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Evaluator:	Mei Zegers

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Executive Summary

Over the past few years—with increasing attention in recent months—the need to ensure compliance with labour laws throughout all levels of enterprises has become apparent. Decent labour conditions, including occupational safety and health (OSH), payment of at least minimum wages and reasonable working hours are all being recognised as essential. Workers in enterprises, whether micro, small, medium or large, are progressively seen as having the legal rights to decent work. Simultaneously, there is a growing understanding that compliance of enterprises with labour laws can eventually contribute to business growth through investment in improved conditions for workers.

The Law-Growth Nexus II: Labour Law and the Enabling Business Environment for MSMEs in Kenya and Zambia (LGN II) were conceived within this context to provide support to enterprises and workers. The design of the LGN II was informed by the results of the earlier Law Growth Nexus I – (LGN I) project. LGN I had carried out extensive research in 12 African countries on the root causes of the decent work deficit in the MSME sector. The project period for LGN II was from March 2011 and slated to end July 2013. An external independent evaluation to assess the project was carried out in May-June 2013.

The overall objective of the LGN-II Project is to contribute to a more enabling policy environment for MSME development in Kenya and Zambia. The overall outcome is more and better jobs in the MSME sectors of the project implementation countries. The indicator for the overall outcome is 500 jobs per country with improved conditions of their workers, primarily as measured by employment contracts for all 500 workers.

The immediate objectives of the Project are:

- 1) To nurture respect for the rule of (labour) law among MSME in priority sectors;
- 2) To strengthen the capacity of ILO constituents to engage in social dialogue on the nexus between Labour Law compliance and MSME development,
- 3) To facilitate sector-specific regulatory reform, and
- 4) To strengthen the capacity of MSME to comply with the revised labour law.

The purpose of the evaluation is to enable project staff, constituents and other relevant stakeholders to assess the extent to which the project has met the intended project objectives and outcomes in line with the technical and financial agreements with the donor.

The Final Evaluation assessed five evaluation criteria as outlined below. Related to each of these criteria are a number of key evaluation questions

- 1) Relevance and strategic fit
- 2) Validity of design
- 3) Efficiency
- 4) Project progress and effectiveness
- 5) Effectiveness of management arrangements and efficiency of resource use
- 6) Sustainability

To ensure a thorough evaluation the evaluator used a combination of methods so that a well-rounded evaluation could be carried out:

- Document review including of direct project related documents but also of the overall context in Kenya and Zambia as relevant.

- Individual interviews and/or focus group discussions with stakeholders from a wide range of groups including policy makers and other government officials, representatives of employers and workers organisations, business development service providers, individual employers and employees
- Discussions with project staff
- Stakeholder meeting where initial findings were presented, discussed, and enriched with additional input from the participants.

Stakeholders indicated that the overall project design, including the selection of the sectors in early project implementation, is very relevant and responsive to real needs in the countries. The project was innovative and various interviewees noted that it “came at the right time”. The project continues to be in line with national development priorities such as reflected in key documents in both countries. Government officials from both countries who were interviewed for the evaluation indicated that the project continued to support government development strategies very well.

The selection of the priority sector of focus in Kenya was carried out using participative methods early in the project period and was the choice of the tripartite composed technical committee. In Zambia, the sector selection was done at project design stage after the design team recognised that the construction sector presented significant opportunity to improve decent work deficits. At project inception, the construction sector was then introduced to the tripartite and other stakeholders in Zambia who conclusively supported and adopted the choice. At the time of the final evaluation, interviewees in Kenya all reiterated the importance of the selection of the large matatu sector. In Zambia, likewise, interviewees were in agreement that the selection of the construction sector had been the appropriate choice.

While the project design did consider the gender dimension as per ILO guidelines, the selection of two sectors which are largely male dominated did not provide a strong platform for attention to gender issues. A few challenges in the logical framework did exist, including the lack of an indicator on gender issues. As several stakeholders stated such an indicator would have been useful to ensure increased focus on gender issues.

Causal linkages between the outputs and intended outcomes/objectives were relatively good. Output 4.2 on access to financial resources for compliant entrepreneurs had mixed usefulness. In Kenya matatu owners are already able to access financing for purchasing vehicles with only a 10% down payment. In Zambia the government is developing systems to improve the ability of contractors to obtain financing to start and implement specific contracts. One of the interesting project elements is the way the outputs temporally flowed into each other. There was thus good and intentional sequencing to build project results in intensity.

In terms of the overall objectives, the evaluator is of the opinion that the project has generally achieved effects beyond the immediate project outputs. The project has some major successes, including advocacy and awareness raising on the importance of implementation of labour laws in the current rapidly growing socio-economic context in Africa. The project still needs to measure the extent to which the overall objective of creating 500 improved jobs in each country has been attained although the project has generally met the immediate objectives. The project was able to develop a strong business case for the extension of labour laws to the entire MSME sector in both countries. Progress has been made, at least among entrepreneurs who had been associated with the project even if some are still hesitant.

The ILO constituents agreed that the project identified and worked with key sectors, successfully raised awareness, and built capacities of stakeholders. Stakeholders recognised and appreciated the

technical skills of the project staff on the subject of the project. Studies undertaken in the project were appreciated and deemed useful while training methods and materials were considered of high quality. Interviewees in both countries also particularly stated that the methods used to raise awareness through the media were well targeted and successful. The project learned useful lessons for future projects as will be discussed in the remainder of the report.

The project also faced challenges. These included the complexity of the two sectors as entrepreneurs face many issues that can impede the successful implementation of labour laws. The sheer range and number of such issues was unexpected at project inception and only became more apparent during project implementation. Other challenges included difficulties with timely implementation of actions in accordance with the project work plans. One of the reasons for the delays was the structure of the project in the two countries with administrative budget management in a third country. In Zambia, various stakeholders also cited issues with overall organisation and planning processes.

One of the strongest project results appears to be the functioning of the technical committee and the National Action Committee (NAC) structures in Kenya which is also promising for sustainability of project actions. In Kenya the project was lauded for the development and implementation of exceptionally good participative processes involving a wide range of stakeholders. In Zambia the responses from evaluation interviewees were more mixed. This was mostly because some key stakeholders felt that they were only sufficiently associated half-way through the project and because expected financial compensation for participation in the technical committee was not realised.

Target groups in both countries strongly appreciated and requested more awareness raising, particularly through the media and using other innovative methods such as through the mobile phones. An important comment from both countries was the need to understand that it takes time to change behaviour with respect to implementation of labour laws

At the time of the evaluation, attitude change could be discerned but behaviour change in terms of actual compliance with labour laws such as through the provision of labour contracts were still lagging. The main reasons for the slow uptake of labour contracts include the diversity of challenges that affect the sectors in both countries. In Kenya an unexpected finding explained part of the reason for the still limited labour contracts, i.e. workers in the matatu sector themselves were very hesitant to accept them. Workers tend to prefer the flexibility to move between employers as they wish and believe that they can earn more money daily under the existing systems than if they were given a monthly salary. Zambian contractors did indicate that they thought that their workers generally like to have contracts.

The evaluator made some suggestions while still conducting the field work for the evaluation based on comments made by the stakeholders. These suggestions may lead to meeting, and perhaps even exceeding, the goal of creation of 500 new and improved jobs before the end of the project in the countries. (See recommendation 8 on role models)

One of the major project successes in Kenya was the inclusion of references to the labour law in the recently adopted Traffic Amendment Bill 2012. The key addition on labour laws in the Traffic Bill is that owners can only employ workers who have a labour contract and that workers be paid a monthly salary.

Important Regulatory Impact Assessments (RIA) conducted in both countries were of good quality. The RIA analysed the labour laws and regulations as they relate to the project sectors. The analysis

included specific provisions of the laws and regulations that impede growth and development of the sectors, including creation of decent jobs. Upon completion of the RIA analyses, workshops were conducted in each country to review and validate the content as well as to finalise recommendations for submission to the governments.

In Kenya, the Matatu Owners' Association (MOA), Matatu Welfare Association (MWA), Matatu Drivers and Conductors Welfare Association (MADCOWA) and representatives of the SACCOs, indicated that there is a need for a more holistic approach to ensure that improved labour conditions for workers are implemented

In both countries, any future project would need to provide technical support to move discussions between the different stakeholders to an even higher level of effectiveness. More holistic approaches could include strengthening advocacy skills and including linkages to other programs such as those on HIV, youth employment, gender-based violence and women's empowerment.

The project did not focus a great deal on addressing gender issues. Attention was paid to ensure that the composition of the committees were as balanced as possible with both women and men. The reason is partially because the selected sectors are male dominated. There were some discussions about gender issues in training workshops, particularly as they relate to labour laws, but there was no major focus on gender equality.

One of the most positive project elements was the stakeholders' almost unanimous recognition of the technical skills of the project staff and consultants. Entrepreneurs commented on the skills of the staff in working with them and convincing them of the business case. The fact that they insisted on much broader dissemination of project materials in both countries only confirms this element further.

The overall project budget was generally adequate for the planned outputs. Despite issues regarding the management of the resources, the actual allocation of resources for project actions was done strategically to achieve the broader project objectives.

The project monitored progress using several techniques. These included the tracking of progress using the strategy road map, review of quality of reports and documents, and discussions with the technical committees and national advisory committees.¹ The committees played an important role in monitoring as they were included in reviews of the strategy road map and the actual documents produced.

The project has provided good underpinning for sustainability of project actions but achieving deeper and wider impact of project actions is likely to take more time. A well detailed exit strategy should have been included at an early project stage to help plan for sustainability. While the project did need to acquire a better understanding of the sectors and effective approaches to achieve project objectives, an early exit strategy could contribute to sustainability

The project has implemented a very interesting series of actions in challenging contexts in Kenya and Zambia. Despite strong reticence from many stakeholders, clear interest in applying labour laws has emerged among entrepreneurs in the both countries. Given the numerous challenges in the context, some of which at first appeared unrelated, actual implementation of the labour laws will still take more time. Much more work is needed to ensure that implementation and enforcement of the laws occurs.

¹ Which were combined in Zambia.

The most important lessons learned through the project are:

- The challenges in the context in which a sector is operating needs special consideration as these also influence whether labour laws can be fully implemented and enforced.
- It is necessary to ensure early direct input from entrepreneur and workers' associations in the relevant sectors.
- Use existing project stakeholder entities to channel actions in various parts of the country
- Include stronger focus on inclusion of labour inspectors, labour officers and law enforcement officials in training and as actors on awareness raising.
- Gender issues in a project may not always be the most immediately obvious ones.

The most important best practices of the project are the:

- Holding of a workshop early in the project period which was attended by representatives of the key stakeholders from both Kenya and Zambia to discuss the project implementation. The workshop helped ensure early "buy-in" and contribution of stakeholders into project planning.
- Good participative approaches that have led to real ownership among the stakeholders.
- Development of an effective business case for implementation of labour laws in the project sectors.
- Development of very good communications and training materials that are well accepted by stakeholders.
- Special focus on the inclusion of workers in awareness raising and training in Kenya.
- Involvement and co-opting of very high level officials from both the Ministry of Labour as well as Employer and Worker organizations in Kenya resulted in achievement of buy-in at the very top levels of the tripartite. This facilitated speedy decision making on key project interventions in Kenya since officials could make binding decisions on behalf of their constituency.

Key Recommendations

1) Continue best practices used to develop strong ownership. Ensure early inclusion of enterprise and worker associations in planning processes. (In addition to official workers and employers organisations)
2) Replicate selection of new sectors and prioritise using selection criteria established in each country. Follow selection by thorough baseline studies and regulatory impact assessments. Studies need to pay special attention to sector context challenges.
3) Consider among the criteria selection of sectors that have an important representation of women.
4) Consider developing special focus on one additional sector in each country. Implement tracked monitoring of workers for full development of a knowledge base on labour laws in the MSME context.
5) Develop materials for one or two additional sectors that can be integrated by other donors into their actions. In the spirit of One UN, for example, analysis and materials on agro-business can be developed and shared with the FAO and other agencies working in rural areas.
6) Focus in a future project on developing a general simplified and standardised manual and brochure on labour laws. Such brochures and manuals for MSME could be prepared using the existing materials as a starting point. In Zambia, once the new labour laws are adopted, the materials will need to be adapted.
7) Using the baseline analysis produced, prepare small guides on labour laws and other relevant regulation that are specific to the new sectors to supplement the materials on general labour laws.

8) Deepen and scale up focus on the existing project sectors through working with the role models and champions.
9) Develop, in addition to a business case for each sector, a workers case so that workers can understand and accept the usefulness of labour contracts.
10) Increase focus—in addition to similar training on labour laws—on capacity strengthening on leadership, advocacy, cooperative management, entrepreneurship as needed.
11) In Zambia consider extending the project actions by integrating a component on labour laws in the existing ILO Green Jobs project
12) In line with the development of the East African Community (EAC) consider extending the project to add Uganda or Tanzania to Kenya. This can be particularly useful if considering the transport industry due to cross-border trade. These countries are also part of the same ILO country office.

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Acronyms

AWEP	African Women Entrepreneurship Program
BDS	Business Development Services
BBPW	Business and Professional Women International, Zambia Chapter
COTU	Central Organization of Trade Unions
CTA	Chief Technical Advisor
DWCP	Decent Work Country Programme
EAC	East African Community
EPA	External Payment Authority
FFTUZ	Federation of Free Trade Unions of Zambia
FKE	Federation of Kenya Employers
HIV	Human Immunodeficiency Virus
ILO	International Labour Organisation
LGN-I	Law-Growth Nexus- Phase I
LGN-II	Law-Growth Nexus- Phase II
M&E	Monitoring and Evaluation
MADCOWA	Matatu Drivers and Conductors Welfare Association
MOA	Matatu Owners Association
MoL	Ministry of Labour (Kenya)
MOLSS	Ministry of Labour and Social Security (Zambia)
MSME	Micro, Small and Medium Enterprises
MCTI	Ministry of Commerce Trade and Industry (Zambia)
MTE	Mid-Term Evaluation
MWA	Matatu Welfare Association
NAC	National Advisory Committee
NAMSSC	National Association of Medium and Small Scale Contractors
NAPSA	National Pension Scheme Authority
NCC	National Council for Construction
NHIF	National Health Insurance Fund
NORAD	Norwegian Agency for Development Cooperation
NPC	National Project Coordinators
OSH	Occupational Safety & Health
PMU	Project Management Unit
RIA	Regulatory Impact Assessment
SACCOs	Saving and Credit Cooperative Organizations
SME	Small and Medium Enterprises
TCPR	Technical Cooperation Progress Reports
ToT	Training of Trainers
UNDAF	United Nations Development Assistance Framework
ZAFWIB	Zambia Federation of Associations of Women in Business
ZCTU	Zambia Congress of Trade Unions
ZDA	Zambia Development Agency
ZFE	Zambia Federation of Employers

1. Introduction

Over the past few years—with increasing attention in recent months—the need to ensure compliance with labour laws throughout all levels of enterprises has become apparent. Decent labour conditions, including occupational safety and health (OSH), payment of at least minimum wages and reasonable working hours are all being recognised as essential. Worker in enterprises, whether micro, small, medium or large are progressively seen as having the legal rights to decent work. Simultaneously, there is a growing understanding that compliance of enterprises with labour laws can eventually contribute to business growth through investment in improved conditions for workers.

The Law-Growth Nexus II: Labour Law and the Enabling Business Environment for MSMEs in Kenya and Zambia (LGN II) was conceived within this context to provide support to enterprises and workers. The design of the LGN II was informed by the results of the earlier Law Growth Nexus I – LGN I project. LGN I had carried out extensive research in 12 African countries on the root causes of the decent work deficit in the MSME sector. The project period for LGN II was from March 2011 and slated to end July 2013. An external independent evaluation to assess the project was carried out in May-June 2013.

1.1. Brief Project Implementation Logic

The overall objective of the LGN-II Project is to contribute to a more enabling policy environment for MSME development in Kenya and Zambia. The overall outcome is more and better jobs in the MSME sectors of the project implementation countries. The indicator for the overall outcome is 500 jobs per country with improved conditions of their workers, primarily as measured by employment contracts for all 500 workers.

The immediate objectives of the Project are:

- 1) To nurture respect for the rule of (labour) law among MSME in priority sectors;
- 2) To strengthen the capacity of ILO constituents to engage in social dialogue on the nexus between Labour Law compliance and MSME development,
- 3) To facilitate sector-specific regulatory reform, and
- 4) To strengthen the capacity of MSME to comply with the revised labour law.

The LGN-II Project seeks to support the uptake of and exposure to labour law in the MSME sector by making a strategic contribution to a more enabling policy environment for MSME development in Kenya and Zambia. The Project strategically focuses on one priority sector in each project implementation country. In Kenya the sector is the Public Transport Sector with a focus on the ‘Matatu Industry’.² The priority sector of focus in Zambia is the Construction Sector.

1.2. Purpose, Scope and Clients of Evaluation

The purpose of the evaluation is to enable project staff, constituents and other relevant stakeholders to assess the extent to which the project has met the intended project objectives and outcomes in line with the technical and financial agreements with the donor. The clients of the

² The Matatu industry is comprised of loosely regulated and very popular forms of public transport usually consisting of a minibus. For ease of reference the evaluator will refer to this Kenyan public transport sector as the Matatu industry in the remainder of the report.

evaluation include: project staff (National Project Coordinators in Kenya and Zambia); the overall project manager (Chief Technical Advisor); technical backstopping staff (Senior Technical Specialist at the Decent Work Support Team for Eastern and Southern Africa Office in South Africa); ILO Field Directors (Kenya, Zambia); the donors; and constituents, in particular the national technical and advisory committees in Kenya and Zambia.

The Final Evaluation assessed five evaluation criteria as outlined below. Related to each of these criteria are a number of key evaluation questions

- 1) Relevance and strategic fit
- 2) Validity of design
- 3) Efficiency
- 4) Project progress and effectiveness
- 5) Effectiveness of management arrangements and efficiency of resource use
- 6) Sustainability

Related to each of these criteria are a number of key evaluation questions which are covered under the criteria related section headings

The evaluator would like to note that she has included a more detailed analysis of the context and other issues that affected project implementation than is usual in an evaluation. The reason is because the project concept is relatively new so it is essential to understand the variables that influenced project implementation. The evaluator is convinced of the usefulness of the project concept and considers that there is an important need to scale up and replicate such projects widely. The evaluator hopes that the detailed context analysis will contribute to improving future similar projects so that they can lead to improved jobs in changing development contexts.

2. Evaluation Approach and Methodology

It is important to stress that the evaluation was not intended to criticize but to learn from the past and study how efforts can be further improved in the future in similar project. Specifically, this means that the evaluation determined what can be improved, should be avoided, and/or added to improve the enabling environment for MSMEs and their workers in Kenya and Zambia. Lessons learned and best practices for replication of the project in the project countries as well as elsewhere also formed an important evaluation component.

The evaluator attended to the guidelines provided by—and consistent—with ILO principles. She applied a high a standard of evaluation principles including ethical considerations throughout. Gender and cultural sensitivity were integrated in the evaluation approach.

To ensure a thorough evaluation the evaluator used a combination of methods so that a well-rounded evaluation could be carried out:

- Document review including of direct project related documents but also of the overall context in Kenya and Zambia as relevant.
- Individual interviews and/or focus group discussions with stakeholders from a wide range of groups including policy makers and other government officials, representatives of employers and workers organisations, business development service providers, individual employers and employees
- Discussions with project staff
- Stakeholder meeting where initial findings were presented, discussed, and enriched with additional input from the participants.

The evaluator sees the evaluation process as a joint and participative effort to identify the key conclusions in each of the evaluation areas. Despite this overall approach, the evaluator is ultimately responsible for the evaluation process including report writing.

The evaluator first met with senior project staff in Nairobi—after arriving in the country—to finalize the issues to address and obtain their further input into the evaluation process. This was followed by initial joint discussions on the evaluation subjects. Further individual meetings were held in Nairobi with the CTA and National Project Coordinator (NPC). In Zambia initial meetings were also conducted with the (NPC) prior to meeting other stakeholders.

In each country, the evaluator then met with central government representatives as well as workers' and employers' organisations representatives and the other key stakeholders. The Administrative and Finance Assistants were also interviewed.

The stakeholder workshop took place on the 27th of May, 2013 for Kenya and 3 June, 2013 for Zambia. The evaluator's stakeholder workshop presentation concentrated on good practices, lessons learned and remaining gaps as identified by all the stakeholders. Individual stakeholder participants were provided with an opportunity to respond and provide additional input into the evaluation conclusions during the workshop (see Annexe 4 for an overview of their prioritised input). After the return of the evaluator from the field, she drafted the first version of the evaluation report which was forwarded for comments and finalized after receiving feedback on the first version.

3. Project Design Findings

3.1. Relevance and Strategic Fit of Project Design

The mid-term review already discussed the relevance and strategic fit of the project at length.³ The current evaluation report, therefore, primarily focuses on the extent to which the project remained relevant and continued to have strategic fit. Comments by stakeholders on the design as they look back are given importance in Section 3.

Stakeholders indicated that the overall project design, including the selection of the sectors in early project implementation, is very relevant and responsive to real needs in the countries. In fact, stakeholders who work directly in the matatu industry (Kenya) and construction industry (Zambia) indicated that they currently understand project relevance much better than when they first came in contact with the project. Several government officials indicated the same saying, for example, "I used to have my doubts about whether labour law compliance for this sector was feasible. "Given the emphasis on awareness raising on labour law compliance this is a positive finding.

3.1.1. Project Support to the National Development Priorities and the DWCP

The project continues to be in line with national development priorities such as reflected in key documents in both countries. These include the Kenya Vision 2030⁴, which commits to improving public transport, the informal economy in general. Kenya Vision 2030 also makes references to the social protection, legal and regulatory environment. Similar references are made in other planning documents in Kenya, such as the Medium Term Investment Plan (MTIP) 2008/2012 and 2013/2017; the Micro, Small and Medium Enterprise (MSME) Sessional Paper No 2 of 2005, and Social Protection

³Karuga, Stanley (2012) Independent Final Evaluation Law-Growth Nexus Phase II: Labour Law and the Enabling Business Environment for MSMEs in Kenya and Zambia. Nairobi: International Labour Organization.

⁴National Economic and Social Council of Kenya (NESC) Office of the President (2007), Kenya Vision 2030. Nairobi: Government of the Republic of Kenya.

Policy of 2011.⁵

In Zambia National Vision 2030, the Sixth National Development Plan (2011-2015), National Employment and Labour Market Policy (2004) and various other documents also directly include references in support of improved labour and enterprise development conditions.⁶ In Kenya labour laws have recently been reformed and the project was seen as “coming at the right time to ensure that the new labour laws are implemented.”⁷ In Zambia the government is undertaking labour law reforms to ensure improved and appropriate labour laws are in place for the current development context. Some evaluation interviewees in Zambia did note that, subsequent to the revision of the labour laws, new guidelines and training materials will need to be developed for dissemination to the target groups.

In both countries the Decent Work Country Programs (DWCP) of 2007-2011 that were active at the time of the project design were not highly focused on compliance issues although references to enterprise development were made. Given that labour law compliance is related to enterprise development the project did fit in the broad priority outcomes. In both countries, likewise, references to social protection and workers’ rights are more explicitly made.

Government officials from both countries who were interviewed for the evaluation indicated that the project continued to support government development strategies very well. Several interviewees in Zambia noted, for example, that the project was being implemented at a time when important issues, such as the minimum wage, were being addressed. The project has thus been able to provide some input into this process in Zambia although dialogue on this matter is still on-going. One Zambian official noted that the project even helped officials to realise the importance of labour laws in ensuring the sustained the growth of small and medium enterprises (SME). The official further stated that the project contributed to ensuring that consultative processes with SMEs regarding labour issues were implemented.

In both countries, the employers’ and workers’ organisations interviewed during the evaluation likewise indicated that the project is very well in line with their own strategies. In Kenya, for example, the Central Organization of Trade Unions (COTU) noted that they had just finalised the establishment of their labour law division. The project, thus, continues to be highly relevant.

3.1.2. Appropriateness of Selection of Project Sectors

The selection of the sectors was carried out using participative methods early in the project period. In both countries all stakeholders interviewed firmly supported the selection of the sectors that were addressed in their country. Evaluation interviewees who had been involved in the tri-partite selection process stated that the selection criteria were appropriate and correctly applied.

⁵Office of the Prime Minister, Ministry of State for Planning, National Development and Vision 2030 (2008). First Medium Term Plan, 2008 – 2012. Nairobi: Government of the Republic of Kenya. Republic of Kenya (2005) Micro, Small and Medium Enterprise (MSME) Sessional Paper No 2. Nairobi Kenya: Government Printers. Ministry of Gender, Children, and Social Development (2011), Kenya National Social Protection Policy. Nairobi: Government of the Republic of Kenya.

⁶Republic of Zambia (2006), Vision 2030. Lusaka, Government of the Republic of Zambia. Republic of Zambia (2011), Sixth National Development Plan 2011 – 2015: Sustained Economic Growth and Poverty Reduction. Lusaka: Government of the Republic of Zambia.

⁷ Statement by MoL representative as well as similar statements by other interviewees.

In the case of Kenya, interviewees all reiterated the importance of the large matatu sector to the national economy and the need to “bring sanity into the chaos of the industry”⁸ by contributing to formalising it with respect to labour laws. Interviewees noted that owners, workers, and passengers were all affected by the existing situation of disorder. Different stakeholders mentioned a range of figures, but it was commonly agreed that at least 250,000 people work in the Kenyan matatu industry. The project baseline survey indicated that it is the second largest employer in Kenya after the government.⁹

The Kenyan government had already launched some initiatives to organise the sector just prior to the project start-up. The government required the many individual matatu owners to join together in Saving and Credit Cooperative Organizations (SACCOs) or register as private companies. The formation of SACCOs was promoted to provide the country with institutions that could efficiently support and represent the sector in line with government transport development policies. According to a government official, the majority of owners have now registered either as a SACCO or, in fewer cases, as a company. The majority of SACCOs are affiliated to the Matatu Owners’ Association (MOA) and the Matatu Welfare Association (MWA). The Matatu Drivers and Conductors Welfare Association (MADCOWA) represents workers although in a few instances workers are starting to join SACCOs.

The existence of the SACCOs, MOA, MWA and MADCOWA provided the project with useful contacts for project implementation as the matatu owners and workers were not yet officially integrated into Kenya’s principal employers and workers organizations.

Different stakeholders mentioned one challenge of selecting the matatu sector several times during the evaluation. The sheer size of the selected sector had not been envisaged in the project design so it was difficult to adequately reach the huge population involved. As one person stated, “How much can the project do in 1.5 to 2 years to reach that number?”

In Zambia the construction industry was also cited as the best choice for a first project on the implementation of labour and other decent work related laws. Zambia is currently engaged in high rates of construction, including building schools, clinics, and other buildings for which small and medium contractors may be considered.

Despite the difference in the size of the sector as compared to Kenya, stakeholders in Zambia also indicated that 2 years was too short to implement such a project. The main reasons provided in Zambia were the need to cover the country and the diffused nature of the industry across a wide range of types of workers. Aside from workers engaged in different technical jobs, some workers are hired as casual day labour, for short contracts or for longer duration. In each of these instances different labour contexts are indicated with potentially different laws and regulations.

One issue in Zambia was that the project initially focussed primarily on working with the approximately 1,300 contractors that are registered with the National Council of Construction (NCC). According to interviewees, there is a larger number of contractors who are not registered. The National Project Coordinator (NPC) indicated that the project encouraged contractors who are not registered with the NCC to also attend training. An NCC official did indicate that some additional contractors have registered with the NCC and she believed that some of these may have done so as a result of the project although she has no certain evidence of this.

The NCC manages the country’s system of categorising construction companies. Contractors

⁸ As stated by several interviewees.

⁹ International Labour Organization (2012a), Baseline Survey of the Matatu Industry in Kenya. Nairobi: ILO.

registered with the NCC contractors are already part of the formal sector and, depending on their capacities, receive a grade of 1-6. Registered contractors are then allowed to bid on particular types of contracts depending on their grade. There are, however, many informal contractors who are not registered with the NCC who have not, or only minimally, been reached through the project. An interesting aspect is that contractors can only register with the NCC if they can show that they comply with all the labour laws, particularly with respect to registration of workers into the workers' compensation scheme and the National Pension Scheme Authority (NAPSA). The NCC contractors interviewed for the evaluation, however, indicated that given that most of their workers fall under the "casual" definition they still do not necessarily have labour contracts or are in line with other labour regulations.

3.1.3. Links With Similar ILO and International Development Organizations Activities

Despite design intentions to link the project with similar activities with other agencies this was an area that was not very highly developed. Some meetings were held with, for example, the World Bank in Kenya and with other ILO projects in both countries. Information about the project was also shared within the framework of the United Nations Development Assistance Framework (UNDAF). These contacts were not developed much further beyond the exchange of information on project progress. In Zambia the project participated in a knowledge fair in December 2012 for the ILO country office of Zambia, Malawi and Mozambique to share project activities. In Kenya the project participated in some joint activities with various agencies to promote attention to specific issues such as on Labour Day. The project also shared the materials and ideas that were developed in the project with other projects, particularly the ILO youth employment projects. The project complements the new Green Jobs project that has been launched in Zambia.

3.1.4. Gender Equality and Consideration of Gender Dimension

While the project design did consider the gender dimension as per ILO guidelines, the selection of two sectors which are largely male dominated did not provide a strong platform for attention to gender issues. As will be discussed in Section 4.5, a range of gender issues as related to these sectors did become evident during implementation and were discussed with the evaluator.

3.2. Project Design Validity

3.2.1. Adequacy of Project Design Process

The design process was generally adequate although several evaluation interviewees in both countries stated that they perceived the project as having been "designed elsewhere"¹⁰. They noted this despite the fact that the project was based on the LGN 1 phase and that they recognised the importance of the subject. Given that the LGN 1 was a research project it was surprising to hear this. In both countries, but especially in Kenya, the evaluator did note that there was nevertheless still good ownership. In the case of Kenya, interviewees attributed their strong sense of ownership to the appropriateness of the project overall objective and the strong participative processes during implementation. Many interviewees who were not project staff referred to the LGN II as "our" project. Aside from participation in committees, interviewees representing all categories of stakeholders indicated that they were in regular contact with the project. Such contacts were centred on exchanging information and obtaining input into actions as they were being implemented. As such, participation was thus not just limited to committee meetings.

In Zambia, ownership was less pronounced due to perceived planning issues and financial support

¹⁰ Or similar statements.

challenges for meetings. In the case of Zambia, the National Association of Medium and Small Scale Contractors (NAMSSC) stated that, in accordance with the project design, they should have been included from a much earlier stage. (See Section 4.3.4 and others for additional discussion). The project staff indicated that the NAMSSC had been included in some early discussion but that they had not attended one early meeting or the initial Regional Planning Meeting held at the beginning of the project in Mombasa.¹¹ The subject of the project was, however, still considered highly relevant in Zambia and ownership was noted.

A few interviewees stated that they felt that the connection between the LGN I and LGN II was not very evident despite the fact that the LGN II was grounded in the first phase. This was probably primarily because the LGN I did not focus specifically on the two project sectors selected for the project. Ensuring key stakeholders are informed helps them be aware of the efforts that have been undertaken to ensure the project is relevant. Key stakeholders thus need to be well informed concerning how a second phase project is informed by a first phase. If there are changes in terms of focus, these need to be explained so that stakeholders do not question the reasoning for the shifts in focus in the different phases.

3.2.2. Influence of Changes in Project Design on Implementation

The project design was changed with respect to the number of countries—i.e. South Africa was dropped—and micro-enterprises were added to the project design. South Africa was considered a country with better worker protection than Kenya and Zambia and was thus dropped to ensure sufficient project impact with a relatively small budget. Although there could have been advantages to including South Africa, particularly to maximise lessons learned and best practices from the country, it was the right decision not to include South Africa.¹²

Micro-enterprises were added to the project as stakeholders indicated at inception that micro-enterprises can and should also be included. The principal reason provided was to ensure that micro-enterprises could also continue to grow and eventually become small and/or medium enterprises through compliance with the laws. In practice many of the enterprises included in the project were micro or small sized... In Kenya, the project worked with SACCOs which were often still composed of owners who owned their vehicles individually instead of jointly through their SACCO. The aim of the SACCOs is usually, however, for owners to invest in the SACCO and jointly manage the vehicles and workers

3.2.3. Causal Linkages of Outputs with Intended Outcomes/Objectives

Causal linkages between the outputs and intended outcomes/objectives were relatively good. Under immediate objective 1 on nurturing respect for the rule of law among MSME, it would have been useful for output 1.1 and the corresponding indicator to be stated slightly differently. The output states that the MSME (reached by the project) report increased comprehension of the labour law. Given that self-reporting is not the same as actual comprehension it would have been valuable for the indicator to be stated with more clear focus on measuring actual comprehension.¹³ A similar issue arose with respect to output 2.1. Such information could also have been analysed and included in the project monitoring system to inform similar future actions on labour law promotion.

¹¹ Representatives from both Kenya and Zambia had attended this meeting.

¹² A visit of Zambian stakeholders to South Africa to view implementation in the construction industry was conducted.

¹³ The project did attempt to measure knowledge at the beginning and end of training although details on Zambia were not yet available at the time of the evaluation.

Output 4.2 on access to financial resources for compliant entrepreneurs had mixed usefulness. In Kenya matatu owners are already able to access financing for purchasing vehicles with only a 10% down payment. The project also provided some additional information to the evaluator indicating that, in some cases financing for the purchase of transport vehicles is even possible without a down payment. As a reporter from NTV Business News states, "the matatu itself is self-securing".¹⁴ The newly elected Kenyan government is also providing funds valued at US \$1.1 million to assist youth groups to purchase matatus.¹⁵ In fact, none of the owners interviewed for the evaluation considered that financing was an issue. On the contrary, some noted that there were too many matatus on the roads competing for passengers and licencing should be stricter to reduce their numbers. As a result output 4.2 was not essential for the project to provide support in this area, at least in Kenya.

In Zambia the government is developing systems to improve the ability of contractors to obtain financing to start and implement specific contracts. As will be discussed in Section 4.3, however, Zambian contractors had still expected more support from the project to develop their businesses.

One of the interesting project elements is the way the outputs temporally flowed into each other. There was thus good and intentional sequencing to build project results in intensity. By the time the project started realising immediate objective four regarding the capacity strengthening of MSME to comply with the revised labour law, they were already empowered to do so.

A few challenges in the logical framework did exist, including the lack of an indicator on gender issues. The project document articulated that the project would result in "lasting change"¹⁶ through its actions and thus contribute to sustainability. The document cited a number of project actions that would have capacity strengthening, multiplier, and replicability potential and thus contribute to sustainability. A few interviewees pointed out, however, that there was a need for a detailed sustainability plan in the project document to help ensure the continuance of project actions after project end.

4. Project Effectiveness Findings

"It is not a choice we have, it is the law and we must and will apply it!" Kenyan vehicle owner
"The project brought in 'new thinking' on the labour laws and their implementation using simplified approaches for increasing knowledge and understanding." Zambian official

The project has some major successes, including advocacy and awareness raising on the importance of implementation of labour laws in the current rapidly growing socio-economic context in Africa. The project still needs to measure the extent to which the overall objective of creating 500 improved jobs in each country has been attained although the project has generally met the immediate objective.

The project was able to develop a strong business case for the extension of labour laws to the entire MSME sector in both countries. Progress has been made, at least among entrepreneurs who had been associated with the project even if some are still hesitant.

¹⁴NTV Kenya (2011), Matatu Investment. (Website accessed 10 June 2013: http://www.youtube.com/watch?v=NMR_WKnZpMw)

¹⁵Business Daily (2013). Youth Fund reserves Sh100m to buy matatus for groups (Website accessed 10 June, 2013: <http://www.businessdailyafrica.com/Youth-Fund-reserves-Sh100m-to-buy-matatus-for-groups/-/539546/1847752/-/272e1pz/-/index.html>)

¹⁶International Labour organization Technical Cooperation (2010), Project Document Law-Growth Nexus II: Labour Law and the Enabling Business Environment for SMEs in Kenya and Zambia. ILO Office Pretoria.

The governments of the two project countries recognised that the LGN II addressed an important subject. The project was innovative and various interviewees noted that it “came at the right time”. The ILO constituents thus agreed that the project identified and worked with key sectors, successfully raised awareness, and built capacities of stakeholders. Stakeholders recognised and appreciated the technical skills of the project staff on the subject of the project. Studies undertaken in the project were appreciated and deemed useful while training methods and materials were considered of high quality. Interviewees in both countries also particularly stated that the methods used to raise awareness through the media were well targeted and successful. The project learned useful lessons for future projects as will be discussed in the remainder of the report.

The project also faced challenges. These included the complexity of the two sectors as entrepreneurs face many issues that can impede the successful implementation of labour laws. The sheer range and number of such issues was unexpected at project inception and only became more apparent during project implementation. Other challenges included difficulties with timely implementation of actions in accordance with the project work plans. The structure of the project in the two countries, including with the need to pass through a third country for administrative and finance disbursements were given as reasons for the delays. In Zambia, various stakeholders also cited issues with overall organisation and planning processes which were perceived as often only being initiated “at the last minute.” One interviewee provided an example of such a situation, saying he received a call that stated. “We are in the southern province, can you organise your members to come?”

4.1. Participation in Project Start-up

Early participation in project planning and implementation is usually an important element that can contribute to eventual ownership and sustainability of project actions. The project stakeholders in Kenya—from government to employers and workers federations, employers and workers associations in the matatu industry—were all generally satisfied with the project start-up process. The stakeholders indicated that they had been included in practical planning and implementation from an early stage of the project period. The MOA, MWA, and MADCOWA were particularly pleased that there had been recognition that they should be included as key and full partners. Some MOA, MWA, and MADCOWA representatives indicated that, prior to the project, their input had not sufficiently been considered in many discussions on the regulation of the matatu sector. A best practice in this regard was the holding of a workshop early in the project period which was attended by representatives of the key stakeholders from both Kenya and Zambia to discuss the project implementation. The workshop was mentioned by several interviewees as having provided a solid foundation for the ownership they felt as the project progressed.

A project baseline was implemented in both countries.¹⁷ Most evaluation interviewees were positive about the quality of the studies and the evaluator likewise considers the quality to be good. Ideally a baseline is implemented at the very beginning of a project so that results can be used to fully inform project implementation and to serve as comparison to an end line/impact study. In the case of Kenya the report was ready in May, 2012 so the timing could have been better. In Zambia the baseline report was completed in August, 2012. One interviewee was of the opinion that the baseline should have more clearly indicated how the project should be implemented using information from the baseline. Some interviewees who actually worked in the sectors even indicated that they had learned surprising new things about their sector as a result of the baseline survey. In

¹⁷International Labour Organization (2012a), Baseline Survey of the Matatu Industry in Kenya. Nairobi: ILO. Karuga, Stanley (2012) Independent Final Evaluation Law-Growth Nexus Phase II: Labour Law and the Enabling Business Environment for MSMEs in Kenya and Zambia. Nairobi: International Labour Organization

Kenya these new elements were mostly focused on the large number of the workers and the high number of youth working in the sector. In Zambia government officials also indicated that there were issues that they had been unaware of, such as the fact that many contractors actually operate multiple businesses, some of which are not in the construction industry.

4.2. Context and Challenges within the Project Sectors

The evaluation interviewees all wanted to spend quite a large part of their interviews to explain the complexity of the context in the project sectors in their respective countries. It was clear that they wanted to ensure that the evaluator better understood the issues affecting the reaching of project objectives. Interviewees noted that impact is slow to develop given the complexity of the sectors. This insistence on detailing the sector challenges was, in fact, an encouraging aspect. Stakeholders had evidently achieved a very good awareness of the usefulness of reaching project objectives and wanted the evaluator to take all the challenges into account when assessing the project. A more holistic approach that takes these challenges into account would be useful in future similar projects. While a project cannot address all of the challenges, the evaluation recommendations do include suggestions such as improved linkages and strengthening advocacy skills.

In Kenya, the sheer size of the matatu sector and the fact that it has only recently started to become organised through the SACCOs and companies form key challenges. Few SACCOs are yet functioning well in terms of cooperative ownership and management of resources.

In Kenya the matatu sector was referred to by one interviewee as “a cow that everyone wants to milk, the owners, the government, the police, cartels that control the routes, the workers...” Each of these entities has their own wishes for the sector. According to several interviewees a “great deal of suspicion”¹⁸ was prevalent between these different actors which is not conducive to dialogue. It should be noted, however, that interviewees reported much improvement in dialogue which they attributed to the efforts undertaken with support of the project.

The government desires to see improved efficiency, safety and general order in the sector as well as improved tax collection. Owners and workers want to ensure that they have a good income. Almost all interviewees in Kenya stated openly that police officers often exploit the sector for their own gain through excessive and, often, unjustified controls. Owners and workers refer to groups that “manage” the over 200 routes along which the vehicles travel in Nairobi as “cartels” to which they must pay a form of protection money. The evaluator does want to note that these comments are based on input by the owners and workers and she has no independent knowledge of the functioning of these route management “cartels”.

Issues that directly influenced the willingness of owners and workers to initiate labour contracts are partly caused by the mobility of drivers and conductors as they switch employers. Owners state that workers sometimes simply “do not show up in the morning”. A driver stated noted, “Today you wake up and you may think you are working somewhere. Then you come and find the vehicle is on the road with someone else.” The temporary nature of many of the workers in the construction sector also formed a challenge in Zambia. In Kenya, workers often work on a daily basis, voluntarily moving to different owners if a vehicle is out of service, if they do not like the employer or for other reasons. In fact, the freedom to quit on the spot is currently the main method workers use to protest any maltreatment by an employer. Likewise, as the project baseline survey indicated, many young people are entering the sector to work temporarily while they wait for better employment elsewhere. Workers are often drawn to the sector due to its flexibility to come and go as they please, despite the difficult working hours and general conditions. The baseline study did also

¹⁸ As indicated by several stakeholders in Kenya

indicate, however, that over half of all matatu workers had been in the sector for over 5 years.¹⁹

Many other issues are also identified in the matatu sector that, together, contribute to the overall difficulties in bringing the desired sanity²⁰ into the sector. Factors include the lack of traffic safety, the lack of official regulated stops, scuffling and pushing while competing for passengers, risk of violence affecting passengers and workers²¹, and HIV prevalence among workers. According to the project baseline survey, 63% of drivers and conductors work between 15 and 20 hours per day which is naturally not conducive to road safety.²² It should be noted that workers often want to work many hours themselves in order to maximise the amount of money they can earn on a given day over and above the minimum they are expected to provide to the matatu owner.

The range of the different government offices that have a role in the management of the matatu sector is large²³ thus further making it difficult for the project to provide technical support and contribute to coordination regarding labour law implementation.

In Zambia the MSME construction sector representatives (NAMSSC) noted that they still felt they had little influence on ensuring that government legal and regulatory frameworks support the development of the sector. NAMSSC and representatives and some other Zambian interviewees also noted that they are greatly affected by high levels of competition for the kinds of contracts available to MSME. They complained that there was corruption in allocation of contracts despite efforts by government and companies which may hire contractors to end corruption.

The low number of labour inspectors/officers and limited verification of compliance in tenders also affects implementation of the legal frameworks among workers in the sector.²⁴ According to contractors, few reviewers verify whether a proposed tender includes attention to workers compensation, pension, and OSH conditions for workers. Compliant contractors have few, if any benefits in allocation of contracts under such competitive situations. Other issues include the high rates of casual workers in the sector which, as in Kenya, makes it difficult to ensure that labour contracts are ensured.

Labour conflicts are primarily between employers and employees. Labour officers/inspectors are expected to act as mediators. The relationship between employers and the labour officers does, however, still need to be enhanced. Conflicts between contractors and labour inspectors are currently still common in Zambia and will need to be addressed in any future project so that entrepreneurs and the government can work as partners instead of adversaries. A contractor gave one example to illustrate this point, "A labour inspector will call me while the complaining employee is standing at this door. The discussion then is automatically confrontational. This project could have provided more opportunities to ensure dialogue so that we can move forward together."

Issues around the recent substantial increases in the minimum wages across all sectors in Zambia affect the ability of compliant contractors to compete with non-compliant contractors. Some contractors also noted that they wanted to have certificates after having attended training on the

¹⁹International Labour Organization (2012a), Baseline Survey of the Matatu Industry in Kenya. Nairobi: ILO

²⁰ As stated by the stakeholders, see Section 3.1.2

²¹ With particular risk also to female passengers who may be grabbed and pushed in ways that violate them sexually.

²²International Labour Organization (2012a), Baseline Survey of the Matatu Industry in Kenya. Nairobi: ILO

²³ Including offices in the Ministry of Labour, Infrastructure and Transport, Security, Commerce, Cooperatives, etc.

²⁴ In Kenya, for example, there are only 96 labour inspectors and labour officers for the whole country. (Labour officers are hierarchically senior to inspectors in the Labour Inspection Department)

labour laws. They felt that they should be given some type of priority for having attended training as well as subsequently for any compliance with labour laws. Compliance certification would remain the preserve of the Ministry of Labour working through government inspectors in the field

Contractors also noted that workers sometimes do not want to use protective equipment or implement other OSH measures as they find it “inconvenient”. Compliance is thus not only the task of employers but also workers, making it all the more important to include workers more substantially in dialogue in the future.

4.3. Progress Towards Achieving Outputs and Overall Programme Objectives/outcomes

“The main thrust of the project was for contractors to comply so that they could see that their business could grow and flourish.” Zambian workers representative

The project has made good progress towards reaching the project objectives/outcomes. Achievements by project geographic area are discussed throughout the remainder of Section 4. As indicated in Section 4.2, the context in both countries was quite challenging. Progress was delayed in some stages, particularly in Zambia. At the time of the evaluation qualitative evidence indicated that there was still a need to concentrate on achieving the overall objective of 500 improved jobs in both countries.

Delays in the achievement of the objectives that were not met were mainly caused by the complexity of the context, unexpected situations, and project structure. Context challenges of various types included economic, socio-cultural and political decision-making and are discussed in various sections of the report. While projects implemented in several countries simultaneously can be managed, effective coordination can be challenging (See Section 5 on managements arrangements for details).

In terms of the overall objectives, the evaluator is of the opinion that the project has generally achieved effects beyond the immediate project outputs. The project has been able to show that it is possible to make a convincing business case for application of labour laws in MSMEs even beyond the project sectors. Evaluation interviewees were quite adamant that similar actions need to be scaled up within the existing sectors and replicated in a range of other sectors in both countries. While some business owners still have some doubts, the majority of those who have been associated with the project were convinced by the business case developed in the project. As a contractor stated in Zambia, “Somehow we have come to accept these labour laws.” Similar statements were made by other entrepreneurs in Zambia and Kenya. It should be added, however, that there is still a very large segment of entrepreneurs in both sectors who have not yet been reached. While recognition of the need to apply labour laws has become apparent among entrepreneurs reached through the project, much more effort in continued and deepened outreach still needs to be undertaken.

Interestingly, a number of evaluation interviewees in Zambia noted that there was now a heightened interest of contractors who had not yet been trained through the project to learn more about labour issues. Several contractors also indicated that they now realise that they not only have responsibilities but also rights. It should be added, however, that many contractors still feel that there is a degree of unfairness in the laws that disadvantages them while wholly supporting workers. As discussed in Section 4.2 one of the main complaints in this regard is the issue of the new setting of higher minimum wages which have recently been increased by 60% in a single swoop.

As reflected in Table 1, the project had achieved or exceeded at least 7 of the 9 outputs in Kenya and at least 5 of the 9 outputs in Zambia. Although data for Zambia on outputs 1.1 and 1.2 are not yet evident from project monitoring, the evaluator does believe that qualitatively speaking these have probably been met. Interviews and a focus group conducted during the field work do indicate that there was substantial increased understanding of the labour laws in Zambia.

Table 1 Summary of Results on Project Outputs as Reported by the Project at the Time of the Evaluation

Immediate Objectives and Outputs	Target Level	Achievements per May 2013 Kenya	Achievements per May 2013 Zambia
Immediate objective 1: To nurture respect for the rule of (labour) law among MSME in priority sectors			
1.1) % of MSME reached with awareness campaigns that report increased comprehension of the Labour Law	90%	> 90%	To be confirmed
1.2) % of MSME reached through information meetings with increased knowledge about business case underpinning compliance	90%	> 90%	To be confirmed
Immediate Objective 2: To strengthen the capacity of ILO constituents to engage in social dialogue on the nexus between Labour Law compliance and SME development			
2.1) % of all participants in ILO training seminars reporting increased knowledge about the Labour Law- SME development nexus	75%	> 90%	To be confirmed
2.2) % of committee members that are satisfied with the performance of the structures	75%	To be confirmed	To be confirmed
Immediate Objective 3: To facilitate sector-specific regulatory reform			
3.1) A majority vote at committee level about priority intervention points for regulatory reform	Majority vote at committee reviewed to reflect majority of the 3 ILO constituents endorse RIA reform recommendations	Endorsements received from Workers and Employers. Government (MoL) endorsement not yet received but it is expected now that the Kenya electioneering period is over and key ministry changes have been made.	Endorsements received from Government and Workers organizations. ZFE did not endorse and has engaged in further discussions.
3.2) ILO core constituents reaffirm their buy-in to the reform process	Kenya: Written endorsement by 30/06/2012	Endorsements received from 2	Endorsements received from 2

	Zambia: Written endorsement by 31/03/2013		
3.3) Regulations passed by Cabinet/ Line Ministry	Gazetted regulation by 30/06/2013	Passing of Traffic Amendment Bill	Official incorporation by the government appointed review team of several RIA recommendations in the on-going Labour Code review
Immediate objective 4: To strengthen the capacity of MSME to comply with the revised labour law			
4.1) No of sector-specific BDS to market in each country	1 BDS Toolkit with focus on Labour Law MSME nexus	BDS Toolkit Developed	BDS Toolkit Developed
4.2) -No of MSME graduating from capacity building support that have secured new contracts -No of MSME graduating from capacity building support have secured growth finance	50 MSMEs by 30/06/13 "	None	None

In Kenya the project is managed by a technical committee consisting of tripartite representatives for regular decision making. The technical committee meets at least once every month or, in rare instances, once every other month. A separate National Advisory Committee (NAC) consisting of a broader group of stakeholders, including associations of owners and workers also meets though less regularly to provide input into the project actions. In Zambia the technical committee and NAC were combined. The project reporting indicated that it had not yet tracked output 2.2 on the percentage of committee members that are satisfied with the performance of the structures. The evaluation found, however, that interviewees had overwhelmingly positive reactions to the performance and ownership of the committees in Kenya. In fact, one of the strongest project results appears to be the functioning of these structures which are also promising for sustainability of project actions.

In Zambia the responses were more mixed, mostly because some key stakeholders felt that they were only sufficiently associated half-way through the project. While combining the NAC and technical committee could have led to a more inclusive decision-making mechanism, it was sometimes difficult to ensure adequate attendance in meetings. The principal reason given for low attendance rates in Zambia committee meetings, particularly later in the project, was due to lack of financial support for transport and, in some cases sitting, allowances for committee members. Almost all interviewees who were on the technical and advisory committee in Zambia mentioned this issue to the evaluator. One typical comment made by such an interviewee was, "If you call a group of people together for a meeting they can be seen as a board of directors and are giving the project advice. The directors are expecting to be paid fees for the time that they are spending. The project should have a budget for this."

The main challenge for the project has been the achievement of output 4.2. As indicated in Section 3.2.3, this indicator may actually not have been appropriate or important given the existing

availability of financing for the matatu sector in the case of Kenya. As already stated, in Zambia contractors noted that they had expected more support from the project to access to financing but more particularly to be able to procure contracts. They had expected that, by being associated with the project and supporting project actions, they would have an advantage in obtaining contracts if they could prove they were compliant. In reality, many issues influence tendering and it is not easy for a project to directly assist contractors to win contracts. The project could, however, work with constituents on advocacy for full and fair consideration of labour law compliance when determining which bid should succeed. Contractors who provide adequate attention in their budgets to the costs of compliance—and not just include token attention to the costs of social security, workers' compensation, and pension—should be provided with extra assessment points, at least for government contracts.

The evaluator presents some details of the findings under the headings related to the different project immediate objectives (IO). It is important to stress, however, that many of the actions are inter-related and cannot be neatly divided under the different objectives. The inter-related aspects of the objectives are actually a good project element as only working through a system of isolated boxes of accomplishments would not lead to good results. The capacity strengthening of MSMEs discussed under Immediate Objective 4 is actually also highly related to Immediate Objective 1 on awareness. In many instances, the training started with awareness raising sessions before leading into training on implementing labour laws, for example. The evaluator, therefore, indicates that some of the following discussion on the findings under the different IO may intersect and are not necessarily neatly categorised.

4.3.1. IO 1: Awareness -To nurture respect for the rule of (labour) law among MSME in priority sectors

"The awareness raising program was a big gap that needed to be filled and this was done to our satisfaction." Kenyan government evaluation interviewee

"The biggest advantage to me was my own awareness being raised. I even mention these issues now when people visit my office; I remind them about the labour laws." Zambian official.

An innovative mass media campaign was implemented in both countries which included call-in to the radio stations by listeners. As one contractor in Zambia stated, "We want to thank the ILO for bringing a project to the grassroots. It was on the local radio which people appreciated very much."

Messages were pre-tested and adjusted in accordance with response to ensure their efficacy. In Kenya ideas such as inviting passengers to send mobile phone messages to vote for the awarding of cash gifts to safe drivers and good services in the matatus was a popular mechanism to draw attention to the issues. Scaling up such mobile phone and other digital media in a potential future project is recommended. Short one sentence messages on bumper stickers targeting drivers, owners and the general public were also well appreciated, particularly as they were worded in Sheng²⁵. Some government officials even noted that the messages were useful to inform government workers as they take public transport.

The Zambia NPC has good experience with media communications and initiated approaches such as articles in newspapers to which readers could respond and/or ask questions by email. Scaling up such approaches in the future could be very useful, particularly if channelled through a resource centre where the public, including employers and workers, can obtain necessary information. Target groups in both countries strongly requested more awareness raising, particularly through the

²⁵ The language or slang, which is a combination of Kiswahili, English and Kikuyu used by many owners and workers in the matatu industry and young people. Several owners and workers indicated the usefulness of using Sheng for these messages.

media and using other innovative methods such as through the mobile phones

In both countries, starting the media campaign earlier in the project would have been preferable as it helps to lay the foundation for the rest of the project actions. In Zambia the media campaign was started even more recently than in Kenya but is gaining momentum. As one contractor pointed out, “Before this, I did not even know that the government has an official OSH act. We knew so little, like how important the wearing of helmets is.”

One important suggestion proposed by interviewees in both countries is the need to ensure that sufficient copies of the training and awareness raising materials are available to reach the target groups. As some interviewees noted, the amount of information/materials disseminated during the project is only a fraction of the need. Aside from the existing materials more tools need to be developed such as posters, SMS messages and other means to help the target groups to understand the laws. Due to the complexity of the labour issues, it is not sufficient to communicate on only a few key messages.

While interest can be generated through stickers and other materials that include only one or a few messages, access to more detailed information needs to be developed. This can be achieved through a combination of approaches including through some of the means already well implemented in LGN II. Adding a website and/or a physical resource centre for employers and workers to access simple explanations of the labour laws and regulations. Such a website and or resource centre could include a telephone/mobile number that individuals can call for further information and eventual guidance on their specific worker issues. The location where such a website and/or resource centre is based would depend on decisions made in the countries through tripartite dialogue.

An important comment from both countries was the need to understand that it takes time to change behaviour with respect to implementation of labour laws. As one driver in Kenya pointed out, “We need to get used to the idea and that takes time.” As an interviewee in Zambia likewise indicated, “The challenges are that people not only have simple lack of knowledge but they also lack still confidence that this will be good for them.”

One interviewee commented that the only way to achieve immediate behaviour change in this area is to make application of labour laws a strict requirement that is properly monitored by the government in a transparent and fair way. Given the lack of labour inspectors, transparency and other issues, this is likely still a major challenge. As a driver and conductors’ association representative noted: “It is a very big job that we need to do is to convince them all.”

4.3.2. IO 2: (Dialogue) To strengthen the capacity of ILO constituents to engage in social dialogue on the nexus between Labour Law compliance and MSME development

“I saw achievements because people have planned together. We also refocused if there were any challenges and worked together to address any challenges. I feel that anything that was not achieved was beyond our control.” Kenyan interviewee

In Kenya the project was lauded for the development and implementation of exceptionally good participative processes involving a wide range of stakeholders. One very useful and interesting element in the LGN II project in Kenya was the inclusion of different ministries in addition to the usual ILO partner, i.e., the Ministry of Labour. The government is under-going some restructuring of the ministries but during most of the project implementation period, the Ministry of Cooperatives was included. Stakeholders did indicate that they believed additional ministries need to be consulted in the case of any future similar projects. In Kenya the project included very high level individuals who were actively involved in all project components. While the same was true for Zambia, their active involvement was not visible to the same extent.

Commitment of the stakeholders in Kenya was also noteworthy and was at least partially attributed to the strong participative approaches that were used. Government commitment, that of the FKE, COTU, employers and workers representatives in the Matatu industry all expressed appreciation for the good participative methods.

Dialogue between government, Federation of Kenya Employers (FKE), Central Organization of Trade Unions (COTU), employers' and workers' associations in the Matatu industry were initiated and is likely sustainable. The employers' organisation (FKE) has recognised the need to include matatu owners and SACCOs. Likewise, COTU plans to include matatu workers in their membership. Discussions on the way to proceed are on-going.

The Zambia Federation of Employers (ZFE) was part of the project technical committee/national action committee (NAC). SME contractors are not, however, yet represented in the ZFE so their voice was limited in the initial stages. The Business and Professional Women International, Zambia Chapter (BPW) and Zambia Federation of Associations of Women in Business (ZAFWIB) are members of the project Technical Committee.

The Federation of Free Trade Unions of Zambia (FFTUZ) and Zambia Congress of Trade Unions (ZCTU) were included in project planning but few construction industry workers are represented in these organizations. Many Zambian interviewees, therefore, noted that construction workers were not sufficiently included in project discussions or actions. One typical statement made by an interviewee in this regard was, "The workers were not properly represented aside from in the baseline." An interviewee from one of the Zambian unions stated, "We need to find ways to involve them more directly as early as possible as we have not been able to do so." The evaluator could not, unfortunately, meet and discuss with any workers in Zambia who had any contact with the project.

Despite these findings, however, Zambian stakeholders did indicate that they are pleased that a platform for Platform for dialogue between stakeholders was initiated. Contractors from the NAMSSC feel that, since they have been involved with the project, they are better able to represent their colleagues and bring their issues forward. Whereas they were, and are still not, members of the ZFE, they are part of the dialogue. While ZFE indicated that they are not yet seriously considering membership for NAMSSC given its inability to pay ZFE membership fees, there has been some discussion on lowering membership fees. The NAMSSC has also asked the ILO Green Jobs project to assist them with advocacy to find solutions for their membership in the ZFE. As long as the technical committee can be turned into a sustainable platform for discussion on labour and other issues, the voice of the contractors will be heard. In the meantime, workers are still largely absent and a measure will need to be developed to ensure their participation in future discussions.

Interviewees in both countries indicated that the project needed to provide more technical capacity strengthening to members of the committees to help them better address project issues. Not necessarily all members needed such training but examples of capacities identified included:

- Leadership training
- Project management in functional relationship to the project.
- Information about other projects in the country that could be relevant to the project for linking and creation of synergies.

4.3.3. IO 3: (Regulations) To facilitate sector-specific regulatory reform

"We understand and are able to apply the labour laws in our businesses." Zambian contractor

One of the major project successes was the inclusion of references to the labour law in the recently adopted Kenyan Traffic Amendment Bill 2012²⁶. The key addition on labour laws in the Traffic Act is that owners can only employ workers who have a labour contract. The evaluator has frequently seen projects that have indicators about ensuring that laws and or policies are adopted. In practice, however, she has never seen a law initiated with the support of a project actually adopted during the same project implementation period.²⁷ Projects are generally too short to allow for bureaucracies to move in tandem with project implementation periods and formalise the laws. The inclusion of the labour laws in the Traffic Act is very positive. Inclusion also means that the police can also help control application of labour laws so that dependence on only labour inspectors for this purpose is decreased. Of course, issues surrounding the role of police—including training and corruption—will need to be addressed to ensure correct enforcement of the law. The fact that the project was able to contribute to this component in the Traffic Amendment Bill 2012 was well recognised by different evaluation interviewees in Kenya.

One of the challenges for the project and the technical committee in Zambia was the frequent turn-over of key officials within the MoLSS although one important official was able to remain a key contact person throughout project implementation. The turn-over did, however, slow down some of the project actions which needed input from the MoLSS.

Important Regulatory Impact Assessments (RIA)²⁸ conducted in both countries were of good quality. The RIA analysed the labour laws and regulations as they relate to the project sectors. The analysis included specific provisions of the laws and regulations that impede growth and development of the sectors, including creation of decent jobs. The RIA also included identification of provisions of the labour laws and labour-related regulations that require reforms.

Upon completion of the RIA analyses, workshops were conducted in each country to review and validate the content as well as to finalise recommendations for submission to the government. The stakeholders who participated in the workshops stated that they found the RIA to be an important and useful document. The RIA has since been submitted to the government. Given that in Zambia the government is reviewing its labour laws, the RIA recommendations were submitted to the Government Labour Code Review Team. The review team has incorporated several of the recommendations into their on-going labour law reform discussions.

4.3.4. IO 4: (Capacity MSME) To strengthen the capacity of MSME to comply with the revised labour law

“The beneficiaries were properly identified and the content was RIGHT!” Trainer Kenya

“I could see from the trainings that people could really understand what was being shared about the labour laws.” Zambian official

The project implemented different capacity building actions. Some were more aimed at increasing understanding of how to implement labour laws through sector-specific labour law compliance training and advisory services. Others were aimed at supporting access to business development services and financing. Capacities were strengthened through training and interaction with project staff and consultants. A well-appreciated trip was organised for Zambian stakeholders, including some contractors, to learn about how the construction industry implements labour laws in South Africa. Components under the other Immediate

²⁶ Enacted by Parliament and received the Kenyan presidential assent into law in November 2012.

²⁷ Most projects are too short to ensure that proposals for laws initiated during a project are adopted during the same project period. Bureaucracy and politics are the usual reasons why adoption of laws takes more time.

²⁸ Law Growth Nexus II Project (LGN II) (2012), Final LGN II Zambia Regulatory Impact Assessment Report. Nairobi: ILO. Law Growth Nexus II Project (LGN II) (2013), Impact of Labour Law and Labour Related Regulations on the Matatu Industry in Kenya. Nairobi: ILO. Law Growth Nexus II Project (LGN II) (2012), Final LGN II Zambia Regulatory Impact Assessment Report. Nairobi: ILO.

Project Objectives also contributed to capacity strengthening of the MSME sector to comply with labour laws. Awareness raising of all concerned, analysis and proposals for regulations, improved dialogue all contribute to increased capacities, either directly or indirectly.

Several interviewees noted that they had been able to provide input into the development of the training materials as the consultants worked to finalise them. Stakeholders appreciated these efforts and considered that they were useful to ensure that the materials properly addressed the issues.

Business Development Services (BDS) trainers indicated that they had the capacity to adapt the materials to any target groups they might have. The project wisely included other types of individuals in the Training of Trainers (ToT), particularly in Kenya. Given the number of individuals that need to be reached with the materials, it is useful to ensure that a maximum number of trainers are capable of sharing the required information on labour laws and related issues. In addition, inclusion of trainers such as SACCOs and associations members, and government officials helps to ensure ownership. Some non-professional trainers in both countries indicated, however, that they needed some further support such as conducting one training in tandem with a BDS trainer prior to conducting one individually.

The materials for the two countries were somewhat different with the Kenyan manual covering a broader range of issues. These included discussion of the role of the constitution and its implications for MSMEs as well as a chapter on HIV and related employment laws. The Zambian training focused more on specifically explaining labour laws and relevant elements of the Constitution of Zambia (Bill of Rights) and other labour-related laws. In practice, both options are good since much depends on audience needs and available time. In the future it might be useful to develop a modular approach that can be tailored to the needs and time availability of the participants. Trainers can be trained to cover all relevant issues but choosing subject areas in accordance with the realities of the participants.

The Kenyan training materials describes key agencies involved in various social protection issues and their roles so that they can be contacted for any further information should the need arise. The Zambian materials include a sample labour contract. Some Kenyan interviewees also requested a sample labour contract for their sector although one SACCO representative noted that their cooperative had already been given a sample copy. In the future it would be useful for materials in all sectors and countries to list relevant agencies and include sample labour contracts.

Capacity building of the key stakeholder groups in Kenya—i.e. constituents, employers and workers organisations—have gained momentum since the mid-term evaluation (MTE). In Zambia, while training actions have increased more recently, it is also accelerating. In both countries it was interesting to note that different stakeholders indicated that they have shared what they have learned among their circle of friends. Such statements support the impression of the evaluator that the stakeholders are quite interested in the subject matter.

In Kenya training was organised for both owners and workers in separate groups with both often joining together at the end of the training. Trainers proposed that joining both groups at the end of the workshops should be standard practice as it helped to foster dialogue and understanding of the points of view of the “opposing parties.” In Zambia the majority of training participants were contractors and only very few workers participated. As one contractor indicated, “We only sent our workers if we were not available ourselves.”

Trainers in Kenya felt that the training was sometimes too short to properly cover all the complex materials with target groups who were not necessarily highly educated. Training could not be longer, however, as both owners and workers could not absent themselves from work for so long. To ensure understanding the trainers worked through the materials methodically, chapter by chapter, but still managed to use participative methods. One trainer indicated how pleased he was that a

few ex-trainees even called him after the training to ask for additional clarification, which he felt indicated their interest.

In Zambia, contractors noted during their focus group discussion and in the stakeholder workshop that they did not understand why, in some districts, the training was only one day long, in others two or, in their perception, three days. Project staff indicated that there were actually no training workshops of three days. During the final stakeholders' workshop in Lusaka, some participants requested more information as they questioned the reasoning for and "fairness" of these differences. The reasoning for these differences was not entirely apparent to the evaluator although it appears to have been related to practical aspects of the logistics planning.

Another issue raised by various Zambian stakeholders was the channelling of training through existing organisations. Various entities—including the NAMSSC, NCC, Zambia Development Agency (ZDA) and the Zambia Federation of Associations of Women in Business (ZFAWIB)—indicated that they had channels throughout the country that could have been used to better organise awareness raising and training. As one interviewee stated, "Some are informed late and they did not know there was a program until it was too late to reorganise their work so that they could attend." Representatives of these entities noted that they had many local contacts and/or staff who could assist with planning and stimulate local officials, contractors and/or workers to participate in awareness raising and training. The NAMSSC members who were interviewed were particularly vocal in this regard since they believed that they were the best channel for the project. The project staff indicated that they did include the NAMSSC although, apparently, the NAMSSC did not consider this to be sufficient. The chance that they will be committed is greater when participants are stimulated by their own organisations to attend training.

In both countries training participants indicated that they were already sharing what they had learned with their colleagues, other workers, friends, and others as the case may be. Much informal discussion about these issues was apparently taking place as target groups become more aware about the importance of the issues. In the case of entrepreneurs, their concerns over compliance requirements were a natural motivator but it should also be recognised that there was already an increasing understanding that there could be positive benefits to compliance.²⁹

While much more capacity strengthening is requested, evaluation interviewees were very satisfied with the training in which they had participated. Former training participants in both project countries very positively assessed the trainers, training methodology and training materials. The participative training methodologies were specifically cited as having been conducive to learning. Despite these positive comments, however, some interviewees still felt that the materials still needed further simplification as they considered them to be very complex. A brochure that further simplified the labour laws was recently completed. One trainer who was interviewed expressed concerns that even these more simplified materials are useful but may not yet be fully accessible to some owners as well as workers, many of whom are not very educated. The evaluator would thus recommend that, in addition to the existing materials aimed at more educated individuals an even more succinct summary of the key laws in local languages is needed in both countries.

4.4. Detailed Analysis of Changes Related to Project Implementation and Holistic Solutions

At the time of the evaluation, attitude change could be discerned but behaviour change in terms of actual compliance with labour laws such as through the provision of labour contracts was still lagging. Impact studies were still to be undertaken but the qualitative interviews during the

²⁹ As the project business case for compliance started being understood.

evaluation indicated that not many labour contracts had yet been established with sector workers. There are many reasons for the challenges the project faced to reaching this ultimate goal of new and/or improved jobs as partially exemplified by labour contracts. Stakeholders viewed the extent to which reasonable working hours and OSH for workers had been adopted as linked to the existence of labour contracts. There were a few indications that at least a few employers in Kenya and Zambia had reduced their workers' hours and had started to provide insurance and/or social security, workers' compensation support and pension. The scale to which this has been accomplished still appeared to be limited at the time of the evaluation but is expected to become more apparent after the impact assessments. The evaluator believes, however, that the foundations have been laid and that conditions are soon likely to become more favourable for the creation of new or improved jobs.

The main reasons for the slow uptake of labour contracts include the diversity of challenges that affect the sectors in both countries (see Section 4.2 for further details). In Kenya an unexpected finding explained part of the reason for the still limited labour contracts, i.e. workers themselves were very hesitant to accept them. The assumption during project design had been that workers would automatically be in favour of the protection that such contracts could offer. In fact, at least in Kenya, this was thus not the case. A few interviewees even pointed out that workers were suspicious of the owners' interest in providing labour contracts, asking why owners wanted to give contracts as they could not understand why it would be in the owners' interest. Workers say they prefer the flexibility to move between employers as they wish and believe that they can earn more money daily under the existing systems than if they were given a monthly salary.³⁰ Since in Zambia the evaluator was unable to interview workers directly affected by the project, she was unable to independently verify whether Zambian workers are more interested in labour contracts. Zambian contractors did indicate that they thought that their workers generally like to have contracts.

The evaluator made some suggestions while still conducting the field work for the evaluation based on comments made by the stakeholders. These suggestions may lead to meeting, and perhaps even exceeding, the goal of creation of 500 new and improved jobs before the end of the project in the countries.³¹ In Kenya, in particular, this could be achieved by working intensively with two SACCOs that have agreed to act as role models and implement the labour contracts and other actions within the next few months. Taken together, the SACCOs employ well over 500 workers. In one case the SACCO actually proposed to act as a role model without being prompted to do so. The role model concept is based on the idea that much of the resistance to labour contracts by workers—and hesitance of employers to push them—is because of the fears of workers. Owners who have not yet been convinced, as well as workers, are more likely to accept the contracts if they can see from the experience of others that it can in fact benefit them. The project will concentrate on providing these SACCOs with extra support, including training that can provide them with additional tools to strengthen their organisation. As will be detailed in other sections of the report, this approach is also linked to the need for a more holistic approach in similar future projects. In Zambia some contractors have also indicated interest in championing the labour laws and acting as role models. More reflection is needed into how such role models could be organized since, unlike Kenya, enterprises in the construction sector do not operate in cooperatives. Many contractors would need to be reached and reaching them is thus more difficult. The project team has, however, planned to

³⁰ Workers mostly pay the owners a certain basic minimum that they must earn during the day. According to owners and workers, workers view this minimum as the standard payment that they must give to owners. The driver and conductor thus usually keep any money that they collect over and above this minimum. Owners state that they only set this minimum to ensure that workers actually provide them with a payment. They state that workers are supposed to keep only a percentage of any additional money earned over the minimum but that workers often lie and keep more. These issues fuel suspicions and conflicts between owners and workers.

³¹ If it a no-cost extension is granted.

contract the Zambia Federation of Employers to conduct an impact survey among the MSMEs reached to record any evidence of improved employment practices, especially contracting.

The MOA, MADCOWA and representatives of the SACCOs, indicated that there is a need for a more holistic approach to ensure that improved labour conditions for workers are implemented. The project has provided some training on entrepreneurship but they state that more such training is needed. Other areas requiring attention include training on cooperatives management since many of the SACCOs are new and have little or no knowledge of cooperatives. Given that the ILO has extensive experience in the area of cooperatives development this should be possible in any potential future similar project. Kenya is in the process of establishing a cooperative university college which is expected to be fully operational within the next two years. One government official suggested during the stakeholder workshop that this university college could be a good resource for collaboration and training on matatu sector SACCO cooperative management.

In both countries, any future project would need to provide technical support to move discussions between the different stakeholders to an even higher level of effectiveness. A new project would, of course, need to continue to support implementation of labour laws and other aspects regarding improved working conditions. A potential project would also, however, need to seek support to address the other challenges identified that impede implementation of the labour laws.

In Kenya this would include all of the issues surrounding the structuring of the sector, the high mobility of workers, workers' fears about insecurity, safety, and decreases in police corruption. Some owners indicated that it was not all unusual for them to have change drivers three times in a month. Interviewees raised a high number of additional challenges but the evaluator will not list them all as that would be beyond the scope of the evaluation report...

The evaluator was told that during the mid-term evaluation stakeholders' workshop in Kenya participants had argued quite strongly with each other. At the time of the final evaluation workshop the evaluator noted, however, that there were lively discussions but these remained positively oriented towards finding common solutions. Clear progress could thus be discerned, at least in the workshop. Despite this observation there is potential volatility, particularly given the high stakes, including regarding the role of the police and cartels in extracting money from owners and workers. It may thus be useful to integrate a professional negotiator into the discussions to help ensure sustainable solutions are found.

In Zambia differences of opinion between the stakeholders were less evident, perhaps partially because of the lack of direct representation by workers. The government has indicated a willingness to discuss the issue of minimum wages in special instances but there is no certainty that the MSME construction industry will be allowed to pay lower minimum wages. A certain openness was discerned among the actors that are represented on the technical committee to find solutions and a professional negotiator is not likely needed.

A useful aspect for any future project in both Kenya and Zambia is that many potentially useful solutions to all of these challenges have already been identified. A holistic future project could support the development of solutions through strengthening the advocacy skills of the stakeholders. In Kenya, corruption by all parties could, for example, be reduced by introducing pre-paid bus cards so that the vehicles do not carry cash. Such a system is actually already being tested in some buses in Nairobi although some interviewees pointed out that for this to be easily accepted dialogue among stakeholders will be needed. Supporting the development of such a system would be beyond the scope of a similar project although a project could support advocacy for such a system. The government is also trying to ensure that matatu owners start switching to larger vehicles which is

expected to help streamline services. One matatu owner also stated that, as the switch to larger vehicles is made it can be an opportunity to require drivers and conductors to accept labour contracts. Other aspects such as stricter licencing for new vehicles, assigning permanent bus stops, regulating the competition over passengers, enforcing laws against violence towards passengers would also be helpful. One interviewee suggested that vehicles could be provided with different coloured stickers depending on their overall service and compliance levels. Paying workers twice a month, or even daily, could help address the worries of workers about being paid only once a month.³² Some SACCOs have already started encouraging workers to save in the SACCO so that they can develop a savings culture and safety net for themselves. While some workers may eventually agree to this, MADCOWA representatives pointed out that some workers have already formed their own savings groups and may prefer their own system.

Other issues that will require attention in Zambia are centred on the on-going discussion on minimum wages, the definition of casual versus formal workers, the number of labour inspectors and other issues. Currently only workers working for more than 6 months require a labour contract as all others are considered to be casual workers. Given the short duration of many construction contracts in the MSME sector in Zambia—e.g. clinics, school rooms, etc.—this means that most workers would not require contracts. A related challenge is the payment into pension schemes which are tied to a particular employment.

Another issue in Zambia is centred on the pension scheme as it is difficult for workers to build up pension as they move between employers. The Zambian trade union federations, the government and other key stakeholders are engaged in discussions surrounding the development of a universal pension scheme. Such a scheme would allow workers to continue to participate in a pension scheme even as they change employers which would be very useful in the context of informal and/or short term employment situations. Any future project could assist in providing technical support for the advocacy and development of such a system.

The government is attempting to ensure that Zambian contractors benefit from the available construction contracts as many do not have the necessary expertise for bigger building opportunities. Despite these efforts, however, Zambian contractor stated that there are still issues around unfair competition that need to be addressed as some expatriate companies do not apply labour laws with their own imported workers.

More holistic approaches could also include linkages to other programs such as those on HIV, youth employment, gender-based violence and women's empowerment. Such linkages should not be a one way street but rather be aimed at ensuring that such programs integrate information on labour issues into their actions. While the materials developed through the project do include some reference to issues such as HIV and child labour, some joint actions with such programs could be undertaken. Ideas could include conducting joint radio shows with individuals from such other programs could, for example, also contribute to more holistic approaches. During a discussion on labour conditions, for example, a specialist on violence could also be present who could answer questions regarding violence on public transport. Other ideas could include development of joint messages, joint articles in the media, joint training, etc. With a little creativity a great deal could be accomplished. The evaluator thus recommends that any future project should include an indicator on such linkages under any immediate objective on awareness raising.

In both countries suggestions were made for the closer involvement of labour inspectors, despite their inadequate numbers. As is common in many developing countries, the number of labour inspectors and labour officers who verify compliance with labour laws is very inadequate.

³² Given that they are used to living on the basis of a daily income workers feel it is difficult to make a switch.

Interviewees stressed that in any future project, their role needs to be emphasised. In both countries labour inspectors would need to be trained on the special situations of the project sectors.

If a new project phase is initiated, labour inspectors would need to be well informed about the special circumstances of each sector. In the case of Kenya labour inspectors would need to engage with the SACCOs and MADCOWA so that they can establish a working relationship. Interviewees in Kenya also suggested the inclusion of the police in training of trainers. In the case of Zambia, labour inspectors could be associated to spot check tenders for compliance, in particular in the case of government contracts. In both countries labour inspectors could be linked to the proposed information resource centres that provide details to entrepreneurs and workers on labour laws.

4.5. Gender- Benefit to Women and Men of Project Activities

Both of the sectors selected for the project are traditionally male dominated in Kenya and Zambia. Women are beginning to be more involved in owning matatus, driving and conducting but, partially due to the reputation of the sector as notorious in terms of safety and conflict, they are still few in number. A female conductor and a female SACCO leader were interviewed for the evaluation and both stated that they need to be strong to work in the sector. As one said, “Women who venture into this work have to be very tough”. These women interviewed did believe that there will be good opportunities for women as the sector becomes less “chaotic” and security is improved. Interestingly, however, several male matatu owners stated that they like to have women workers in their matatus as they believe that women are more honest about the fares that they collect. One added that, “The ladies will also be on time, they have a normal driving speed. They use the correct language and give friendly customer care.”

In Zambia women construction industry representatives noted that the issue is more centred on discriminatory attitudes of other contractors and by contract providers. A common view is that women are not able to manage or work effectively in the construction industry. As one woman contractor stated during the Zambia stakeholder workshop, “The attitudes of the male contractors towards female contractors is very derogatory.”

One interviewee noted that women in the construction industry sometimes work at the lowest level of the value chain, such as to break stones at the side of the road, and are not directly employed. As a result, their labour conditions are even more unprotected, particularly as they are not organised. How to address the issue of women stone breakers in a project such as LGN II is not immediately evident although the ILO does have training tools that can be used to assist such groups.³³

The project did not focus a great deal on addressing these gender issues. Attention was paid to ensure that the composition of the committees were as balanced as possible with both women and men. In Kenya for example, the chair of the project technical committee who is also the Director of the Department of Micro, Small and Medium Enterprises in the Ministry of Labour, is female. There were some discussions about gender issues in training workshops, particularly as they relate to labour laws, but there was no major focus on gender equality.

In Zambia the project worked successfully with the NCC to encourage two entities that included women contractors to merge.

During the evaluation in Kenya as well as in Zambia, interviewees pointed out that gender issues in the sectors are not always as evident as might be expected. Aside from visibility of women working

³³ As available through the Women’s Entrepreneurship Development Programme. (Website accessed 11 June, 2013. <http://www.ilo.org/empent/areas/womens-entrepreneurship-development-wed/lang--en/index.htm>)

in the sectors, issues surrounding the families of workers are also important as (former) drivers³⁴ and conductors indicated. In Kenya, workers' long hours and insecure work situations cause exhaustion and frustration. As one pointed out, "The workers have a challenge, they often leave home at 4 am and are back home as late as midnight. They have to leave wife and children behind for so hours." Workers can thus come home exhausted with little patience and sexual problems³⁵ and/or domestic violence can ensue which in turn can result in broken families.

In Zambia contractors pointed out that they and their workers often have to be away from home for long stretches of time in order to work on a building site. These absences can also lead to risky behaviour and problems with the family left behind at home. Reduced working hours and improved security will be key in Kenya to address such issues. In both countries, linkages to HIV programs, alcohol abuse and counselling programmes would be important.

Another gender issue in the matatu industry is that of women passengers. As there is no "proper system for getting on board, men jump into the vehicles, pushing women aside. Most women passengers feel threatened." Violence against male passengers also occurs. As reported in the media during the evaluation field work, a passenger had been thrown from a moving vehicle when he could not pay his fare and subsequently died of his injuries.

One reason for the lack of a great deal of attention to gender issues was the lack of an indicator on gender. As an FKE representative stated, "We think gender deserves more attention. We are not creating jobs only for men, but also for women. In any new phase they should consider factoring this in more obviously." If a new project focuses on male dominated sectors, the communications strategies can also include special attention to labour laws as they affect women and decreased violence in general. Particularly in the case of a sector such as the construction industry, messages to reduce negative attitudes towards women could be alleviated by profiling successful women contractors in Zambia and elsewhere.

In the case of a potential new project, the evaluator also recommends the selection of a sector that is more female dominated or where the gender balance is more equal. This will not only help ensure that women can benefit but also contribute to additional lessons learned and best practices in a broader social framework.

4.6. Project Actions in Response to Mid-Term Evaluation Recommendations

The project tried to implement most of the recommendations from the mid-term evaluation. Some recommendations could not be fully implemented due to practical challenges such as the duration of administrative processes, e.g. recommendation 8 on sourcing a programme officer. A few others were partially implemented or could not be implemented because they would have required a restructuring of the project.

Project Actions in Response to Mid-Term Evaluation Recommendations

Recommendation	Actions Undertaken (and explanation in case no action was undertaken)
1) PMU to organize a 2-day stakeholder workshop in each country before 28th September 2012-involving members of the National Advisory/Technical Committee, selected labour law experts and MSME	2-day workshop was held in Zambia on 16 th and 17 th October and 7 th – 8 th January 2013 in Kenya involving all recommended participants. The RIA Recommendations report was developed in this workshop and was submitted to the respective

³⁴ Several of the individuals interviewed were former drivers who now worked for MADCOWA or SACCOs

³⁵ As several interviewees noted, "they are unable to perform their 'marital duties' "

representatives-to provide deliverables towards finalization on the Regulatory Impact Assessment (RIA).	governments.
2) Develop project business-linkage and financial access strategy by 30th October 2012 as means for delivering on output 4.2 and overall sustainability of project activities.	This has proved challenging and a comprehensive strategy has not been developed. In Kenya's case, the Chair of the Technical Committee thought this output as initially developed was misplaced (due to already existing ease of access of financial support to the matatu sector). In Zambia there have been unstructured discussions with a few financial institutions but these have not yet developed into a definitive strategy.
3) Develop a clear and well-articulated sustainability and exit strategy by 15th November 2012 so as to provide a clear road map towards eventual smooth hand-over	A detailed sustainability strategy was developed in early 2013 and translated into the actions for a next project phase.
4) Explore and implement effective and cost-efficient information dissemination systems or channels to expedite outreach to MSMEs and other stakeholders and incorporate exchange visits for key representatives.	Was done in Kenya through an appreciated media awareness raising campaign. Zambia had a somewhat slower pace of implementation on media and communication activities partially due to challenges in sourcing a high level communication services consultant. The proposal for the next project phase has built on these lessons to propose an innovative information dissemination system based on the development of a labour-law for MSMEs mobile phone applications.
5) Step up capacity building of key stakeholders to enhance prospects for sector self-regulation and overall sustainability of project activities	On-going
6) Explore and initiate effective and cost-efficient strategies for mainstreaming women in project activities in each country.	In the mid-term evaluation, it was thought that because the gender mainstreaming component was not well captured in the log frame, it would be next to impossible to include it half-way in the project. This component has been captured in the proposed LGN III.
7) Revise the target No of MSMEs to be reached with sector-specific mass media awareness messages and materials in the case of Zambia.	This was felt to be unnecessary since media campaigns would by their design reach many more people than the targeted numbers. The targets, which the evaluator had recommended be reviewed downwards, were maintained.
8) Recruit a short term Programme Assistant/Officer—with legal background under an output-based contract arrangement to assist the NPC for Zambia.	Instead of a Programme Officer recruitment which would have been challenging to implement due to administrative procedures, the CTA sourced and recruited a Zambian consultant with a strong legal background (LL.M Public International Law - London School of Economics and LL.B University of Durham). This consultant was very instrumental in the successful delivery of Output 3 (regulatory

	reform indicators) in Zambia and effectively supported the Zambia NPC in project legal and regulatory outputs as had been envisaged.
9) The PMU to develop a project extension concept note by 28th December 2012 to facilitate fund raising efforts for a further 2 years.	The project extension concept note was developed in January 2013. This was then developed into a first draft proposal in April 2013 seeking a project extension for a further two years.
10) Kenya incorporate key players in the Matatu industry that are currently not engaged including the Traffic Police Department, Ministry of Transport, the four (4) Town Councils in the pilot towns of Nairobi, Mombasa, Nakuru and Kisumu; and Labour Board-by organizing a retreat to bring the members on board in the project and for early “buy-in” and being the advisory arm of the Minister of Labour.	MOT and Traffic Police are part of the NAC. Town Councils have not yet been incorporated. Because of the election period and the changes in the government, the project has not yet received a confirmation from the MoL members of the Technical Committee on a definitive date for the National Labour Board retreat. It would most probably be held within the period of the no-cost extension.

5. Effectiveness of Management Arrangements and Resource Efficiency

5.1. Technical Skills of Staff

“We do feel that they (project staff) have technical expertise, they also bring consultants who know what they are doing. We told them in the first meeting that we wanted only people who know about this industry and that is what they have done.” Kenyan matatu industry representative

One of the most positive project elements was the stakeholders’ almost unanimous recognition of the technical skills of the project staff and consultants. Entrepreneurs commented on the skills of the staff in working with them and convincing them of the business case. The fact that they insisted on much broader dissemination of project materials in both countries only confirms this element further. Entrepreneurs, particularly in Kenya, also insisted on the willingness of staff to understand their point of view and even make time to meet on Saturdays. In one example, workers representatives in Kenya stated, “They always give their input. They are friendly; we have visited their offices twice. We begin to be like twins now; you may even think that we are reading from the same script.”

Government, COTU and FKE representatives likewise noted that collaboration with project staff was very good and was a real “two way street.” A BDS trainer shared his impression that one of the most positive elements of the project was that the implementation process was well organised with the NPC and CTA complementing each other well. Quite a few interviewees in Kenya and a few in Zambia stated that, whereas in many projects staff may listen but not really take their suggestions on board, in LGN II there was a serious consideration of points made. Such positive comments contributed to the clear sense of ownership of project activities that could be observed, particularly in Kenya.

5.2. Management Structure

The project management structure was implemented across two ILO country offices. Kenya is managed by the country office for Tanzania, Kenya, Uganda and Rwanda. Zambia is part of the ILO country office of Zambia, Malawi and Mozambique. With the CTA based in Kenya and External Payment Authority (EPA) approval of disbursements (administrative budget management) in Dar es Salaam the process tended to be slow. An added challenge was that there was little clarity how long

any processing might take which had an impact on planning. This was particularly true in the case of Zambia as the NPC found it difficult to plan actions well ahead of implementation with the result that there were often even greater delays in timely delivery of project outputs.

In Kenya, interviewees noted that the roles of the staff were “distinct and clear” although in Zambia there appeared to be some confusion about the project structure. Stakeholders in Zambia stated that they did not find the roles of the NPC and CTA entirely clear, particularly with respect to decision-making. Zambian stakeholders expressed some frustration that a management structure with a CTA in another country and final approval of disbursements in a third (Tanzania) caused delays. While the delays were real challenges, it was nevertheless interesting that interviewees were sufficiently committed to project objectives to be very interested in stressing the importance of timely implementation. Technical committee members and staff in both countries also consistently shared their desire to see faster processing of requests for disbursement from the Tanzania office. The evaluator does not have clear information concerning the reason for the perceived “slow processing”. Given the repeated way in which this point was raised spontaneously it would be useful to find solutions and streamline the process.

One suggestion is to ensure that the project countries are, as much as possible, in the same sub-region as this can contribute to improved supervision of EPA approval and disbursement.

In Zambia, additional early support for the NPC with administration and finance management would also have been useful. The NPC stated that she spent too much time on such issues in the early project period instead of on more substantive technical issues. The process of hiring an individual to provide support to the NPC was slow although the situation did improve once an assistant became available. According to some Zambian officials, however, given the planning challenges, a full project implementation assistant would have resulted in smoother and timelier implementation. That is, a person in addition to an administration and finance assistant who could support the NPC with the coordination and organization of project actions.

An important consideration is to separate the project into different units in line with their country offices. For the sake of efficiency, the Zambia project component could be integrated into the ILO Green Jobs Project hence effectively being controlled by the Zambia Country Office. Stakeholders in Zambia stated that they already well appreciate the Green Jobs project, although it was recently launched. Adding a future component on labour laws to the Green Jobs project is a natural step that could create good synergies. While the Green Jobs project focuses primarily on the construction industry, there is no reason it could not extend some attention towards a more global approach on labour laws.

5.3. Strategic Allocation, Availability of Resources and Disbursements of Expenditures

The overall project budget was generally adequate for the planned outputs.. Despite issues regarding the management of the resources, the actual allocation of resources for project actions was done strategically to achieve the broader project objectives. Only one or two interviewees in Kenya and Zambia indicated that there should have been more financing allocated to achieve the project outputs. A particular aspect mentioned in this regard was the lack of a project vehicle although not all staff felt this was necessary. That is not to say, however, that additional funds would not have been welcome but that the allocations were well considered for the specific actions planned.

In Zambia there were some questions from several technical committee interviewees about sharing copies of the budget so that they could track allocations per action and also suggest changes if

needed. The budget had been shared with the technical committee at the beginning of the project but apparently some committee members had not seen it. There was a perception in Zambia that the country received less support than Kenya while this was actually not the case. While some actions had higher allocations in Kenya others were higher in Zambia so that the overall amounts were broadly similar. The only differentiating factor may perhaps have been the inclusion of the CTA's project missions travel as she was based in Nairobi. The CTA undertook various trips to cover the project countries which were presented as part of the Nairobi travel budget (or budget covering travel originating in Nairobi).

The project management promoted efficiency through competitive bidding of contracts to implement actions. The constituents were well involved in the decision making on allocation of contracts which contributed to transparency and efficiency—and of course to ownership.

Disbursements were in line with budgetary allocations. There were some delays in the issuance of approval of budget revisions and EPAs resulting in delayed disbursement. The project staff did develop some techniques to overcome these issues through long-term planning, particularly in Kenya.

5.4. Timing of Activities With Respect to Implementation of Actions

The project had some delays in achieving the project outputs as has already been discussed in previous sections. This was partly due to the processing of disbursement (see Section 5.3) but also because of the participative approach used to ensure input from the stakeholders in project actions.

The project used a strategic roadmap system that allowed the project to easily track progress using a system that had been developed and tested under another ILO project. This system was considered very useful and helped ensure that the project could identify the areas that needed more attention as the project implementation period continued. Overall project work plans were well organised but the time allocated was too limited. Several interviewees pointed out that the deadlines in the strategy roadmap needed to be re-adjusted several times in line with the realities found in the field. Full roll-out of the awareness raising campaign, the training and other elements had delays with greater delays noted in Zambia than in Kenya. Some stakeholders in Zambia noted that they needed more detailed information on quarterly work plans so that they could more effectively support implementation.

As discussed throughout the current report, there were many unexpected and complicated issues that arose throughout implementation. These issues had an impact on timely delivery of the outputs although the project did have many useful results. Consultants also pointed out practical challenges such as a matatu sector strike; the presidential and parliamentary election period in Kenya during which many government offices were operating much more slowly as some office bearers sought elective offices; lack of availability of people who needed to be interviewed to complete a study, etc. The project was one of the first of its kind worldwide as well as the first in Kenya and Zambia. The challenges could not all have been predicted or listed under the logical assumptions in the logical framework.

Stakeholders noted that a project of this kind needs an implementation period of at least three years, particularly as behaviour change “does not happen overnight”. The evaluator is inclined to agree with this although much also depends on the context. If governments provide a supportive context in terms of transparency, fair selection of tenders, organised systems, and good impartial enforcement of the laws labour laws can be implemented within a reasonable amount of time. Unfortunately, in reality, all of these issues are being addressed at the same time as the promotion

of labour laws in the MSME sector and context challenges are tightly interlocked. Waiting to address the context challenges prior to enforcing labour laws is not a reasonable approach. It is for this reason that similar projects need to have a more holistic approach.

5.5. Adequacy of Available Technical Resources and Backstopping by the ILO

Aside from project staff, technical support was provided by the country offices and also, most particularly from the sub-regional office in South Africa where specialised technical experts were based. ILO headquarters was not strongly technically involved with the project as most technical support had been delegated to the South Africa office. All project staff expressed noted appreciation for the technical support they received from the Senior Enterprise Development Specialist and a monitoring and evaluation (M&E) specialist based in South Africa. The technical knowledge of the Senior Enterprise Development Specialist was considered excellent and his guidance on project tracking and management were very useful. The M&E specialist is no longer working for the ILO, but until she left, her input had been valuable and appreciated. A specialist on union membership also contributed useful technical input into the project as did the Employers and Workers specialists from the regional office in Addis Ababa who provided support in conceptualizing the planned unionization of workers in the matatu sector in Kenya as well as the engagement of matatu sector owners by the Federation of Kenya Employers.

5.6. Project Performance Monitoring and Support from National Partners

The project monitored progress using several techniques. These included the tracking of progress using the strategy road map, review of quality of reports and documents, and discussions with the technical committees and national advisory committees.³⁶ The committees played an important role in monitoring as they were included in reviews of the strategy road map and the actual documents produced. As noted in the preceding section, the input of the M&E officer in the sub-regional office was valuable for the quarterly planning and monitoring of progress. Her involvement was said to “keep us on track with the strategy map.” The CTA was careful in terms of monitoring the strategy road map as she required clear evidence from the NPCs prior to marking an output as “achieved”. At times, interpersonal challenges occurred as additional evidence was asked.

Particularly noteworthy was the extent to which committee members appreciated continuous feedback and ability to contribute to M&E, especially in Kenya. One committee member official noted, for example, that “The approach has worked well for us. They give us continuous feedback as to how it is going and what the implementation hiccups are. They keep giving us a synopsis of the progress of the consultants; we share and have retreats to share the findings.” A matatu owner stated that, “Both the CTA and NPC were good. We could really talk and did so frequently. They were both eager to learn from us and also asked us to comment on the materials.” Communication was thus not limited to official meetings but was frequent and purposeful.

The project staff were pleased with the support of the national partners, whether they were part of the constituents or members of different associations linked to the project.³⁷ These partners became committed to the project objectives as the project progressed. In Zambia, there were some issues surrounding financial support for attending committee meetings, as already discussed in preceding sections. Despite these issues, however, there was a clear interest and support to realise the objectives independently of the project.

In both countries, however, stakeholders noted that there should have been more clear monitoring of the actual progress on jobs created and improvement of jobs (e.g. in terms of labour contracts).

³⁶ Which were combined in Zambia.

³⁷ MOA, MADCOWA, NAMSSC, ZFAWIB, etc.

The project did foresee an impact assessment which was about to start after the field work for the evaluation. A system where workers are identified and tracked throughout a project for changes may be a solution.³⁸ Such a system could integrate a method through which lessons can be learned and best practices identified by periodic interviews and data collection among workers being tracked. The system could thus contribute to an improved knowledge base on the implementation of labour laws in the sectors being addressed in the project. Naturally, the mere tracking of such workers could influence the extent to which the laws are implemented with these workers. This is, however, not a major negative point as a control group could be added and workers who are tracked can potentially serve as role models for other workers.

Several Zambian stakeholders requested much more exchange of experiences and lessons learned with the Kenya project component. There had been a joint meeting at the beginning of the project but none were held subsequently. If the budget allows and a no-cost extension is approved, this might still be useful. A joint session of the key Zambian and Kenyan stakeholders could help to further crystallise lessons learned and best practices as well as helping the countries to develop new methods to reach the objectives.

6. Impact and Sustainability Findings

“Sometimes it takes time for people to change. At first they will not listen but then they might suddenly come and ask for a contract.” Matatu Owner

The project has provided good underpinning for sustainability of project actions but achieving deeper and wider impact of project actions is likely to take more time. As several stakeholders indicated in both countries, the project has laid the foundation but more effort will be needed to build a working structure of employees with new and improved jobs. As already extensively detailed in previous sections, ownership is good. Interest in and potential for replication and scaling up of project actions is good if financing is available. The project concept and project actions are highly replicable with modifications to other sectors. Given the experience acquired through the project, efforts can now focus on streamlining the approach.

Given the limited gender focus in the project (see Sections 3.1.4 and 4.5) the effects of interventions on gender relations were still limited. Potential long-term effects on gender equality if labour laws are fully implemented, however, are likely to be positive. Many lessons were learned and some good best practices were developed. ILO constituents and other key stakeholders such as associations are very interested in extension and/or replication of the project.

A well detailed exit strategy should have been included at an early project stage to help plan for sustainability. While the project did need to acquire a better understanding of the sectors and effective approaches to achieve project objectives, an early exit strategy could contribute to sustainability. Such an exit strategy could focus on sustainable ways to link the stakeholders together well into the future. Many of the recommendations made in the evaluation report could also be integrated into an exit strategy.

6.1. Progress of Local Partners’ Capacity to Carry the Project Forward and Integration into Institutions

The project has contributed to good progress on capacity strengthening of local partners to carry the project forward but, given the scale of the sectors and need for geographic coverage much more is still needed. The awareness raising materials and training methodologies workshops that were

³⁸ This would be similar to ILO IPEC child labour projects where children are identified and then tracked throughout project implementation to determine whether they stay out of work and in school.

developed in the project contribute to capacities but need much wider dissemination for full impact. Developing SACCO role models in Kenya and contractor champions/role models in Zambia would contribute to this process. Support will be needed to organise activities where these champions can share their experiences.

The capacities of entrepreneurs, their SACCOs/associations still need further strengthening across a range of subjects as indicated in Section 4.4 Integration into institutions needs further support, particularly through the implementation of an exit strategy. The technical committees need to be converted into permanent platforms for dialogue on labour laws. Additional institutions, such as the Labour Inspectorate and law enforcement officials³⁹ need to be more actively integrated into all project actions in both countries. Likewise some additional ministries need to be associated as they have important links to the sectors and can contribute to a more holistic approach.

The BDS providers are capable of providing training but will need continued technical support from specialists from the respective ministries of labour in the two countries.⁴⁰ In both countries there are frequent changes in the context so trainers “may not be able to fully pick it up and run with it” as one official noted. Any trainers who are not professional trainers will also need further support so that they are fully able to disseminate information.

Interviewees in both countries had some suggestions for additional sectors that need similar actions. For Kenya these were the beauty industry, agro-business, security firms, and internet cafes. In Zambia there was interest in agro-business, mining, retail as well as the catering, hotel and tourism sectors. Some interviewees also stressed the need for more attention to large enterprises which often also lack sufficient information on their responsibilities to implement labour laws.

7. Conclusions, Key Lessons Learned, Best Practices and Recommendations

The project has implemented a very interesting series of actions in challenging contexts in Kenya and Zambia. Despite strong reticence from many stakeholders, clear interest in applying labour laws has emerged among entrepreneurs in the both countries. Given the numerous challenges in the context, some of which at first appeared unrelated, actual implementation of the labour laws will still take more time. Much more work is needed to ensure that implementation and enforcement of the laws occurs.

Best practices and lessons learned have been described throughout the report and are detailed in Annexe 1.

The most important lessons learned are:

- The challenges in the context in which a sector is operating needs special consideration as these also influence whether labour laws can be fully implemented and enforced.
- It is necessary to ensure early direct input from entrepreneur and workers’ associations in the relevant sectors.
- Use existing project stakeholder entities to channel actions in various parts of the country
- Include stronger focus on inclusion of labour inspectors, labour officers and law enforcement officials in training and as actors on awareness raising.
- Gender issues in a project may not always be the most immediately obvious ones.

³⁹ These are included in the national action committee in Kenya but need to be more closely involved. In Zambia police can also be trained more appropriately given that they may be contacted in case of labour related accidents.

⁴⁰ This was noted by BDS providers and several stakeholders among the constituents.

The most important best practices of the project are the:

- Holding of a workshop early in the project period which was attended by representatives of the key stakeholders from both Kenya and Zambia to discuss the project implementation. The workshop helped ensure early “buy-in” and contribution of stakeholders into project planning.
- Good participative approaches that have led to real ownership among the stakeholders.
- Development of an effective business case for implementation of labour laws in the project sectors.
- Development of very good communications and training materials that are well accepted by stakeholders.
- Special focus on the inclusion of workers in awareness raising and training in Kenya.
- Involvement and co-opting of very high level officials from both the Ministry of Labour as well as Employer and Worker organizations in Kenya resulted in the achievement of buy-in at the very top levels of the tripartite. This facilitated speedy decision making on key project interventions in Kenya since officials could make binding decisions on behalf of their constituency.

The evaluator recommends a new project in both countries but with different orientations. The evaluator developed some potential ideas for future directions on institutionalising labour laws across the MSME sectors in Kenya and Zambia. She tested her ideas through sharing them with a number of the evaluation interviewees who agreed that the approach could be effective and efficient.

The evaluator, therefore, recommends that building on lessons learned and best practices.

- 1) Continue best practices used to develop strong ownership. Ensure early inclusion of enterprise and worker associations in planning processes. (In addition to official workers and employers organisations)
- 2) Replicate selection of new sectors and prioritise using selection criteria established in each country. Follow selection by thorough baseline studies and regulatory impact assessments. Studies need to pay special attention to sector context challenges.
- 3) Consider among the criteria selection of sectors that have an important representation of women.
- 4) Consider developing special focus on one additional sector in each country. Implement tracked monitoring of workers for full development of a knowledge base on labour laws in the MSME context.
- 5) Develop materials for one or two additional sectors that can be integrated by other donors into their actions. In the spirit of One UN, for example, analysis and materials on agro-business can be developed and shared with the FAO and other agencies working in rural areas.
- 6) Focus in a future project on developing a general simplified and standardised manual and brochure on labour laws. Such brochures and manuals for MSME could be prepared using the existing materials as a starting point. In Zambia, once the new labour laws are adopted, the materials will need to be adapted.
- 7) Using the baseline analysis produced, prepare small guides on labour laws and other relevant regulation that are specific to the new sectors to supplement the materials on general labour

laws.

- 8) Deepen and scale up focus on the existing project sectors through working with the role models and champions.
- 9) Develop, in addition to a business case for each sector, a workers case so that workers can understand and accept the usefulness of labour contracts.
- 10) Increase focus—in addition to similar training on labour laws—on capacity strengthening on leadership, advocacy, cooperative management, entrepreneurship as needed.
- 11) In Zambia consider extending the project actions by integrating a component on labour laws in the existing ILO Green Jobs project
- 12) In line with the development of the East African Community (EAC) consider extending the project to add Uganda or Tanzania to Kenya. This can be particularly useful if considering the transport industry due to cross-border trade. These countries are also part of the same ILO country office.

Annexe 1 - Additional Recommendations
Detailed Recommendations

Recommendation	Key Stakeholder	Implementing
Project Design and Start-up		
1) In Zambia consider extending the project actions by integrating a component on labour laws in the existing ILO Green Jobs project which also has an important focus on the construction sector	ILO	
2) In line with the development of the East African Community (EAC) consider extending the project to add Uganda or Tanzania to Kenya. This can be particularly useful if considering the transport industry due to cross-border trade. These countries are also part of the same ILO country office.	ILO	
3) Replicate selection of new sectors and prioritise using selection criteria established in each country. Follow by thorough baseline studies and regulatory impact assessments. Studies need to pay special attention to sector context challenges.	ILO, constituents	
4) Consider among the criteria selection of sectors that have an important representation of women.	ILO, constituents	
5) Continue strong ownership best practices. Ensure early inclusion of enterprise and worker associations in planning processes. (In addition to official workers and employers organisations)	ILO, constituents and associations	
6) Consider developing special focus on one additional sector in each country. Implement tracked monitoring for full development of a knowledge base on labour laws in the MSME context.	ILO, constituents and associations	
7) Implement more holistic approaches including linkages to other programs such as those on HIV, youth employment, gender-based violence and women's empowerment. Such linkages should not be a one way street but rather be aimed at ensuring that such programs integrate information on labour issues into their actions. Ideas could include conducting joint radio shows with individuals from such other programs could, for example, also contribute to more holistic approaches. During a discussion on labour conditions, for example, a specialist on violence could also be present who could answer questions regarding violence on public transport. Development of joint messages, joint articles in the media, joint training, etc. are also possible. With a little creativity a great deal could be accomplished. Any future project should include an indicator on such linkages under any immediate objective on awareness raising.	ILO, constituents and associations	

Awareness Raising and Capacity Strengthening	
1) A future project could focus on developing a general simplified and standardised manual and brochure on labour laws. Such brochures and manuals for MSME could be prepared using the existing materials as a starting point. In Zambia, once the new labour laws are adopted, the materials will need to be adapted.	ILO, constituents and associations
2) Using the baseline analysis produced, prepare small guides on labour laws and other relevant regulation that are specific to the new sectors.	ILO, constituents and associations
3) Deepen and scale up focus on the existing project sectors through working with the role models and champions.	ILO with input of stakeholders
4) Develop, in addition to a business case for each sector, a workers case so that workers can understand and accept the usefulness of labour contracts.	ILO with input of stakeholders
5) Increase focus—in addition to similar training on labour laws—on capacity strengthening on leadership, advocacy, cooperative management, entrepreneurship as needed.	ILO, constituents and associations
6) Develop a modular training approach that can be tailored to the needs and time availability of the participants. Trainers can be trained to cover all relevant issues but choosing subject areas in accordance with the realities of the participants.	ILO, constituents and associations
7) In addition to the existing materials aimed at more educated individuals develop an even more succinct summary of the key laws in local languages in both countries.	ILO with input of stakeholders
8) Scaling up innovative media campaign efforts would be useful. This would include call questions to radio stations and write in to newspapers, use of mobile phones.	ILO with input of stakeholders
9) Establishment of a resource centre and/or website where the public, including employers and workers, can obtain necessary information on labour laws and related issues.	ILO, constituents and associations
10) Support advocacy for the adoption of a universal pension scheme in as it would allow workers to continue to participate in a pension scheme even as they change employers.	ILO, constituents and associations
11) Replicate good practice from Kenya of conducting training for employers and workers in two separate groups but simultaneously. Join both groups for discussions at the end of the training workshop to help foster dialogue and understanding of the points of view of the “opposing parties.”	ILO, constituents and associations
12) Replicate good practice from Zambia to include sample labour contracts in training materials and brochures. Replicate Kenya good practice of listing relevant agencies and include their contact details.	ILO, constituents and associations
13) If a new project focuses on male dominated sectors, the communications strategies can also include special attention to labour laws as they affect women and decreased violence in general. Particularly in the case of a sector such as the construction industry, messages to reduce negative attitudes towards women could be alleviated by profiling successful	ILO, constituents and associations

women contractors in Zambia and elsewhere.	
Dialogue and Advocacy	
1) Identify and provide a platform to discuss and pilot test ideas for business to address the wider range of challenges beyond labour law issues in the sectors. Integration of a professional negotiator into the discussions to help ensure sustainable solutions are found.	ILO, constituents and associations
2) In a future project in Kenya, promote advocacy and dialogue on some of the potentially useful solutions that have already been identified. Other aspects such as assigning permanent bus stops, regulating the competition over passengers, enforcing laws against violence towards passengers would also be helpful. Paying workers twice a month, or even daily, could help address the worries of workers about being paid only once a month. Encourage workers to save in SACCOs or other entities so that they can develop a savings culture and safety net for themselves.	ILO, constituents and associations
3) Promote two-way dialogue between labour inspectors and MSME sectors. For example, engage with the SACCOs and MADCOWA so that they can establish a working relationship. In the case of Zambia, labour inspectors could be associated to review sport check tenders for compliance, in particular in the case of government contracts.	ILO, constituents and associations
Project Management	
1) Identify methods to streamline approval of financial disbursements.	ILO
2) Ensure that the project countries are, as much as possible, in the same sub-region as this can contribute to improved supervision of EPA approval and disbursement.	ILO
Sustainability	
1) Develop materials for one or two additional sectors that can be integrated by other donors into their actions. In the spirit of One UN, for example, analysis and materials on agro-business can be developed and shared with the FAO and other agencies working in rural areas.	ILO, constituents and associations
2) Increase exchange of experiences and lessons learned between countries in multiple country projects.	ILO, constituents and associations
3) Integration of actions into institutions needs further support, particularly through the implementation of an exit strategy. The technical committees should be converted into permanent platforms for dialogue on labour laws.	ILO, constituents and associations

Annexe 2 -List of Interviewees and Schedules

Kenya Interviewees and Schedule - LGN Final Project Evaluation - May/June 2013

Interview date	Gender	Name	Designation	Organization	Email	Tel
Mon 20 May 2013	F	Grace Sebageni	CTA	ILO	Sebageni@ilo.org	+254700419300
	F	Eunice Mathenge	NPC	ILO Kenya	mathenge@ilo.org	+254722889654
	M	J. K. Waihenya	Snr Assistant Commissioner	Ministry of Cooperative Development and Marketing	waihenyajak@yahoo.com	+254722243993
	M	Isaac Kiema	Projects & Capacity Building Coordinator	Federation of Kenya Employers	ikiema@fke-kenya.org	+254710330095
Tue 21 May 2013	F	Eunice Mathenge	NPC	ILO Kenya	mathenge@ilo.org	
	M	Richard Kanoru	CEO	Matatu owners Association	rkanoru_pticl@invescoassurance.co.ke	+254722938844
	M	Gerald Mutio Chengo	Matatu Owner Route 23	Matatu Owner Route 23	chengo_g@yahoo.com	+254725266466
	M	George M.	Matatu Owner OMA Services Ltd	Matatu Owner OMA Services Ltd	pumuwa@yahoo.com	+254721394144
	M	Christopher Muia	UMOINNER SACCO	UMOINNER SACCO		
	M	Benjamin Kamau Maina	UMOINNER SACCO	UMOINNER SACCO		+254722440175
	M	Nicholas Mugambi	Chief Enterprise Development Officer- Nairobi County	Ministry of Labour	niko_mu2000@yahoo.com	+254722764889
	M	Justus Waimiri	Communications Consultant	Brand Associates		+254722353242
Wed 22 May 2013	M	Silas Tuitoek	Finance and Administration Assistant	ILO	tuitoek@ilo.org	+254721453804
	M	Samson Wainaina	Chairman Matatu Drivers and Conductors Welfare Association	Matatu Drivers and Conductors Association	wainainasamson69@yahoo.com	+254724477542

	M	Maurice Oduor Ombambo	Matatu Drivers and Conductors Association	Matatu Drivers and Conductors Association	omauriceoduor@yahoo.com	+254714327003
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	M	Isaiah Kirigua	Deputy Labour Commissioner	Ministry of Labour	ibkirigua@yahoo.com	+254722235367
	M	Henry Kangethe	Trainers	BDS Providers	hkangethe@gmail.com	+254722251939
	F	Eunice Mathenge	NPC	ILO	mathenge@ilo.org	
Thur 23 May 2013	M	George Muchai	Deputy Secretary-General and Member of Parliament	COTU	bakers@form-net.com	+254722755027
	M	Daniel Kitembui	Killeton Commuter Services	Killeton CommuterServices		+254722613732
	M	Alex Onyango	Killeton Commuter Services	Killeton CommuterServices		+254721454060
	M	Paul Gitau Kimari	Killeton SACCO Secretary	Killeton CommuterServices		+254722809286
	M	Peter Gumba	Killeton SACCO Driver	Killeton CommuterServices	peter.gumba@gmail.com	+254723440482
	F	Caroline Anyango	Killeton SACCO Conductor	Killeton CommuterServices		+254729950330
	M	Noah Chanyisa Chune	Economist/Programs officer	COTU	noahchune2000@gmail.com	+254733709069
Fri 24 May 2013	F	Lucy Mathenge	Secretary, Beneficiaries owners/workers	Matatu Welfare Ass	Lucy.mathenge.lm@gmail.com	+254722807622
	M	Charles Nyangute	Consultant/Trainer involved in Phase 1	DevConsult Management	charles.nyangute@yahoo.com	+254728268625
	F	Grace Sebageni	CTA	ILO	Sebageni@ilo.org	

Zambia Interviewees and Schedule - LGN Final Project Evaluation - May/June 2013

NAME	ORGANIZATION	TITLE	EMAIL	TELEPHONE	Time
MAY 28TH					
Namucana Musiwa	ILO	NPC (LGN-II)	musiwa@ilo.org	0977-800905	14:00hrs
Martin Clemensson	ILO	Director (Zambia, Malawi, Mozambique, Sub-Region)	clemensson@ilo.org		15:00hrs
Belinda Chanda	ILO	Programme Officer	chanda@ilo.org		16:00hrsto 17:30hrs
MAY 29TH					
Namucana Musiwa	ILO	NPC (LGN-II)	musiwa@ilo.org	0977-800905	8:30hrs
Pavla Jezkova	NORAD	Admin/ Programme Officer	Pavla.Jezkova@mfa.no	0965-005566	09:30hrs
Sylvia Mwansa	Zambia Association of Business and Professional Women	Managing Director – SBM & EJS Agency,		0977-773768	11:00hrs
John Musonda	Federation of Free Trade Unions of Zambia	Former Representative (recently left FFTUZ)		0976-454771	12:00hrs
Mwenya Kapasa	Zambia Congress of Trade Unions	Deputy Director of Research and Economics	zctu@microlink.zm	0977-308337	14:00hrs
Patience Matandiko	Ministry of Labour and Social Security	Senior Labour Officer	pency2002@yahoo.com	0977-480150	15:30hrs

Namucana Musiwa	ILO	NPC (LGN II)	musiwa@ilo.org	0977-800905	18:00hrs to 20:00hrs
MAY 30TH					
Benwell Chungu Chisokwa	Sabila Enterprises Limited	Executive Director	Sabi.enterprise@yahoo.com	0977-987803	08:00hrs
Kalobwe Chansa	Zambia Development Agency	Manager: Enterprise Development	kchansa@zda.org.zm	0966-880312	09:00hrs
Boniface Kunda	Ministry of Commerce Trade and Industry	Chief Economist	kundabon@yahoo.com	0979-526189	11:00hrs
Harrington Chibanda	Zambia Federation of Employers	Executive Director	chibs19@yahoo.com	0977-810281	14:00hrs
Vivienne Mbulo	ILO	Finance & Administrative Assistant (LGN II)	mbulo@ilo.org		15:00hrs
Annie Kabayi	Zambia Federation of Women in Business	Chairperson	anniekabayi@yahoo.com	0977-870736	15:45hrs
MAY 31ST					
Obed Mbuzi	BDS Providers' Association	General Secretary	obedmbuzi@lycos.com	0977-123539	09:00hrs
Danny Simumba	Association of Small Scale Contractors	National Secretary	zukanjisim@yahoo.com	0966-768763	11:00hrs
Christopher Chilongo	African Women Entrepreneurship Programme	National Secretary	cchilongo@yahoo.com	0977-796332	14:00hrs
JUNE 1ST					
Focus Group Participants –					9:00-12:30
MSME David Sichilima	NAMSSC and a contractor			0973-255570	1 st June
MSME Alex	NAMSSC – Kitwe			0966-019417	1 st June

Mate					
MSME Haggai Ngandu	NAMSSC - Chinsali			0977-539534	1 st June
MSME Patrick Chalwe	NAMSSC - Chipata			0977-476557	1 st June
MSME Nakwebwa	MSME Contractor - Mongu			0966-804321	1 st June
MSME John Bolton	NAMSSC - Kasama			0977-350679	1 st June
Individual interview Prudence Mushota Tembo	National Council for Construction	Engineer	pmtambo@ncc.org.zm	0966-438473	09:30- 10:30 (during focus group independent work by participants)
June 3 onwards					
Zambia Project Component Final Evaluation Findings Workshop					3 rd June 08:30hrs
Martin Clemensson	ILO	Director (Zambia)	Clemensson@ilo.org		3 rd June 15:00hrs
Andreas Klemmer	ILO	Enterprise Specialist, DWST Pretoria	klemmer@ilo.org		6 th June Via Skype

Annexe 3 - Stakeholders' Workshops Lists of Participants

Kenya Stakeholder Workshop Participants List (See Kenya Interviewee List for contact details)

NO	NAME	GENDER	DESIGNATION
1	Isaiah B Kirigua	M	Deputy Labour Commissioner, Ministry of Labour
2	Samson. Wainaina	M	Chairman Matatu Drivers and Conductors Association
3	J.K. Waihenya	M	Senior Assistant Commissioner, Ministry of Co-operative Development and Marketing
4	Maurice Oduol Ombambo	M	Treasurer Matatu Drivers and Conductors Association (MADCOWA)
5	Thomas Bichange	M	Secretary MADCOWA
6	Peter Gichuki	M	MADCOWA
7	Justus Waimiri	M	Management Consultant, Brand Associates
8	Jane Aranga	F	Director Department of Enterprise Development, Ministry of Labour
9	Nicholas Mugambi	M	Chief Enterprise Development Officer, Ministry of Labour
10	Nehemiah Mogusu	M	Jesmat Sacco
11	Ellyjoy Kawira	F	Matatu Owners Association
12	George Githinji	M	OMA Services
13	Lucy W. Mathenge	F	National Treasurer Matatu Welfare Ass
14	Kenneth Gitaru	M	2KR 105 Shuttle
15	Gerald Chengo	M	Kangemi Sacco Official
16	Mwati Charles	M	Jesmat Sacco Official
17	George Muchai	M	Deputy Secretary General C.O.T.U / Member of Parliament

Zambia Stakeholder Workshop Participants List

NAME	ORGANISATION	DESIGNATION	EMAIL ADDRESS	TELEPHONE
Bolton, John	National Association for Medium, Small Scale Contractors (NAMSSC)	Coordinator - Kasama (Northern Province)	jbolton214@gmail.com	260 977 350 679
Chalwe, Patrick	NAMSSC	Coordinator - Chipata (Eastern Province)	pchalwe@gmail.com	260 977 476 557
Chansa, Kalobwe C.	Zambia Development Agency	Manager: Enterprise Development	kchansa@zda.org.zm	260 966 880 312
Chileshe, Rodwell	EKHA Investments Limited	Administration Manager	darlingtonmuyana@yahoo.com	260 979 396 314 / 260 962 314 591
Chitundu, Benjamin	Matukuchila Investments Limited	Director - Business Development	b.chitundu@gmail.com	260 977 728 187
Daka, Kalindawalo	M. Innovations	In Charge - Projects	dakakalindawalo@gmail.com	260 977 257 540
Kabayi, Annie	Zambia Federation of Women in Business (ZAFWIB)	Chairperson	anniekabayi@yahoo.com	260 977 870 736
Kakoma, Vincent	Aluminium Line	Managing Director	yckakoma@gmail.com	260 977 789 978
Kapasa, Mwenya	Zambia Congress of Trade Unions (ZCTU)	Deputy Director of Research and Economics	mwenyakapasa@yahoo.com	260 977 308 337
Matandiko, Patience	Ministry of Labour & Social Security	Senior Labour Officer	pency2002@yahoo.com	260 977 480 150
Matoka, Windu C.	Private Consultant	Entrepreneurship & Business Development Consultant	wcmatoka@yahoo.com	260 977 889 717
Mbuzi, Obed	BDS Providers' Association	General Secretary	obedmaximbuzi@gmail.com	260 977 123 539
Mpepo, Mutale	NAMSSC	President	mutalewesu@yahoo.com	260 963 702 233
Mulwila, Dorothy	Zambia Association of	President	bimm@zamtel.zm	260 977 772 725

	Women in Construction (ZAWIC)					
Mwamba, Bwalya	HR First	Managing Consultant	nine_bwalya@yahoo.co.uk	260 955 746 305 / 260 966 898 384		
Nakwebwa, Inambao E.	NAMSSC	Coordinator - Mongu (Western Province)	emwanamulena@yahoo.com	260 977 429 537		
Ng'andu, Haggai	NAMSSC	Coordinator - Chinsali (Muchinga Province)	nganduhaggai@gmail.com	260 977 539 534		
Sakala, Giyani I.	Zambia Chamber of Small & Medium Business Associations (ZCSMBA)	Coordinator Research & Knowledge Management	giyanisakala@zcsmba.org	260 977 880 254		
Sichilima, David	NAMSSC	Coordinator - Livingstone (Southern Province)	davidsichy@yahoo.com	260 973 255 570		
Simumba, Danny	Association of Small Scale Contractors	National Secretary	zukanjisim@yahoo.com	260 966 768 763		
Musiwa, Namucana	ILO LGN II	NPC	musiwa@ilo.org			
Mzumara, Tamara	ILO LGN II	Intern	lun1visitor@ilo.org			

Annexe 4 - Summary of Priorities Successes and Challenges According to Final Evaluation Stakeholder Workshop Participants

Kenya Stakeholders Workshop – Flipchart notes

Positive Aspects of the LGN II project – Group I

- The impact on profits would be good if the labour laws are followed
- Good communication strategy applied by project- for example by use of languages that the Matatu sectors relate to.
- Retirement benefits embedded in labour laws is a good thing
- Awareness of labour laws has been created
- Safety on our roads will improve
- Job security for Matatu sector workers
- Project brought the owners and employees(drivers and touts to dialogue)
- Drivers and conductors will enjoy National Social Security Fund, National Health Insurance Fund and other related benefits

Challenges

- Negative attitude by both owners and workers to contracting
- Lack of co-operation from some stakeholders in the process
- Fear of unknown costs arising from implementation of labour laws
- Project coverage was restricted to one county i.e. Nairobi
- Time for implementation was short
- Lack of role models
- Implementation and enforcement is one of the biggest challenges

Group II

Positive Aspects of the LGN II project – Group II

- Brought all players/stakeholders in the sector
- Awareness creation on labour/SME laws
- Labour and related laws relatively simplified
- Project was innovative targeting a unique sector
- Materials development for training was consultative
- Some training targeting sector players conducted
- Created a unique forum for workers and employers air their grievances-ventilate(social dialogue)

Challenges of the Project

- Training of technical team not conducted
- Lack of linkage to financiers
- Holistic approach to the training needed to include entrepreneurship and other relevant topics
- Linkages on cross-cutting issues : Gender, HIV/AIDs, youth
- Workers do not want to sign contracts for various reasons
- Road safety and occupational safety is an issue still due to the poor competencies of drivers

Proposed Solution/Recommendations

- Mapping of institutions is needed to understand which are the key for improving the sector, particularly for training and capacity building: Curriculum should be delivered in an established training institution and integrated as part of programmes for sustainability
- Sustainability: need to house this very good project. Project should forge linkages with training institutions: for general/wide capacity building e.g. cooperative university college
- Qualification of Matatu drivers and conductors. (Competencies should be defined & standards defined! Perhaps a Scheme of service for Matatu drivers & conductors)
- Integrate business case for worker with a business case for owners
- Framework that has SACCOs coming together under one umbrella /a national federation(with a teeth to bite) and Enhancement of self-regulation within such a framework
- Surrender management of Matatus to cooperatives(SACCOs) and owners: owners to have shares in the SACCO and benefit from dividends :
- All including traffic police should surrender management of their to SACCO
- Consultations for the framework should include wide stakeholders such as the traffic department
- SACCOs should develop code of conduct & sanctions for non-compliance
- Retain highway police for surveillance
- Roadmap for implementation and enforcement of labour laws in the sector needs to be developed
- Money/cash free system e.g. Beba beba e.g. Transfer of fines: by phone would be best and the fines lowered in order to reduce corruption on the roads
- Enforcement of current laws e.g. Michuki laws without accelerating the milking
- Develop best practice SACCO's: to mentor other SACCOs-Guidance needed for voluntary Best practice role models on where to start
- Best practice documentation & sharing experience from other countries and counties(including exchange visits)
- Best Practice includes the Example of participatory designing of contracts(owners vs workers) which is leading to signing of contracts in one of the SACCOS
- Incentives/awards to recognize matatu drivers, conductors & owners(county-wise) who have complied with labour laws and all other related laws
- Structure (e.g. SACCOS) to facilitate signing of contracts
- Build capacity of matatu SACCOs as ToTs in order to rollout training and aspects of project sustainability and for self-help regulation e.g. Orokise SACCO facilitating signing of contracts
- Review the routes of vehicles to allow coverage across routes
- Market statistics available with MOL(MSED) for analysis of drivers potential
- Ministry of Cooperative rules for Matatu SACCOs need to be developed
- Involvement of Ministry of Transport in consultations and projects regarding matatu sector

Zambia Stakeholders Workshop – Flipchart notes

Technical Committee Group

Successes

- MSMEs were exposed to labour laws
- Choice of target group
- Useful technical input to reforms underway in Zambia
- Stake holders involvement was good
- Development a case for small business growth

Challenges

- Inadequate planning: planning is key for any project to be a success
- Coordination should have been better
- Capacity building (inadequate): project should have considered some of the weaknesses that various government bodies have
- Level of effort: if individuals feel they are not being compensated for their time and effort, they are likely to withdraw their commitment
- Limited monitoring activities within the design

Trainers Group

Successes

- MSMEs appreciative of training: funds should be found so that more MSMEs are trained
- High political will
- Commitment shown by project team
- Project has triggered labour law compliance
- Enthusiasm demonstrated by partners

Challenges

- Insufficient funding to fully involve constituents (but now that is debatable considering the response to Obed Mbuzi's question)
- Delays in disbursements of project funds
- Inadequate administrative staff: project needed extra hand
- Financial constraints have limited the number of training workshops
- Project have spread to other sectors not only the construction industry
- More training from construction sector may have been required
- Project was confined to some geographic regions

Contractors Group

Successes

- Understand and are now able to apply labour laws
- Improved participation in advocacy
- Awareness of Occupation Safety and Health (OSH) e.g. now knows that OSH is an act
- Ignited interaction amongst MSMEs: with this platform they are able to share ideas
- Educative
- Good presentation: information was easily understood
- Offered an opportunity for stakeholders to interact and seek common ground
- Thankful to ILO for bringing the project to the grassroots e.g. programmes on radio were beneficial

Challenges

- Project life is short
- Has not helped to solve major small scale contractors' problems e.g. job creation so that MSMEs can demonstrate their knowledge
- Lack of direct engagement of provincial coordinators led to poor participation
- Project has not been understood fully on the objectives. Therefore people didn't understand fully
- Transparency in financial issues was lacking from the start. Note that, contractors are not questioning the projects expenditure. They are questioning why other provinces had more workshops than others.
- Women issues have not been handled.
- Contribution: Dorothy Mulwila [Zambia Association of Women in Construction (ZAWIC)] added that there was nothing to address women's issues. Women venturing into construction are intimidated from the beginning. This has led to reduced participation from women.
- Presentation of information was compressed: a lot of material had to be covered in a short period of time.
- No Synergy among project participants/actors
- Limited communication: publicity was not sufficient
- Certificates not available: issuance of certificates would motivate MSMEs
- Will ILO lobby for positive change in laws challenging MSMEs in construction? Seems employees have more rights and employers seem not to have rights

Annexe 5 - References

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Annexe 6- Terms of Reference – Independent End-term Evaluation

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

1. Introduction and rationale for evaluation

This TOR is designed to support a consultant to conduct an independent End-Term Evaluation (ETE) of the LGN-II project. The evaluation will assess project performance in relation to stated objectives, outcomes and outputs. An assessment of the effectiveness of management arrangements and project design, as well as the efficient use of resources, and impacts and opportunities for learning will also form part of the evaluation. The evaluation provides an opportunity for informing design of a new phase and will contribute to the donor approval process of the new proposed phase. The evaluation will also provide a check of progress on recommendations arising from the project's Mid-Term Evaluation conducted in mid-2012.

The evaluation is an activity in the project cycle which attempts to determine, as systematically and objectively as possible, the relevance, efficiency, effectiveness, impact and sustainability of the project. The evaluation is expected to lead to recommendations and lessons learned for future use.

2. Brief background on project and context

The overall objective of the Law-Growth Nexus Phase II (LGN-II) Project is to contribute to a more enabling policy environment for MSME development in Kenya and Zambia. The overall outcome is more and better jobs in the MSME sectors of the project implementation countries. The immediate objectives of the project are:

- (1) To nurture respect for the rule of (labour) law among MSME in priority sectors;
- (2) To strengthen the capacity of ILO constituents to engage in social dialogue on the nexus between Labour Law compliance and MSME development,
- (3) To facilitate sector-specific regulatory reform, and
- (4) To strengthen the capacity of MSME to comply with the revised labour law.

The design of the LGN-II Project is based on the research findings of the Law-Growth Nexus Phase I (LGN-I) Project and recommendations from the said phase's final evaluation report. LGN-I carried out extensive research in 12 African countries on the root causes of the decent work deficit in the MSME sector. These findings were translated into recommendations for the design of the intervention strategy of the second project phase LGN-II thus attempts to explore the effect of labour and labour related laws on micro, small and medium enterprises in selected priority sectors and seeks to examine the "win-win territory" where it is possible to reduce compliance costs for MSMEs and simultaneously improve protection for workers in those enterprises. The LGN-II Project seeks to support the uptake of and exposure to labour law in the MSME sector by making a strategic contribution to a more enabling policy environment for MSME development in Kenya and Zambia. The Project strategically focuses on one priority sector in each project implementation country.

- The priority sector in Kenya is the Public Transport Sector with a focus on the ‘Matatu Industry’.
- The priority sector in Zambia is the Construction Sector.

The choice of priority sectors were determined by a number of criteria, including: a high level of concentration of MSME; the existence of decent work deficits (here with an emphasis of non-compliance with the labour law); MSME growth potential; employment intensity and consequently employment creation potential.

The LGN-II project strategy is based on a systemic approach to MSME development that promotes analysis and action across the whole system of issues that affect MSME behaviour rather than just one part of it. The systemic approach enables the project to identify and influence key issues that affect behaviour over time to maximize impact.

Four system levels of interaction of stakeholders are distinguished:

- Meta-Level: Norms, values and perceptions held by stakeholders across system levels towards the (rule of) labour law
- Macro-Level: The policy, legal and regulatory framework defining the ‘rules of engagement’ among stakeholders as far as the labour law is concerned
- Meso-Level: The institutional support environment to facilitate compliance among MSME, including provision of labour law specific business development services
- Micro-Level: The ‘market place’ where MSMEs interact up-stream with Business Development Service (BDS) providers and down-stream with clients that value compliance as a service/product differentiator.

A number of changes, not reflected in the project document, have been made during the project lifecycle, and these should be taken into account during the evaluation (look for implications):

- Three countries were originally included the project design, these being Kenya, South Africa and Zambia. However, only Kenya and Zambia now form part of the project.
- At a stakeholders’ workshop in November 2011 in Mombasa, Kenya stakeholders from both Kenya and Zambia proposed to include micro enterprises into the intervention strategy. A recommendation was made to change the emphasis from SME to MSME. This was later approved and adopted by the project Steering Committee sitting in Lusaka in January 2012.
- At the same stakeholders’ workshop mentioned above, Zambia stakeholders expressed the need to include additional activities related to supporting the labour law reform process underway in the country. The recommendations were brought before the Steering Committee in January 2012 and it was decided that two additional work streams, not directly related to the project design, be added. These fall under Outcome 3 and Output 3.1 (indicator: tripartite consensus on areas for regulatory reform). Activities 3.1.2 (support rendered to the national review of the Labour Law in Zambia) and 3.1.3 (review team workshop to disseminate key messages from the consultant’s report in support of the labour code review) were thus added to the Zambia work plan.

- A number of changes with respect to management and institutional arrangements have taken place since the inception of the project. The CTA is based in Kenya and not South Africa as initially planned. Two NPCs were appointed, one to oversee implementation in each project country. Backstopping support (one Senior Technical Specialist and one Programme Officer) is provided from the ILO office in South Africa, whilst the project budget is held in Tanzania and not South Africa as reflected in the project document

The LGN-II Project has duration of 27 months and a budget of USD 2.378 million. The project is funded by the Norwegian Agency for Development Cooperation (NORAD). Effective implementation started late in the project cycle due to unavoidable delays. The project is scheduled for completion in July 2013.

3. Purpose, scope and clients of the End-Term Evaluation

The purpose of the evaluation is to enable project staff, constituents and other relevant stakeholders to assess the extent to which the project has met the intended project objectives and outcomes in line with the technical and financial agreements with the donor. The clients of the evaluation include: project staff (National Project Coordinators in Kenya and Zambia); the overall project manager (Chief Technical Advisor); technical backstopping staff (Senior Technical Specialist at the Decent Work Support Team for Eastern and Southern Africa Office in South Africa); ILO Field Directors (Kenya, Zambia); the donors; and constituents, in particular the national technical and advisory committees in Kenya and Zambia.

The End –Term Evaluation will assess five evaluation criteria as outlined below. Related to each of these criteria are a number of key evaluation questions as outlined in part 4 of this TOR.

- Relevance and strategic fit
- Validity of design
- Efficiency
- Project progress and effectiveness
- Effectiveness of management arrangements and efficiency of resource use
- Sustainability

4. Key evaluation questions

As mentioned in the previous section and in line with ILO evaluation guidelines, the project should be assessed against five evaluation criteria. A number of questions have been developed for each set of criteria, as set out in the table below. The following key evaluation questions (second column) are expected to be answered through the ETE:

Evaluation criteria	Related key evaluation questions
a. Relevant and strategic fit	<ul style="list-style-type: none"> ▪ Is the programme directly supporting the national development priorities and the DWCP? ▪ How well does it complement other relevant ILO projects in Kenya and Zambia? ▪ What links are established/being established with other similar activities of the UN or non-UN international development organizations at country level⁵⁴ ▪ Does the project align with ILO's mainstreamed strategy on gender equality?

	<ul style="list-style-type: none"> ▪
b. Validity of design	<ul style="list-style-type: none"> ▪ Was the design process adequate? ▪ Do outputs causally link to the intended outcomes/objectives? ▪ Did the project adequately consider the gender dimension of the planned interventions?
c. Efficiency	<ul style="list-style-type: none"> • Were resources (human resources, time, expertise, funds etc.) allocated strategically to provide the necessary support and to achieve the broader project objectives? • Were the project's activities/operations in line with the schedule of activities as defined by the project team and work plans? • Were the disbursements and project expenditures in line with expected budgetary plans? If not, what were the bottlenecks encountered? Are they being used efficiently?
d. Project progress and effectiveness	<ul style="list-style-type: none"> ▪ What outputs have been produced and delivered and has the quality of these outputs been satisfactory? ▪ Are women and men likely to benefit from project activities? ▪ What effects (expected/unexpected) are the interventions likely to have on gender relations? ▪ What progress has been made towards achieving the programme objectives/outcomes? ▪ In which area (geographic, component, issue) does the project have the greatest achievements so far? Why and what have been the supporting factors? ▪ How effective were the backstopping support provided so far by ILO (regional office, DWT Pretoria and Geneva) to the programme?
e. Effectiveness of management arrangements and efficiency of resource use	<ul style="list-style-type: none"> ▪ Are the available technical and financial resources adequate to fulfill the project plans? ▪ How effectively does the project management monitor programme performance and results? Was a monitoring & evaluation system in place and how effective was it? ▪ Have the project received adequate administrative, technical and - if needed - political support from the ILO office in the field (Dar es Salaam), field technical specialists (Pretoria) and the responsible technical units in headquarters? • Have the project received adequate political, technical and administrative support from its national partners/implementing partners? Is information being shared and readily accessible to national partners?

f. Sustainability	<ul style="list-style-type: none"> ▪ Is there any progress in local partners' capacity to carry forward the project and is there a growing sense of national ownership? ▪ Does the project succeed in integrating its approach into local institutions? ▪ Does the project succeed in developing a replicable approach that can be applied with modifications to other sectors? • What are the possible long-term effects of the project on gender equality?
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5. Methodology to be followed

The evaluation will employ three methodologies:

- document reviews,
- key informant interviews and
- one stakeholders' validation workshop in each project implementation country.

The methodology to be followed should include multiple methods, with an analysis of both quantitative and qualitative data. The different needs and views of men and women should be considered throughout the evaluation process.

The three methodologies as alluded to above, are:

i) Document review

The evaluator shall familiarize him/herself with the project through a review of relevant documents. These documents include inter alia: Project Document, minutes of meetings (steering committee and country advisory committees), workshop reports, work plans, strategy maps, progress reports and monitoring reports. More information is also available on the project webpage at <http://www.ilo.org/public/english/region/afpro/pretoria/what/projects/lgn.htm>. Selected documents will also be made available to the evaluator via e-mail.

ii) Key Informant Interviews

- a. The evaluator will be available in Kenya and Zambia to carry out at least ten key informant interviews per country. Gender representation should be taken into account in the selection of interviewees.
- b. Interviews will use a simple questionnaire designed to solicit feedback on opportunities and constraints to the delivery of project outcomes.
- c. The questionnaire will be developed by the evaluator in consultation with project staff and tested with two interviewees (one in each project country) nominated by project staff before use.
- d. Interviews will be conducted face-to-face or by telephone. Project staff will arrange the interviews and where necessary provide a venue and communication facilities.
- e. Interview categories include project staff (CTA, NPCs, technical backstop in Pretoria), constituents in each country, other stakeholders (donors), beneficiaries, and selected other ILO staff. A list of interview categories will be given to the evaluator for selection.

iii) Stakeholders' validation workshops

- a. One stakeholders' validation and consultative workshop will be held in each project country. The workshop will be attended by key stakeholders of the project in each country, and will include the key ILO constituents involved in the project cycle. Gender representation should be taken into account in the composition of the workshop participants.
- b. The evaluator will develop a workshop programme in consultation with project staff. The workshop will be designed in such a way as to solicit feedback from attendees on the opportunities and constraints to the delivery of project outcomes.
- c. The evaluator will consult with the CTA and NPCs on the group to attend the workshop. Project staff will arrange the workshop and provide venue and workshop facilities as requested by the evaluator.

LGN-II project staff in Kenya and Zambia will be available on the ground to facilitate the ETE as required by the evaluator. Further logistical and technical support will be provided remotely by the Evaluation Manager in Nairobi

6. Main outputs

The evaluator will provide the following main outputs:

- A Draft Evaluation report in two parts: Detailed Evaluation Report and Executive Summary of the Evaluation Report (as per the Summary Template and Guide for Evaluations annexed to the ToR).
- One stakeholders' validation workshop in each project country
- A Final Evaluation Report in two Parts – A Detailed Report and Executive Summary.

The evaluator will produce a concise final report according to the ILO evaluation guidelines and reflecting the key evaluation questions. The expected structure of the final report is outlined below:

- Title page
- Table of contents and lists
- List of acronyms or abbreviations [as appropriate]
- Executive summary
- Body of the report

Introduction

1. Brief background on the project and its logic
2. Purpose, scope and clients of evaluation
3. Methodology
4. Review of implementation

5. Main findings

5.1. Relevance of strategic fit

5.2. Validity of design

5.3 Effectiveness of management arrangements and Efficiency of resource use

5.4 Project progress and effectiveness

5.5 Sustainability

6. Conclusions

6.1. Conclusions

6.2. Lessons learned

6.3. Good practices

6.4. Recommendations

7. Appendices

The evaluator is required to append the following items:

- Terms of Reference
- Data collection instruments
- List of meetings attended
- List of persons or organizations interviewed
- Attendance registers of stakeholders' workshops
- List of documents / publications cited
- Any further information the evaluator deems appropriate can also be added.

The evaluator is responsible for reflecting any factual corrections brought to his/her attention prior to the finalization of the final report. Therefore, in order to ensure that the report considers the views of all parties concerned, is properly understood and factually correct, the evaluator shall submit a draft report to the no later than three weeks after completion of the evaluation mission. The Evaluation Manager will solicit and revert promptly with collective feedback from project staff and partners in order for the evaluator to finalize the report. The quality of the report will be assessed against the ILO evaluation checklists 4 and 5 (see annex). Adherence to these checklists should be considered a contractual requirement when submitting evaluations to ensure full remuneration of the contract. All evaluation report submissions must include a MS Word and a PDF version.

The final report shall be shared with the Steering Committee and the Technical and Advisory Committees in each project implementation country.

7. Management arrangements and work plan

The evaluation process is expected to be concluded within a maximum of six weeks, in 24 working days.

The Field Evaluation Missions will be carried out in Nairobi, Kenya in the week of 19th - 28th May 2013 in Nairobi Kenya and 28th May - 3rd June in Lusaka Zambia, respectively.

The Evaluation Manager will be the direct focal point for support to the consultant during the field missions and liaising with the NPCs in each country, the EM will be responsible for the evaluation mission itinerary in each country. The stake holder's workshop in each country will be organized by the EM in liason with the NPCs in each country.

Following these missions, one week is allocated for development of the draft report. The draft report should be submitted for comment by latest 17 June 2013 to the Evaluation Manager, Ms Jane Maigua via maigua@ilo.org.

One week will be allocated to concerned parties to provide inputs, where after the Evaluation Manager will return the draft report to the evaluator for finalization

The final report will be submitted to the EVAL Unit of the ILO by latest 28 June 2013. Once report is approved by EVAL, it will be disseminated to the LGN II stakeholders by the Evaluation Manager.

The Evaluation Manager, based in Nairobi Kenya, will be focal point for all general, logistical and programme queries related to the evaluation. Said official can be contacted on email: maigua@ilo.org, office tel. +254 20 762 25655 /+254 728 545 108.

Activities	1	2	3	5	6	7
	18-19 May	20-27 May	28 May-3	17 June	24 June	27 June
Document Review and development of Interview checklist						
Key informant interviews -Nairobi Kenya						
Stakeholders Validation/Consultative workshop-Nairobi						
Key informant interviews- Lusaka Zambia						
Stakeholders Validation/Consultative workshop-Lusaka Zambia						
Draft Report						
Comments on Draft Report						
Submission of Final Report						

The evaluation will comply with UN Norms and Standards and UNEG ethical guidelines will be followed. This TOR is accompanied by the code of conduct for carrying out the evaluation.

Appendices:

Appendix 1: LGN-II Project Document

Appendix 2: ILO evaluation guidelines

Appendix 3: ILO PROGEVAL guidelines: checklist 4

Appendix 4: ILO PROGEVAL guidelines: checklist 5

Appendix 5: Code of Conduct