

**SECOND ITEM ON THE AGENDA****On-the-spot review in Africa****I. Introduction and background to the project**

1. At its 285th Session (November 2002), the Governing Body approved and provided the funding during the 2002-03 biennium for an on-the-spot review of a project on the topic of the thematic evaluation report to be submitted to the March 2004 session of the Governing Body. Accordingly, the Officers of the Committee on Technical Cooperation selected for review the Kenya component of the project on Strengthening Labour Relations in East Africa (SLAREA).
2. This review was conducted in Nairobi, Kenya, from 27 to 29 November 2003. The review team comprised: Mr. Martin M. Mononga (Government representative from Malawi); Ms. Rose Karikari Annang (Employer member from Ghana); and Mr. Guillaume Attigbe (Worker Vice-Chairperson of the Committee on Technical Cooperation).

The project

3. The project, SLAREA, was formulated in response to the request of the Governments of Kenya, the United Republic of Tanzania and Uganda. It is funded by the Department of Labor of the United States (USDOL) under the umbrella of the ILO InFocus Programme on Promoting the Declaration (DECLARATION). The overall management responsibility of the project is with the ILO Office in the United Republic of Tanzania; there are project offices in Dar es Salaam, Nairobi and Kampala, while technical backstopping is provided by the InFocus Programme on Social Dialogue, Labour Law and Labour Administration (IFP/DIALOGUE) in Geneva, and the ILO Subregional Office in Addis Ababa.
4. The project commenced on 15 January 2001 with the appointment of the Chief Technical Adviser. The ensuing period until early May was devoted to establishing its three offices, recruiting its staff and planning its first year of activity. There is a National Project Coordinator for the project in each of the three countries. The project was launched in Dar es Salaam on 10 and 11 May 2001, followed immediately by a tripartite labour summit on "Strengthening labour relations in East Africa".

Achievements

5. The following outlines the major achievements of the project:
- (a) SLAREA is supporting labour law reform efforts that are now at advanced stages of completion in the three project countries. This will bring labour laws into conformity with the ILO core standards;
 - (b) there is a greater knowledge and understanding of the ILO Declaration principles;
 - (c) the SLAREA research and workshop reports have benefited the task forces on labour laws review as well as the ILO constituents;
 - (d) SLAREA has revitalized the labour advisory boards;
 - (e) the workshops for judges have imparted useful knowledge in disputes arbitration;
 - (f) SLAREA has played a major role in the re-registration of the hitherto proscribed Union of Kenya Civil Servants;
 - (g) the increased capacity of labour officers to settle disputes has led to fewer disputes going before the Industrial Court;
 - (h) there is a significant change from a “policing” attitude to a “preventive and advisory” role by labour officials conducting inspections;
 - (i) the number of registered trade unions, including the Union of Kenya Civil Servants, has increased;
 - (j) union membership has increased;
 - (k) gender balance has improved;
 - (l) social partners now have web sites and there is increased computer literacy among them. Project-supplied transport and communications equipment has improved institutional capacity in labour relations;
 - (m) SLAREA has helped revitalize the social partners’ training institutions;
 - (n) employers are now more prepared to manage human resources more effectively and undertake conflict resolution and collective bargaining;
 - (o) in collaboration with workers’ organizations and governments, employer best practice awards have been developed.

Constraints

6. The following constraints have been identified:
- (a) information gained from workshops and other activities does not easily reach officials at provincial and district levels;
 - (b) lack of adequate transport and other resources has hampered timely resolution of complaints and disputes at the initial stages – this could endanger good relations;

- (c) follow-up action is undertaken after a long period of time;
- (d) gender imbalance still continues to be a problem in social partners' activities;
- (e) there are difficulties in obtaining quantitative data from the social partners on a timely basis.

II. The on-the-spot review

Brief terms of reference for the exercise

7. The detailed terms of reference are presented in Appendix I. The main focus of the review was:
 - to examine the pertinence of the project;
 - to determine the coherence and quality of technical services provided;
 - to look into the process of implementation – i.e. maintaining scheduled and other project delivery aspects and the role of the ILO offices; and
 - to examine critically the sustainability and project ownership, including the vital involvement of the constituents.
8. In addressing the terms of reference, the mission conducted extensive interviews with the social partners and other key partners of the ILO.

Findings

Pertinence of the project

9. The team was left with no doubt whatsoever that the project was pertinent. The social partners indicated very strongly that it was a very relevant ILO project, initiated with a view to building up their operational capacities.
10. The timing for the project could not have been more appropriate: with the change in political governance that has ushered in more transparency and freedom of expression; the African Growth and Opportunity Act (AGOA); the formation of the East African Community and other relevant intra-and inter-alliances that impact directly or indirectly on labour relations. The project was particularly relevant to the labour relations scene in that it focused on matters of freedom of association, maintenance of industrial peace, the labour law reforms, prevention of labour disputes, collective bargaining and human resource management – to mention but a few.

Coherence and quality of technical services provided

11. Once again, the mission was highly impressed by the social partners' consensus on the quality of the technical services provided by the project. The improved capacities achieved so far may be attributed without a doubt to the support provided by SLAREA through training and other technical assistance in the form of advice and consultations, the

construction of web sites, and the provision of equipment – computers, copiers and motorbikes.

12. The tripartite training programmes organized by the project have greatly helped the social partners understand and appreciate each other better than at any other time before.

Project implementation: Maintaining schedules, delivery aspects and the role of the ILO

13. The mission was made to understand that SLAREA had kept a very good record in delivering services as scheduled. The ILO team – especially the Dar es Salaam Area Office with the Director and the project Chief Technical Adviser and indeed the National Coordinator – had all worked very closely with the social partners to make sure that services were delivered as per the agreed workplans.

Project sustainability and ownership including involvement of constituents

14. The social partners' full involvement during the initial stages of project preparation and formulation, the conclusion and signing of the project document and the project launch in Dar es Salaam, made them feel not only part and parcel of the project but rather joint owners of the project.
15. The project – through its training of trainers programme, strengthening and revitalization of national training institutions and support to social partners to develop strategic plans for their future sustainability – is working towards sustained results. It needs to be underscored, however, that it has been in operation for only two-and-a-half years, and it would be premature to assess results in terms of longer term sustainability. Momentum had been slowly built but the gains need to be fully consolidated. With this in mind, the review team was requested by all the social partners to make a case for an extension of the project beyond 2004 to at least December 2006.

Conclusions

16. The team's major conclusions may be summarized as follows:
 - (a) SLAREA has made an excellent start and impact on the social partners and this commendable achievement will need to be consolidated further by way of continuous discussions to explore other areas of importance. However, the two-and-a-half years' period of operation is not sufficient to give the social partners a reasonable chance to build substantial institutional sustainability;
 - (b) the focus on ratification of the Freedom of Association and Protection of the Right to Organise Convention, 1948 (No. 87) must be kept in sight and the work brought to fruition sooner rather than later;
 - (c) SLAREA is very well placed to continue exerting influence and support on issues of harmonization of the labour laws and relations of the East African countries;
 - (d) the working relationship between the ILO/SLAREA and the social partners in respect of this project is excellent and provides a clear focus on the objectives.

Recommendations

- (a) The social partners should continue to be involved in the planning, implementation and monitoring of the project and take into account the views and priorities of the new leadership.
- (b) The project should be extended by another two years up to December 2006 for the following reasons:
 - (i) to consolidate what has been achieved by the project so far after two and a half years of actual operation;
 - (ii) to provide adequate time to sensitize parliamentarians and policy- and decision-makers (outside the traditional social partners) on labour relations issues;
 - (iii) to disseminate the new labour laws to be adopted in 2005 to the social partners and the general public;
 - (iv) to provide more time for greater emphasis to be placed on the principle of freedom of association and to facilitate ratification of Convention No. 87 and the effective implementation of both Convention No. 87 and the Right to Organise and Collective Bargaining Convention, 1949 (No. 98);
 - (v) to create ownership of the new labour laws by the social partners;
 - (vi) to provide more time to extend training to the lower levels of government, trade union and employers' officials in the provinces, districts and at enterprise levels, taking into account:
 - the possible decentralization of the labour courts to the provinces and districts;
 - the need for training to be continuous and to include a larger number of officials;
 - the need to provide more and longer training of trainers courses (at least two weeks) to achieve sustainability;
 - (vii) to allow more time for the project to work towards gender mainstreaming, so that it can expand and be more operational in this area;
 - (viii) to devote more attention and resources to the HIV/AIDS pandemic;
 - (ix) to draw up a plan of action to deal with micro, small, and medium-sized enterprises (SMEs);
 - (x) to ensure that SLAREA's Project Advisory Committee comes up with recommendations aimed at strengthening the Labour Advisory Board – including restructuring its management;
 - (xi) to facilitate more subregional meetings and sharing of experience with the coming into force of the East African Customs Union in November 2003, and the impending protocol on the free movement of persons in 2005 and 2006.

- (c) During the period of extension, the project should take appropriate measures to monitor the impact of the project on the ground among the three social partners and ensure there is wide dissemination of the project's outputs to all levels of officials.
- (d) In the light of the team's recommendation for the extension of the project, the ILO should seek funding for the extension period, either from the existing donor – USDOL – or other donors. This has become more necessary and urgent, in the light of the improved climate for donor support to Kenya, following the resumption of donor assistance.

Geneva, 26 January 2004.

Appendix I

On-the-spot reviews by members of the Governing Body

Terms of reference

The Governing Body approved at its 277th Session (March 2000) that on-the-spot reviews of field activities would be conducted in each year of the 2000-01 biennium. Each review would be conducted by three members of the Governing Body – one from each group – who would participate in the regional or other meeting, from the regions concerned. Reviews were carried out in Europe and the Americas in 2000 and in Africa and Asia in 2001.

At its 285th Session (November 2002), the Governing Body approved and provided the funding to conduct one on-the-spot review during one year of the biennium, to be undertaken in conjunction with a regional meeting and linked to a thematic evaluation to be undertaken for the Committee on Technical Cooperation. Accordingly, the Officers of the Committee on Technical Cooperation decided that an on-the-spot review would be carried out during the last week of November 2003 on the Kenya component of the SLAREA project.

Issues to be addressed

A. Major review issues

- Pertinence of the project.
- Coherence and quality of technical services provided.
- Implementation process, maintaining schedule and other aspects of delivery, role of ILO offices.
- Sustainability and ownership of project, including involvement of constituents.

B. Within the framework of the above issues the following may be considered

- (a) Relevance of the project under review in terms of its conception and content vis-à-vis the strategic objectives of the ILO and the national objectives and priorities; in its approach and implementation strategy; in the results matching the objectives set out and in the context of the amount of resources involved. Involvement of the social partners directly (together or separately) in the design, planning, programming and operational activities of the project. Linkages with ILO regular budget programmes and United Nations system-wide programmes.
- (b) Participation of specialists from the Subregional Office, and quality of project inputs; project performance; promotion of international labour standards at the country level.
- (c) Mode of execution: clarity in formulation of project objectives and tasks; assessment of involvement of national counterparts, national coordinators where applicable, national expertise and local administrative support staff, logistical and other support provided by different ILO units (area office, regional office and headquarters). Delivery of services and outputs as stipulated in workplans.
- (d) Assessment of extent to which project outputs and achievements would be sustained once external assistance has been withdrawn.

C. Recommendations

Appendix II

List of organizations and key persons met

Ministry of Labour and Human Resource Development

Hon. Ambassador Chirau Ali Mwakwere, MP, Minister for Labour and Human Resource Development, Kenya

Ms. Deborah A. Ongewe, Permanent Secretary, Ministry of Labour and Human Resource Development, Kenya

Mr. Johnstone M. Kavuludi, Labour Commissioner

Mr. Abisai O. Ambenge, Senior Deputy Labour Commissioner

Ms. Alice O. Tabu, Deputy Labour Commissioner

Mr. Joseph A. Yidah, Assistant Labour Commissioner/SLAREA Focal Point

Mr. Geoffrey A. Omondi, Assistant Labour Commissioner, Training

Ms. E.F. Onuko, Assistant Labour Commissioner/Chief Industrial Relations Officer

Industrial Court of Kenya

Hon. Justice Saeed R. Cockar, Judge, Industrial Court of Kenya and Chairman, Task Force on Review of Labour Laws

Central Organisation of Trade Unions (Kenya)

Mr. Francis Atwoli, Secretary General, COTU(K)

Mr. Rajab Mwondi, First Vice-Chairman

Mr. Noah C. Chune, Director of Education

Federation of Kenya Employers

Mr. Tom D. Owour, Executive Director, FKE

Mr. Gershon N. Konditi, Deputy Executive Director

Mr. Jason N. Namasake, Principal Executive Officer

Ms. Maureen Onyango, Executive Officer, Industrial Relations and Legal Affairs

International Labour Organization

Mr. Ali Ibrahim, Director, ILO Office, Dar es Salaam

International Labour Organization (ILO/SLAREA)

Prof. Vremudia P. Diejomoah, Chief Technical Adviser, ILO/SLAREA, Dar es Salaam

Mr. Isaiah B. Kirigua, National Project Coordinator, ILO/SLAREA, Kenya

Mr. Josephat M. Mutugi, Chairman, ILO/SLAREA Project Advisory Committee

United Nations Development Programme

Dr. Tirirai I. Chivore, Deputy Resident Representative, Programmes, UNDP, Nairobi

Mr. Francisco M. Rispoli, Programme Officer, Expanded Opportunities Unit, UNDP, Nairobi

***International Confederation of Free Trade Unions –
Africa Regional Organisation (ICFTU-AFRO)***

Mr. Andrew Kailembo, Secretary-General, ICFTU-AFRO, Nairobi.

Mr. Kelly Zidana, ICFTU-AFRO representative, Nairobi.