

2011



International Labour Organization

**Law-Growth Nexus II
Dissemination and Planning
Sub-Regional Workshop
Report**

November 29- December 1, 2011

Mombasa, Kenya

LGN
Law Growth
Nexus Project



I prefer a more protective job but....



I prefer some decency in my job but....





The International Labour Organization's Law Growth Nexus II Project is an initiative to contribute towards a more conducive policy environment for SME development in Kenya and Zambia, primarily through the facilitation of labour law reform. In addition to regulatory reform, the project seeks to stimulate specific sector reform to promote a decent work agenda in the SME sector. The initiative builds on the achievements of the first phase of the Labour Law- SME nexus growth project that ended in April 2010 and its design has been informed by the recommendations of the first phase end-of project evaluation carried out in August-October 2010.

The following is a report produced out of the Law Growth Nexus' Sub Regional Workshop held in Mombasa, Kenya in November-December 2011.

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ABBREVIATIONS

BDS	Business Development Services
COTU	Central Organization of Trade Unions
CSR	Corporate Social Responsibility
CTA	Chief Technical Advisor
DISS	Directorate of Industrial Services
EAC	East African Community
FKE	Federation of Kenya Employers
FNDP	Fifth National Development Plan
GDP	Gross Domestic Product
ILO	International Labor Organization
ILS	International Labour Standards
KEPSA	Kenya Private Sector Alliance
KRA	Kenya Revenue Authority
LF	Logical Framework
LGN	Law Growth Nexus
MADCOWA	Matatu Drivers and Conductors Welfare Association
MDG	Millennium Development Goals
MESPT	Micro Enterprises Support Programme Trust
M & E	Monitoring and Evaluation
MOL	Ministry of Labour
MOT	Ministry of Transport
MoU	Memorandum of Understanding
MSEs	Micro and Small Enterprises
MWA	Matatu Welfare Association
NCC	National Council of Construction
NHIF	National Health Insurance Fund
NORAD	Norwegian Agency for Development Cooperation
NRFA	National Road Fund Agency
NSSF	National Social Security Fund
NPC	National Project Officer
PAC	Project Advisory Committee
RB	Results Based
SACCO	Savings and Credit Cooperative Society
SEED	Small Enterprise Development Team
SME	Small and Medium Enterprises
TAC	Technical Advisory Committees
ToR	Terms of Reference
UN	United Nations
MLSS	Ministry of Labour and Social Security
ZFE	Zambia Federation of Employers

OPENING REMARKS

By: Martin Clemensson, Sub-Regional Director ILO, Lusaka

Martin acknowledged the presence of Ministries' representatives from the Kenyan and Zambian governments, Employers, Workers and Civil Society representatives, and other stakeholders in the forum.

The LGN Project is one of the most important ILO projects whose objectives' achievement would mean significant difference in the participating countries economies, and concurrently modeling labour legislation influence worldwide.

While ILO is promoting creation of quality jobs, the reality in Africa is that there isn't decent work yet. For instance, 90% of Zambian labour force is in informal employment, without contracts and often poor working conditions. That labour legislation applies to registered businesses where large and small businesses share similar provisions for regulations, is a sure incentive for the continued informality of the MSEs. A research completed by Simon White and Gerhard Reinecke revealed that "The Growth Trap" has been adopted by a number of entrepreneurs to retain MSEs in low scale operation. These findings prompted the ILO's decision for a research on Issues in 2006. A research on best practices was conducted in Africa to inform action. The survey studied 12 countries establishing lessons that could be learned and shared. "Law-Growth Nexus Guide" is the outcome of this exercise.

With a new government, Zambia is privileged to implement the findings of this guide. The President and Labour Minister are change and growth minded which forms a good administration platform for implementation of labour laws. The new government is committed to job creation, improvement of work quality and respect for labour laws. They have approached ILO to assist with a review of the entire labour code in Zambia. ILO's Director General has already responded positively and the process has been initiated.

This Law-Growth Nexus Dissemination and Planning workshop seeks to review the lessons learnt from phase one and the messages of the Law-Growth Nexus Guide. By the end of the forum, it would be vital to be ready to engage and influence players at both the policy and implementation levels.

INTRODUCTION

Grace Sebageni, CTA, Law-Growth Nexus II, Nairobi

Having set the ground rules, the forum reviewed the framework of the LGN Project.

Developed legal systems have in some instances been presented as one of the main reasons for the development gap between industrialized and non-industrialized countries. An efficiently accessible legal institution for all citizens is understood to be a key fundamental requirement for real and sustainable development.

Law and Development: Over the past two decades, there has been a surge of interest, in academia and development circles on how law could be used to stimulate development. This period has also seen an increased publication of books and academic articles on law and development by prominent scholars. International organizations, governments and policy makers have also shown increasing interest in this important area. ILO through the LGN II Project is currently developing a bibliography on this crucial focus to support the growing interest and enquiry.

The fundamental questions guiding this development are based on the effect of law and its compliance on socioeconomic outcomes in developing societies; place of law, given existence of social control; political, economic and cultural obstacles to legal reforms; reforms conducive to development and implementation actors, assuming legal reform feasibility; cost of legal reforms and compliance. To address these concerns, ILO's initiated the LGN Project.

Law Growth Nexus Project: The first phase of the LGN project, (LGN I) explored the effect of labour and related laws on MSMEs in Africa. LGN II seeks to contribute to a more enabling policy environment for SME development in Kenya and Zambia. Institutions matter for growth and the rule of law plays a key role in economic development. For instance, legal institutions and laws have a direct bearing on the formation and growth of enterprises. The legal structure and the related body form a bridge or nexus between unregulated, poor quality and ultimately unsustainable development and regulated, higher quality, rights based and sustainable development.

The challenge of striking a balance by minimizing regulatory burden costs on the SMEs without compromising the laws and regulations of SMEs operations requires address. This is important because the informal economy forms the bulk component of employment sources in Africa.

As highlighted in the opening remarks, the Law-Growth Nexus Workshop sought to share the findings and lessons learnt in the LGN I study in the 12 countries. The forum also reviewed the project guide vis-à-vis labour laws and MSEs in South Asia as well as plan for influencing selected SME sectors. Matatu and Construction industries were identified in Kenya and Zambia respectively for the implementation of LGN II. The workshop also sought to gather held views, from participants and all ILO stakeholders, regarding the future direction of the project in respective countries.

PARTICIPANTS EXPECTATIONS

By: Simon White, Southern African IDEAS

Participants expected to:

- Gain an understanding of the LGN Project implementation
- Be informed on the findings of the LGN I project and implementation
- Understand the use of Labour Laws as a driver of growth in the informal sector
- Understand how Labour Laws could be used to create and enhance the quality of jobs
- Understand the possibility of sector specific inclusion in Labour Laws for the Matatu and Construction workers
- Understand the use of Labour Law in enhancing employability in the selected sectors as well as in SMEs in general
- Be informed on the outcomes of the LGN I project and how to use them to teach workers
- Understand how to promote Labour Law compliance for the selected sector SMEs
- Gain knowledge for altering, enhancing or improving the Labour Laws to enhance growth in the construction industry
- Know the messages for key policy makers and actors for further sharing
- Learn from other countries SMEs regulations
- Learn how to change perceptions by some SME employers that Labour Law compliance is a growth obstacle
- Learn how Labour Laws could be used to improve employer/employee relations
- Distinguish between the MSEs and SMEs
- Discuss the creation of incentives for compliance

Plenary: Features/Dimensions of an Enterprise

Participants identified the following dimensions of an enterprise:

- Enterprises are differentiated on the basis of number of employees in which, for Kenya, Micro-enterprises employ 1-10, Small: 11-49; Medium: 50-99. For Zambia, Micro-enterprises employ 1-10 employees; Small: 11-50 employees; Medium: 51-100. In both cases, legal requirements differ.
- Capital Investment Levels
- Formality
- Annual turnover
- Ownership: Most of the countries have more women in the micro and informal enterprises than men.
- Motivation: joblessness for instance may lead to creation of “micro jobs” for addressing basic needs.
- The location: Rural or urban areas
- Contract Value is a major differentiator of SMEs in the Construction industry

Forum participants had an opportunity to share experiences on Labour Laws' improvement messages in relevant sectors, with a key starting point being change of perceptions on the existence of "good laws" and the "implementation of the said laws".

MSE EMPLOYMENT, JOB CREATION AND LABOUR LAW: CHALLENGES AND LESSONS

By: Simon White

Opinions and Plenary Discussions

The meeting addressed key fundamental opinions regarding employment in developing countries. An opinion regarding employment being the most important issue affecting the developing countries was supported by 31% of the workshop participants, 28% had a balanced opinion while 41% viewed other elements such as resources and unemployment as the key challenges.

The opinion regarding the need to deal with creating jobs first, followed by quality, was supported by 35% of the forum participants. 44% differed with this view citing the need for model development and structure creation among other grounds, while 21% were balanced over the opinion.

Lastly, a majority of the participants disagreed with the view that the private sector creates jobs and thus the government should get out of the way. Fewer participants agreed with the view, citing the fact that some jobs like national security and enabling infrastructural jobs must be done by the government.

Labour Laws and MSE Employment

Having explored the heart of ILO's concerns in MSE's, the following key dilemmas were identified as regarding job creation and quality as well as government role and involvement:

Dilemma

Job Creation	Job Quality
Developing countries suffer from high levels of unemployment, thus, job creation is an immediate priority	All workers should enjoy the benefits provided by law; it is wrong to have two parallel employment systems
Focus on creating new jobs first, then deal with improving the quality of these jobs	All workers deserve quality work.

Another Dilemma

Government Stifles Growth	Government Could Spur growth
Private businesses in developing economies face many constraints to growth and governments add to the burden of business and suppress their capacity for growth	Development must be guided and managed by government, otherwise businesses will ride roughshod over citizens rights and values

A Worse Dilemma

Governments are Irrelevant	Governments are Disconnected
Government policies are wish-lists, laws and regulations are not enforced	Governments have a role to play, but they are disconnected from the business community (and private sector workers) because for instance they rarely take time to listen to the entrepreneurs' experiences
Government lacks the capacity to intervene and spur development	Governments are made up of bureaucrats! These are the wrong people to be guiding our country's development.

Plenary

Participants noted that:

- The government has a role to educate on, enforce and regulate Labour Laws
- Funding for the ministries of labour has been a challenge, which makes Labour Law implementation difficult
- Governments do not lack the willingness to intervene but have inadequate capacity. Also, they sometimes lack the goodwill from other stakeholders to implement successfully
- Regarding the disconnection, the relationship between the government and the private sector has greatly improved over the last few years in both countries. For instance, the development of the SME policy by the government of Zambia in 2009. The magnitude of this situation differs from country to country. Equally, the governments have been showing recognition of the role and influence of the private sector gradually. For instance, the realization of the vision 2030 in Kenya in which the private sector is a key player.

SME Employment

SMEs are the source of a high volume of job creation in developing countries. However, there are concerns that: growth in SME employment does not always correlate with economic growth; there are high levels of churn; poor quality of employment due to low levels of investment into skills' development and deplorable working conditions; and the high levels of informality. This has been the heart of the ILO's concerns because a majority of workers in the world work in developing economies. With most employment growth occurring in micro, very small or medium enterprises, the working conditions are often poor, and a majority of these enterprises remain

informal and unproductive. The continued increase of this deplorable state due to either neglect or existence of regulations that make it difficult for SMEs to comply or that are biased against SMEs has raised demand for more specific policies to improve the quality of employment.

A seven country study (Chile, Guinea, Pakistan, Peru, South Africa, Tanzania, and Vietnam) revealed an increasing level of informality due to among other things the unfavorable Labour Laws and the need for compliance as a means for development.

The “growth trap” mentioned earlier is an incentive that fosters businesses to remain close to the exemption threshold size to either stop hiring workers or to hire informally as a way of checking their costs. This has a negative implication on job quality and working conditions.

As noted earlier, the discussions of the ILO’s Governing Body’s Committee on Employment and Social Policy (November 2006) lead to the conception of the Law-Growth Nexus Project.

Challenges and Emerging Findings in Law-Growth Nexus

By: Ingrid Landau, Monash University-Melbourne

The forum learnt that the “*Guide to labour law and Micro and small enterprise development in Africa*” is based on review of literature on MSEs and a field survey of 12 countries completed in Phase 1 of the LGN project that closed in 2010.

The major challenges for policy makers were identified as: informality of most MSEs and the relatively high costs of compliance with labour laws; Existence of gaps between the formal scope and coverage of labour laws to MSEs; where labour laws formally apply to MSEs, their application is often limited in practice due to limited enforcement capacities, lack of legal literacy and weak legal frameworks/institutions.

Guidance from earlier work

The application of labour laws to SMEs is important for the promotion of decent work, enterprise growth and sustainable economic development. There is no persuasive evidence to suggest that labour laws promote informality. However, there is evidence to suggest that poorly designed or overly complex regulations could impede growth and formalization. Labour Laws are perceived by SME owners as a significant cost, but other regulatory constraints are widely perceived as more significant like access to finance. Many SMEs adopt a strategic approach to compliance with laws and regulations.

The ILO standards provide important guidance with respect to the application of Labour Laws to SMEs, thus, there is a need to move from the debates over whether or not to, but indeed to effectively regulate them. With this direction, the task is to design and implement labour laws in a manner that: recognizes the importance of SMEs in employment creation and economic growth; provides workers with decent work; motivates SMEs to formalize; recognizes and takes into account the extent to which SMEs require special regulatory measures in light of their capacity to meet the costs of compliance.

Research Findings

These were:

- Labour Law is an important but often overlooked element of an enabling environment for SMEs;
- There is significant scope to improve the representation of SME owner-managers and workers in the design, implementation and review of labour laws and policies;
- Policymakers should consider the extent to which labour laws formally apply to SMEs and whether any existing exclusions are appropriate;
- There is considerable scope to reduce compliance costs for SMEs by simplifying labour laws and procedures;
- Labour Law could and should be tailored to the needs of SMEs where appropriate and in consultation with the social partners;
- Penalties for non-compliance may be tailored to SMEs but must retain deterrence value; strengthen labour inspection capacities and introduce measures targeted at SMEs.
- Finally, it is important to consider using a range of regulatory techniques, targeted at SMEs in form and content for instance information and education campaigns and incentives for compliance.

The key challenges as found by the research are: Informality, costs of compliance, scope and coverage of labour laws, limited practicability of the laws formally by SMEs for instance because of the high ratio of legal expertise availability to the population.

Plenary

Plenary deliberations concurred that:

- The investor and labour provider component means differing expectations and needs. This raises a concern on the best approach that avoids infringement on the rights spelt out in the labour of a country. To guard against such infringement, the Southern Africa approach has for instance ensured identifying standards and setting out the most applicable for small businesses with a key attention to their fundamental rights
- The lack of knowledge/awareness on the fundamental rights has contributed to the difficulty in the SMEs Labour Law enforcement and compliance.
- Use of regulatory techniques like procurement opportunities could promote compliance.

A Review of Critical Questions

By: Simon White

The forum reviewed several critical questions and concurred that the dangers of parallel legal systems need to be balanced against systems that recognize the capacities and conditions of micro and small enterprises and SME employment. Equally, a need to focus on improving the threshold of Labour Law compliance would contribute to appreciation of developed human skills (thresholds vs. graduation). The idea is to encourage employers investing in their workers by recognizing that employees are a valuable asset.

It is also critical to recognize that regulations alone are not sufficient to achieve quality jobs. Thus, good regulations for SMEs and for SME employment that have enforcement mechanisms, maximize transparency, and promote formalization while reducing the risk levels for all parties in and of themselves may not achieve decent work. Another critical question regards the position of Labour Laws within the broader business environment and the investment climate. It's noteworthy that Labour Law is but one of the many legal elements that affect businesses. Thus, good Labour Laws are a prerogative but not sufficient in isolation.

Another critical question relates to how ILO could contribute to a more informed debate on the foregoing; and if an effective diagnostic on Labour Laws and SMEs could be developed and used as a basis for Social Dialogue. The engagement of SMEs in dialogue is an improvement but not yet as good as it could be. Increasing the participation of SMEs in social dialogue is critical to achieving quality work and sustainable economic development.

Plenary

The participants deliberated and agreed that:

- Bringing to dialogue the SMEs had been government's intentions but the process was gradual.
- SME sector employs a majority of the nation's labour force and the approaches of bringing them to dialogue should be as effective as possible

Do Labour Laws Impact on the Growth of MSEs in South Asia? Emerging Findings

By: Simon White

Labour Laws, the Business Environment and the Growth of MSEs in South Asia

Contributing to policy and legal reforms was found to enhance the growth of MSEs in South Asia. Through dialogue with ILO constituents and other stakeholders, a project was initiated to identify gaps where the policy and legal framework, particularly the policies and laws that regulate labour in SMEs, could be improved or simplified in order to increase enterprise performance and job quality in the region.

For a better understanding of the factors that aid or inhibit the growth, quality of jobs and the employment creation of SMEs, a 4-country study was conducted. The study focus entailed Bangladesh, India (Orissa and Tamil Nadu states), Nepal and Sri Lanka.

The project sought to assess the level of significance in the application of thresholds in South Asia. Most relevant in Asia is the role of informality and non-compliance. The project focused on minimizing the cost of regulatory burden on MSEs. Most MSEs are subsistence enterprises that lack the ambition to grow which fosters indecent work all the more. Thus, the need to focus on the growth-oriented MSEs. These are generally slightly larger and better able to comply with regulations. However, this should not prevent subsistence MSEs or the enterprises found in-between the two from taking advantage of a more enabling business environment. Promotion of a more enabling business environment will benefit all enterprises that start to grow and move from the informal to the formal economy

Four research questions guided the South Asia study:

1. What influence do national and state labour laws have on the growth of MSEs?
2. What elements of the business environment, other than national and state labour laws, hinder the growth of enterprises?
3. Are there additional non-regulatory barriers to the growth of MSEs?
4. What is the degree of each factor contributing to the perceived growth trap if there are multiple factors?

Emerging Findings from the South Asia study

The research revealed that: thresholds are not as important as they initially seem to be; Administration hurdles and compliance are greater; there was also a lack of awareness on what the labour law is and why (and how) to comply; there was a general comfort in informality as for instance there were no taxes, with many small enterprises being comfortable staying below the radar.

Putting Theory Into Practice: Realistically, regulatory reform is a political process that requires time, thus, improving the quality of SME employment requires more than technical advice. This implies that while the knowledge may be at hand, the process may involve technical advice and support.

Drivers and triggers for change: Drivers of change are very consistent, say like strong business voice, globalization-where more and more people get access to the international market, hence placing on them global competitiveness responsibility. These triggers include war/peace, emergencies, and government transition like in the recent case of Zambia and a shift to creation of more and quality jobs.

Drawing lessons from the South Asia study, an assessment of how LGNII could contribute to creating demand for change found that there was a need to respond to emerging opportunities. To achieve this objective, LGN II would need to work with the Government, other Sector representatives and Social Partners where social partners' emphasis would be the involvement of SMEs.

Plenary

The plenary discussions conceded that:

- Incentives, simplification of the procedures, information and education campaigns to eliminate fear of stringent laws are key for the practicability of the labour laws in the SMEs.
- There was no proof of operation-ability of parallel regimes...
- Discretionary room provided a leeway for corruption which is opposed to the enforcement of labour laws.
- Minimum wage cuts across the board that is, both for large organizations and SMEs as regulated by the law of the land
- Complexities involved in the business formalization processes may be addressed through cleaning up the process requirements. Thus the reduction of informality.
- Capacity building of entrepreneurs also would foster formalization of SMEs
- SMEs Compliance issues emanating from cost demands, may be eased by setting minimum wages that are industry specific

Concretely, the plenary agreed that there was need to look at a selective incremental compliance model of Labour Law implementation and enforcement in order to achieve effectiveness.

What We Can Learn from the Law-Growth Nexus Project Phase 1 (LGN1)

By: Luzelle Yon Lestrade, Program Officer ILO Pretoria

With the foregoing discussions, the project mapping covered: Burkina Faso, Cameroon, Ghana, Kenya, Liberia, Mali, Mozambique, Rwanda, Senegal, South Africa, Tanzania and Zambia.

A review of lessons learnt from LGN Phase one revealed that a high ambitious plan with a low budget had negative implications on implementation and ultimately intended impact; a Logical framework should define SMART objectives, outcomes and output; Regulatory reforms take time, thus, objectives should be Realistic and Time well defined. Also, the knowledge and information sharing especially stakeholder consultations should be prioritized for buy in. Lastly, baselines, targets and a clear M & E framework are critical for success.

Another important decision based on the findings of LGN Phase one is the definition of scope. Given the complexity of issues involved in Labour Law and SME development, a choice on priority issues to be addressed is critical. Then, synergies should be directed to providing for better and more detailed treatment of those issues.

Implications for LGN Phase II

As has been reiterated throughout the workshop, LGN II is more focused on: influencing the reform of guidelines and regulations in addition to continuing efforts to influence policy and legislative review; priority sectors where demand for regulatory reform is relatively strong, and SME market segments where willingness to move towards compliance is relatively high.

Other implications included the consolidation of LGN I research findings, dissemination, and training products shared; Establishment of M & E system at the project onset; awareness activities targeted at SMEs and provision of incentives for compliance and; the link between gender, compliance and SME development is more explicitly explored.

Plenary

The meeting noted that:

- There had been a shift from MSEs to SMEs with a key focus on small businesses that were growth oriented with; high potential to create the most jobs. It should however be understood that growth oriented micro businesses would still be caught in the SME net
- Social Dialogue was an ingredient for the successful implementation of Labour Laws in the SME sector
- Grassroots representation in the LGN Project was paramount to the achievement of set objects of the project

FINDINGS OF THE LGN PROJECT I EVALUATION

These findings were presented in the light of: LGNI project design and strategy, project logframe, lessons in project design and those in project management.

The LGNI **design and strategy** was based on action research where a mapping of 12 countries was conducted and detailed country assessments of 6 countries done. This made room for social dialogue that helped to ensure clarity of issues at the grassroots levels while utilizing the research and assessment findings. From the six, policy and legal reforms were proposed for two countries (Kenya and Zambia).

The project had **logframe** flowed as follows:

- **Output 1:** Where the labour code and related laws and their coverage and application to MSEs in twelve countries was mapped.
- **Output 2:** Six country case studies elaborated the present interesting examples or innovative approaches to the application of labour and labour related laws in MSEs
- **Output 3:** Support to the implementation of agreed labour law/administrative reforms in one country, for which, achievement was dependent on the use of other outputs beyond the control of the project and feasibility, given a two-year timeframe
- **Output 4:** Improved social dialogue centered on labour and labour related laws and MSE whose sustained achievement was dependent on the use of other outputs beyond the control of the project

The project evaluation **lessons in project design** entailed:

The project had suffered from the combined effects of high ambition and low budget as the assessment of budget and set timeframes showed gaps; Care should be given to designing a logframe for a project of this type, that is, a short-term action-research project; Supporting policy, legal or regulatory reform, including the reform of administration and enforcement institutions, takes time; When designing cross-country comparative research studies, care should be taken to ensure these studies apply a common analytical framework that allows the results of national research findings to be compared with other countries; Greater attention should be given to designing platforms, that is, events, publications or web-based mechanisms to distil key research findings and discuss these to contribute to the broader body of knowledge in the field; When designing a project that engages the social partners or any other project partner, special attention should be given to identifying current related activities occurring at the country level and consulting with these partners on other factors affecting change/reforms; When similar projects are implemented in other regions, clear elements of reference should be established to allow for useful comparison, lesson learning and common and different issues.

Given the complexity and numerous issues involved in labour and labour-related laws and SME development, consideration should be given to whether to focus only on a limited set of issues so as to provide for a better and more detailed treatment of issues; Clearly understand the shift of parameters, for instance, in Kenya, a small number of entrepreneurs in the transport industry hires more than 10 employees (10%).

The LGNI evaluation **lessons in project management** entailed: Preparing a project inception report; identifying any requirements for baseline information and describing the monitoring and evaluation system. While this type of project combines action (through social dialogue, capacity building, and technical assistance) with research, it can be easy to lose the balance of these. Project management requires a careful monitoring of these components in order to ensure this balance. Careful supervision of consultants and the products they produce; this applies to the quality and relevance of the research methodologies employed as well as to the quality of the writing and the structure of the reports produced, and the analysis of the research findings; also, it is important to pay close attention to the distilling of research findings and the outcomes of dialogue processes. Coordination with implementation of similar projects in other regions should be defined with clear targets, coordination mechanisms and activities, and timing to ensure that synergies are developed.

Lastly, clear methods of **monitoring** are required, along with deadlines for mid-term evaluations that allow for adjustments during project implementation. While projects change targets along the process, flexibility should be encouraged but with care not to change the Project overall goal.

These findings prepared Country groups for presentation of relevant country priority Labour Law related projects, Lessons learnt from the LGN I project and how the country groups intended to engage SMEs stakeholders effectively in the Labour Law compliance process.

Country Groups Presentations

Kenyan Team: By Carol Kungu

Lessons from the LGNI findings included: Emphasis on consultation and inclusiveness at formation stage; M & E log-frame should be well articulated in the design; very critical to have practical outputs; Kenya has a roadmap (MSE Bill) and concentration on growth-oriented enterprises.

Regarding effective stakeholder engagement there would be:

- Mapping stakeholders by carrying out stakeholder analysis of key and strategic stakeholders
- Formation of a country project advisory committee (PAC), TOR for advisory committee must be practical
- A look at the contribution of each specific stakeholder for instance MESPT and lending institutions that are friendly to SMEs.
- Development of a joint approach to seeking compliance, must be stakeholder driven, for instance tagging compliance levels using colors where: Red meant Non compliance; Yellow meant Partial compliance and Green meant Full compliance.
- Categorizing stakeholders such as: artisans, traders, service providers
- Frequent review meetings with feedback mechanism that are short, medium and long term.
- Constant effective consultation

Finally, the team categorized Transport as its priority sector, specifically the Matatu industry, which had been selected during the 1st Consultative meeting of ILO/LGN II Constituents. The team reviewed the objectives, sectors chosen and concurred with the choice of Matatu industry.

The team also proposed for the inclusion of the Kenya Revenue Authority (KRA) in the advisory committee and that of Matatu Drivers and Conductors Welfare Association (MADCOWA) in the technical committee. This committee would be formed in December, 2011.

Zambian Team: By Blessed Mulenga

Lessons from the findings of LGN I that would benefit the Zambian project were centered on the need to redefine SMEs and MSEs as well as clarify the laws applicable to rural and urban enterprises. Another lesson was the importance of a baseline survey in order to define SMEs into sectors for easy Labour Law compliance monitoring. For the project to be part of the current labour reforms in Zambia it was important to ensure representation in the consultation process; there had been poor involvement of the social partners in the past; and the lack of transparency and corruption in the country rendered autonomous bodies relevant that were ideally not necessary. It was crucial to set moderate, achievable and objective goals. The project goal is achievable. However, there was need to decide whether to have more than one sector participate. Public awareness, compliance and accessibility required comprehensive understanding of the laws that could be achieved through good packaging. Lastly the Labour Law compliance interventions should be geared towards reduction of complexity alongside good incentives.

Regarding stakeholder engagement, the team projected that this would entail: Communication campaign strategy for sensitization through among other interventions, the use of association platforms and professional institutions; inclusion of key stakeholders like the Council; Multi-level stakeholder engagement at every level of relevance including beneficiary stakeholders, regulatory, implementing, and customers; Unbundling of the relevant information to be directed at specific social partners who would take up respective responsibilities; definition of specific stakeholder roles; engagement of a Media Consultant; consultation with unions for gathering feedback.

Following deliberations over the definition of MSMEs in regard to the LGN project and formalization standards adoption of the construction industry was proposed. There was a feeling, however, that the MSME policy development consultation process did not include all key stakeholders. Thus, considering the current labour reforms the LGN II would best be advised to include the broader SME sector, if not at all levels, at least at some levels of project implementation.

Plenary deliberations following the presentation guided the concentration on one sector (construction) and have the other sectors benefit through the ripple effect of shared compliance messages. This overall SME sector engagement could also be restricted to the LGN II project's engagement at the Meta and Macro Level. This will enable the project to keep a key focus on the selected construction sub-sector at the Micro/Meso levels.

ISSUES AND CHALLENGES FOR THE LAW-GROWTH NEXUS II PROJECT

Law-Growth Nexus II Project Overview

By: Grace T. Sebageni

Background

This project that is funded by NORAD has been projected to run from April 2011-May 2013. The final project evaluation is projected to take place around May-June 2013. Operating in two countries, Kenya and Zambia, the project has a policy level intervention and engagement focus, targeting the governments, constituents and the selected SME sectors. As a baseline, the project recognizes the existence of a compliance deficit of labour laws in the sub-sectors selected in the two countries.

Project Development goals

The key LGN II development goals entail a more enabling environment for SME development in Kenya and Zambia; creation of *more* and better jobs in the SME sector of the two countries and contributing to a more enabling environment for SME growth.

Immediate Project objectives

LGN II's immediate objectives include: nurturing the respect for the rule of labour law among SMEs in the priority sectors; strengthening the capacity of ILO constituents to engage in social dialogue on the nexus between labour law compliance and selected SMEs' growth; Facilitating sector-specific regulatory reforms; Improving perception of labour laws among SME; Achieving the growth of business in SMEs priority sectors as a result compliance with stipulated labour laws and strengthening the capacity of SMEs to comply with set labour laws.

Project outcomes

Interaction with stakeholders shall be achieved through four levels:

Meta level involving the norms, values and perceptions held by stakeholders across the system towards the rule of law of labour;

Macro level involving the goals to facilitate a more conducive sector-specific regulatory environment for SME growth;

Meso level involving the goal to strengthen business development services institutions to in turn strengthen the SME capacity;

Micro level tackling the goal to link compliant SMEs with new business opportunities in order to foster more compliance.

Other deliverables for LGN II

These shall include: tying up of the loose ends of LGN I through the dissemination of phase I research findings and lessons learnt; as well as working on the ‘low-hanging fruit’ by influencing subsidiary legislation (i.e the reform of guidelines, regulations and instructions); establishing a monitoring and evaluation (M & E) framework at the beginning of the project; raising awareness of activities to targeted SMEs and provision of incentives for compliance.

The **Priority** Sectors were selected based on the following criteria: High level of SME concentration and potential of more job creation; decent work deficit and SME growth potential. Kenya’s focus is the Matatu industry while the Construction sector has been chosen for Zambia.

Beneficiaries: The ultimate beneficiaries of the project are the owner-managers of growth-oriented SMEs and their workers. Likewise, growth-oriented SMEs are of particular interest since they are thought to be most likely to move towards full compliance on condition of strong business case. These are found to significantly hold greater job creation potential per enterprise than the survivalist SMEs. Intermediary organizations shall serve as avenues of reaching the ultimate beneficiaries.

Plenary Discussions

Participants noted that:

- Compliance with labour laws in Zambia is being enhanced through awards to companies that work to foster the growth SMEs especially through: environmental initiatives, CSR and other growth avenues.
- The LGN II Project’s focus on more and better jobs in the SME sector requires a well thought strategy for the achievement of the projected outcomes.

Linkages with other ILO projects: LGN II will place key emphasis on unlocking synergies and scale effects between the projects and selected other ILO enterprise development projects

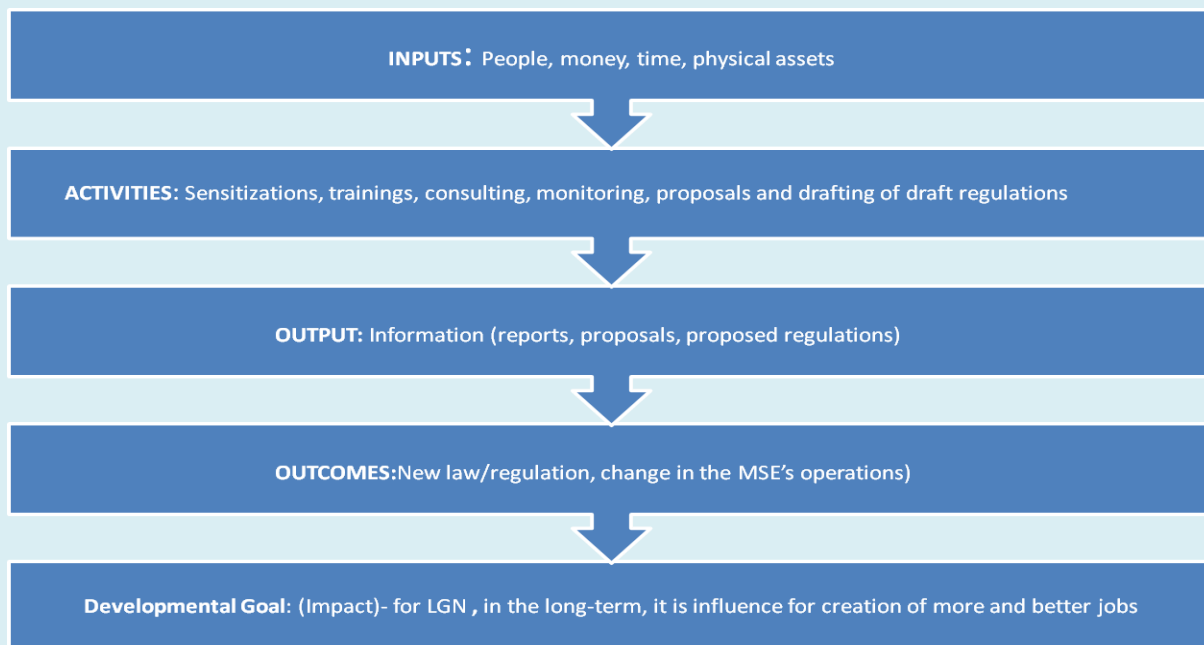
LOGICAL FRAMEWORK

By: Simon White

Overview

A logframe defines the project workflow from input to intended impact.

It was noted that the emphasis should mostly placed on the change achieved as opposed to, for instance the numbers engaged. A standard logframe flows as follows:



Logframe components

Noteworthy, **immediate** beneficiaries use outcomes and outputs, while the **ultimate** beneficiaries feed from impact and the development objectives achieved. Given the understanding of the objectives of a Log Frame, the forum agreed to focus substantial energy on activities that will eventually lead to sustainable impact.

Plenary Debate

For Example:

- The achievement of an enabling environment for SMEs translates to creation of more jobs, for instance, the Kenyan formalization of the Matatu industry through SACCO formation has seen better management and organization of the sector in general. In addition to this, an enabling environment to operate matatus as well as well targeted policies could trigger investment and related development, thus creating more jobs.

LGN II Project Challenges and Focus: Kenyan Context

By: Eunice Mathenge

Project Implementation Overview

LGN II Project in Kenya shall focus on three major cities (Kisumu, Mombasa and Nairobi) whose selection was based on the level of Matatu industry involvement.

The **Project activities** shall entail: Media based advocacy campaigns through Brochures (with plans to print Swahili format), and using the popular version of labour laws; use of best practice case studies; trainings, dissemination of compiled information; capacity building support to establish and operate structures; Tripartite consensus on priority areas for reform; Draft regulations for review and deliberation by constituents and other sector stakeholders; final regulations endorsed by tripartite stakeholders and approved and disseminated by Government (at least one); SME in priority sector have access to Business Development Support to boost capacity to comply; and incentivization of compliant SMEs with access to growth finance/access to business contracts

The **Labour Laws of Kenya include**: Employment Act, 2007; Labour Relations Act, 2007; Labour Institutions Act, 2007; Occupational Safety and Health Act, 2007; Work Injury Benefits Act, 2007 and the Bill of Rights as spelt out in the Kenyan Constitution. These labour laws were enacted to domesticate ILO conventions and international instruments ratified by the EAC states.

Some MSMEs in Kenya: **Facts and Figures**: the Matatu sector contribution to GDP is substantial and continues to grow. The sector grew by 6.1% in 2007 compared to 6.3% in 2006. According to the Economic Survey, 2005, the sector employed 7.8 Million people in 2004.

In Kenya, MSMEs operate in 4 main sectors of the economy: Manufacturing, Trade, Services and Agri-based businesses.

The Matatu industry fits very well in the selection criteria set as discussed earlier.

Key **Project Challenges** entail: Poor dissemination of information by enforcement authorities especially due to budget constraints; Weak law enforcement; Overall lack of knowledge & understanding of labour laws by the sector; Lack of updated data on SMEs; lack of incentives for compliance; Lack of interest from the sector in SMEs; High degree of self regulated employment; Informality and tendency to avoid costs of compliance; Regulatory reforms taking too long to be enacted.

Key **project prospects** for influencing change are pegged on: the representation of the sector in the National Labour Board; the power vested in the labour ministry consultation with National Labour Board to make guidelines and recommendations for a specific sector; Creation of a Wages council for the sector; Empowerment of existing umbrella associations/SACCOs for advocacy; Relevant SMEs joining employer and worker organizations; Representation in other tripartite labour regulation bodies; Encouraging social dialogue between SMEs and Social

Partners, Employer and Employee organizations and Enactment of Draft MSE Bill (which has provisions for promotion of Decent Work and labour standards).

The Institution of SACCOs and companies' makes administration for the industry easier thus availing a reliable platform for flow-through from the LGN II project.

Plenary

The forum discussions established that:

- Over two million passengers are transported daily by Matatus in Nairobi
- A baseline survey shall be conducted in the early stages of the project implementation
- Selection of Kisumu, Nairobi and Mombasa was based on the level of population and connection centers for other country parts
- Enhancing compliance may be achieved in the Matatu industry through the use of the SACCOs that have been created in the sector

LGN II Project Challenges: Zambia Context

By: Namucana Musiwa, NPC, ILO-Zambia

Overview of Zambian Construction Industry

By: Prudence Mushota Tembo, Training Engineer- National Council for Construction (NCC)

The Zambian construction industry is categorized into Consultancy and Contracting. Additionally, at a lower level; Building, Civil Engineering and Materials manufacturing are the other categories of this industry. The legally stipulated main players are: Architects, Engineers, Surveyors, Contractors and Government Road Development Agency. Key statistics show that construction is the fastest growing industry over the last 10 years with an average annual growth rate of 17.5%. Annual Growth rate in 2004 was 20.5% and in 2005 it was 19.9%, but dropped to 9.9% in 2008.

The priority areas in infrastructure investment in Zambia according to the Fifth National Development Plan-FNDP and Vision 2030 are: Roads, stipulated in the Road Sector Investment Plan (Road SIP) with a total investment of US\$ 1.6bn over a ten year period (2004- 2013); Energy: Rehabilitation and upgrading of existing Hydro power stations and building new ones, construction of new Thermal power station in Maamba-Southern Province, Rural electrification; Sports Infrastructure-Rehabilitating the Independence Stadium and building a new stadia in Ndola; and Health: New cancer Research Centre in Lusaka, Lusaka and District hospitals, rural

and per-urban clinics, Nursing schools as well as upgrading Lusaka and Livingstone International airports:

Constraints faced by most Zambian construction companies: Limited access to capital; delayed payments; attitude of local commercial Banks and high interest rates; use of credit/start up; capital; High costs of capital; Currency fluctuations; Absence of contracts for workers; Non-adherence to labour law; Non-compliance to safety issues; Gender imbalance and low literacy levels and skills.

LGN II Project Challenges (Namucana Musiwa)

Key Project Challenges entail: Funding insufficiency to carry out enough activities to guarantee impact and desired outcome; the fact that final regulations are endorsed by tripartite stakeholders and approved and disseminated by government leaves ILO with minimal control on the project pace; lack of political will – historically paying lip service to labour issues; Fragmented labour laws; High level of legal illiteracy among SMEs who find understanding or interpreting labour laws difficult; Difficult accessing to existing Labour Laws; Poor appreciation of technology among SMEs and cannot even get the Laws online; low ministerial funding; Corruption of public officers also renders the law ineffective. When Labour Officers accept bribes over ensuring compliance, they are demonstrating to SMEs that the law is not paramount and that there are ways to circumvent it.

Other **challenges** include: unattractive incentives for SMEs who comply; poor availability of reliable data from other sectors.

Although Zambia has ratified the major Labour Law Conventions, the majority of workers do not benefit from the protection and entitlement that these conventions offer as the majority of the workers are operating in the informal sector and there is not enough access to information or ability to enforce compliance.

Plenary and debate

Participants noted that:

- The use of casual workers has been abused by a number of employers through informal operations
- While the nature of the work and its demand for use of casuals is well understood, there is need for commensurate remuneration
- Informality in the sector is evidenced by poor working conditions, low wages, and no benefits
- The Zambian government promotes local contractors involvement and participation through regulated fees where foreign firms pay higher fees than local ones
- The public procurement law to be gazetted seeks to boost a partnership between local and foreign firms as an entry requirement, which would boost Labour Law compliance.

Country Groups

By: Simon White

With regard to preceding discussions, country groups developed three top priority project areas achievable by May 2013 that were discussed in the forum. The results of these priorities were refined and have been tabulated and presented towards the end of this report.

Grace Sebageni encouraged the forum to forge on with the pursuit of change in the labour laws and operations and not to give up especially on targeting the “low-hanging fruit” of subsidiary legislation because normal statutory legislation and policy formulation tend to move at a much slower pace. But having the Labour Minister issue a guideline and simply gazette it is achievable within the life of the project.

The importance of this exercise was emphasized by Hopolang Phororo, Deputy East African Director who informed the group that the exercise laid a critical foundation for the future directions of the two country projects.

PROJECT MONITORING, EVALUATION AND IMPACT ASSESSMENT

By: Luzelle Yon Lestrade

The session included ensuring a basic understanding of M&E; importance of Monitoring and Evaluation; the Traditional Implementation-Focused and Results-Based M&E Systems; The Law-Growth Nexus-II M&E System; and the Challenges of Making M&E Work for the Project

What is M &E all about? Planning for M&E is crucial to map out where you want to go, why you want to go there, how you want to get there, and what resources are needed to get there.

Monitoring is the continuous, methodical process of data collection and information gathering throughout the life of project so that corrective action can be taken. It is done to track progress in implementing initiatives as per planned activities and against set milestones. The strategic emphasis is on efficiency.

Evaluation is a systematic and objective process that periodically assesses a project against certain standards of acceptability. Evaluations are undertaken to find out whether the initiative resulted in the immediate outcomes and the hoped long-term lasting change (impact/development goal). The strategic emphasis is on assessing effectiveness.

The **purpose** of M & E is to assess: Ongoing project objectives flow, outputs and activities; whether the project is conducted as planned; Extent to which objectives have been met; Whether objectives are contributing towards the stated Development Objective; Impact of project activities on stakeholders, organizations and communities; Efficiency of the project; Whether or

not the project is addressing the needs of stakeholders, constituents, selected MSEs. Thus, it is vital to obtain feedback from the stakeholders.

The **benefits** of M & E are to improve or inform: Planning and implementation; Decision-making; Learning from experience; Accountability and transparency and Capacity building.

Key **Reasons** for monitoring and evaluation: Projects should have tracking systems as these are part of their management toolkits. Every project (and government) needs the three legged stool of good HR systems, financial systems, and accountability systems. But they also require good feedback systems; Building an M&E system builds that fourth leg to the governance/management chair. There has been a paradigm shift towards results and projects/governments are increasingly being called to demonstrate transparency, accountability and results in relation to aid financing.

Traditional Implementation-Focused versus Results-Based M &E Systems

The forum learnt that the *traditional approach* is designed to address compliance – the “did they do it” question. It focuses on how well a project is executed, but it does not necessarily provide an understanding of the success or failure of that project.

The results-based (RB) approach is designed to address the “so what” question. That is, “So what that activities have taken place; and, So what that the outputs from these activities have been counted?”

Results-based approaches provide feedback on the actual outcomes and goals of project interventions.

Results-based M & E help answer the goals of the project, their achievements and the proof of the achievements.

Results-based monitoring is a continuous process of collecting and analyzing information to compare how well a project is being implemented against expected results.

Having a sub-regional conference does not answer the “so what” question. What are the results of having this conference? What are the results of building a school, paving a road, training clinic workers? The question is whether the output contributes to your stated outcome and objective.

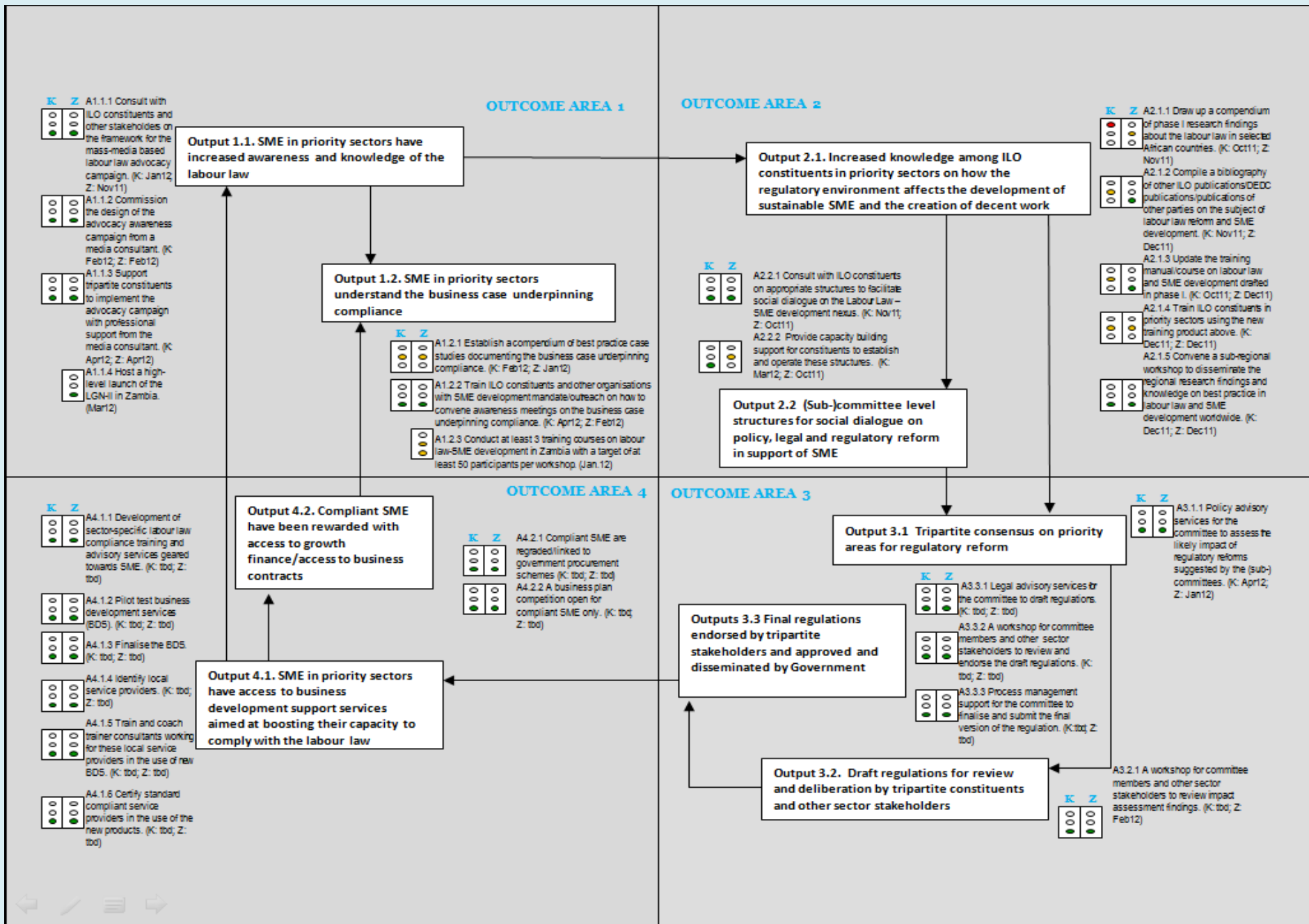
A tabular summary of the differences between the Traditional & Results-Based Approaches is presented below.

Key Features of Implementation versus Results Monitoring

Implementation Monitoring (Traditional)	Results-Based Monitoring
Description of the problem/situation before the intervention	Baseline data to describe the problem/situation before intervention
Benchmarks for activities and immediate outputs	Indicators for outcomes
Data collection on inputs, activities and immediate outputs	Data collection on outputs and achievement of outcomes
Systematic reporting on provision on inputs	More focus on perceptions of change among stakeholders
Systematic reporting on production of outputs	Systemic reporting: information on progress towards outcomes
Directly linked to a discrete intervention	Done in conjunction with strategic partners
Designed to provide information on administration, implementation, and management issues as opposed to broader development effectiveness issues	Captures information on success or failure of partnership strategy in achieving desired outcomes

The Law-Growth Nexus-II M & E System

LGN II seeks to move from an implementation-focused M & E system to results-based M&E. LGN-II M&E system is based on the Logical Framework Approach, which includes: Logical framework (LF) and Indicator Chart; Strategy Map to track real-time progress; Key Performance Indicators on all intervention levels, with baselines and targets; Data collection framework and Reporting requirements, knowledge sharing platform and maintenance requirements. The strategic map follows in the next page.



M & E Challenges

Key challenges in the M & E process: Moving from a traditional implementation-focused approach to a results-based approach requires time, commitment, capacity and resources; Demand for and ownership of a results based M & E system is the most basic requirement; Moving towards a more mature M & E system requires interdependence, alignment and coordination across project countries and levels; Quality and quantity of appropriate data and information, especially for baseline conditions (often an approximate exercise?); addressing the question of how much data and information are enough. Collecting and dumping large amounts of data without any analysis will not generate the information needed to improve projects/interventions; Linking results-based performance to results-based budgetary frameworks and budget lines tied to outcomes and outputs; i.e budgetary commitments based on results is a major challenge; Highlighting both successes and failures should also be encouraged because a project cannot only run on good news.

In results-based M&E, working in conjunction with strategic partners is a basic requirement but this also requires proper planning and resource allocations.

The bottom-line is to ensure “Keeping our eyes on the ball: Looking back to LGN Phase 1 with its challenges, looking forward, but also keep the eye on the now...”

Making Monitoring and Evaluation Work for the LGN II Project

Good results-based M & E must be used to be sustainable. Six elements are necessary for it to be sustained: Demand, incentives, clear roles and responsibilities, credible information, accountability, and capacity.

Continued upgrading and improvement is important in sustaining a successful M&E system. Likewise, periodic evaluations are important.

Evaluations should focus on technical quality of measurement and extent to which performance information is used in managing performance goals and in providing accountability to key stakeholders

Respond and adapt to changes and organizational priorities, but still be able to compare similar issues and trends over the life of a project

Country Groups Work Revision and Future Directions

By: Facilitated by Simon White

With the foregoing discussions, lessons learnt from the LGN I Project, and knowledge gained throughout the workshop, it was time to put theory to practice. The country groups got together again to revise the previously set project priorities. Groups sought to refine the priorities, setting achievable results given a fifteen-month implementation period; the baseline information to be gathered, and other important considerations. The following tables reflect the results of these taskforces that served as the future directions for the two country teams.

FUTURE DIRECTIONS: LGN II PROJECT

Kenyan Team

By: Eunice Mathenge

Priority Area	Achievable	Aim/what is to be achieved
Raise Awareness in the PSV Transport Sector	<ol style="list-style-type: none"> 1. Baseline Survey in the sector 2. Develop materials for dissemination based on Baseline findings 3. Publicity – media campaign – seek collaboration with other stakeholders – AKI, NHIF, NSSF 4. Dissemination workshops – (Leverage on other sector workshops/ ILO Constituents) 	<ol style="list-style-type: none"> 1. To assess level of awareness and compliance of Labour Laws in the sector 2. Simplified Version of Labour Laws 3. An enlightened sector – empowered sector 4. Increased compliance with Labour Laws
Capacity Building	<ol style="list-style-type: none"> 1. Training for Tripartite/sector /consultants at a policy level 2. BDS tool developed 3. Training of advisory committee and BDS members 4. Training for SMEs at ground level 5. Internal M&E for the capacity building exercise 	<ol style="list-style-type: none"> 1. Leadership well informed of Labour issues for meaningful engagements 2. Training guide/manual developed
Sector specific Regulatory Reform	<ol style="list-style-type: none"> 1. Formulate a reform agenda through an all stakeholder inclusive consultative process 2. Develop Code of Conduct incorporating LL for SACCOs and Companies with Ministry of transport, Ministry of Labour, Ministry of Cooperatives and harmonize for use by all 3. Support MOL in the subsidiary legislations to operationalise labour laws – also to include transport industry wages council 	<ol style="list-style-type: none"> 1. Intervention points for regulatory reform identified, drafted and validated 2. Code of Conduct incorporating Labour Laws harmonized for use by all Sacco/Companies 3. Wages council in place for Transport industry highlighting terms and conditions for workers in sector

Baseline Survey

1. Basic Information – Name, age, education, gender, region, wage, contractual terms, level of skill, years of service/business, marital status
2. Level of understanding of Labour Law
3. Level of compliance
4. Impediments to compliance
5. Establish total number of SMEs within priority sector
6. Establish total number of workers in the sector
7. Investment levels
8. Suggestions on Labour Law and compliance

Considerations

- A. Budget
- B. Consultant Procurement Process
- C. Target Population
- D. Sample size
- E. Time scope
- F. Geographical scope
- G. Personnel
- H. Methodology – Questionnaires
- I. Administering the survey tool – Sacco meetings
- J. Analysis of data

Plenary Comments

The plenary noted that the advisory committee consisting of higher level policy makers shall meet quarterly and the technical committee members once in every two months.

Zambian Team

By: Namucana Musiwa

Priority Area	Achievable	Aim/what is to be achieved
Review of Labour Laws	<ol style="list-style-type: none"> 1. Stakeholder engagement 2. Baseline survey 3. Analyse information gathered in baseline survey 4. Propose amendments of Labour Laws 5. Seek strategic synergies with other ILO projects 	<ol style="list-style-type: none"> 1. Strategic partnership and buy-in creation 2. Stakeholder roles clearly defined 3. Explore value-add by each stakeholder 4. Popular version of Labour Laws 5. Increased public awareness
Capacity Building	<ol style="list-style-type: none"> 1. Adapt training materials 2. Business association training 3. Conduct media campaign 	<ol style="list-style-type: none"> 1. Implementation of media and communication plan 2. Sector specific training material available 3. 25 trainers trained in Labour Laws training tool 4. 20 trainers certified in Labour Laws training tool 5. 500 SMEs trained in Labour Laws 6. Increased levels of awareness and compliance
Institutional Linkages	<ol style="list-style-type: none"> 1. Formulate the reform agenda 2. Formation of sub structures 3. Identify institutions that can provide incentives to complaint SMEs 4. Stakeholder analysis for social dialogue 	<ol style="list-style-type: none"> 1. Collaboration and performance among sub structures for effective implementation of the project 2. Monitoring of project implementation at different levels 3. Incentive programme in place

Baseline Survey

1. Levels of awareness in Labour Law among SMEs
2. Levels of compliance on Labour Law among SMEs (involve regulators as well)
3. General adherence to Labour Law by investors
4. Effect of Labour Laws on enterprise growth
5. Explore available business support areas, services and products

Considerations/Next Steps

1. Draft Terms of Reference for TAC and Sub Structures
2. Stakeholder buy-in and needs assessment
3. Sign MoUs with relevant stakeholders
4. Embark on a Media Campaign and Communication Strategy
5. Launch LGN II in Zambia
6. Conduct a Base Line Study
7. Analyze information gathered from the baseline study
8. Review strategy map and country work plan
9. Train the trainers
10. Roll out training in Zambia
11. Support constituents to build capacity in social dialogue

Plenary Comments

The plenary noted that the baseline survey shall require clarifying the expected output and targeted respondents.

REVIEW OF THE LAW GROWTH NEXUS GUIDE FROM PHASE I AND FEEDBACK

By: Simon and Ingrid

In a plenary review of the guide produced after LGN Phase I the following observations were recorded:

- **Purpose:** The purpose was good and provided ideas for research
- **Structure:** Needs reordering to provide for context
- **Style:** Use more illustrations, cartoons, pie charts and diagrams and inclusion of snapshot summaries
- **Missing:** Ratification; Broader examples; Inclusion of Rwanda and Senegal; Indication of websites; Inclusion of Case study examples; The Zambian population (13 Million); inclusion ISBN Copy right
- **Other remarks:** Shorten the Executive Summary; Table of Contents was a bit crowded

- **General Comments:** Share more specific strategies in the guide; State the gender issues; Share real life stories to strengthen business case. Acknowledge LGN Phase I Country Report Authors in the bibliography because reference has been made to their work.

Forum participants agreed to share additional feedback with Ingrid, the soonest, for inclusion in the final guide which is due for first publication in 2012.

CONCLUSIONS

LGN II Project Management Functions and Challenges

By: Grace T. Sebageni

LGN II Management arrangements were discussed and some challenges identified:

- **Staffing and staff sharing:** Some staff are shared with other projects (25% or 50%). Minimal staffing will sometimes require significant multitasking. It was suggested by the plenary that this can cause some challenges as well as delay in key implementation deadlines.
- Project **start off period delayed** leading to a bit of spill off, however the project team is working hard to mitigate for this factor and has now slowly began to get in tune with project timelines.
- **Budget approval office location:** Initially it was thought that possible challenges could arise from housing the project budget in Dar. With good guidelines and support, this has not been a major challenge. Boundary management is clear.
- **Incentives:** Participants suggested that the unavailability of incentives could be a threat to the project implementation because stakeholders may prefer to attend other competitive forums that incentivize them instead. It was agreed that this discussion was outside the scope of the workshop.
- **Roles:** Participants wanted more clarity on the roles of CTA and NPCs as sometimes it is not very clear.

Final Plenary and Workshop Evaluation

By: Simon White

Conclusively, the key fundamental messages from the workshop were identified as follows:

- LGN II is primarily a project that contributes towards a more conducive policy environment for SME development through labour law reform
- Compliance issues encompass:
 - Awareness creation
 - Sensitizing employers / SME owners on the business case for compliance
 - Administrative reform
 - Incentives for compliance
 - Need for the laws and regulations
- LGN II Project should adopt a Results based focus
- LGN II Project scope in terms of time and money required to achieve projected outputs is very critical
- Country specific focus: LGN II has technical and advisory committees at the national levels and unlike Phase 1, management has been decentralized, is field-based and housed in the implementing country, significantly minimizing potential management challenges
- Sector specific: LGN II shall keep focus to a larger extent on the selected SME sub-sectors (Construction and Matatu industries)
- LGN II has a good workable logical framework. Suggestions were made for some minor adjustments but in the interest of timing and project duration, the current framework should probably be maintained with project team mindful of any potential challenges and thinking through solutions to meet them. This will be discussed further by the ILO wider project team and constituents.
- There was a strong link established between labour law and growth
- LGN II Project ownership is ILO Constituents
- There's a broad and established willingness of governments in the two project countries to listen to SMEs and the issues that affect them

All participants conceded that the workshop was: very enlightening, informative, and very interactive. They applauded the facilitator, Simon White, for a job well done through facilitation and presentation. They also applauded the excellent work done by all other facilitators and organizers. Session time management was however noted as a challenge. Participant evaluations were completed and will be analysed and reported on separately.

Finally, led by Namucana, the forum observed a minute of silence in commemoration of the World Aids Day.

Information Sources

This report has been compiled on the basis of the proceedings of Law-Growth Nexus II Project Sub-Regional Dissemination Workshop held at Nyali International Beach Hotel, Mombasa-Kenya (November 29-December 1, 2011) and references to data from ILO and Southern African IDEAS publications and websites.

Appendix

List of Participants

	NAME	ORGANIZATION
1.	Namucana C. Musiwa	International Labour Organization
2.	Michael Mulwanda	Ministry of Labour Youth & Sports-Zambia
3.	Blessed Mulenga Silauwe	BPW, Zambia
4.	Kalobwe Chikoti Chansa	ZDA
5.	Patience Matandiko	Ministry of Labour Youth and Sports-Zambia
6.	Prudence Mushota Tembo	National Construction Council
7.	Richard N. Muteti	MSEF/SMES-EA
8.	Herrington Chibanda	Zambia Federation of Employers
9.	Mwongeli Muthuku	International Labour Organization
10.	Andrew Chisala	ZIDRM
11.	Carolyn C. Rutto	COTU (K)
12.	Giyani I. Sakala	ZCSMBA
13.	Boniface Kunda	MCTI
14.	Obed Mbuzi	BDSPA
15.	Thomas Bichanga	MADCOWA
16.	Samson Wakabu Wainaina	MADCOWA
17.	Charles Nyangute	Federation of Kenya Employers
18.	Cosmas Mukunga	ZCTU
19.	Lucy Mathenge	Matatu Welfare Association
20.	Hopolang Phororo	International Labour Organization
21.	Carol Kungu	Ministry of Labour, Kenya
22.	Patrick Kariuki	KEPSA
23.	Luzelle Lestrade	International Labour Organization
24.	Eunice Mathenge	International Labour Organization
25.	Ernest Muwamba	CEEC, Zambia
26.	Dickson Mbugua	Matatu Welfare Association, Kenya
27.	Isaiah B. Kimigua	Ministry of Labour, Kenya
28.	George Muchai	COTU (K)
29.	Martin Clemensson	International Labour Organization
30.	Grace Sebageni	International Labour Organization
31.	Augustine Asomba	International Labour Organization
32.	Simon White	SA-IDEAS
33.	Jane N. Arang'a	Ministry of Labour, Kenya
34.	Lydia Kimani	Rapporteur

Workshop Programme

International Labour Organization Law-Growth Nexus Dissemination and Planning Sub-Regional Workshop (Mombasa, November 29-December 1, 2011)

DAY 1: TUESDAY NOVEMBER 29, 2011

- 8:30 AM Workshop Registrations
- 9:00 AM Opening (Martin Clemensson, ILO Country Director: Zambia, Malawi and Mozambique)
- 9:15 AM Introduction to Workshop (Grace Sebageni, CTA, Law-Growth Nexus II, Nairobi)
- 9:35 AM Participants Introductions (Grace Sebageni)
- 9:45 AM Participants Expectations (Simon White, Southern African IDEAS, Johannesburg)
- 10:15 AM *Morning tea and coffee break*

MSE Employment, Job Creation and Labour Law: Challenges and Lessons

- 10:45 AM Introduction to MSE Employment and Labour Law (Simon White)
- 11:10 AM Questions, Comments and discussions
- 11:30 AM Emerging findings in Law-Growth Nexus (Ingrid Landau, Monash University, Melbourne)
- 11:50 AM Questions, Comments and Discussions
- 12:10 PM Do Labour Laws Impact on the growth of MSEs in South Asia? Emerging findings (Simon White)
- 12:30 PM Questions, Comments and Discussions
- 1:00 PM *Lunch break*

What can we learn from the Law-Growth Nexus Project Phase 1 (LGN I)

- 2:00 PM Presentation on LGN I (Luzelle Yon Lestrade, Program Officer ILO Pretoria)
- 2:30 PM Key Issues and Challenges in the Law-Growth Nexus (Simon White)
- 3:30 PM Afternoon tea and coffee break

- 4:00 PM Findings from the LGN I Evaluation (Simon White)
- 4:45 PM Review of Day 1 (Grace Sebageni)
- 5:00 PM Close of Day 1

DAY 2: WEDNESDAY NOVEMBER 30, 2011

- 9:00 AM Review of Day 1 and Introduction to Day 2 (Grace Sebageni)

Issues and Challenges for the Law-Growth Nexus Project Phase 2 (LGN II)

- 9:15 AM Presentation of LGN II (Grace Sebageni)
- 9:45 AM Questions, Comments and Discussions
- 10:00 AM Review of the Project's Logical Framework (Simon White)
- 10:30 AM *Morning tea/coffee break*
- 11:00 AM Discussions of the Project's Logical Framework
- 11:30 AM LGN II Challenges and Focus: Kenya (Including Prospects and Strategies for Influencing Change in the Labour Legislation and administration) – Eunice Mathenge, NPC ILO Kenya, Nairobi
- 12:45 PM LGN II Challenges and Focus: Zambia (Including Prospects and Strategies for Influencing Change in the Labour Legislation and administration) – Namucana Musiwa, NPC ILO Zambia, Lusaka
- 1:00 PM *Lunch break*
- 2:00 PM Addressing the Challenges (Simon White)
 - Group 1: Addressing LGN II challenges and focus: Kenya
 - Group 2: Addressing LGN II challenges and focus: Zambia
- 4:00 PM Groups report back followed by discussions, Implications for project management
- 4:45 PM Review of Day 2 (Luzelle Yon Lestrade)
- 5:00 PM Close of Day 2

DAY 3: THURSDAY DECEMBER 1, 2011

9:00 AM Review of Day 2 and Introductions to Day 3 (Luzelle Yon Lestrade)

Project Monitoring, Evaluation and Impact Assessment

9:15 AM LGN II Monitoring, Evaluation and Impact assessment: Challenges
(Luzelle Yon Lestrade)

9:30 AM Group Work: Revision of the LGN II M&E framework (Simon White)

9:45 AM Plenary review of Project Monitoring, evaluation and impact assessment
(Simon White)

11:00 AM *Morning tea and coffee break*

11:30 AM Future Directions: LGN II Kenya (Eunice Mathenge)

11:50 AM Future Directions: LGN II Zambia (Namucana Musiwa)

12:10 PM LGN II Management Functions and Challenges (Grace Sebageni)

12:30 PM Final Plenary (Simon White)

1:45 PM Workshop Evaluation

2:00 PM Lunch and Departure