Integrating Gender Equality in Monitoring and Evaluation of Projects (March 2014) should be considered in the evaluation exercise. The evaluation should also be conducted following UN evaluation standards and norms.

Below are some questions that should be included in the evaluation exercise. Other aspects can be added as identified by the evaluation team in accordance with the given purpose and in consultation with the ILO project team.

Relevance and strategic fit of the project:

- Does the project design is consistent with constituent's priorities and needs, in the areas of freedom of association, union organization and collective bargaining, and employment discrimination?
- Was the project design consistent with national development priorities, such as the Strategic Plan of the MOHR, the New Economic Model and the Eleventh Malaysia Plan 2016-2020?

- How does the project align with and support ILO's strategies in Malaysia (DWCP, fundamental principles and rights at work, etc)?
- How well does the project fit and strategically synergize with other ILO projects in Malaysia to increase its effectiveness?

Validity of design:

- Were the project strategy, objectives and critical assumptions appropriate for achieving the planned outcomes? How realistic were the critical assumptions that were identified at the outset of the project?
- Did the project make use of a monitoring and evaluation framework? To what extent are project indicators useful to measure progress? Is there a clear link between the project indicators and DWCPs indicators?
- Was the institutional framework and governance structure of the project clear to all stakeholders? Have the structures and its operation been effective in guiding the project?

Project progress and effectiveness:

- To what extent has the project achieved its planned objectives? What factors influenced the effectiveness of project activities?
- Were there any intended or unintended positive or negative effects on constituents and intended beneficiaries?
- To what extent was the project able to build on other ILO initiatives and create synergies? If yes, has the synergies resulted in better project results?
- How and to what extent have tripartite constituents been involved in project implementation?
- What M&E tools have been developed and used? How has the project's Performance Monitoring Plan (PMP) been used to improve project activities? How has the project's baseline data been used to develop project targets and identify direct beneficiaries, and inform project design and activities?
- How effective has the project's knowledge sharing and communication in helping delivering the changes the project aims to generate?

Adequacy and efficiency of resource use:

- To what extent has the project been able to build on other ILO initiatives and create synergies that allowed for more efficient use of resources?
- Does the project have good systems for budget and work planning and reporting? Do they allow for efficient use of time and resources?
- What level of the project activities (national, provincial, local, institutional) provided the most cost-effective benefits?

Promoting International labour standards and human rights:

- Have project activities been based on the foundations that respect, promote and realize fundamental principles and rights at work? And emerging impact at the policy and institutional level?.

Gender:

- Has the project been effective in mainstreaming gender equality in its works and processes?
- Assess the impact of gender mainstreaming at policy and institutional levels.

Effectiveness of management arrangements

- Was the Project Advisory Committee (PAC) active, effective and clear about their roles and responsibilities, in regards to the project implementation? To what extent have they allowed the project to modify approaches within the set objectives?
- Did the project have adequate staff capacity to implement the project? What could have been done more or differently?
- Was the project management arrangements, which include PAC, project staff, and ILO technical units, effective in managing risks and monitor project implementation?
- Did the project receive adequate administrative, technical and if needed political support from the ILO Regional Office, and technical specialists and technical units at HQ, particularly on M&E aspects? How effective was the internal coordination among technical units to support the Project?
- Any substantive factors that support (or hinder) the smooth project implementation?

Impact orientation

- To what extent have the project's results been institutionalized in national/provincial/local institutions and in legal and regulatory acts?
- To what extent have the project's results contributed in making been (1) the Malaysian legal framework more consistent with international labour standards, (2) the Malaysian labour inspection system more effective at enforcing labour laws, decrees, regulations and other enforceable instruments, and (3) labour disputes in Malaysia resolved more effectively and efficiently?
- How and to what extent has the project contributed to DWCP?

Sustainability

- To what extent did the project adhere to USDOL's requirements with respect to sustainability strategy?

- How likely is it that the project outcomes will be sustainable? What are needed for further capacity building to increase the likelihood of sustainability?
- How likely it is that the project approaches and results be maintained or scaled up by the government and social partners after completion of the project? What are needed for further capacity building to increase the likelihood?

6. Methodology

The evaluation will be conducted between January and February 2020 and is expected to utilize the following methodologies:

- Desk review of project and other documents including, but not limited to, the followings:
 - Project design documents
 - PMP and data collection reports
 - Products and tools produced by the project
 - Project final and progress reports
 - Mission reports/inspection reports
 - Workshop/meeting/training reports
 - Malaysia DWCP 2018-2020 document
 - Research/study/survey reports produced by the project
 - Relevant national/provincial/local development plans
 - Malaysia laws, decrees and other instruments on fundamental principles and rights at work

The desk review will result in initial findings that in turn may suggest to additional evaluation questions, in consultation with the project. The evaluation team will review the documents before conducting any interview and/or focused group discussion (FGD).

- Primary data collection through in-depth interviews (in person or by telephone) and/or FGDs with:
 - Project staff members
 - ILO staff outside Kuala Lumpur e.g. HQ and Regional Office technical units
 - Donor
 - National/provincial/local tripartite constituents
 - Beneficiaries. See Annex 1 for List of Individuals to meet for interviews and/or FGDs).

Preliminary list of documents for desk review and individuals for interviews and/or FGDs will be provided by the project. The evaluation team may request or suggest additional documents and individuals based on initial findings of the desk review.

The team of evaluators are expected to visit Kuala Lumpur and Putrajaya to meet with national constituents and other stakeholders. On the final day of the field visits, the evaluation team will present preliminary findings, conclusions, and recommendations to the project staff, who will share them with ILO constituents and other relevant stakeholders for their consideration, discussion and validation. All data presented must be sex-disaggregated.

7. Main Outputs and Schedule of Delivery

Deliverable	Timeframe for submission
Inception report: includes detailed methodological document outlining the evaluative approach, key activities, interview and FGD questionnaires and timeframe. The report should also include an evaluation matrix that details the data and methods that will be utilized to address the evaluation questions.	Mid January 2020
Field visit to Malaysia (Kuala Lumpur and Putrajaya)	3rd week of January
Presentation of the preliminary findings	3rd week of January
Draft evaluation report	4th week of January
Second draft report	1st week of February
Final report	2nd week of February

The report will include an executive summary (using ILO standard format) and a full report of findings, conclusions and recommendations (following ILO quality checklist for evaluation report). The contents of the report shall include:

- Title page
- Table of contents
- Acronyms
- Executive summary
- A one-pager infographic summary on key findings and recommendations
- Background and project description
- Purpose of evaluation
- Evaluation methodology and questions
- Project status and findings by outcome and overall
- At least two qualitative case studies or vignettes of project achievements
- Lessons learnt and potential good practices
- Conclusions and recommendations
- Annexes (list of interviews/meetings/FGDs, overview/minutes of meetings and any other relevant information).

The evaluation report should be concise and not exceed 40 pages excluding annexes (supporting data and details can be included in annexes).

All draft and final reports including supporting documents and raw data should be provided in electronic version compatible with Word for Windows 7 and Windows 8. Shall the data be provided in a hard drive; the drive must be formatted for Windows. Ownership of the data from the evaluation will rest jointly with the ILO and the ILO consultants. Copyright of the evaluation report will rest exclusively with the ILO. Use of data for publication and other presentation can only be made with the agreement of ILO Kuala Lumpur and with appropriate acknowledgement.

8. Management and Time Frame of the Evaluation

Management

The evaluation is managed by an ILO evaluation manager, Ms. Hiranía Wiryasti, based in ILO Jakarta. The evaluation will be supported and overseen by an M&E specialist of the ILO Regional Office. ILO Evaluation Office will approve the evaluation report. ILO will consult with the USDOL and all key stakeholders throughout the evaluation process. The evaluation will be carried out with logistical and administrative support of the project team in Kuala Lumpur.

The evaluator will report to the evaluation manager.

Evaluator

The evaluation team will consist of one international and one national independent evaluator. The international consultant will be the Team Leader and have final responsibility for the overall evaluation and the evaluation report. The national consultant will contribute substantively and will take part in the evaluation missions and provide substantive inputs to the evaluation process and to the report to be finalized by the Team Leader. The evaluation team will agree on the distribution of work and schedule for the evaluation activities.

The evaluation team will be qualified evaluation specialists with extensive experience in project evaluation. Experience in the areas of industrial relations, fundamental principles and rights at work and Malaysia labour law will be an important asset.

Team leader (international consultant): profile and responsibilities

Profile	Responsibilities
<ul style="list-style-type: none"> ▪ Experience in design, management and evaluation of development projects ▪ Experience in designing evaluation tools that fit the need of the exercise, conducting desk reviews and evaluation missions, and drafting of evaluation reports ▪ Experience in evaluations of projects/programmes in the UN or other international organization ▪ Experience in industrial relations, and fundamental principles and rights at work will be an advantage ▪ Experience in Malaysia labour law will be an important asset ▪ Relevant experience working in Kuala Lumpur and/or the region ▪ Ability to write concisely and in edited English. 	<ul style="list-style-type: none"> ▪ Decide on the divisions of labour with the national consultant ▪ Coordinate the use of evaluation processes and methodologies ▪ Coordinate the development of evaluation tools and instruments ▪ Coordinate with the other consultant and Project stakeholders ▪ Facilitate workshop, conduct interviews/FGDs ▪ Conduct a meeting to present preliminary findings and recommendations ▪ Final responsibility for conducting the evaluation according to the Terms of Reference, including the completion of the report with high quality and compliance with deadlines.

National consultant: profile and responsibilities

Profile	Responsibilities
<ul style="list-style-type: none"> ▪ Experience in design, management and evaluation of development projects ▪ Relevant background in social/economic development/gender issues. ▪ Experience in evaluations of projects/programmes in the UN or other international organization will be an advantage. ▪ Fluency in English 	<ul style="list-style-type: none"> ▪ Assist in desk review of project documents, relevant national policy, and other relevant documents. ▪ Undertake field visits with team leader ▪ Facilitate workshop, conduct interviews/FGDs. ▪ Assist in the documentation, analysis and interpretation of evaluation findings. ▪ Assist in the development of evaluation report.

Time frame

The total duration of the evaluation process is approximately 2.5 months. The evaluation team leader will be engaged for 19 working days, of which 3 work days will be in Malaysia. The national consultant will be engaged for 9 working days. A detailed programme for the field visit will be prepared by the project.

Provisional work plan

Stage	Timeline	Responsible persons	Approximate number of working days
0. Preparation stage: prepare ToR of the midterm evaluation in consultation with the donor.	Mid-end Nov 2019	Evaluation manager	
Finalisation of TOR and approval of TOR	Early December 2019	Regional Evaluation Officer	
Call for expression of interest to recruit evaluator	December	Evaluation Manager	
1. Stage 1 <ul style="list-style-type: none"> ▪ Telephone briefing with the project ▪ Desk review of project related documents ▪ Development of evaluation instrument based on desk review ▪ Inception report, followed with review of the report (to be shared with USDOL) 	Late December 2019 – mid January 2020	Evaluators Evaluation manager	7 days
2. Stage 2: Field mission in Malaysia and consultations with stakeholders and presentation of preliminary findings.	3 rd week of January 2020.	Evaluators, with logistic & admin support from Project team.	3 days
3. Stage 3: Draft evaluation report based on desk review, consultations from field visits, and discussion during presentation of preliminary findings.	To be submitted by 4 th week of January 2020	Evaluators	6 days
4. Stage 4: <ul style="list-style-type: none"> ▪ Circulate draft evaluation report to key stakeholders (to be shared first with USDOL). ▪ Consolidate comments of stakeholders and send to evaluation team leader 	4 th week of February 2020	Evaluation manager	
5. Stage 5: submission of revised report (including explanations on why comments were not included, if any), followed with review of the report	1 st week of February 2020	Team Leader Evaluation manager	3 days

Stage	Timeline	Responsible persons	Approximate number of working days
6. Stage 6: submission of final report	2 nd week of February 2020	Evaluation manager	

Report submission procedure

The evaluator will submit all deliverables to Evaluation Manager. The Evaluation Manager will forward a copy first to USDOL for comments, then to other stakeholders for further comments.

The Evaluation Manager Project will officially forwards the evaluation report to stakeholders including the donor.

Annex 3 Evaluation Questions and Matrix

The regional thematic evaluation will address the following evaluation criteria and questions.

Evaluation Criteria	Questions to be addressed	Illustrative Indicators ⁷	Sources of Information ⁸
Relevance, and strategic fit of the project	<ul style="list-style-type: none"> - How does the project align with and support ILO's strategies in Malaysia (DWCP, international labour standards, etc.) and UN SDG? - Was the project design consistent with national development priorities, such as the New Economic Model and the Eleventh Malaysia Plan (2016-2020)? - Is the project design consistent with constituents' priorities and needs, in the areas of freedom of association, union organization and collective bargaining, and employment discrimination? How has the project baseline data been used to develop project targets and identify direct beneficiaries, and inform project design and activities? - Are the project objectives and critical assumptions appropriate for achieving the planned outcomes? 	<p>Project components are relevant to</p> <ul style="list-style-type: none"> - Country SDGs, development plans, legislations and policies - ILO country DWCP - The priority areas of the partner institutions <p>ILO Conventions ratified by Malaysia</p> <p>Number of key stakeholders consulted and their level of involvement in the project</p> <p>Availability of baselines and statistical data</p>	<ul style="list-style-type: none"> - Malaysia DWCP (2019-2025) - New Economic Model and 11th Malaysia Plan (2016-2020) - National laws and policies - National strategy for police development - Project progress reports - KIIs and FGDs
Coherence	<ul style="list-style-type: none"> - How do current efforts build on previous experience, and/or the synergies realized with other ILO interventions? 	<ul style="list-style-type: none"> - Coherent objectives between this project and other interventions - Coordinated activities among interventions 	<ul style="list-style-type: none"> - Official data reports - FDGs - KIIs - External studies
Project progress and effectiveness	<ul style="list-style-type: none"> - To what extent has the project achieved its planned objectives? What factors influenced the effectiveness of project activities? - How and to what extent have tripartite constituents been involved in project implementation? Are there any intended or unintended positive or negative 	<ul style="list-style-type: none"> - Number and quality of legislation and policies supported under the project - Number of people trained - Level of the satisfaction of Project' 	<ul style="list-style-type: none"> - Official data reports - FDGs - KIIs - External studies - Responses to the

⁷ The indicators listed in the evaluation matrix are for illustrative purposes only.

⁸ Data source provides an indication of the type of interview respondents or documents through which data will be collected. Future phases of the evaluation will allow the evaluation team to specify the exact data source for each indicator.

	<p>effects on constituents and intended beneficiaries?</p> <ul style="list-style-type: none"> - How effective is the project's knowledge sharing and communication in helping deliver the changes the project aims to generate? 	<p>activities and outputs</p> <ul style="list-style-type: none"> - Number of partners using the tools and instruments developed by the Project - Institutional and structural changes - Number of the resolved cases involving dispute; % of the backlog of open cases is substantially reduced 	<p>surveys</p> <ul style="list-style-type: none"> - Project activity reports
Adequacy and efficiency of resource use	<ul style="list-style-type: none"> - Does the project have adequate staff capacity to implement the project? What could have been done more or differently? - Does the project have good systems for budget, work planning and reporting? Do they allow for efficient use of time and resources? - To what extent has the project been able to build on other ILO initiatives and create synergies that allow for more efficient use of resources? 	<ul style="list-style-type: none"> - Timeliness and efficiency of the disbursement of the funds - Capacity of the national partners in managing foreign aid - In-kind contribution from the partners - The quality of day-to-day management - The accountability of the partner to the project objectives 	<ul style="list-style-type: none"> - Project budget - Project progress reports - KIIs - FDGs - Survey results - Project activity reports
Effectiveness of management arrangements	<ul style="list-style-type: none"> - Is the institutional framework and governance structure of the project clear to all stakeholders? Have the structures and its operation been effective in guiding the project? Is the Project Advisory Committee (PAC) active, effective and clear about their roles and responsibilities in regards to the project implementation? - What M&E tools have been developed and used? How has the project's Performance Monitoring Plan (PMP) been used to improve project activities? - Was the project management arrangements, which include PAC, project staff, and ILO technical units, effective in managing risks and monitor project implementation? - Has the project received adequate administrative, technical and, if needed, political support from the ILO Regional Office, and technical specialists and 	<ul style="list-style-type: none"> - The existence and function of regular communication and problem-solving mechanisms - Cooperation agreements between the MOHR and line ministries - Level of coherence and coordination and reporting among project partners and stakeholders - At both the national and local levels, a monitoring mechanism is in place in which project-related data is collected and analyzed in a sex-disaggregated manner - To what extent, recommendations from the mid-term reports are carried out 	<ul style="list-style-type: none"> - Project progress reports - KIIs - FDGs - Survey results - Project activity reports

	technical units at HQ? How effective was the internal coordination among technical units to support the Project?		
Sustainability and Impact	<p>Sustainability</p> <ul style="list-style-type: none"> - To what extent has the project adhered to USDOL's requirements with respect to sustainability strategy? - How well does the project fit and strategically synergize with other ILO projects in Malaysia to increase its sustainability? - How likely is it that the project approaches and results be maintained or scaled up by the government and social partners after completion of the project? What are needed for further capacity building to increase the likelihood? <p>Impact orientation</p> <ul style="list-style-type: none"> - To what extent have the project's results contributed in making (1) the Malaysian legal framework more consistent with international labour standards, (2) the Malaysian labour inspection system more effective at enforcing labour laws, decrees, regulations and other enforceable instruments, and (3) labour disputes in Malaysia resolved more effectively and efficiently? - If possible, please identify the social, economic and environment impact of the project. 	<ul style="list-style-type: none"> - Commitment from the senior management of tripartite constituents - Availability of the exit plan - Availability of human and financial resources from the partner institutions to continue activities - Ability to maintain and train staff to apply new laws and practices introduced by the project, e.g. ToT capacity - Increased ability of a dispute resolution system to process cases in a professional and independent manner without unreasonable delays and backlogs 	<ul style="list-style-type: none"> - Project progress reports - Project activity reports - KIIs - FDGs - Survey results - External studies
Cross-cutting issues	<p>Promoting international labour standards and human rights:</p> <ul style="list-style-type: none"> - Have project activities been based on the foundations that respect, promote and realize fundamental rights principles? <p>Gender:</p> <ul style="list-style-type: none"> - Has the project been effective in mainstreaming gender equality in its works and processes? 	<ul style="list-style-type: none"> - The type of engagement of women at different stages of the project - Number of women trained or supported by the trained 	<ul style="list-style-type: none"> - Project progress reports - Project activity reports - KIIs - FDGs - Survey results

Annex 4 List of Documents Consulted

- Project document
- Malaysia DWCP (2019 – 2025)
- Quarterly reports (2017 – 2019)
- Overview LLR Activities
- Performance Indicator Tracking Table
- Reports on MTUC Seminars (2018 – 2019)
- Evaluation Report of Protecting the Rights of Migrant Workers through Employment and Advocacy in Malaysia Project and Support for Labour Law and Industrial Relations Reform in Malaysia Project
- Products and tools produced by the project
- Research/study/survey reports produced by the project
- Malaysia laws, decrees and other instruments on fundamental principles and rights at work

Annex 5 List of Key Informants

Institutions	Individuals		F	M
ILO	Mr. Hugo van Noord	Chief Technical Advisor, LLIRR Project		M
	Mr. Mohd Zharif Shafic	National Coordinator, LLIRR Project		M
	Mr. Colin Fenwick	Head of Labour Law and Reform Unit, ILO		M
	Mr. René Robert	Specialist in Labour Administration and		M
	Mr. Josh Man Fatt Hong	National Project Coordinator, IMG Project		M
	Ms. Jodelen Mitra	Technical Officer, Bridge Project	F	
	Mr. Hairudin Masnin	National Project Officer, Bridge Project		M
Donor	Mr. Keith Goddard	International Relations Officer, USDOL		M
	Ms. Rachel Kallas	Political Officer, USDOS	F	
MOHR	Mr. Kunaseelan a/l	Special Officer to the Minister of Human		M
	Mr. Shanmugam a/l	Industrial Relations (Deputy Director		M
	Ms. Aminah bt Musthapha	Trade Union Affairs (Director in Legal &	F	
	Ms. Noorharyantie bt Sidin	International Division (Principal Assistant	F	
MTUC	Mr. Sandagran Solomon	Secretary General		M
	Mr. K. Somasundram	Assistant Secretary		M
MEF	Mr. Venugopal	General Manager		M
	Ms. Saraswathi Ravindran	Senior Consultant for Industrial Relations	F	
	Ms. Goh Lea Koon	Senior Research Analyst for Survey &	F	
	Mr. Goh Seng Wing	Senior Consultant for Industrial Relations		M
Total			6	13

Annex 6 List of Participants to FGD

Individuals	Department/Agency	F	M
Dr. Zaki bin Zakaria	International Division (Undersecretary)		M
Dr. Majahar bin Abdul Rahman	DOSH (Director of International Policy)		M
Mr. Rhymie bin Mohd Ramli	DOL (Senior Assistant Director Enforcement Division)		M
Ms. Usha Rani A/P Supayah	Industrial Relations (Senior Assistant Director in Legal	F	
Ms. Nurul Anyza binti Mohamad Fauzi	Industrial Relations (Assistant Director in Legal Division)	F	
Ms. Maizatuniza binti Mohd Shamsudin	Trade Union Affairs (Senior Assistant Director in Legal & Enforcement Division)	F	
Mr. Mohamad Asri bin Hashim	Trade Union Affairs (Senior Assistant Director in Legal &		M
Ms. Khalidah Edayu binti Mohamad Khalid	International Division (Assistant Secretary)	F	
Ms. Noorhana binti Zainudin	Policy (Assistant Secretary)	F	
Ms. Diyana Ruzanna Hamsawi	DOL (Assistant Director of DOL Policy Unit)	F	
Total		6	4

Annex 7 PMP Data Tracking Table

DATA TRACKING TABLE
MYS/16/01/USA
LABOUR LAW AND INDUSTRIAL RELATIONS REFORM

22 JANUARY 2020

Remarks

PERFORMANCE INDICATOR	BASELINE VALUE	TARGET vs. ACTUAL	2017	2018	2019		LIFE OF PROJECT TOTAL (if applicable) as of 22 January 2020	
			Dec	Dec	Dec			
			Annual Reporting Period					
Project's Objective: Increased compliance with labour law and ILO fundamental principles and rights at work								
Number of inspections carried out in targeted sectors and/or issues	-	Target	-	-	-		-	
		Actual	-	-	-		-	
Percentage of cases disposed by the Industrial Court within 16-month time frame	63.20%	Target	-	65%	75%		85%	
		Actual	63.20%	69.88%	75.51% (until Nov)		-	
Long Term Outcome 1: The Malaysian legal framework is more consistent with ILS								
Percentage of relevant laws, etc. amended and promulgated	0	Target	-	12.50%	87.50%		100%	
		Actual	0	12.50%	25.00%		37.50%	
Number of provisions (issues) in laws, etc. contrary to ILS	40	Target	-	37	3		0	
		Actual	40	40	31		-	

No data available as one target sector at the national level (palm oil) was identified only in July 2019, with a 4- day SCP planning workshop organized in Dec 2019.

1. CYPA: adopted 2018 (into force 1 Feb 2019)
2. Housing Act: promulgated Sept 2019
3. IRA: adopted Dec 2019
4. TUA: to be tabled in Parliament March 2020
5. EA: to be tabled in Parliament March 2020
6. Sabah Ord: to be tabled in Parliament 2020
7. Sarawak Ord: to be tabled in Parliament 2020
8. OSHA: to be tabled in Parliament 2020.

Assessment by ILO's Senior Specialist on ILS that amended IRA contains important changes "representing a major shift in the direction of full compliance with... Convention No. 87".
Draft TUA and EA also contain major improvements in line with ILS and int. best practices.

PERFORMANCE INDICATOR	BASELINE VALUE	TARGET vs. ACTUAL	2017	2018	2019	LIFE OF PROJECT TOTAL (if applicable) as of 22 January 2020
Annual Reporting Period			Dec	Dec	Dec	
Medium-Term Outcome 1.1: Increased knowledge of legal drafters on ILO fundamental labour rights						
Number of government officials that participate in relevant training and/or expert consultation meetings	0	Target	0	50	60	110
		Actual	0	83	160	243
Percentage of government officials participating in relevant training and/or expert consultation meetings that report increased understanding of ILS	0	Target	-	70%	70%	70%
		Actual	-	100%	100%	100%
Number of provisions (issues) in laws, etc. contrary to ILS	40	Target	-	37	3	0
		Actual	40	40	31	-
Medium-Term Outcome 1.2: Increased knowledge and ability of workers' and employers' representatives to provide inputs into draft revisions						
Number of workers' and employers' reps that participate in relevant capacity building exercises	0	Target	28	30	60	118
		Actual	28	41	130	171
Percentage of workers' and employers' reps participating in relevant training that report increased understanding of ILS and new laws, etc	0	Target	-	70%	70%	70%
		Actual	-	100%	100%	100%
Number of tripartite and other workshops/meetings (days) for purposes of providing input on draft laws, etc.	0	Target	0	2	3	5
		Actual	0	2 (8 days)	6 (16 days)	8 (24 days)
Percentage of union and employer reps that report confidence that inputs are considered seriously	0	Target	-	25%	50%	60%
		Actual	-	-	-	-
Long-Term Outcome 2: The Malaysian labour inspection system is more effective at enforcing labour laws, decrees, regulations, and other enforceable instruments						
Number of inspections carried out in targeted sectors and/or issues	-	Target	-	-	-	-
		Actual	-	-	-	-
Number of sanctions issued by the labour inspectorate in targeted sectors and/or issues	0	Target	-	-	-	-
		Actual	-	-	-	-
Medium-Term Outcome 2.3: Improved knowledge, skills and tools of the labour inspectors to enforce the labour law						
Number of labour inspectors that participate in relevant trainings	0	Target	0	60	320	380
		Actual	0	62	339	401
Percentage of labour inspectors participating in relevant trainings that demonstrate increased knowledge and/or skills	0	Target	-	70%	70%	70%
		Actual	-	100%	100%	100%

Here and elsewhere, numbers refer to the number of participants in workshops/trainings. Consultation meetings are not included.

See further above.

Self reporting supported/confirmed by pre/post tests.

This is in addition to a large number of tripartite meetings of the NLAC and/or its technical committees.

To be determined after promulgation of (key) labour laws.

See further above.

See further above.

PERFORMANCE INDICATOR	BASELINE VALUE	TARGET vs. ACTUAL	2017	2018	2019	LIFE OF PROJECT TOTAL (if applicable) as of 22 January 2020
Annual Reporting Period			Dec	Dec	Dec	
Long-Term Outcome 3: Labour disputes are resolved more effectively and efficiently						
Percentage of cases disposed by the Industrial Court within 16-month time frame	63.20%	Target	-	65%	70%	85%
		Actual	63.20%	69.88%	75.51% (until Nov)	-
Percentage of awards handed down by the Industrial Court within 3-month time frame	85.70%	Target	-	87%	80%	85%
		Actual	85.70%	92.55%	92.16% (until Nov)	-
Medium-Term Outcome 3.1: Improved timeliness, case clearance rates and user satisfaction of the labour dispute resolution and adjudication system						
Number of recommendations acted upon by MoHR	0	Target	-	-	-	-
		Actual	-	-	8	-
Medium-Term Outcome 3.2: Increased understanding by dispute resolution / law enforcement officials and social partners on ILS and new laws, decrees or regulations and other instruments						
Number of dispute resolution officials and social partners that participate in relevant trainings	0	Target	39	50	80	119
		Actual	39	22	104	165
Percentage of dispute resolution officials and social partners participating in relevant trainings that demonstrate increased knowledge and/or skills	0	Target	-	50%	70%	70%
		Actual	-	100%	100%	100%

Report with recommendations was finalized in Aug 2019 and published in Dec 2019. 8 Recommendations are being or have been (partly/largely/fully) addressed.

Self-reporting supported/confirmed by ILO-ITC certification (for IRD conciliators).

Annex 8 List of training activities

Component	Time	Subjects	Participants ⁹						
			MOHR	MEF	MTUC	Others	F	M	Total
Component I Labour Law Reform	08/2017	1½-day for representatives of MTUC on ILS in KL (ILO in-kind support)			28		N/A	N/A	28
	04/2018	2-day for reps of MOHR on Freedom of Association in KL	35				23	12	35
	12/2018	3-day for reps of MOHR on ILS / labour law reforms in Kuching,	48				26	22	48
	12/2018	(1st) 3-day for reps of MTUC on labour law reforms in KL			19		1	18	19
	01/2019	4-day for reps of MOHR/MEF/MTUC on labour law reforms in Ipoh	40	6	12		17	41	58
	01/2019	2nd) 2-day for reps of MTUC on labour law reform in KL			31		3	28	31
	03/2019	(3rd) 3-day for reps of MTUC on labour law reform in in KL			24		6	18	24
	04/2019	2-day for reps of MOHR on harmonization of Sabah and Sarawak	21				13	8	21
	05/2019	4-day for reps of MOHR/MEF/MTUC on harmonization of Sabah and	21	9	17		7	40	47
	08/2019	(5th) 3-day for reps of MTUC on labour law reforms in Port Dickson			25		5	20	25
Component II Labour Inspection	10/2018	½-day for reps of MTUC on LI awareness			51		14	37	51
		½-day for reps of MOHR/MEF/MTUC on SCP in KL	13	5	13		10	21	31
		1-day for reps of MOHR on introduction	24				8	16	24
		1-day for reps of MOHR on IT in KL	25				15	10	25
	03/2019	½-day for reps of MOHR/MEF/MTUC on SCP in Santubong, Sarawak	35	6	10		25	26	51
		2-day for reps of MOHR on SCP in Santubong, Sarawak	35				20	15	35
	04/2019	½-day for reps of MOHR/MEF/MTUC on SCP in Sandakan, Sabah	29	6	7		14	28	42
		2-day for reps of MOHR on SCP in Sandakan, Sabah	29				9	20	29

⁹ Some participants were involved with more than one activities.

		2-day for reps of MOHR on Workflow Exercise in Port Dickson	34				13	21	34
	07/2019	2-day for 20 reps of MOHR on OSH in Putrajaya	20				7	13	20
	10/2019	3-day for reps of MOHR on OSH in KL	20				4	16	20
	12/2019	½-day for reps of MOHR/MEF/MTUC and others on <i>SCP</i> (palm oil) in KL	19	2	4	4	7	22	29
		1-day for reps of MOHR on <i>SCP</i> (palm oil) in KL	18				6	12	18
		2-day for reps of MOHR on various issues in KL (site visit in Selangor)	20				6	14	20
Component III Labour Dispute Resolution	10/2017	2-day for MTUC reps on Collective Bargaining in Penang (ILO in-kind support)			39		14	25	39
	12/2018	5-day for reps of MTUC on Collective Bargaining in KL			22		5	17	22
	01/2019	1-day for reps of MOHR/MEF/MTUC on dispute resolution incl. labour law reforms in Genting	38	1	8		20	27	47
	02/2019	1-day for reps of MOHR on dispute resolution incl. labour law reforms in Genting	39				20	19	39
	09/2019	6-day for reps of MOHR on conciliation in Putrajaya by International Training Center of the ILO	18				12	6	18
Total			581	35	310	4	330	572	930

Annex 9 Good Practices and Lessons Learned

- **Good Practices #1**

ILO Emerging Good Practice Template	
<p>Project Title: Malaysia: Labour Law and Industrial Relations Reform Project TC/SYMBOL:</p> <p>Name of Evaluator: Sadie Xinxin Yang Date: February 27, 2020 The following emerging good practice has been identified during the course of the evaluation. Further text can be found in the full evaluation report.</p>	
GP Element	Text
Brief summary of the good practice	Access to technical and financial support has enabled a small project team to leverage resources in the ILO system.
Relevant conditions and Context: limitations or advice in terms of applicability and replicability	<p>The size of the LLIRR project team is very small, however, the coverage of the project is broad. While the ILO has no permanent presence in Malaysia, the backstopping specialists in Bangkok and Geneva provided substantial in-kind support to the Project through provision of expertise and technical advice through their participation in a large number of project activities.</p> <p>In addition to technical support, the project was able to mobilize an additional, regular budget funding of nearly US\$80,000 from the ILO Regional Office in Bangkok, to cover the cost of activities near the end of 2019. This was a good example of how ILO budget resources can seamlessly complement donor funding in contributing to shared project objectives. It is expected that some more funding from the ILO’s regular budget will be made available in early 2020, to allow for the undertaking of a number of specific, additional capacity building initiatives.</p>
Establish a clear cause-effect relationship	With the support from Bangkok and Geneva, the project has been able to effectively deliver technical advice in multiple thematic areas, ranging from labour law and ILS, to labour relations and labour inspection.
Indicate measurable impact and targeted beneficiaries	The main targeted beneficiaries are tripartite constituents. The impact of the support is reflected by advancement of labour law reform and improvement of capacity of the beneficiaries.
Potential for replication and by whom	Great potential for replication by other projects operating in countries without a permanent ILO presence
Upward links to higher ILO Goals	The LLIRR Project contributes to the achievement of the Malaysian DWCP through Priority 1: Rights at Work, namely “protecting, promoting rights at work and recognizing the importance of compliance with International Labour Standards (ILS)”.
Other documents or relevant comments	N/A

- **Good Practices #2**

ILO Emerging Good Practice Template

Project Title: Malaysia: Labour Law and Industrial Relations Reform
Project TC/SYMBOL:

Name of Evaluator: Sadie Xinxin Yang

Date: February 27, 2020

The following emerging good practice has been identified during the course of the evaluation. Further text can be found in the full evaluation report.

GP Element	Text
Brief summary of the good practice	Under the LLIRR Project, international good practices on labour law reform have been introduced to Malaysian stakeholders.
Relevant conditions and Context: limitations or advice in terms of applicability and replicability	A study tour to Australia was organized. The purpose of this study tour was to enable Malaysian delegates to gain first-hand knowledge on the workings of the Fair Work Commission by observing the proceedings of the Commission, as well as having meetings with their counterparts in the Commission.
Establish a clear cause-effect relationship	Based on this study tour, several recommendations were proposed to reform labour law in Malaysia. All the tripartite delegates found this comparative approach very useful for helping them cope with the situation in Malaysia.
Indicate measurable impact and targeted beneficiaries	The impact can be measured by the improved knowledge and understanding of ILS. The target beneficiaries are the tripartite constituents in the country.
Potential for replication and by whom	This practice can be replicated by all the ILO member States with the proper capacity and resources to absorb international good practice.
Upward links to higher ILO Goals	The LLIRR Project contributes to the achievement of the Malaysian DWCP through Priority 1: Rights at Work, namely “protecting, promoting rights at work and recognizing the importance of compliance with International Labour Standards (ILS)”.
Other documents or relevant comments	N/A

- **Lessons Learned #1**

ILO Lesson Learned Template

Project Title: Malaysia: Labour Law and Industrial Relations Reform
Project TC/SYMBOL:

Name of Evaluator: Sadie Xinxin Yang

Date: February 27, 2020

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

LL Element	Text
Brief description of lesson learned	The scope and complexity of intervention should be designed while taking fully into account the implementation capacity of the project team and the project duration.
Context and any related preconditions	The ILO's intervention approach was clear and logical: first amend key labour legislation, then build capacity to implement amended laws. Various research and studies provided solid evidence and information to guide the design of activities. However, the Project's coverage was too broad, especially given that the size of the project team was extremely modest. For example, outputs and activities under Component 2 Labour Inspection were quite ambitious. While in line with the findings of the labour inspection needs assessment, the requested inspection and technical assistance was perhaps more than the ILO could deliver within the scope of the project. This was particularly the case given that there were five separate labour inspection authorities in Malaysia (the Department of Occupational Safety and Health, the Social Security Organization (SOCISO), the Labour Department, as well as two separate Labour Departments for the States of Sabah and Sarawak respectively). Furthermore, many of the inspection outputs under the Project (e.g. the IT system, SCP) required work across institutional divisions, where collaboration was not particularly strong.
Targeted users / Beneficiaries	ROAP and Project team
Challenges /negative lessons - Causal factors	Over-ambitious project design involving a multitude of activities and institutional topics and actors makes it difficult to achieve project objectives.
Success / Positive Issues - Causal factors	The availability of technical support from the ILO regional office and headquarters has enhanced the Project's capacity to deliver.
ILO Administrative Issues (staff, resources, design, implementation)	Project design should be based on available human and financial resources.

- **Lessons Learned #2**

ILO Lesson Learned Template

Project Title: Malaysia: Labour Law and Industrial Relations Reform
Project TC/SYMBOL:

Name of Evaluator: Sadie Xinxin Yang

Date: February 27, 2020

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

LL Element	Text
Brief description of lesson learned	The project experienced serious delay in the first year, which contributed to delays in implementation.
Context and any related preconditions	It took about one year to recruit the CTA. After arriving in the office, the CTA had to spend considerable time to set up infrastructure, which involved relocating the project from one office to another, and recruiting additional staff. Moreover, the slow legislative process of the Parliament also contributed to the delay.
Targeted users / Beneficiaries	ROAP and Project team
Challenges /negative lessons - Causal factors	The Project officially commenced in October 2016. Due to various delays, project implementation started in October 2017. Though the Project was originally scheduled to end in March 2020, it was granted an extension to September 30, 2020.
Success / Positive Issues - Causal factors	Despite a slow start, the Project has been able to make substantial progress in all three components, particularly in the component of labour law reform.
ILO Administrative Issues (staff, resources, design, implementation)	The ILO should improve its recruitment strategies and process in Malaysia.