



ILO EVALUATION

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This evaluation has been conducted according to ILO's evaluation policies and procedures. It has not been professionally edited, but has undergone quality control by the ILO Evaluation Office

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List of Acronyms

ACT/EMP	ILO's Bureau of Employers Activities
ACTRAV	ILO's Bureau for Workers' Activities
AFFM-IUF	Agricultural & Farmers Federation Myanmar – International Union of Food Workers
AFFM-CTUM	Agricultural & Farmers Federation Myanmar - Confederation of Trade Unions Myanmar
ASEAN	Association of South East Asian Nations
BRRF	Budget Revision Request Form
CB / CBA	Collective Bargaining / Collective Bargaining Agreements
CEACR	Committee of Experts on the Application of Conventions and Recommendations
CEDAW	The Convention on the Elimination of all Forms of Discrimination Against Women
CFA	Committee on Freedom of Association
CGU	Council of Global Unions
CTA	Chief Technical Advisor
CTUM	Confederation of Trade Unions Myanmar
DLR	Department of Labour Relations, Myanmar
FGLLID	Department of Labour Inspectors, Myanmar
FMCS	Federal Mediation and Conciliation Services, US
FOA	Freedom of Association
FPRW	Fundamental Principles & Rights at Work and its follow up
GUF	Global Union Federation
ILO GB	International Labour Organization Governing Body
ILC	International Labour Conference
IR	Industrial Relations
ILS	International Labour Standards
ITUC	International Trade Union Confederation
LOL	Labour Organisation Law, Myanmar
MGMA	Myanmar Garment Manufacturers Association
MICS-TUFS	Trade Union Federation, Myanmar
MOLES	Ministry of Labour, Employment and Social Security, Myanmar
NLD	National League for Democracy, Myanmar
NTDF	National Tripartite Development Forum, Myanmar
OECD/DAC	Organisation for Economic Co-operation & Development / Development Assistance Committee
OSH	Occupational Safety & Health
PAC	Project Advisory Committee
PMP	Project Monitoring Plan
PRODOC	Proposal for a Technical Cooperation Project
SLDL	Settlement of Labour Disputes Law, Myanmar
TCPR	Technical Cooperation Progress Report
TOR	Terms of Reference
TOT	Training of Trainers
USDOS	United States Department of State
USDP	Union Solidarity & Development Party, Myanmar
UMFCCI	Union of Myanmar Federation of Chambers of Commerce & Industry
WCC	Workplace Coordinating Committee

Executive Summary

The Promoting Freedom of Association (FOA) and Social Dialogue (SD) Project commenced in October 2013 and was formally closed on 31 January 2016 following the approval of a short no cost extension. The evaluation commenced with the contracting of an independent evaluator two weeks before the planned field visit that took place from the 1-8 February, with the assistance of a national consultant.

Purpose, logic and structure of the project

The FOA project, funded by the Government of Norway, was planned to follow on from a 12 month USDOS project 'Promoting Rights at Work in Myanmar', and was implemented from October 2013 – December 2015. The goal was for '*sustained and deepened progress on freedom of association as a foundation for sound social dialogue*'.

The project contributed to the 3 pronged approach of the ILO Governing Body to '*improve the capacity of ILO constituents in Myanmar to effectively realise, in law and practice, the fundamental rights of freedom of association and collective bargaining*' with three immediate objectives:

- **Immediate Objective 1:** national labour institutions are in a better position to recognise, implement and enforce fundamental rights at work
- **Immediate Objective 2:** employers and worker organisations have improved capacity and effectiveness in implementation of the LOL and the SLDL and work together constructively on dispute resolution, collective bargaining, occupational safety and health and building an industrial relations system based on mutual respect
- **Immediate Objective 3:** promoting sound labour relations and social dialogue at an industry / sector, regional and national level.

The project strategy aimed to strengthen the capacity of representative organisations to represent their members and engage in bipartite and tripartite consultations at all levels. The project continued awareness raising and capacity building commenced in the USDOS project and extended the objectives by broadening the approach to begin institutionalising a new system of Industrial Relations. Target groups included government departments responsible for industrial relations, law, structures and employment, and employer and worker organisations.

The project was implemented from the ILO Yangon Liaison Office; activities took place mainly in Yangon and Mandalay, but included training activities in Bago, Sagaing, Taninigthatyi, Ayarwaddy, Nay Pyi Taw, Magwe, Kayin, Mon & Shan. The ILO staff employed in the USDOS project continued employment in the FOA project, bringing considerable experience with them. The FOA project had two CTA's during the 2-year period with some absences of leadership due to recruitment issues.

Evaluation Scope and Methodology

The evaluation assessed the continued relevance of the FOA project and progress made in achieving the objectives, based on the OECD/DAC criteria and ILO policy guidelines for results based evaluation. The scope was limited to this project and the evaluation Terms of Reference (TOR), focused though a gender equality lens; including quality of stakeholder engagement, effectiveness and efficiency of all aspects of project management and the extent of the reach of capacity building outputs and outcomes.

The lessons learnt and good practice are relevant to the findings, main conclusions and recommendations. The USDOS project was not evaluated but the impact it had on the FOA project was taken into account.

The intended users of the evaluation are: the ILO Liaison Office for Myanmar, the Asia Pacific Regional Office (Bangkok) and HQ (Geneva), the Government of Myanmar and social partners, and the Government of Norway.

Methodologies were used to provide sufficient information to respond to the questions of the evaluation criteria of relevance & sustainability, validity of design, effectiveness and impact, efficiency of resource use, efficiency of management and gender equality. A combination of methods supported triangulation, mainly from qualitative information as there was insufficient data collected during the project to record information quantitatively; this included disaggregated gender statistics

A wide range of stakeholders and all constituent parties were either interviewed during the field visit or later on skype calls and a small stakeholders workshop was held at the end of the field visit. Document research included; all available project applications, reports and training materials, ILO reports on Myanmar, FOA and other relevant issues and media releases during the period of the project. The National Consultant assisted with summary translations of documents not available in English.

Some Limitations

Time constraints created challenges, which included the time frame for hiring the independent evaluator and the late contracting of the national consultant and his subsequent ill health. This prevented some of the field visit follow up and a survey to gain feedback from the employer's representatives involved in a project problem solving exercise. Most project staff had left the ILO by the time the field visit took place, and some of the field visits were not well attended because arrangements had to be made at short notice.

There was no meeting with the Project Advisory Committee (PAC) as a body making it difficult to evaluate decision making within the project; the Acting Liaison Officer had prior commitments in Bangkok and administrative information was not always available; the final project narrative and financial reports were not available until after the deadline of the 1st draft report. The CTA was present for the week of the field visit and the available staff were fully cooperative and worked diligently to ensure the meetings and interviews took place.

Findings and Main Conclusions

The report includes sixteen Conclusions formed from fourteen Findings with eight Recommendations; the Findings were identified with the criteria questions in the inception report. The evaluator has attempted to minimise repetition without excluding important points; the executive summary provides a summary of these points, which are elaborated on in the body of the report.

The evaluation identifies many important achievements that have laid a sound basis for the future of FOA in Myanmar, taking into account that the country was still emerging from years of military rule that practiced a very different type of IR. In this context the project was both timely and relevant, meeting the identified needs of government, employers and trade unions but lack of an immediate follow up FOA project has the potential to create a sustainability challenge.

Summary of major achievements:

- Coherence was maintained with the ILO's commitment to FPRW and FOA in a well-conceptualized project application that demonstrated a logical and strategic approach.

- The development of trade union organisations and the registration of a confederation and federations is a major achievement. This is considered to be sustainable and the project has helped cement the future of the trade union movement in Myanmar.
- All constituents reached by the project are now more aware of their rights and the responsibilities that accompany these rights and people demonstrated a strong motivation to change and adopt the principles of FOA.
- The transfer of relevant knowledge and skills needed for an IR system, based on FOA, was provided to clearly identified target groups in well designed and conducted programmes.
- Project activities made an invaluable contribution to tripartite and bipartite social dialogue with the meaningful engagement of all constituents and the formal recognition of trade unions as tripartite partners; this is considered sustainable in the near future
- The TOT programme allowed national educators to reach out to local level workers, especially agricultural workers, with courses conducted in the Burmese language and translated materials. The educators' network successfully created a group of trainers able to continue as educators in other organisations, as well as a key group of stakeholders with extensive experience in FOA.
- The project training for institutional bodies used a flexible approach that factored in existing training needs analysis and allowed the educators to make appropriate changes when necessary.
- The awareness raising commenced in the USDOS project was carried forward in this project and the responses from constituents, external stakeholders and the media indicated a strong sense of commitment to the principles of FOA that will be taken forward in the future
- Through participation in project activities, the constituents are able to make an important contribution to the process of industrial law reform.
- As a result of the training programmes, Conciliator and Arbitration Officers are able to understand and put into practice the need for impartiality in their roles; this assisted them while working in often difficult situations.
- Assistance for FGLLID supported the development of a policy paper for the future of a labour inspectorate and the training raised awareness of the issues involved in a modern IR system.
- The project recognised the challenges to developing employer organisations but was able to commence the process by using innovative methodologies to support them. This ensured that the UFMCCI could play a committed role in the PAC and future programmes.
- Activities carried out with employers and trade unions at the enterprise and workplace level began the process of developing an awareness of the role their role in dispute resolution at this level.
- All project activities were implemented as planned and a considerable number of participants were reached in the programme; this is seen as a management achievement but cannot, at this stage, be used to measure medium or long term impact.

Summary of main challenges

- The project is considered highly ambitious for a relatively small budget, the enormity of the task to be undertaken and the time available for implementation.
- The number of administration and local staff did not appear sufficient for a project of this size and scope. This was exacerbated by the turnover and periods of absence of CTAs, leading to tensions between the Yangon Office and the FOA project. These issues had a negative impact on implementation and the ability to secure funding for future projects.
- The project application, budget and implementation strategy did not include a Project Monitoring Plan (PMP) or Exit Strategy, which impacted on addressing sustainability issues as well as sourcing funding for future projects.

- The failure to engage the PAC in meaningful project decision making did not provide an effective sense of ownership for constituents and helped to lead to some misconceptions about the social partners and rights and responsibilities.
- Three years (including the USDOS project) is a very short time to consolidate the capacity, structures and effectiveness of the role of social partners' in Myanmar and without an immediate follow up project much of the important work done in this project will be lost.
- The project closure without a secure commitment to a follow-up FOA project is of concern because of the negative impact on the sustainability of capacity building for the social partners and future of FOA in Myanmar. Several attempts were made by the CTAs to secure funding but they did not appear to get the support necessary to carry these forward.
- The mid-term review did not identify whether capacity building for social partners was leading to sustainability and as a consequence informed changes could not be made.
- The indicators for the immediate objectives focused on outputs rather than outcomes, making it difficult to measure impact. This encouraged an emphasis on implementing planned activities rather than analysing progress.
- The project lacked a focus on gender equality and the application did not provide sufficient gender analysis to ensure that it was mainstreamed throughout the project. The participation rate of women attending activities increased but the issue was not integrated into all topics nor was there consistent gender disaggregation of statistics.
- Activities focusing on IR professional education for law reform, inspections and dispute resolution, although critically important, were conducted with a disconnect between the process of law reform and the realities at the workplace level. A greater emphasis on social partner capacity building and general awareness raising may have been more appropriate at this point in time. Establishing Collective Bargaining (CB) and dispute resolution at the workplace level, if given a higher priority, could have helped to minimise workplace conflicts.
- Insufficient data was collected to measure sustainable outcomes of existing Collective Bargaining Agreements (CBAs) and Workplace Coordinating Committees (WCCs). There did not appear to be sufficient consolidation and follow up of programme implementation to ensure continuation of these in the future. Programmes, at times, contained too much information with insufficient skills training for participants to put learning into practice.
- There appeared to be lack of clarity between WCCs and the role of the trade union, leaving it open for unscrupulous employers to exploit the situation and establish 'yellow' unions¹.
- The financial analysis is incomplete because it lacked the information to report on efficiency and to measure the expenditure under the immediate objective budget lines. The budget was underspent due to time constraints, lack of financial monitoring and budget overestimation.

Good Practice & Lessons Learnt

The evaluation identified three examples of emerging good practice and one lesson learnt. These included:

- **The strategic use of multi-purpose capacity building in a project**, linked to Objective 1 and identified in Finding 6. This describes a change in an activity on discovery that the target group did not have relevant knowledge to participate in a planned Training of Trainers (TOT) activity.
- **Training educators and establishing an educators network**, linked to Objective 2 and illustrated in Main Conclusion 5. This was designed into the project and successfully built a multiplier effect that created a degree of sustainability, reduced the need to rely on

¹ A term in common use and defined by the ITUC as 'A union set up and/or controlled by the employer to prevent the establishment of a genuine trade union'. Article 2 of ILO Convention No. 98 states that 'workers and employer organisations shall enjoy adequate protection against any acts of interference by each or other's agents - - "

international resource persons and widened the reach of the training by accessing people in the Burmese language.

- **Cooperative synergy between ILO projects in a country**, linked to Objective 1 and relating to identified problems in Finding 11. The FOA project followed up a request for assistance from the Social Protection Officer in the Liaison Office. This developed contacts with the social partners, and participation in joint workshops that established a platform for social dialogue on the issue between constituents. Cooperation continued in the area of law reform and sharing of resources for events.
- **Failure to mainstream gender equality** is a lesson to be learnt and should be integrated into project design (see Finding 14). It prevented the inclusion of gender equality and anti-discrimination in the various areas that the project covered. The project gave the impression that the only gender concern was gender parity in participant numbers and ignored the serious issues facing women in society and employment.

Recommendations

As this project is now closed these recommendations are directed towards ‘the continuing relevance of an FOA project’ and future ILO projects in Myanmar generally. It is also noted that they would be easier to implement when the country has a DWCP and back stopping is more relevant to the ASEAN situation. The evaluator is not able to estimate the resource implications of each recommendation but considers them not to have onerous financial implications.

Recommendation 1: ILO Geneva, the ILO Liaison Office, ACT/EMP & ACTRAV

A 3rd Stage FOA project, with a minimum of 5 years, is deemed essential for FPRW and the future of social dialogue in Myanmar. A strong focus on capacity building is still needed at the sector, industrial zone and workplace levels so that the human, material and financial resources developed in stages 1 & 2 are not wasted:

- The project can be a component of the large US/Japan/Denmark/EU initiative but to avoid FOA being subsumed by the institutional capacity building element, a separate project would be preferable. Whether it is separated from or part of this large project, strong cooperation between the different sections needs to be put in place; with ACTRAV and ACT/EMP more involved in the design, implementation, monitoring and evaluation.
- A statistical base line to inform future project design, objectives and strategy, focuses on: union development and strength, employer federations, data on membership, number of workplaces with and without union organisation, number of functioning WCCs, OSH committees and CBAs; reported by sector and geographical locations with gender disaggregation. This collection of data supports targeting and decisions made on future FOA and IR institutional development and capacity building with clear objectives and indicators to measure outcomes and impact.
- Consolidation of the work done in the first two stages of the project is integrated into a future project application; following up employer and union organisations trained in these projects and noting the additional support required for long term sustainability.
- Constituent representatives are genuinely involved in all future project planning, implementation, monitoring and evaluation to ensure ownership and sustainability.
- Given the different backgrounds and experiences of employers and trade unions, separate activities are conducted initially for employer and union organisations followed by joint activities that strengthen sustainable social dialogue at the workplace and prevent the level of disputes experienced at the current time.
- International trade union and employer organisations are involved in future project planning and contribute to implementation where possible.

Recommendation 2: PARDEV, PROGRAM & ILO Liaison Office

Future FOA and IR projects for Myanmar have a (1) resourced PMP and PAC written into the application; (2) an exit Strategy that ensures sustainability and identifies wastage of knowledge and experience as a potential risk factor and; (4) a national Project Coordinator is recruited for future FOA projects, rather than an international expert, in order to utilise existing experience, ensure that the project is culturally relevant and save funding on international positions.

Recommendation 3: PARDEV, GED and ILO Liaison Office

Gender equality is mainstreamed into future ILO FPRW and FOA project objectives, activities, strategies and materials, recognising the discrimination of women in society, justice and employment in the country and consistent with ILO policies and Conventions on gender equality, discrimination and pay equity. Future projects disaggregate gender statistics throughout applications, implementation and reporting. Relevant ILO staff and constituents are trained to carry out gender equality audits and research².

Recommendation 4: ILO Geneva & the Yangon Liaison Office

A review of synergy and cooperation practices between the FOA and other projects implemented through the Yangon Liaison Office is carried out to inform (a) how FOA can be integrated into all projects and (b) prevent FOA being seen as an isolated issue in the future. This, together with the relevant Good Practice template, is used in the planning process for the next FOA capacity building project.

Recommendation 5: MOLES, Technical Legal Unions & ILO Liaison Office

Amendments are made to the LOL guidelines for establishing worker and employer federations that recognises the differences between the internal roles and structures of the social partners.

Recommendation 6: All relevant government departments, ILO Geneva, Technical Units and the ILO Liaison Office

The government in Myanmar commences the process of ratifying ILO Convention No.98 and revising the SLDL, with regard to the establishment and role of WCCs and CB, to avoid ongoing workplace conflicts. The role of trade unions as worker's representatives and collective bargaining at the workplace is clarified with amendments to enable effective representation and avoid confusion regarding representation for workers and trade unions. When the law is amended, the government considers developing training courses for WCC representatives.

Recommendation 7: ILO Liaison Office, Technical Units, MOLES & DLR

Work carried out with FGLLID inspectors, the Conciliation and Arbitration Bodies and the law reform process is used to consolidate learning from the project into policies for the future. This provides MOLES and DLR with a position that underpins any future projects or work to be carried out in these areas.

Recommendation 8: ILO Liaison Office, Technical OSH Units & DLR

As the OSH law is now before parliament, a separate project on OSH is designed, resourced and implemented for employers, workers and trade union with government sponsored training for OSH committees and worker representatives.

² This is based on the evaluation of this project only but it may be helpful to review all projects through a gender lens

1. Project Background

1.1 Introduction

The Promoting Freedom of Association and Social Dialogue Project (the FOA Project, as it is called by stakeholders) commenced in October 2013 and was formally closed on 31 January 2016.

The FOA Project was planned to build a 2nd stage on to the ‘Promoting Rights at Work in Myanmar’, funded by USDOS (October 2012 – December 2013). The USDOS project implemented a comprehensive training and awareness programme to build institutional capacity for government departments and employer and labour organisations. The FOA Project continued this programme, at the same time broadening the approach to include IR institutional capacity building.

The government ratified ILO Convention 87³ in 1955 and up to the 2010 general elections there were serious discrepancies in the application of the Convention, as identified by the ILO Supervisory mechanisms. These included, among other issues, a lack of awareness of basic employment rights and a resistance to the formation of labour organisations. The FOA Project goal reflects the above, as well as the issues raised in the ILO Supervisory bodies’ reports prior to and following the implementation of the 2011 Labour Organisation Law (LOL) and 2012 Settlement of Labour Dispute Law (SLDL)⁴. The evaluation TOR notes that the objectives of the project fall within the mandate, competence and objectives of the ILO. (*See Annex 1: Evaluation Terms of Reference*).

1.2 The Context

The following summarises: (1) the complex and rapidly changing environment taking place in the country during the USDOS and FOA project implementation, illustrating the degree of political uncertainty surrounding the planning and implementation of both projects and (2) coordination structures during the project term.

Country Situation

The Union of Myanmar, in South East Asia, has an ethnically diverse population of approximately 51.4 million (2014). The 2013 project application noted that the workforce in 2011 was estimated at 32.5 million with a 66.16% labour participation rate (‘50.11% of the female population and 82.049% of the male population’). The Union of Myanmar Federation of Chambers of Commerce & Industry (UMFCCI) notes that the workforce has a literacy rate of 95%, although this varies between city, urban and rural areas. Under military rule for many years, the country has 14 States with civil conflict an ongoing issue, approval to travel to certain states is still required. After a long struggle for democracy, controversial elections in 2010 gave power to the Union Solidarity and Development Party (USDP) that in 2012 began a programme of political and economic reform. Since then sanctions are gradually being lifted by the various countries and organisations who applied them in different areas over the years of military rule.

In November 2015 new elections were held and the National League for Democracy (NLD), that chose not to participate in the November 2010 elections, gained power and at the time of writing this report a new government is being formed. These elections took place in the last year of the project creating an uncertain political environment that included low labour costs, rising inequality

³ It should be noted that the Right to Organise and Collective Bargaining Convention, 1949 (No.98) has not yet been ratified by Myanmar. In total, Myanmar has ratified three of the eight Fundamental Conventions

⁴ See direct requests and observations made in 2012 and 2014

(http://www.ilo.org/dyn/normlex/en/f?p=NORMLEXPUB:13100:0::NO::P13100_COMMENT_ID:3086184)

(http://www.ilo.org/dyn/normlex/en/f?p=NORMLEXPUB:13100:0::P13100_COMMENT_ID:3086181)

(http://www.ilo.org/dyn/normlex/en/f?p=1000:13100:0::NO:13100:P13100_COMMENT_ID:3189887)

(http://www.ilo.org/dyn/normlex/en/f?p=1000:13100:0::NO:13100:P13100_COMMENT_ID:3189884)

and poor infrastructure with a relatively low skilled workforce. At the same time economic growth is increasing but with a low rate of poverty reduction; a key contributing factor for industrial disputation.

From 2010, the government embarked on a wide range of political, economic and social reforms; including a review of existing labour legislation to bring them in line with International Labour Standards (ILS). A comprehensive review of Industrial Relations (IR) laws and regulations, which are seen as outdated and disjointed, was being carried out during the term of the project and is not yet concluded. In 2011 the LOL replaced the Trade Union Act and in 2012 the SLDL replaced the Trade Dispute Act, developing a new and little understood IR environment of social dialogue at a tripartite and bi-partite level.

Coordination

Current activities of the ILO Liaison Office in Myanmar, established in 2002, are governed by an understanding between the ILO and the government. The Liaison Office's initial role was to cover all activities relevant to eliminating forced labour; this remains the case, but in February 2007 a supplementary understanding included FOA as a priority. The ILO Liaison Officer in Yangon reports directly to the Deputy Director-General for Management and Reform DDG/MR.⁵ Since this time a number of other projects on labour and employment related issues were introduced into the work of the Liaison Office.

The USDOS & FOA projects had three different Chief Technical Advisors (CTAs); the CTA of the USDOS project reported to the DDG and left the project when completed, after submitting the application for the FOA project. The 1st CTA of the FOA project took up the position from February – December 2014 on a part time basis, reporting to the DDG and for some issues the Liaison Officer. The 2nd CTA was appointed in March 2015, followed by a mission status for 1 month from March – April, formally taking up the position on 1 June 2015 and reporting to the Acting Liaison Officer⁶.

In the first half of 2015 there were discussions to source funding to extend the project and allow time to prepare a concept note for a future FOA project. This was considered important for the continuation of FOA capacity building, and for factoring in possible changes of direction proposed by the new government. The 2nd CTA sought funding from various sources in order to respond to constituents needs. During 2014 and 2015 developing concept notes, for example, through an H&M-SIDA public-private partnership arrangement and the submission of a sub-regional concept paper on wages and IR in global supply chains.

These concepts notes were discussed with constituents and shared with the Liaison Office & FPRW in order to establish timely discussion with these donors but they do not appear to have had the required support to do so, as these ideas were not considered in time to extend the project or submit new funding applications to commence a new project after 31 January.

1.3 Project Description

The initial project application covered the period from 1 October 2013 to 1 October 2015 (24 months) within the country objective of '*sustained and deepened progress on freedom of association as a foundation for sound social dialogue (SD)*', and was funded by the Government of Norway.

⁵ <http://www.ilo.org/yangon/country/lang--en/index.htm>

⁶ Following the retirement of the Liaison Officer in September 2015, the then Deputy Liaison Officer was appointed Acting Liaison Officer, in interim.

The project contributed to the 3 pronged approach of the ILO Governing Body to ‘*Improve the capacity of ILO constituents in Myanmar to effectively realise, in law and practice, the fundamental rights of freedom of association and collective bargaining*’ with three immediate objectives:

- **Immediate Objective 1:** national labour institutions are in a better position to recognise, implement and enforce fundamental rights at work.
- **Immediate Objective 2:** employers and worker organisations have improved capacity and effectiveness in implementation of the LOL and the SLDL and work together constructively on dispute resolution, collective bargaining, occupational safety and health and building an industrial relations system based on mutual respect.
- **Immediate Objective 3:** promoting sound labour relations and social dialogue at an industry / sector, regional and national level.

The application states that ‘the project strategy was planned to improve the capacity and training of representative organisations to be able to serve their members and engage in bipartite and tripartite consultations and negotiations at all levels by’:

- 1) Carrying out training based on a training needs assessment of the Ministry of Labour, Employment and Social Security (MOLES), including the drafting of new or amended laws to be in conformity with international labour standards; assisting the tripartite Arbitration Council and bodies to better resolve labour disputes and increasing the capacity of the labour inspectors (FGLLID) to ensure compliance with the law.
- 2) Implementing a bi-partite three level training programme, following on from the USDOS project, consisting of training workshops, modular courses, follow up education and training visits, programmes for farmer unions and the training of educators to form a skilled educators group. A leadership programme for employer and union organisations with strategic and problem solving workshops.
- 3) Promoting awareness of the ILO Declaration on Social Justice for a Fair Globalisation by targeting employers, workers and the general public to promote the value of cooperation and tripartite social dialogue.

In 2013, the CTA of the USDOS Project developed the application for the FOA Project in consultations with external stakeholders and constituents, identifying the need to complement awareness raising and education with a broader approach to IR. In July 2015, a revision with a no cost extension was approved to 31 January 2016; this affected a few specific outputs and activities with re-worked indicators with the total number of planned activities remaining the same. A reduction in training days was complemented by a study visit, research papers and new training materials.

Target Groups identified in the project application

- **Government:** senior and front line staff, particularly members at national and regional levels of the registration, conciliation and arbitration bodies, and the labour inspection services across Myanmar.
- **Labour Organisations:** the leadership and officials of as many labour organisations and groupings of labour organisations as possible.
- **Employers’ Organizations:** the UMFFCI and other registered employers’ organizations, and individual employers where appropriate.

The project was mainly implemented in Yangon and Mandalay, but also included training activities in Bago, Sagaing, Taninithatyi, Ayarwaddy, Nay Pyi Taw, Magwe, Kayin, Mon & Shan.

The Project Advisory Committee (PAC)⁷ met for the first time in July 2014 and was used to introduce the project activities and consult over the revisions.⁸ The 1st & 2nd CTAs, in cooperation with the Liaison Officer met with and made reports to the donor as required by the project agreement. After this it was not evident that the PAC played a major role in project supervision or decision making.

The TOR notes that *'The project receives regular feedback from the tripartite partners through a PAC which will meet on a quarterly basis. Part of the engagement with the partners through the PAC will be on how activities, interventions, and successes of the project can be maintained after the project has finished.'* (Annex 1, page 4).

⁷ The PAC consisted of 9 persons (3 Government, 3 Employer and 3 Worker representatives) to meet on a quarterly basis

⁸ The revision application was submitted to and approved by PARDEV/CODEV, noting the changes to the environment, issues with project design and the uncertain political environment

2. Evaluation Background

The evaluation report is based on the TOR prepared by the Evaluation Manager in consultation with key project stakeholders⁹, and the purpose, objectives and outputs of the FOA Project application. The ILO engaged a team of two persons to carry out the evaluation; they included a Team Leader from the UK and a Myanmar National Consultant, who was to assist with follow up interviews and data collection in Myanmar, writing the report and acting as interpreter / translator.

2.1 Objectives & Scope

This final independent evaluation assesses:

- The continued relevance of the FOA Project
- The progress that has been made to achieve the planned objectives.

(The evaluation is based on the ILO policy guidelines for results based evaluation according to the ILO standard policies and procedures and incorporates the OECD/DAC evaluation quality standards).

The scope is limited to:

- The FOA Project planning, duration and implementation, continued relevance, the geographical coverage and the time frame established in the evaluation TOR.
- The USDOS project is outside the scope of this evaluation but the impact on the FOA project is taken into account as it followed on from the USDOS project¹⁰.
- Identifying that gender equality is integrated and mainstreamed into the methodology and deliverables with disaggregated statistics.
- The influence of external factors on implementation and achievement of results, including the management of the FOA Project.

The evaluation focuses on determining through a gender equality lens:

- The extent to which the objectives / results of the FOA Project were achieved through intervention implementation and the potential level of sustainability.
- Relevance to a results based framework and appropriateness /clarity of the indicators, targets and delivery of outputs.
- The quality and reach of the various capacity building outputs and how effectively they supported the objectives of the FOA Project.
- The quality of FOA Project engagement with the tripartite constituents / primary stakeholders and direct beneficiaries (women and men, workers and employers), including the donor organisation.
- The effectiveness and efficiency of the management of the Project and the influence this had on implementation, progress and achievements. Including work planning, budgeting, financial reporting and monitoring.
- Lessons learnt and good practice, identified during the research, cases studies and field visit.
- Recommendations to support improved design and management for results of future ILO activities in Myanmar and to identify key areas that may be replicable and areas where further support and attention may be required.

The intended users of the evaluation are: the ILO Liaison Office for Myanmar, the Asia Pacific Regional Office (Bangkok) and HQ (Geneva), the Government of Myanmar and social partners, and the Government of Norway.

⁹ The stakeholders are described as *relevant ILO Staff, the donors, tripartite consultants, relevant government agencies, NGOs and key other partners*: TOR, page 8

¹⁰ This is further elaborated in Finding 4, pages 16 & 17

The findings and recommendations are timely considering the transition period that is taking place with a new Government being formed. They may be used to support further developments in the legal and regulatory framework and relevant institutions, as well as ongoing capacity building and awareness raising for employer and labour organisations.

2.2 Evaluation methodology

The methodologies were used to provide evidence based information to answer the questions of the evaluation criteria (*see Annex 2: The Inception Report*); namely, relevance & sustainability, validity of design, effectiveness and impact, efficiency of resource use, effectiveness of management and gender, which in turn informs achievements, challenges and outcomes of the project.

Methods are combined to triangulate data, used for both quantitative and qualitative analysis, taking into account time frames and available data. Methodological approaches including face to face and telephone / skype interviews were planned to empower project stakeholders to reflect constructively on the project's direction and propose ways forward and integrate Gender Equality issues.

Methods included

Desk research and the collection of statistical data, face to face interviews and focus groups, telephone and skype interviews, one stakeholder debriefing workshop, and written responses to interview questions. These were limited by the additional time that interpretation takes in interviews; focus groups were used when there were more than 3-4 interviewees.

The field visit took place from the 1 – 8 February 2016 in Yangon with 1 day in Naypyidaw. After the field visit, follow up interviews were carried out by the National Consultant in Burmese based on sets of questions discussed with the lead evaluator. Much of the data collected in the ILO Yangon Office also needed translating and summarising into English.

Adherence to ethical safeguards

All interviewees were advised that the information would be used for analysis and only attributed with the owner's permission, if names were used. The interviews during the field visit were carried out by the evaluation team leader and national consultant, who also acted as interpreter. No project staff participated in any of the interviews to ensure impartiality; they did not influence the selection of questions nor were they provided information on the responses. Individual responses to all questions remain confidential.

The evaluator used a set of general, open questions that were consistent for all interviews and a set of specific questions relevant to the interviewees' roles in the project. Probing, open questions were asked as needed to further explore and clarify the external context. (*See Annex 4: Output / Indicator Question Matrix*)

2.3 Sources of Data

- Project documents including the application, the revision to the application, the 2013 - 2014 progress report, reports and application for the USDOS Project, reports from meetings with the donor, various training materials, work plans and implementation schedules.
- Various documents relating to the areas covered by the project (Inspections, conciliation & arbitration, law reform and tripartite meetings).
- Materials produced by the FOA Project and external documents used in activities.
- ILO GB, ILC, CEACR, CFA and other Myanmar reports on relevant issues.
- Various press releases covering the project periods.

- Information gained from interviews and focus groups of the constituents and external stakeholders working with or impacted on by the project. (*See Annex 4: List of persons interviewed and field visit programme*)

The CTA was present for the week of the field visit and provided the evaluator with a large amount of information; the available staff were cooperative and worked hard to ensure the meetings and interviews took place.

The Stakeholders Workshop

The field visit included a Stakeholders Workshop / Briefing that was attended by 9 stakeholders (2 employers (UMFCCI), 1 worker representative (CTUM), 2 government representatives (DRL & MOLE), the ILO Acting Deputy Liaison Officer and 3 project staff members, including the CTA.

The evaluator facilitated the workshop and the national consultant provided interpretation. The evaluator gave a presentation of an overview of the FOA project, a summary of the Inception Report and observations made during the field visit. This was followed by a working group of the constituent participants who discussed the presentation and provided feedback to the evaluator. (*See Annex 5 for power point Presentation including agenda*)¹¹

2.4 Limitations

The major limitations were time constraints; the independent evaluator was contracted two weeks prior to the February field visit (1-8 February), after informing the evaluation manager of prior commitments in January; the National Consultant was not contracted until 2 days before the visit. This left little time to undertake desk research, liaise with the national consultant, finalise the inception report or prepare thoroughly for the interviews prior to the field visit¹².

The independent evaluation was carried out after the project closed and the staff's contracts had expired, apart from one project team staff member who was retained in another position that had already started. Meaning that there was insufficient time:

- To prepare the field visit schedule and the follow up of arrangements, leading to a low number of participants in some of the interviews and the stakeholders' workshop.
- For the evaluator to spend in the office looking through documents, such as registration forms, evaluation sheets and financial documents kept by the Yangon Office. The National Consultant did have the opportunity to follow this up after the field visit but staff were not always available to assist him.

Other issues included:

- Requests to meet with the PAC, as a Committee, did not take place, making it difficult to evaluate decision making structures, especially in regard to maintenance of objectives after the project was closed.
- The Acting Liaison Officer had a previous commitment in Bangkok so was not in the office during the field visit and there were difficulties scheduling telephone conversations during

¹¹ A report of the workshop is not included because the small number of attendees would make it easy to attribute comments to specific individuals. The outcomes are integrated into the qualitative analysis

¹² The TOR states that 'the evaluation will be conducted by a team' and the Myanmar National team member 'will provide support to the team leader during the whole process of the evaluation' (page 7). The national consultant was initially only engaged for the field visit and the evaluator had to request extensions, when the consult became ill, no alternative solution was proposed by the ILO to assist the evaluator.

the visit; the meeting with the Acting Deputy Officer could not take the form of an interview without the presence of the Acting Liaison Officer.

- A request for information on other projects implemented from the Liaison Office was denied, even after the evaluator had explained that the request was made in order to look for synergies and FOA priorities, information was subsequently found on the ILO website.
- The evaluator did not have access to the final project narrative report until the 3rd week of writing the report but did receive a draft report not officially signed off by the relevant offices. The financial report was not received until after the deadline for the 1st final report because it had not been completed or made available.

The evaluation team misjudged the time it would take the national consultant to gather information and so the final report was sent in two stages. In acknowledgement of the tight time frame, the Evaluation Manager agreed to a 3-day extension of the National Consultant's contract to assist in collecting data from the ILO Office and again a further time extension for the lead evaluator to finalise the second draft of the report.

Before the above could take place the National Consultant became seriously ill and could not complete all the agreed work and was not able to finalise the survey or some of the interviews and provide the Burmese names for the interview list or contribute to the main report. The evaluator advised the evaluation managers of this in emails.

A request for the evaluator to interview the ILO Deputy Director General for Management and Reform, Geneva, was made after the 2nd draft report was sent; the evaluator was not previously aware of the obligation to interview this person, who was responsible for overseeing the project and was identified in the draft report, before sending the 1st draft of the report.

The time frame was again extended because it took longer than anticipated for the evaluation manager to receive and consolidate comments from ILO stakeholders.

3. Main Evaluation Findings

These findings are based on the six criteria and questions from the TOR¹³.

There are 14 Findings' that are summarised in the section on Main Conclusions. It may have been preferable if the USDOS Project, considered as the first stage of the FOA Project, had been evaluated or included in this evaluation. This evaluation does not attempt to evaluate the USDOS Project but makes reference to the influence it had on the FOA Project.

3.1 Relevance & Suitability

Finding 1: As the first FOA Project in Myanmar, it is considered both timely and relevant for a country emerging from decades of military rule. The project has successfully eased the way into a modern IR environment by introducing the necessary knowledge, skills and awareness and providing some invaluable real life experiences that brought constituents together in social dialogue. However, lack of a Project Monitoring Plan (PMP), with regular monitoring, prevented participatory analysis and consolidation of the progress with the social partners; such an analysis could have provided the opportunity to monitor and discuss suitability issues, rather than attempting to implement all planned activities in a relatively short time frame.

There is no doubt that the objectives and outputs met the needs of all constituent stakeholders and beneficiaries at the planning stage. For example, Myanmar would not have been able to effectively participate in the ILO at the international level without the contribution made by the FOA Project to an understanding of the process of tripartism and the concepts of social dialogue.

The planning for the FOA project was informed during the implementation of the USDOS Project, which provided a knowledge of the country and experience, developed during the 12 months of implementation. In this period there were ongoing discussions with stakeholders, ensuring that the needs of both the ILO and the constituents were met. This was timely because it began when the country was opening up and preparing for re-entry into the ILO representative processes, after the LOL and SLDL were enacted and law reform had begun. The fact that the expelled union leaders were allowed back into the country before the project commenced, greatly assisted implementation and impact. The project training provided insight into the corrections needed for the LOL¹⁴ to be consistent with ILO Conventions No. 87 and 98¹⁵ and ensured that this was done with a tripartite approach.

The focus on tripartism in the project was in line with the constituents needs and the fundamental principles of which the ILO is based on, as reflected in ILO Convention No. 144, that requires effective consultation between government, worker organisations and employers at all stages of standards related activities of the ILO; including the application of standards.

The ILO Declaration on Social Justice for a Fair Globalisation (the Social Justice Declaration) expresses the conviction that "in a world of growing interdependence and complexity and the internationalization of production.... social dialogue and the practice of tripartism between governments and the representative organizations of workers and employers within and across

¹³ See Annex 2, Inception Report

¹⁴ [http://www.burmalibrary.org/docs12/Labour_Organization_Law%20No.7-2011-ocr-red\(en\).pdf](http://www.burmalibrary.org/docs12/Labour_Organization_Law%20No.7-2011-ocr-red(en).pdf)

¹⁵ Both being part of the ILO Core Conventions that all countries must include whether they are ratified or not

borders are now more relevant to achieving solutions and to building up social cohesion and the rule of law through, among other means, international labour standards”¹⁶.

Initial conflicts emerged between the unions in the early stages but both projects were able to assist in resolving some of these issues because they were identified in the approach taken by both CTAs.

A project workshop was held with union leaders during the USDOS project, to assist them to elect a delegation to the ILC because of growing conflict between the unions about how to proceed. The workshop was held to meet a specific situation without imposing a solution and the CTA facilitated the proceedings in a way that allowed the participants to reach an acceptable solution on electing the delegates. It is a good example of ‘learning by doing’; this not only resolved the election issue but helped to minimise further union conflicts and allowed them to contribute effectively to tripartism.
Interview with CTA of USDOS project

The treatment of trade unions during the military regime created the potential for union conflict, but it was apparent during the interviews and the structure of the trade union movement today, that both projects played a major role in supporting the unions to begin the process of working through this conflict. At the same time the lack of awareness amongst private sector employers could have created a risk to achieving the objectives of the project; but it appears that success at national level dialogue and the work done on bipartite SD will help to minimise this risk.

All the interviews identified an overwhelming level of support for the project and the principles that it was working towards with a vocal commitment to pursue these ideals into the future.

One PAC meeting was used to check relevance with the stakeholders but the 2nd CTA described the lack of experience in ‘discussion prior to decision making’ as a barrier for putting forward ideas, finding that the constituents were more likely to participate in smaller, more informal meetings; these were utilised to identify needs and check relevance in the place of more formal meetings. This was an effective way of developing consultation but made it difficult to develop a strategic approach to making project changes.

The first meeting with UMFCCI and the ACT/EMP project coordinator and a later workshop with the President and Joint General Secretaries was able to discuss and agree on the approach to the employer problem solving exercises, a sensitive topic at that point in time. The fact that the President remained to the conclusion of the workshop, instead of leaving after the welcome address, was a good example of using methodology that resulted in discussions on how to develop future collaboration. *Interview with 2nd Project CTA*

The project training programmes used materials prepared by the USDOS project as well as developing a series of curricula for more specific programmes. They were structured for 3 levels of advancement and were clearly linked to the knowledge and skills required for each component. For example, the training for FGILLD inspectors and Conciliation Bodies was based on a 2013 Training Needs Analysis carried out by DLR with ILO and FMCS technical assistance that ensured relevance to the subject matter. The Training of Trainers Programme was designed by an experienced union educator from Australia, resulting in local trainers who could effectively use participatory methodology.

The above demonstrates that project staff were able to respond flexibly to the social partner’s priorities on an ‘as needs’ basis; unfortunately, the periods of absence of a CTA and the lack of a PMP acted as restraints on strategic coordination.

¹⁶http://www.ilo.org/wcmsp5/groups/public/@ed_dialogue/@dialogue/documents/publication/wcms_15970_0.pdf

3.2 Validity of Design

Finding 2: The FOA Project's purpose, goal and immediate objectives were logical; there was coherence with the ILO's commitment to focus on Fundamental Principles and Rights at Work (FPRW) in Myanmar and consistency with the ILO Liaison Offices overall approach. The main skills and knowledge provided to constituents matched the needs identified in the immediate objectives and were clearly identified in the outputs and activity plan. The introduction of levels of training ensured sequencing that built on higher skills and knowledge with additional complementary activities to support them. The indicators in the original application were broad and revised in July 2015 to be more specific, but did not specify the type of indicator, means of verification and neither specified disaggregation of gender¹⁷. These factors made it difficult to realistically measure the long - medium term project outcomes.¹⁸

The project design focused on three areas (1) developing a tripartite process at the national level, (2) engaging employers and trade unions in bi-partite dialogue and supporting the development of organisations; and (3) working with the government on labour law reform while upgrading skills and knowledge of labour Inspectors and conciliators and arbitrators to assist them in their roles. The programme did successfully engage the government, employers and trade unions in raising awareness of their rights and responsibilities, using different mechanisms to encourage practice¹⁹.

Relationships developed during implementation of the USDOS project ensured constituents were engaged in the design of the FOA project, incorporating their needs and those of the ILO. The FOA project took a broader approach than the USDOS project by building on the achievements of awareness raising and capacity building to begin the process of developing an IR system, consistent with the ILO Conventions.

The focus on education and training was well designed to match the skills and information needed for specific groups allowing them to develop in their own roles and learn about social dialogue. This was evidenced in activity reports and the interviews carried out in the field mission, as interviewees expressed time and again how invaluable the training activities had been for them to fulfil these roles.

The indicators were general and non-specific with a combination of output (the results of activities delivered by a project) and outcome (medium term effects of project activities) indicators. None specified sex disaggregation, neither was there an indicator specifically for gender. The indicator revisions made in 2015 were more specific but they still lacked the essential elements to measure outcome. It is noted that indicators based on comments from the evaluation sheets filled in by participants at the end of a training activity are not usually considered to be a reliable measurement of what has actually been learnt or can happen as a result of the activity. Rather, they are immediate impressions of learning that has not yet been put into practice in a real situation, course exercises, such as role play, can give some indication of skills that are learnt but are not a substantive measurement of behavioural and attitudinal change.

The interviews indicated some institutional and individual change, but lack of data collection around outcome indicators made it difficult to quantify this. It was also considered too soon after the closure of such a short and comprehensive project to realistically identify medium or long term impact. Except in the case of those educators who attended the TOT courses and who were able to practice what was learnt by conducting their own courses; but again there was insufficient data to analyse. In spite of the lack of gender recognition in the indicators there was some sex disaggregation noted in the reports.

¹⁷ See analysis in Finding 14 on Gender

¹⁸ As identified in the 'Proposal for a Technical Cooperation Project' *MMR_PRODUC_NOR_CLEAN.pdf*

¹⁹ See analysis in the Findings; Criteria 3 - Effectiveness, impact & sustainability

Finding 3: The FOA Project was highly ambitious for a relatively small budget given the enormity of the task to be undertaken in order to 'realise sound industrial relations²⁰', the level of experience of the constituents and a multitude of topics factored into the training programmes. In retrospect, the time taken to go through the revision process might have been better used in solidifying the work carried out so far, to allow a more strategic focus on activities in the time frame available. Preparing an exit plan, that included planning activities with constituents for the next phase of the project would have fully engaged the constituents, used their increased experience and knowledge and ensured continuity of capacity building and learning.

The introduction of revisions in the FOA Budget Revision Request Form (BRRF) 26 May 2015, with a no cost extension, were deemed necessary at the time by the PAC and had the donor's approval but were not considered within the framework of a PMP and Exit Plan²¹.

A revision of indicators and activities was submitted by the 2nd CTA to the donor in May 2015 and after a series of consultations, was approved by the donor in June 2015; including an extension to 31 January. The short period of time to implement the changes was manageable because the revision ensured continuity with the project objectives and the adjustments were fairly minor; but would have taken additional time to prepare, submit the revision and amend the already full work plan. More strategic project oversight through a PMP would have taken into account the ambitious nature of this project.

Although the low base line of knowledge and experience of the constituents was mentioned in the application, many other documents and by most of the interviewees; it could be questioned whether the objectives, outputs and activities reflected this observation. Training programmes tended to contain too many issues meaning they were covered superficially and did not provide the time for the reflection or practice needed to be able to use new information and skills effectively.

Given this situation it should have been evident that the 24 months' time frame could not encompass the ambitious nature of the objectives and that preparations to seek funding for a follow up project should have been designed into the original application.

A GB report noted that the Liaison Office worked to support the Government with law reform that included consultations with the social partners and went on to report that '*through a labour law reform and institutional capacity-building initiative agreed in 2014 between the Government of Myanmar, the Governments of the United States, Japan and Denmark and the ILO, a full review of all existing labour law will be undertaken towards the production of a revised, comprehensive and coherent labour code within a two- to three-year time frame*'. This demonstrates that there were plans for a follow up project as early as 2014 but the evaluator could find no indication that continuity with this project was anticipated or to what degree the constituents were engaged.

A 2015 concept note²² that appears to be a pre-cursor to the above initiative indicates the need for high level technical advice and expertise on labour law reform, institutional structural changes and professionalisation, in order to support a reformed IR legal system with capacity building included. When this project would come into being or to what extent the constituents were included in the discussions is not known by the evaluator but there could potentially be a long gap without FOA capacity building, even though seed funding has been provided.

²⁰ MMR_PRODUC_NOR CLEAN. *The Goal*, page 10

²¹ ²¹ Addressed more fully in 'Effectiveness of Management'

²² FOA Phase III - MINI Concept Note FINAL

This could stall the process at a time when, *'we are at the cross roads of a becoming a conflictual system or a system of social dialogue and delaying FOA training and awareness raising for any length of time could be disastrous'*²³

At the time of the field visit interviews the project was closed and many interviewees expressed concern that although they knew the end date of the project, they were not aware of the sudden closure. All expressed an urgent need for continuation, saying that they feared the ILO was going to 'walk away from them', just when they were beginning to feel excited about and committed to the processes of FOA.

3.3 Effectiveness, Impact and Sustainability

Effectiveness, Impact & Sustainability are all incorporated into the areas of the three immediate objectives in order to avoid duplication caused by reporting on each of the three criteria separately. These findings analyse how the project met and attained the objectives qualitatively because lack of data collected during the project prevented the provision of quantitative analysis.

Finding 4: The FOA Project was of central importance in raising awareness of the value to Myanmar of Freedom of Association and Social Dialogue at all levels; it played a fundamental role in establishing a base that is essential for an IR system to provide justice and fairness at all levels. Taking into account the short time frame, political uncertainties and the lack of a monitoring plan the projects reach to the identified target groups was substantial and some progress was made towards making 'freedom of association a reality – in law and in practice'. The levels of impact varied between the three immediate objectives but is considered difficult to measure in such a short, ambitious project; sustainability will depend on a future FOA project and the institutional support for the enabling of rights.

Understanding the progress made in the USDOS Project is integral to the progress made in this project and is integrated into the findings²⁴; the evaluator interviewed the CTA, sighted the end of project report and took note of the mention made to it in various interviews.

For example:

- The Promoters strategy targeted a number of stakeholders outside the three constituents including: the judiciary, journalists, academics and NGOs. These groups are all necessary for gaining support for FOA and ensuring enforcement, they are key actors in keeping an IR system accountable and it is seen as unfortunate that work with some of these target groups was not continued. Although it was evident that the media regularly reports on FOA during the project period and two international solidarity support organisations (the Solidarity Centre and Frederick Ebert Stiftung FES) continue to engage with trade union organisations to support the project objectives.
- The USDOS project laid an invaluable foundation for this project to build on, including, for example the development of training materials and information resources. The CTA began the process of providing advice to constituents on IR issues, who then actively sought out the project team; this continued in the FOA project, with an amended approach that took into account some of the problems with the process.
- Trade union registration training and advice to unions was initiated, including the production of a Guide to Registration without which the number of registrations, especially of the federations and confederation would probably not have occurred so quickly. It was also

²³ A conclusion from a workers focus group discussion

²⁴ USODS Project MMR_TPR_final HQ_29.10.2013.docx

instrumental in beginning the process of handing over to Myanmar nationals, with materials in Burmese.

- The damage that dismissals and arrests were having on workers joining or forming trade unions and the inherent difficulties in bringing employers together was recognised in the USDOS project; progress towards developing union and employer capacity was already underway when the FOA project commenced so contributed to the large number of unions now organised and registered.
- The unique position of the ILO to carry out technical cooperation projects due to the relationship of trust built with the Ministers and government officials was recognised, and which both CTA's of the FOA project continued, ensuring the success of the progress of national tripartite bodies.

In the FOA project concise measurement of the extent to which the purpose and goals are met is hampered by the way the indicators are constructed in the application and revisions; either being too general or too focused on an activity (see Validity of Design). Quantitative measurements proposed in the indicators, such as the number of WCC's set up or the increase / decrease in disputes, is not possible to record accurately because of lack of reliable data.

Project implementation was successfully adjusted to meet the challenges identified in the TCPR²⁵; as for example undertaking the IR reviews to meet the lack of political will to make changes to the LOL and SLDL and the strategy adopted to overcome the resistance of employers to the formation of labour organisations.

The project has documented a considerable amount of information making it possible to find success stories²⁶ and actions that establish 'good practice' (*see templates on emerging good practice*). The time frame of the evaluation, unfortunately, limited the amount of research that could be carried out, for example, it was not possible to complete a survey on the progress being made by employer organisations.

Immediate Objective 1: *National labour law institutions are in a better position to recognise, implement and enforce fundamental rights at work; incorporating law reform, training for conciliators & arbitrators and tripartite council and bodies, and training for the FGLLID inspectors.*

Finding 5: all constituents contributed, through project activities, to the progress made towards law reforms, including Social Security, OSH laws and three²⁷ out of the 18 existing laws, with agreed amendments. Education on the relevant ILO Conventions and the use of ILO technical specialists helped to develop basic skills to analyse input to the tripartite law reform forums. Law reform by necessity is a slow process and as a consequence the rights discussed at the local level were not always realised in law, creating a disconnect between existing laws and the realities at the enterprise and workplace levels, which may have contributed to the difficulties in dispute resolution at that level. This is not directly caused by the project but again could have been identified with internal project monitoring to allow the re-setting of priorities.

²⁵ [TCPR_FOA_NOR. Oct2013 to Sept2014.pdf](#)

²⁶ See Annex 6

²⁷ The Payment of Wages Law, the Factories Act and the Establishments Act were adopted by parliament. OSH law submitted to parliament but not adopted

Engagement in the development of new laws, reviews and amendments was important given that such laws enable FOA and Social Dialogue²⁸. Some barriers were experienced initially, namely in the review of the LOL, SLDL and rules but the project was able to play a role in overcoming these barriers and contributing to the forums and advisory groups that were subsequently set up²⁹.

Two Issue Papers were commissioned by the project; the first³⁰ in 2014 provided an in depth analysis of law reform in Myanmar and the second provided a general review of Industrial Relations with options for the future³¹. Illustrating the importance of research, both papers provided useful analysis of the situation and recommendations to ensure informed dialogue and decision making took place. The project constituents also contributed to the 1st Tripartite Technical Advisory Session on reforming IR in October 2015, with ILO technical specialists, to review the Issue Papers. This started the process of developing a common vision for a modern IR system.

The disconnect that took place between the national level law reforms and IR realities at the workplace level, especially the disputed amendments to the LOL and SLDL, took place because they were not yet consistent with the relevant ILO Conventions. This could have contributed to the conflicts that arose between trade unions and employers at the workplace. Interviews with employers often raised the problems of workers exercising rights without responsibility but if laws are still unclear at the national level it is bound to lead to conflict, with blame being apportioned to the other side. On the other hand, it can encourage government to deal with the issue by enacting better laws.

The table is taken from the 2nd Issue Paper Source: Ministry of Labour, Employment and Social Security (May 2014)

<p>Laws already enacted</p> <ul style="list-style-type: none"> - The Labour Organization Law, 2011 (enacted on 11 October 2011 and effective from March 2012)³² - The Settlement of Labour Disputes Law, 2012 (enacted on 28 March 2012)³³ - The Social Security Law, 2012 (enacted on 31 August 2012, effective from 4 June 2013)³⁴ - The Minimum Wages Law, 2013 (enacted on 22 March 2013, effective in June 2013) - The Employment and Skill Development Law, 2013 (enacted on 30 August 2013, effective on 30 November 2013) 	<p>Laws under amendment/to be repealed</p> <ul style="list-style-type: none"> - Workmen's Compensation Act, 1923 - Dock Labourers Act, 1934 - Payment of Wages Act, 1936 - Dock Workers (Regulation of Employment) Act, 1948 - Shops and Establishments Act, 1951 - Law Relating to Overseas Employment, 1999 <p>Laws to be amended</p> <ul style="list-style-type: none"> - Employment Statistics Act, 1948 - Oilfield (Labour and Welfare) Act, 1951 - Factories Act, 1951 - Employment Restriction Act, 1959 - Leave and Holidays Act, 1951
<p>Newly Drafted bills</p> <ul style="list-style-type: none"> - Alien Workers' Law - Occupational Safety and Health Law 	

Sometimes information was not timely, for example, a Labour Law Guide that was coordinated by the project in 2014 but commissioned by the Liaison Office. This publication could have assisted the

²⁸ Laws included for example: practical implementation of the new Minimum Wages Law and OSH law, the Payment of Wages Act, the Employment & Skills Act and Contracts of Employment Act.

²⁹ In October 2014 a Labour Law Cluster group was formed and agreed to become an advisory body for the National Tripartite Dialogue Forum where all 3 worker's federations were invited. In February 2015 a meeting was held to update the status of law reform and discuss Stakeholders Forum that took place in May 2015

³⁰ *Issues Paper_Myanmar labour legislation review 1_FOA COMMENTS in 2014*

³¹ *Industrial Relation in Myanmar to ILO FOA - FINAL*

³² This list reflects the status of various laws as reported by MOLES in May 2015. However, more recently, the Government has committed to review the LOL and SLDL together with social partners

³³ *Idem*

³⁴ *Idem*

social partners to better understand the process, but although the consultant's contract expired in December 2014 it remains unpublished. The evaluator sighted a draft of the guide that appears to be both practical and useful; and could have been published in a way that allowed regular updates, making it a living document, which is not difficult to do with modern technology.

Interviews with ILO technical specialists from Bangkok and Geneva, who contributed to some activities, noted that the activities were very useful, especially the preparatory work prior to the Labour Law Reform Group meetings, demonstrating the positive engagement of constituents. On the other hand, the overall reach and content of the programmes was seen to be too general and covered too many topics in the available time frame; making it difficult to carry out any follow up work.

An interview with the ITUC noted that the LOL and SLDL were still not consistent with the ILO Conventions so cannot realistically either prevent union exploitation or enforce trade union rights; but in spite of this both CTA's of the project were seen to make an important contribution to creating a better understanding of FOA. The ITUC expressed concern that new Ministers appointed by the government may not fully understand the principles of FOA.

It was generally recognised that an approach to law reform needs to be systematic and orderly and that there are no 'quick fixes' if there is to be a smooth transition. Rushing the process without considered involvement from all constituents leads to unintended drafting mistakes, which coupled with lack of understanding, can have political consequences.

Adjustments can be built in, through projects, to ensure learning keeps pace with and can drive change because it is difficult to implement new laws if they are not understood by those who are impacted by them. Behavioural change is also needed but project activities, in this area, appeared to have emphasis on information; lacking the time for methodologies that could bring about sustainable behavioural and attitudinal change to support the transitions. Some interviewees also felt that because of the unique situation in Myanmar the ILO specialists in Bangkok were not included enough in backstopping, especially as they have the experience of working in other ASEAN countries; it appears that the inclusion of these ILO regional specialists was an initiative of the CTA.

Finding 6: the FOA Project assisted the Conciliation and Arbitration Bodies already working on dispute resolutions to develop a clearer understanding of the need for impartiality in their roles. The training programmes raised awareness and laid the foundation for future, more in-depth training. The changes made to the approach during implementation demonstrated flexibility in dealing with an identified problem; but it is beyond the scope of this evaluation to measure the overall impact on enforcing fundamental rights at work due to the lack of data collection on disputes.

The SLDL consists of 4 types of dispute resolution bodies, (1) Workplace Coordinating Committees (WCCs), (2) Township Conciliation Bodies (with 11 members) to conciliate individual and collective disputes within 3 days, (3) Dispute Settlement Arbitration Bodies at the State/regional level with 11 bodies that deal with collective disputes unresolved by the Conciliation bodies and Dispute Settlement within 7 days (4) Arbitration Council at the national level with 15 members dealing with the applications for the review of decisions of the Arbitration Bodies. No 2 and 3 are appointed for a 2-year term.

A training programme for **Conciliation Bodies** was developed and piloted in partnership with the US Federal Mediation and Conciliation Service (FMCS), where participants (DLR staff and Conciliators) from the Conciliation Bodies with the biggest case loads, received 2 days professional training.

The next step was to carry out a TOT with selected Conciliators, but this was cancelled owing to the identified low level of knowledge of Conciliators. Instead, the training was targeted at Conciliators from the industrial zones who were experiencing heavy caseloads and joint training was carried out with DRL and MOLES officials.

Reports of the training programmes and materials made available to the evaluator, demonstrated a sensible and flexible approach to dealing with this problem. The three reports³⁵ described multi-purpose type visits of 4-5 day to different areas in Yangon and Mandalay and included a pilot; all were conducted with the participation of FMCS.

The visits consisted of (1) meetings with Conciliation Body members in the Industrial Zones, (2) a workshop with employers and worker representative from selected workplaces to identify problems and find solutions and (3) a 2-day training course for Conciliators; for many this was the first training they had received despite the fact that they had regularly conciliated disputes since 2012. The training agenda identified that a participatory approach included discussions and role plays using real issues. In addition, the FOA Education and Training Coordinator attended a course at the ILO Turin Training Centre enabling them to organise the training and provide advice to the core group of trainers.

Carrying out an initial training pilot allowed for 'as necessary amendments' to be made and engaging people in workplace visits grounded it in reality. The USDOS CTA noted in the December 2013 report that the number of cases indicate that conciliation and arbitration was taking root in Myanmar but also indicated that insufficient cases were being resolved at the workplace level. In the October 2014 report, holding a one day WCC training with FMCS for seven workplaces in Mandalay with 24 participants was an attempt to deal with this and raise the profile of WCCs in the dispute resolution process³⁶.

This multi visit approach, the inclusion of all constituents and the methodology used, is a proactive and innovative approach for a group of people who were carrying out a difficult role without any prior training. If considered as a precursor to embedding professional training for Conciliators into a tertiary education programme, it achieved its purpose but only for a relatively small selection of conciliators.

The FOA Project contributed to the assessment of the functioning and effectiveness of the IR system, to include the labour dispute resolution system, drafted in 2015. Its contents were discussed in several meetings, including the October 2015 Tripartite Technical Advisory Session on Reforming the Industrial Relations Laws in Myanmar and the September 2015 trainings for Arbitrators and DLR staff. The report is currently awaiting finalization.

It is identified that the project contributed to an increasing willingness of the Government to revise the SLDL³⁷ during meetings of the National Tripartite Dialogue Forum (July and September 2015) and the October 2015 *Tripartite Technical Advisory Session on Reforming the Industrial Relations Laws*. This established an important basis for future work, which will be essential to the development of sound industrial relations in the future.

³⁵ [Conciliation and WCC Training Report.docx / Conciliation bodies Final \(Dec 2013\).docx / FMCS Trip Report July 2014.docx](#)

³⁶ See Emerging Good Practice 3

³⁷ This is necessary to make any real improvements to the dispute settlement machinery

As part of the project, a training **needs analysis for Arbitrators**³⁸ was undertaken by the Senior Deputy President of Australia's Fair Work Commission in March 2015. Concerns raised in the report were consistent with the focus group interview held with the Conciliators and Arbitrators, such as lack of record keeping, case management issues, selection criteria and lack of training and materials to support their work. The focus group interviewees also raised the concerns employers and unions have about competency and the lack of confidence in the system as it stands at the present time, which they said did not make their work any easier.

The Senior Deputy President made two visits; the first to carry out the needs analysis and the second to participate in the training programme. The course used a variety of methodological approaches, including sessions on best practice with group work and role plays. A delegation from Cambodia also participated and shared their experiences. At the same time the workshop provided the opportunity to consider changes and improvements to legislation.

The report recommended among other issues, a programme of more in depth training for Arbitrators and a more structured approach between the Arbitration Council and the DLR which the ILO could contribute too. The Senior Deputy President recommended a Good Conduct Guide and the publication and dissemination of decisions, the encouragement of better labour management cooperation through WCCs and some revisions to the SLDL. It is considered a success, that the project showed the way for the formation of professional training for this group.

The high number of disputes going to Township level conciliation suggests to the evaluator that the project training may have been more relevant for and needed at the workplace level; taking into account that the training for conciliators and arbitrators is essentially part of a higher education system. Developing a training programme with FMCS was important but the actual training could have waited until the approval for the larger, IR institutional development project was in place. Time could have then been spent developing more skills and structures at the workplace / enterprise level.

Township conciliation bodies dealt with:

- 1,490 cases between July 2012 and November 2013. 124 of these cases were referred to arbitration bodies.
- Averaging 88 conciliation cases with 7 cases going arbitration bodies per month
- 3,050 cases between July 2012 to August 2015, representing a drop to an average of 80 conciliation cases per month
- 1,560 from December 2013 to August 2015, or 78 cases per month on average)

Arbitration bodies dealt with:

- 288 cases from June 2012 to August 2015, or an average of nearly 8 cases per month

The focus group consisting of 3 conciliators and 4 arbitrators from all constituent parties, indicated unanimously that the training was important for learning about attitudes and impartiality. Assisting them to analyse, think critically and use ways to approach and convince. *'The project training has assisted us to understand the concept of conciliation and given us an awareness about how to settle a dispute. The workshops helped to develop new attitudes and learn new skills and a rationale for making appropriate decisions.'* (Focus group member)

The group noted that *'academically there is no IR specialist in the country and government institutions need more IR experts that are not biased and we need academic support through the provision of university degrees and the use of interns'*. They also noted the importance of knowing and understanding the law and how difficult it was keeping up with changes at the present time.

³⁸ 01. REPORT Myanmar mar15 ab 8may2015

Expressing concern that employers and unions do not fully understand collective bargaining (CB) or the role of dispute settlement at the workplace level.

They identified that a knowledge of CB shows how disputes can be avoided at the workplace level. *'Our approach in Myanmar is different so we have to re-think how we do it and it identified the importance of training and experience'*. This indicates that although they appreciated the 2-day training and it did assist them, the project could have made more immediate impact by focusing on workplace level dispute resolution.

It was confirmed that data on dispute resolution is not recorded, making analysis difficult and that the rapid changes mean loss of institutional memory. They felt that they had little ownership over the process and wanted to be able to learn from their own experiences and genuinely contribute to the new system.

Other concerns included the high turnover of conciliators from trade unions and the lack of confidence expressed by both unions and employers in the current law and weak enforcement. They were concerned that when arbitrators and conciliators are known to be from an employer or union group and the case goes against them, then they are accused of being partial.

Union leaders also expressed lack of confidence with the laws because of a bias towards the employer and recognised the difficulties experienced by weak enforcement and lack of professional training as contributing to disputes.

A young woman, appointed by her trade union as a conciliator after attending one of the project courses but with no other training reported that she was able to practice what she learnt. *'When I first started the older men - most of them are - did not respect me as a young woman with no specific training but the courses were useful and I did resolve some cases and get more respect now; but it needs to be continued with concrete knowledge to give more confidence'*.

The visit to the Arbitration Council in Cambodia for selected members of the Arbitration Council and DLR was considered to be useful and important by all parties, as was the contribution made by Cambodia to the workshop and constituents believe such visits should continue.

Finding 7: the assistance to prepare a policy position and training strategy, given by an ILO technical specialist in one of the activities, will allow the FGLLID to ensure their needs are taken into account when future professional training projects are planned. The training workshops, although useful for raising awareness as a precursor for more professional training, were done late in the project and did not provide time for following up the skills learnt. It might have been more useful to limit the issues to FOA and FPRW to ensure a clearer understanding prior to a professional training programme being carried out.

The project organised 2 x workshops and 1 x study visit to Malaysia during the project period building on a capacity needs assessment of FGLLID done in September 2012. Two workshops, in October 2014 and May 2015, laid the foundation for 'A Labour Inspection Capacity Development Strategy' with a work plan³⁹.

An interview with the ILO technical specialist, who participated in the workshops, confirmed the importance of having a policy direction and clarification of own priorities before planning, as this can inform discussions and decisions when a new project is offered. Especially as donor countries often have different approaches to Labour Inspection, for example, some are limited to Occupational

³⁹ Myanmar Labour Inspection Capacity Development Strategy - Draft Clean MASTER 11 Feb 15

Safety & Health (OSH), while others include a range of work conditions, including wages; having a policy can ensure that Myanmar can select the approach that is best suited to their own situation.

These were followed by two 5-day training courses in November 2015 and January 2016 that were based on the ILO publication 'Building modern & effective labour inspection systems'⁴⁰. They also included a range of other topics such as Standards Setting, FPRW, law reform and gender equality, which is a multitude of issues for a 5-day programme. The National Project Coordinator attended a Labour Inspection Training Course in ILO Turin Centre prior to conducting the training courses. It was agreed that the TOT approach for inspectors was not appropriate at this point in time.

It was noted in the reports that not all inspectors received this training and are now unlikely to do so given the closure the project. This could cause some confusion, in the adoption of new techniques, between the inspectors and may not be consistent with future professional training, especially as rigorous data collection processes are yet to be put in place and the department still lacks modern equipment. The report from the validation workshop identified the key challenges facing FGLLID inspectors. For example, the lack of a real employer being available to inspectors, difficulties when union leaders do not seem to be genuinely representing workers, and the need for more OSH awareness amongst employers. Focusing on these key challenges may have been more useful than covering labour inspection systems and professional skills at this stage.

Immediate Objective 2: *Employer and worker organisations have improved capacity and effectiveness in implementation of the LOL and SLDL and work together constructively on dispute resolution, collective bargaining, OSH and building an industrial relations based on mutual respect.*

Finding 8: As the corner stone to FOA and FPRW the activities for this objective have contributed to providing enabling rights for Decent Work that is only possible 'if all women and men can have a say in what this means for them'⁴¹. Achievement towards this objective are mixed, the major achievement being the rapid development of basic labour organisations, especially in the agriculture and garment sectors and the registration of the labour confederation and federations. The work with employer organisations proved difficult for a number of reasons but attempts during the project to rectify this made some progress. The establishment of the confederation and federations is considered sustainable even if the small ad hoc structures of some of the smaller unions may not continue; but these do have the potential to become more stable over time, as they either merge with other unions or gain strength after further training and support

The project played a major role in strengthening the trade union movement and assisted the process of setting up employer organisations: these achievements are measurable and for the Labour Confederation and Federations are considered sustainable. The unions have experienced some internal conflict but this would be considered inevitable for a trade union movement that was part of the struggle for democracy; it appears that the project activities have played a role resolving some of these disputes and the principles of FOA are helping them to achieve consensus.

⁴⁰ Selected chapters of this manual were translated into Burmese for the workshop

⁴¹ http://www.ilo.org/wcmsp5/groups/public/---dgreports/---dcomm/documents/publication/wcms_096122.pdf. Page xi

Basic Labour Organisations increased steadily over the project period from 40 in June 2012 to 1704 by August 2015 and included

- 88 x township and 8 x state / divisional labour organisations
- 7 x Federations and 1 x Confederation

Representing 0.4% of the workforce

Employer Organisations have increased slowly including

- 28 basic employer organisations
- 1 x township sector specific labour organisation
- 1 x federation (maritime)

Representing 0.2% of employers in the country

The training of educators was important in reaching out to the social partners; especially as it allowed the courses to be conducted in Burmese; this was evidenced by the increase in participant numbers after the TOTs were held. The educators' network supported this and met regularly to discuss issues and share experiences. The sustainability of this strategy will depend on how many follow up courses they are able to run and whether there are further training opportunities now that the project is closed, hopefully by their own unions. The training was highly appreciated by the majority of participants (see Annex 6: Success Stories).

The project provided capacity building training programmes for the farmer's union jointly with FOA project. Through this, unions understand that it is important to be a strong union and make society aware of this. FOA staff went anywhere regardless of distance and challenges. FOA project is needed even for the parliamentarians in transition period. So the project needs to continue. (Vice President AFFM-IUF)

The evaluator sighted a selection of workshop and educators network meeting reports, illustrating that challenges were discussed and experiences shared but there does not seem to be follow up reports to indicate how these challenges were dealt with.

An interview with 3 network members indicated appreciation for the opportunity to become trainers as it helped them to communicate better with workers. They noted the number of unions increased with the training but at the same time created the need for more training.

The group identified a number of areas that could be improved for future projects

- More opportunities for trainers to practice; they did not feel they were utilised sufficiently to translate knowledge into practice
- More involvement in the actual project; they would have liked to give and receive feedback
- Insufficient training on FOA issues; they often lacked the confidence to answer questions
- Employers need more awareness: this prevents the realisation of FOA at the workplace; more focus needs to be given on how to use rights responsibly
- Workers and employers must understand FOA; or 'yellow unions' will be set up by employers
- Future projects need to involve us more in planning and analysing the situation. *'We would like to have more ownership over the design and felt it was too much too soon without enough monitoring and follow-up'*

The interview with the Permanent Secretary and Deputies from MOLES corroborated these comments; *'The TOT needs to include relevant content and should not just be about International Standards but must also be in the context of current national law – a combined approach so as not to raise expectations or confuse workers'*. The interviewees confirmed the importance of the Basic Level Training and the need for it to continue but with a better understanding of the different levels of the social partners factored into the programmes. The evaluator notes that more awareness

raising is essential but could take a more practical approach so that it can be replicated at the workplace level.

The problem of involving employers in training was anticipated in the application and referred to in the mid-term report, so achieving 30% participation in the training activities is considered an achievement⁴². Problem solving workshops were planned in 2015 to deal with this, which did seem to create more interest, acknowledged in the interview with UFMCCI.

A small group interview was planned for employer representatives from an industrial zone but only one person attended. The relationship with unions was described as non-existent from a human resource management perspective with little or no respect between the parties. Comments included, lack of respect showed by unions with demonstrations of bad behaviour but the evaluator did not get the opportunity to corroborate this with other employer federation representatives. The interviewee attended one training course on OSH and as a result did more online research on the topic and identified that lack of knowledge of the law did not help the situation. The CTUM interview identified similar challenges but with more measured arguments.

The issue of workers knowing more about rights than responsibilities was raised in several interviews, by all constituents, and needs consideration; but should not be solely attributed to the project. Experiencing a sense of freedom after decades of military rule, that forbade union rights, would justifiably encourage workers to exercise these rights, whether or not they attended a workshop. The other side of this story is that employers, as well as trade unions, have an obligation to act responsibly and reports suggest that this is not always the case. Apportioning blame does not further the process of social dialogue whereas analysis and dialogue can find a way forward for both the social partners; this was identified as a high priority in the project application.

The interview with representatives from the UMFCCI acknowledged that employers did not meet before 2014 but after this became very interested in FOA and participated actively in a 2 ½ day course on strategy and the nine problem solving exercises. The UMFCCI confirmed a commitment to working with the ILO as a result of the tripartite meetings and is currently working on setting up representative structures within the challenges of the legal framework.

The interview with CTUM, MICS-TUFS, and AFFM-IUF identified that the FOA project is greatly appreciated and played a major role in furthering the rights of unions⁴³ but they mentioned that it is difficult to persuade employers that the ILO is also for them. The CTUM appreciated the timeliness of the project starting immediately after the country began to open up and the methodology used in the training. *'We are in a transition period and so is industry. The FOA project was and is very important because it provides space for all the constituents and we have learnt a lot from it'*.

All trade union interviewees acknowledged the role that the project played in strengthening the approach to organising workers by increasing the understanding of the concept of collectivism and representation. Those trained are now able to share the skills and knowledge with other union leaders but noted that there are still challenges to managing disputes. MICS and AFFM noted that they still need support as it was *'only the beginning for them - employers continue to dismiss union leaders at the basic level because employers do not understand the process – protection for FOA and C87 is weak and we still cannot organise freely while there are conflicts within the law'*.

⁴² As documented in the final project report. *Overview of Project Activities*

⁴³ CTUM letter to the President of the ILO Workers group supporting the achievements of the FOA Project. 2015 Nov 8 -- CTUM report and request to Workers Group

All federations noted that they can now stand strong by working together in solidarity and becoming sustainable with the regular collection of union dues. They would like to see future training with a more in depth approach that provides the knowledge and skills a trade union needs to operate effectively.

AFFM-IUF / CTUM appreciated the focus on the agricultural sector, because of the poor conditions of workers and the lack of legal protection they experience. It is a concern that the selection of agricultural workers (small holding farmers) was questioned by some interviewees because they are classified as workers and are frequently exploited. Organising these workers can play a major role in the development of sustainable farming, causing less exploitation to workers and the environment⁴⁴.

Some people expressed concerns that more emphasis was put on working with trade unions than employers but this was written into the project objectives and the evaluator considers it was warranted because the world of work is not a 'level playing field'. Employers are always there regardless of trade unions and although they have to ensure that their businesses are viable, they are not usually prevented from setting up a business. For trade unions, on the other hand, the process is not so simple and requires a fair and just IR legal system for them to be recognised and respected. The foundation policy of the ILO states firmly that you cannot have a fair and just IR system without trade unions.

Interviews with Global Union Federations (GUFs) and the Council of Global Unions (CGU) corroborated these findings. The CGU emphasised the very small number of organised workers in Myanmar *'there is much to be done in the different sectors and services, especially with the political changes and uncertainties with the new government; they have little understanding of FOA at the present time but will listen to the ILO, which has an important role to play – a continuing project is important'*. The GUFs are now engaging more with the affiliates in Myanmar and the evaluator believes that they should be encouraged to participate in future projects; maybe with assistance to access funding for union capacity building programmes.

Finding 9: At the workplace level the introduction of CB and OSH was slow, as was the setting up of Workplace Coordinating Committees (WCCs) and with no evidence of a systematic collection of data, progress was difficult to analyse. WCCs as a component of the SLDL, can be set up with or without a union and in the current situation this could cause confusion, particularly regarding the process of representation. Being limited to the discussion of non-monetary issues means that WCCs are not negotiating CBAs and there is a danger that, until a higher percentage of the workforce is organised, WCCs will replace trade union representation rather than complement it. OSH issues are covered by different legislation and are fundamental worker's rights, often requiring complicated workplace negotiations that may not be appropriate for a WCC. At the time of this project the OSH law amendments were not finalised, so there was nothing concrete for union representatives or employers to work with.

The indicators were considered to be unrealistic in this area ⁴⁵ especially given the lack of clarity concerning representation between worker and union representatives on WCCs and the role of these committees. The evaluator suggests that in a country where there has not been a fair and just IR system for decades this approach to workplace social dialogue could be confusing and in the long term prevent FOA, and denigrate the rights of trade unions in representing workers.

⁴⁴ http://www.ilo.org/wcmsp5/groups/public/---ed_norm/---relconf/documents/meetingdocument/wcms_453866.pdf; No 151, page 34

⁴⁵ Referring to 'the number of workers and employers willing to accept workplace visits in order to establish or strengthen Workplace Coordination Committees (WCCs)' and the 'presence of WCCs and CBAs'

The 2 day training programme for WCCs covers a multitude of issues, meaning that topics are only covered superficially and even though time is given over to skills there is insufficient time for meaningful practice⁴⁶. The FMCS TOT model is only 1 day, which does not provide much space for representatives to practice the required skills, especially for workers and employers who have no prior experience of this type of negotiating.

This was evidenced in some of the comments found in the WCC activity reports and the interview below:

The visit to the Myanmar Ha Hae Garment Co. Ltd., part of the GAP supply chain, included a meeting with 3 managers, one being responsible for CSR. The factory is owned by a Korean company and employs 2300 workers (2050 women and 250 men). The interview revealed that all workers receive training on rules and job responsibilities and there is an OSH committee (trained by the government). There used to be 2 unions but for 2 years there has been one with 300 members that holds annual elections.

The WCC was set up in 2014 and meets monthly; the management reported that they only deal with small issues and were successful in ensuring access to clean drinking water. The management arranges the elections for workers not union members, while the union elects their own representatives. The visit did not provide the opportunity to talk with union leaders, as only a brief meeting was set up by management with two workers, who stated that they had left the union because of work commitments. They reported that the workers experienced no problems at the factory. The evaluator could not corroborate this, with union members or workers, as the visit was organised after working hours and so was unable to find out how representation was organised between the union and non-unionised workers. With no CBA negotiated, it raises questions about representation and the role of the union at this workplace

It is difficult to evaluate the impact of CB training at the workplace because of lack of data or opportunities to talk with union representatives who have a CBA. The evaluator received verbal reports of agreements from some interviewees but it was difficult to ascertain whether these were agreements reached on one issue or involved negotiating a comprehensive CBA. The evaluator did sight one agreement negotiated at a garment factory that illustrates progress is beginning in this area⁴⁷ but received no information on how this was negotiated.

The uncertainty about the role of WCCs and the lack of clarity surrounding CB without laws to support it are the main reasons why not many CBAs are being negotiated. In the current situation it appears that employers can set the terms for the structure and agendas of WCCs, and this will impact on the union's ability to negotiate CBAs in good faith. Law reform and Intensive capacity building will be required for both employers and trade unions in the near future if this is to succeed.

OSH law is drafted but not passed by parliament and it appeared from the interviews with the social partners that there was little awareness about the issues. Interviews with AFFM-IUF / CTUM revealed a lack of understanding of the dangers of pesticides and fertilisers, safe storage and spraying techniques, although they had noticed that fertilisers caused skin disease; this could though have been a language problem during the interview.

They reported that accidents were rare in farming but most had received no OSH training and explained how ways to protect themselves are passed by word of mouth. OSH is of fundamental importance to worker rights and an effective organising tool for trade unions, but maybe at this stage of FOA development and without legislation, it was too early to introduce it into the objectives of this project.

⁴⁶ [Enterprise Promotional Flyer.pdf](#)

⁴⁷ [2015 Nov 23 Myanmar Jiale Fashion Co.,Ltd-Eng.pdf](#)

Immediate Objective 3: Promoting sound labour relations and social dialogue at an industry / sector, regional and national level

Finding 10: Steady progress has been made towards this objective with significant achievements; the employers and workers reached by the project are certainly more aware of their rights and are developing a better understanding of the responsibilities that accompany them. The project made an important contribution to the establishment of national tripartite social dialogue and activities ensured the constituents could meaningfully engage. The FOA education and training strategy helped to ensure that bipartite national dialogue between the social partners will take place in the future. Developing workplace social dialogue will continue to need attention with a clear strategy for synergy between ILO projects and officers to support sustainability.

This strategy began with the USDOS Project and was continued into the FOA project; both projects produced large quantities of materials, leaflets, posters and guides for those who participated in the training activities and other events, in English and Burmese. Getting promotion in the print and electronic media was successful and included a Facebook page; information on the ILO Yangon website FOA information is available in both English and Burmese⁴⁸; but of course these are only accessible to those that have access to Internet or read the newspapers and it was not possible to quantify the reach of these materials or how they were utilised. The training for the agricultural workers did play an important role in bringing awareness to workers and communities in rural areas, who do not have the same access to information as those in urban and city areas.

The project promoted the importance of social dialogue at all levels; activities carried out with the social partners ensured a substantial contribution to the three meetings of the National Tripartite Development Forum (NTDF), in line with the work being carried out by the ILO Yangon Office. Interviews with the constituents confirmed the role of the project in supporting participation and contributions, with the assistance of the IR review. The role the project played in ensuring registration of the union confederations and federations was essential to the success of the NTDF meetings.

Reports of the NTDF meetings note that FOA needs integration at all levels and is an important part of the work of the Liaison Office, requiring collaboration and synergy between projects⁴⁹. The FOA Project, as the 2nd ILO project commenced after the Forced Labour project, is recognised as making an important contribution to the achievements of the Liaison Office, which was corroborated by the MOLES interview; they considered the future of FOA to be a vital component to improving social dialogue at all levels but needs a more strategic approach, which they hope can be achieved through the DWCP initiative.

The project contributed significantly to bi-partite discussions between employers and worker's organisations but the various barriers preventing implementation of FOA is recognised by all constituents. The MOLES interview drew attention to the need for a balance between the relationships of the social partners, especially when one partner contributes less. FOA training is essential to address imbalances but needs more consultation to prevent misunderstandings; better follow up and feedback with the relevant government departments could assist. For example, discussions about the division of content between International Standards and local law could improve the training.

At the sectoral level, enhanced dialogue in the garment industry was initiated, in spite of the growing disputes. At the national level significant contributions were made to achieving a minimum

⁴⁸ <http://www.ilo.org/yangon/areas/foa/lang--en/index.htm>

⁴⁹ See Emerging Good Practice 1

wage that covered all sectors and to resolving the employment contract issues. Forums between the MGMA and MTUF discussed minimum wages, overtime calculations and dispute resolution.

Training workshops took place for the Hlaing Tharyar Garment Employers Organisation and for SMART Myanmar enterprise engineers on IR, LOL, SLDL and social dialogue. A round table networking event was organised and advice given on FOA and Collective Bargaining issues, when requested. This was supported by cooperation between other ILO projects, namely the Responsible Business Project and external partners included SMART Myanmar, Switch-Asia and the Garment Industry Transparency Initiative.

The focus group meeting with the other project CTAs noted that there was sharing of information and informal meetings to discuss the issues, which is important as all projects are linked to FPRW and FOA, being cross cutting issues; and a monthly programming meeting takes place to provide continuity of dialogue about engaging with FOA issues. The continuation of this project is considered important because for example, the law reform process could take a few more years and the social partners will need training to update them and provide an in-depth understanding of the new laws.

A separate meeting with the CTA of the ACT/EMP project identified that there was not a lot of overlap with the other projects; although in the FOA project there was cooperation with training in the tourist sector. The ACT/EMP project works mainly with affiliates of FMCCI and actively supports the Hlaing Thayer Garment Employers Organisation. FMCCI affiliates tend to be the better employers and consider FOA and CB to be very important but need more training for it to be put into practice.

ACTRAV is not seen by the social partners as having the same role as ACT/EMP in Myanmar, maybe because there is no ACTRAV project that directly provides support for trade unions. The interview with ACTRAV Bangkok noted that Myanmar is a priority country and there was collaboration with a few project training sessions and events that took place with CTUM, AFFM-IUF and MICS on FOA and CB; including a lawyers training with CTU in Yangon (2013) to build the capacity to interpret the LOL to conform with C.87 and C.98; seminars and trainings were also conducted outside Yangon to support the federations. ACTRAV provides ongoing technical support and financial assistance, including for the protection of migrant workers and the minimum wage settings that contributed to the agreed national minimum wage in 2015. At the same time this support has improved cooperation with trade unions in Thailand and Malaysia.

These initiatives were much appreciated by the unions, by creating and maintaining an interest in International Labour Standards (ILS). Trade union officers were able to share the difficulties they were experiencing, making it possible to advise them on preparing a case to the Conference Committee on the Application of Standards. ACTRAV Bangkok maintains communication with the trade union movement and the project training has supported the development of a good relationship eventuating in the agreement to hold a global supply chain conference.

ACTRAV believes that the project played a major role during a time of considerable change in IR, although there is still a lot to do, as the transition period to a new IR system is only just beginning. Social dialogue mechanisms need institutionalising and strengthening for genuine negotiations on labour issues to take place. The labour laws, including the LOL, need a proper review in order to regulate the IR system in line with ILSs. Trade unions will continue to need capacity building, especially the newly formed unions so that they can play a constructive role in communication and negotiations.

The evaluator considers that both social partners demonstrate a willingness to change but it should also be recognised that workers do have genuine claims and need additional support to manage the situation, especially as CB remains a very new issue. Employers also need an opportunity to learn more about the process as this can encourage respect for the different positions and minimise confrontation. Both employers and workers will continue to need access to technical support and training on social dialogue but this may not be so readily available since the closure of the project.

3.4 Efficiency of Resource Use

Finding 11: the financial analysis is incomplete because reports and records were not finalised in time for the evaluator to be able to carry out an in-depth analysis but it was evident that the activities were efficiently carried out as over 90% of were completed. There was underspending at the close of the project probably due to budget overestimation and lack of planned budget versus expenditure monitoring; expenditure was not reported under the immediate objective budget lines, making it difficult to analyse how appropriately the funds were used for each objective. Administration support for a project this size is not considered adequate and the funds set aside for international staff appear to be disproportionate with the budget for local staff. An in-depth budget / expenditure review after the 1st year could have addressed these issues and the underspending could have been used to support plans for the next phase of the project or to extend the closure date

There was insufficient time during the field visit to speak with the financial administration staff or to sight any financial reports or documents. The National Consultant followed this up and interviewed a staff member, who was retained by the ILO after the project closed, but was only able to gain general information⁵⁰. The information received from this interview did not include information about financial monitoring or efficiency issues; only general financial reporting issues were raised, which were not within the scope of this evaluation.

The evaluator did receive from the CTA, a large number of electronic documents on training budget estimates, training monthly activity plans and schedules, cash outflow plans and some activity revised budgets, but no summaries. One financial statement for December 2013 was included and the evaluator only received a summary final financial report close to the deadline for completing this report.

These documents demonstrated on paper that there were regular estimates and monthly reviews of planning, but do not indicate the process which put them together or why revisions took place; apparently a budget review was undertaken in mid-2015. Changes not planned systematically, can cause additional work for project administration staff in keeping financial records updated. The interview with staff noted that *'the regular monthly meetings were scheduled but usually did not take place; it was a rare occasion if all the project staff were available in the office at the same time'*.

Given the above, it was difficult to clearly identify from the documentation received, if implementation strategies allowed for the best use of funds, human resources, time and expertise or how appropriately inputs were converted to outputs.

Budget and expenditure analysis

According to the budget attached to the PRODOC, there is a Seminar & Training Workshops budget line (032.01) of \$687,721.00 and budget line sub totals for each project objective (1.1 – 1.4.3 / 2.1 – 2.31 / 3.1 – 3.3.1).

⁵⁰ It is noted in the TOR that the project was administratively managed under the accountability of the ILO Liaison Office in Yangon

The total project was underspent by \$69,878.75 mainly because of underspending of the Seminars and Training Activities Budget, underspent by \$46,296. If, as reported, all activities were implemented, it seems that the original budget was overestimated. As a % of the overall budget this is not a large amount but if the underspending had been identified earlier, these funds could have been effectively utilised. A 'no cost' budget revision was rightly made during the project for the BRRF extension (October 2015 to January 2016); presumably utilizing unspent seminar and training activity budget lines from earlier in the project; but in spite of this the budget line remained underspent. The budget for international specialists and consultants, is unknown by the evaluator so cannot be analysed against expenditure.⁵¹

The budget lines for national staffing costs (013.01 – 013.06) were reported to be minimally overspent but there was underspending (\$6434.93) in the international CTA budget line (011.01). A mitigation strategy was put into place for the no cost extension request but yet it failed to pick up underspending in the Seminar & Training budget line.

Table 2: Approved Project Budget (Total Budget \$1,895,884.00)

Seminars & Trainings	Personnel	Other	Objective 1 + Staff Dev	Objective 2	Objective 3
687,721	746,208	461,955	136,783	353,990	196,948
36.27% of Total Budget	39.36% of Total Budget	24.37% of Total Budget	19.89% of S&T Budget	51.47% of S&T Budget	28.64% of S&T Budget

Total Objectives: 687,721 (a break down of the Seminars & Training Budget Line)

Table 2 indicates the % split between the budget lines and the objectives split between the Seminar & Training budget. It demonstrates that:

- The total of the Personnel and Other budget lines is considerably higher than the budget for activities (63.73% against 36.27% of the total budget). If the \$69,878.75 underspending is calculated into this %, it will be even lower.
- The Personnel budget line was slightly higher than the Seminar & Training (activities) budget; the % split required for development projects is usually not higher than 40 – 60%
- Immediate Objective 2 was allocated 51.47% of the Seminar & Training budget, which is consistent with the emphasis put on this objective in the application.

Apparently, expenditure was not recorded specifically for each immediate objective, but by activity under the 0321.01 budget line. It is therefore not possible to analyse expenditure against the project objectives and no analysis can be made on how inputs were efficiently converted to outcomes or if they reflected the budget allocation.

The evaluator is aware that the ILO financial systems do not yet allow for output based tracking of expenditure at the country level, so is not attributing this deficiency to the project. On the other hand, it is a fairly simple procedure to set up an informal financial monitoring system that can provide pertinent information to feed into overall monitoring and analysis.

The size of the project and the above issues suggest there was insufficient administration and finance support staff to provide more specific figures on project expenditure per objective; apparently the issue of understaffing was raised but not dealt with. The overall impression gained by the evaluator suggests that there was insufficient emphasis on the financial and administration framework needed to support a project of this size.

⁵¹ Expenditure would be justified given the lack of expertise in the country on specialist topics.

As far as the evaluator is able to ascertain the extent to which the project maximized resources through collaboration with partner organisations is difficult to estimate but savings appeared to be made through working with FMCS, FWC, FES and IndustriALL on activities with local costs, the payment of fees, co-sponsoring of workshops and other activities. It is not known either, how much this project contributed to the Liaison Office or other projects. The interview with other CTA's talked about ad hoc cooperation of projects but it is unknown whether this is quantified in financial reports or how much the Liaison Office contributed to the project.

This analysis suggests that a short no cost extension could have been possible after 31 January 2016. The national staff were sufficiently competent by this stage, in the evaluator's view, to have coordinated the continued implementation of activities under Immediate Objective 2.

3.5 Effectiveness (Efficiency) of Management

This section examines management structures and technical capacity, the effectiveness of monitoring systems, project stakeholder and staff meetings and the role of the donor organisation. The effectiveness of financial management being covered in 3.4.

Finding 12: PAC meetings provided some opportunities for stakeholder consultation on progress but were not able to fulfil the usual role of a PAC in project oversight and decision making. The turnover of CTA's and associated problems impacted on project implementation and could have been supported with additional administration staff to relieve what appeared, to the evaluator, to be stressful workloads for all project staff. The lack of an exit strategy, a PMP and regular monitoring of processes was exacerbated by the gaps with no project leadership; this impacted on results and the lack of data collection made it difficult to analyse sustainability. These issues also contributed to inter office tensions and prevented synergy between projects when FOA, as a 2nd priority for the Office, is a cross cutting issue

It is noted here that all the issues raised in this finding are normally included in an approved project application and the ILO Development Cooperation Manual⁵² provides comprehensive guidelines to ensure these issues are included; in spite of this, for reasons unknown to the evaluator, the project was approved without a PMP or exit strategy.

The subsequent turnover of CTA's had resulted in a low level of implementation of the planned activities, so in the final 18 months completing these was identified as the main priority. The evaluator recognises that it would have been difficult but not impossible, at this late stage and in this environment to incorporate PMPs and an exit plan.

The Project Advisory Committee (PAC) was formed as a requirement of the project with three representatives from each of the constituent bodies⁵³, this did not include the donor. The PAC met three times instead of the 4-6 meetings planned into the project. The meetings discussed the application, the revisions and future planning; but the same representatives did not always attend, meaning that decision making was probably not consistent.

Some interviewees regarded the PAC as ineffective, held mainly because it was a project requirement and the evaluator noted others were unsure of its role. In most development project implementation bodies, PACs are expected to play an integral role in decision making because it provides ownership of the project to the direct beneficiaries. The fact that the PAC did not operate

⁵² http://www.ilo.org/wcmsp5/groups/public/---dgreports/---exrel/documents/publication/wcms_452076.pdf

⁵³ Government: MOLES, DLR & FGLLID. Employer: UMFCI x 3. Worker: CTUM, AFFM & MICS

effectively impacted on the role of the constituents in decision making on issues such as closure and planning for the future.

Chief Technical Advisors (CTAs) and local staff

The turnover of CTA's in the FOA project, as previously described, did prevent the cohesive coordination of implementation. The ILO was aware of the USDOS CTA and the FOA CTAs time limitations and relocation issues. Loss of personnel was an identified risk and the delays in recruiting CTA's meant implementation was disrupted as the project operated without leadership for several months; interviews with staff noted that they initially felt unclear about their roles, which was somewhat clarified in the last year of the project. No evidence was provided to the evaluator of ILO management strategies to prevent the disruption caused by the CTA situation, which were known about when the project commenced.

The CTAs of both projects, who were chosen for their experience working with the ILO and its constituents on FOA issues, were sufficiently qualified to take up the position. Each had different approaches but all received high levels of appreciation from the constituent interviewees. They were praised equally for their inclusive approaches, ability to take into account local circumstances and their combined level of knowledge that provided a valuable data base for sources of information.

A mitigation strategy to replace international with local staff was enacted, meaning there was a competent team of national trainers and project staff in place when the FOA project started. These project staff continued implementation, at times without direct CTA leadership or in-built monitoring processes, while carrying out work in difficult circumstances. The recruitment and development of national project staff ensured that the project activities were completed and the consequent project achievements owe a considerable amount to the National Project Coordinator and project staff members, a point that was corroborated during interviews.

Two of the training staff went to ILO Training Centre in Turin (ITC) to enable them to provide training in the more technical areas of Labour Inspection and Conciliation and Arbitration. Unfortunately, this experience is now not available within the ILO because they had to find employment in other organisations when the project closed; this is considered a loss to the ILO at this particular stage of FOA development in Myanmar. The continuity of staff between the projects, meant that the experience gained in implementing both projects, gave these staff the knowledge and experience to work for the ILO, unions or other civil society organisations; evidenced by the fact that some are now working for such organisations.

Project Monitoring and Exit Plan

Monitoring is a core project management and administrative responsibility, involving the collection and analysis of data and good communication in order to identify actual and potential successes or failures as early as possible. It allows for stakeholders to review progress and propose actions to assist in achieving the immediate objectives and provides information on whether resources are being used appropriately. Monitoring provides input to the final evaluation⁵⁴

Exit strategies ensure that work carried out is sustainable, for example, can the social partners continue using the skills and information they learnt effectively, does closure have a detrimental impact on the constituents and will the momentum of change be lost? Such a strategy can ensure that closure of the project is not untimely and is also important for supporting the staff of the project who are usually on short term contracts.

The absence of the above is raised frequently in this report, and is intentional because both are integral to an effectively managed and implemented project in order to take into account the needs of personnel and constituents. The absence of such plans compounded the failure of the PAC to

⁵⁴ http://www.ilo.org/wcmsp5/groups/public/---ed_norm/---relconf/documents/meetingdocument/wcms_453866.pdf. No. 58 & 59, page 14-15

operate effectively and prevented a sense of constituent ownership in the decision making process. A formalised and agreed exit strategy would have minimised the sense of insecurity about the continuation of the project that was apparent in both staff and constituents.

*'In fragile states and those emerging from conflict, project personnel may be "embedded" in ministries, and workers' and employers' organizations with a view to serving as mentors, trainers and technical advisers to accelerate implementation, and the development of national capacity where it is particularly low. However, all such instances should be accompanied by a clear exit strategy.'*⁵⁵ Although this is not a directly relevant situation it illustrates that it is a priority of the ILO in development projects.

A PMP planned into the project with its own budget line ensures the needs of constituents are taken into account and an exit strategy aids the decision to close, continue or design a follow up project. It was not apparent to the evaluator that internal and external stakeholders had sufficient opportunities to be involved in this process. All interviewees were concerned about, what to them, was an abrupt ending to the project and expressed the same level of concern. To end such an important project without due consideration and consultation for either an extension or a follow on project, is an unsatisfactory situation for the constituents.

Two years is considered a very short time frame for the range and depth of capacity building needed for securing FOA in the Myanmar context. The priority to complete all planned activities meant that insufficient data was collected to measure impact and provide a bench mark for future projects. Prior to planning the next project, this information will need to be gathered to ensure that future work takes forward strategically what has been achieved to date. The evaluator was unable to measure sustainable outcomes and interviews with staff confirmed the difficulties of identifying tangible results.

Finding 13: management arrangements for the project did not always operate effectively and the apparent relationship breakdown and tensions between the FOA Project and the Liaison Office appeared to prevent cooperation and the constructive sharing of responsibilities. It seemed difficult for those concerned to find resolutions on their own and this could have contributed to the loss of continuity for a future FOA project, preventing a proactive and collaborative approach to determining the future direction of FPRW & FOA in Myanmar.

The evaluator considers that this finding is within the scope of the evaluation⁵⁶. The relationship between the project and the Liaison Office was shared openly with the evaluator during interviews with the constituents and external stakeholders, making it evident that this impacted on results and potentially on future projects.

There was a perception identified in some of the interviews that the FOA Project operated outside the parameters of the Liaison Office; this could be attributed to the turnover of CTAs, their different reporting structures and changes of Liaison Office management towards the end of the project. Tensions were unresolved and this impacted on the smooth implementation of the project. It also affected strategic cooperation between other projects and a seamless continuation into a follow up project.

⁵⁵ http://www.ilo.org/wcmsp5/groups/public/---ed_mas/---eval/documents/publication/wcms_419440.pdf
Recommendation &: Executive Summary. page xiv

⁵⁶ *'In particular, the evaluation should focus on the followings: to what extent the management system appropriate to achieve desired results and outcome with a timely, effective and efficient manner' TOR page 4 dot point 2. Recommendations should be used for better design & management for results of future ILO activities in Myanmar. TOR page 4, para 5*

An example of confusion caused by the conflict was the difficulties of sharing responsibilities over the issues such as law reform and national tripartite dialogue (Immediate Objective 1 of the project); this resulted in delays to organising events and producing reports and materials. The documents cited by the evaluator indicated that both the Liaison Office and the FOA Project did, in spite of this, make considerable if uncoordinated achievements in these areas.

Project coordination meetings were not always held with Liaison Office management nor were they held regularly; interviews with staff noted that overall coordination was not effective for the entire project and depended on using an Outlook Calendar as a communication tool that did not always provide sufficient clarity. Staff felt generally that the FOA project was treated differently to other projects. Without the oversight, that a PMP and exit strategy would have provided, there was no forum to minimise these tensions. Although the ILO Development Cooperation Manual is there as a guide, in the given situation, effective communication channels would have been difficult to establish and maintain without some assistance.

The ILO currently receives the respect and trust of the constituents and it seems to the evaluator that maintaining this is important for the future of FOA, especially as IR is seen to be at the crossroads of becoming either a conflictual system or one managed by social dialogue.

3.6 Gender

Finding 14: the project lacked a broad focus on gender as it was only mentioned sporadically in the application and reports. The participation rate of women in the project increased by 12% during the period but this needed supporting with more emphasis on the issues of discrimination and inequality. A section called Cross Cutting Issues in the application, discusses briefly how the project would deal with gender issues but there is no in-depth country or employment assessment of the situation. Given the equality and discriminatory issues women still face in the country, the project should have mainstreamed gender equality into the application, materials and reports.

The application discussed the labour market and included statistics disaggregating sex in the labour market participation rate⁵⁷ and the number of women inspectors, but this was not broken down into sectors and failed to mention women working in the informal economy.

Reference was made to women and men workers as part of the target group and the programme strategy emphasised a strong focus on gender equality in terms of participation and the dissemination of ILO materials on gender equality but there was no mention of gender in the objectives, indicators or risks; the reports did not describe how this strategy would be implemented or which gender materials were distributed.

The short section called Cross Cutting Issues noted that the *project will operate under the rubric of the Myanmar National Action Plan for the Advancement of Women 2011-2015*. It notes that the project will deal with gender equality by using women trainers and ensuring equal gender participation, promoting affirmative action, and improved responses to sexual harassment. The evaluator did not have sufficient time to research all materials to identify how gender equality was mainstreamed into the presentations of information; but noticed no reference in the materials that were sighted, nor any references to how responses to sexual harassment were improved.

The TCPR report (October 2013 – September 2014) disaggregated statistics of participants in activities; noting that out of 3068 participants, 2373 were male and 695 were female but does not report disaggregated statistics of the different types of courses and activities held. The TCPR notes

⁵⁷ 82.49% of the male and 50.11% of the female population. Page 3 of the PRODOC

that participation of women remains a problem with *women only representing 23% of participants and that although this is not unique to Myanmar it still needs taking into consideration*. Gender equality was not included in the risk and mitigation section of the application.

The final overview of project activities (October 2013 – 2016) notes that *out of 8467 participants there are 5922 males and 2545 females* and is broken down by activities but not by objectives. The best statistic on women's participation is from the employer problem solving workshops with 250 men and 213 women participants. The training of promoters, training of employers and enterprise level education had the highest percentages of women but only 10 women out of 40 took part in the educator's network training.

Gender Equality and Discrimination in Myanmar

The action plan notes that Myanmar is a signatory to CEDAW (1997) and is committed to the international policy initiatives to improve the situation for women with committees and an action plan. The plan has 12 priority area sub committees, the 6th being for women and the economy in order to *strengthen mechanisms for ensuring women's equal access to fair employment practices, credit, assets and economic benefits*⁵⁸.

Other reports suggest that there is still a long way to go for women rights in the country because gender discrimination is not embedded in law or the constitution and does not yet conform with International Standards with structural barriers to equality and justice. This does not prevent women playing an active role in civil society, including the trade union movement, in spite of experiencing more restrictions and punishments than men. Violence against women is reported as a significant problem and patriarchal cultural values still dominate even though there are laws favourable to women over divorce issues; there is limited access to labour markets in industry with wage disparities between men and women⁵⁹. This type of analysis is not included in the application.

'The continuation of FOA support is very important for women and IndustriALL is supporting this. We know that you get your rights by asking for them and we need to stand up for it and lead, we must have a knowledge of the law and FOA. In the past we just worked long hours with no other involvement. Now we know it can be different and C87 can increase knowledge and show us how to take advantage of persuading women to join unions'. A participant in the union women's leader focus group

The strategy did ensure more women could participate in the project but there was an imbalance between women and men educators. The evaluator was not aware of any mention in the project to the ILO Conventions on gender equality or of any technical specialists addressing the issue in project activities, except for one occasion when a Senior Regional Gender Specialist participated in two CTUM-ILO-FES IndustriALL women's leadership workshops.

Disaggregation of statistics was only identified in parts of the application so this did not provide accurate data, meaning that discrepancies could not be realistically addressed. It was not possible to determine the level of financial resources allocated to gender and no gender analysis of the budget was available or possible with information provided.

⁵⁸ http://www.burmalibrary.org/docs09/UNCT_UNCountryTeam_Annex2-Plan%20of%20Action_eng.pdf

⁵⁹ <http://asiapacific.unwomen.org/en/focus-areas/cedaw-human-rights/myanmar>

4. Main Conclusions

1. The project was well conceptualised with clarity of intentions coherent with the ILO's commitment to FPRW and FOA; it met the needs of the constituents and was timely and relevant for the situation in the country. The broad reach to constituents (8467 participants: Female 2545 and Male 5922) was an achievement in a relatively short space of time and raised the identified low level of FOA awareness; the meetings and interviews held with the constituent stakeholders demonstrated a commitment to FOA principles.
2. The broadening out of objectives from the USDOS Project was done with justification, but in retrospect, made it highly ambitious for a country in the very early stages of opening up democracy. The immediate priority for the Liaison Office was Forced labour and FOA was the second priority when the USDOS Project was planned; recognising its importance as a cross cutting issue in building the foundations of democracy. The two year FOA project, in these circumstances, is considered to have a relatively low budget⁶⁰ and is too short a time frame for this major priority, especially as the project included IR as well as FOA awareness and capacity building. Better proactive synergy with other Liaison Office projects running at the time could have complemented implementation; strategic coordination between the FOA and Social Protection Projects did demonstrate good practice (see Best Practice template) but this was not followed up with other projects implemented through the Liaison Office.
3. The project closure, without an extension or follow up project, is deemed to have a detrimental impact on the constituent partners and the future of FOA in Myanmar. It was known early on in the project that Norway would not be able to fund another FOA project, giving time to source future funding. A large IR institutional capacity building project, that will include FOA, is in the process of being developed with multiple donors but a starting date, at the time of writing this report, is not yet decided. The subsequent capacity building gap for the social partners, can at this stage of development be detrimental to the future of FOA. The constituents described the situation as being at the cross roads of a conflictual or social dialogue process and indicated concern that the benefits gained from the project and the current commitment to FOA, could be undermined. The 2nd CTA did develop a number of concept notes but did not receive the necessary support to implement the project and follow these through⁶¹. Additional resources, if identified as a priority, could have been found from underspending of this and other projects or possibly from the Regular Budgetary Supplementary Account⁶² in order to provide time to source funding from another donor.
4. It is considered preferable that a future FOA project is implemented separately but in cooperation with a larger IR institutional capacity-building project, to prevent FOA losing its priority status as one of the Fundamental Principles and Rights at Work (FPRW). Strengthening capacity for trade union organisations needs to be a continued priority and the contributions of ACTRAV and the international union organisations is considered highly important for sustainability. The issue was raised by a Worker Spokesperson, in the March 2016 GB draft minutes, who 'urged the ILO to continue and to strengthen its work on freedom of Association

⁶⁰ The fact that the Liaison Office had an overall project budget of \$14,150,000 can raise questions why FOA, as the 2nd priority for Myanmar was allocated a relatively small budget.

⁶¹ The Independent Evaluation of the ILO's Strategy for Technical Cooperation 2010 -2015 noted that it is often beyond the limited capacity of ILO country teams to influence larger donors or development banks, particularly when there is no country office (CO), so it would be even more difficult for a CTA. Summary of Findings, C, page ix.

⁶² http://www.ilo.org/wcmsp5/groups/public/---dgreports/---exrel/documents/genericdocument/wcms_338678.pdf

in Myanmar and not to mainstream it in other projects - -'.⁶³ Employer organisations also need continued capacity building but it is important to recognise that there cannot be SD without effectively functioning, democratic trade unions. The inclusion of the constituents in decision making about current and future projects is imperative to ensure relevance and results; during interviews they expressed the desire to be more engaged in this.

5. The development of union organisations at all levels is a major project achievement, especially the establishment of trade unions in the agricultural sector; even if union membership remains low with only .04% of the workforce organised there are now functioning and sustainable structures that will continue organising. The registration of one confederation and eight federations, that the FOA project made a significant contribution to, added to the success of tripartite dialogue and ensured that workers were properly represented in the ILO delegation to the ILC and GB; as a result, trade unions are now formally recognised as tripartite partners. Bi-partite workshops held at the sector and industrial zone level were able to discuss employment issues, which can now guide the way forward at township, industrial zone and workplace levels. This needs to be continued at the same level to ensure long term sustainability.
6. The development of employer federations is slower but this was anticipated as a risk factor in the application. Interviewees expressed concern about the law on organising federations because employers operate differently to trade unions, making it difficult to apply. The problem solving workshops, that were well attended, did engage employers from different sectors who also attended joint courses. The number of employers reached in these circumstances is considered an achievement, as is the engagement with UMFCCI. As the main employer representative body they were proactive in the Stakeholders meetings and the final workshop demonstrated their commitment. Bi-partite social dialogue is being established with examples to draw from in the future and this is important to prevent a scaling up of workplace level disputes.
7. The methodological approach to education and training, based on participation, allowed people in selected courses to practice the skills and knowledge they received; well-designed training programmes reached into local levels because they were translated into Burmese with courses conducted by national trainers. The training of trainers was strategically successful and can be sustainable if those trained continue to practice the skills they learnt within their own or other organisations. Some programmes covered too many issues in a short period of time, making it more difficult to measure if information can be retained for practical use in the future.
8. The implementation of WCCs and CB did make some progress but was not possible to measure because insufficient collection of data made analysis difficult to quantify. There appears to be confusions over the role of and representation on WCCs, and is maybe one reason why establishment is slow. This is not directly attributed to the project but to the lack of clarity in the LOL between worker and union representation. This could result in elections for worker representation, where no union is present, being controlled by the employer. There is a danger that this creates a situation in which some employers may take advantage of the situation to exploit workers. The lack of legal clarity in SLDL and understanding of the CB process creates barriers for negotiating collective agreements, especially as it is inconsistent with International Standards.

⁶³ http://www.ilo.org/wcmsp5/groups/public/---ed_norm/---relconf/documents/meetingdocument/wcms_474559.pdf. 10th Item on Agenda, para 164.

9. Progress in introducing OSH was slow and during interviews it was not raised unless prompting questions were used. When it was raised it was evident that there was little understanding of its role as a workplace issue. As there is no previous law and the new law was being amended, this issue added to an already packed programme and would be better covered in a stand-alone project.
10. The focus on training inspectors, conciliators and arbitrators was ambitious for such a short project and is considered unrealistic in terms of the level of funding, the number of project staff and the lack of supporting infrastructure. Law reform and the setting up of IR bodies and courts with professionally trained personnel takes a number of years and requires institutions of higher education and certified qualifications. The skills training given in this area is seen to be a step in front of institutional change, making it difficult to apply the skills learnt. This is particularly relevant now that both social partners are expressing dissatisfaction with the current system and laws. This is not attributed to the project and interviewees were positive about what they had learnt, but resources could have been better used on the capacity building of social partners at the sector and workplace levels to deal with workplace disputes.
11. The project involved the constituents in social dialogue on the process of law reform and supported the contributions to selected pieces of legislation, for example, minimum wages, social security and the employment contract which were successfully amended. This took place during continuing disagreements over amendments to the LOL and SLDL, creating a disconnect between the process at the national level and expectations at the local level. The project and the work of the Liaison Office both contributed to the law reform process but cooperation between them could have been more effective, to enable more time to be spent supporting the social partners in bipartite consultation.
12. Gender equality issues were not mainstreamed into the project and the only achievement towards this was an increase in the participation of women in activities, which did reach 30.06%, to 69.94% of men. Where workforces have a high percentage of women workers, men still take up most of the leadership positions but women are beginning to be elected. Disaggregation of statistics was not consistently applied and gender issues were not very evident in materials or discussions. Women face many challenges in the workplace and the project missed the opportunity of analysing these and mainstreaming them into activities and materials to set an example for the future.
13. The project met and in some cases exceeded its output targets which demonstrated good organisation and coordination of activities but are not indicators of outcomes or impact; the lack of properly constructed indicators made it difficult to quantify outcomes or impact. The importance put on implementing the number of courses, workshops and other activities became more about reaching targets than consolidating sustainability through follow up and internal monitoring. The number of activities conducted in such a short period of time did not allow reflection on whether this was the correct strategy nor did it allow time for a follow up project for FOA to be taken forward. As a result, constituents expressed in interviews that they felt concerned about the future of FOA.
14. The lack of a resourced PMP, exit plan and cooperation difficulties between the FOA Project and the Liaison Office is seen as preventing regular reviews of the project and discussions about changes and future planning. Cooperation is crucial if results and sustainability are to be realised; these tensions were unfavourable to the constituents, many of whom were aware of this and frequently expressed the need to be better consulted over project directions.

15. The failure to include a PMP and exit strategy also prevented on going analysis of progress and the engagement of the PAC in decision making about implementation and future projects. Lack of a coordinated approach helped to create distractions and fuel certain misconceptions about the role and focus of the project, such as *'too much attention given to workers; union leaders having no respect for employers, too many disputes because workers only know about their rights not responsibilities'*, comments noted in a number of interview focus groups. Any gap before FOA capacity building is continued, can undo some of the excellent work the project has carried out in dealing with these misconceptions.
16. The project implemented 96% of activities that compares favourably with other projects⁶⁴, but in spite of this the project was underspent. This could have been avoided with better monitoring; the sudden closure of the project meant that the resources spent on developing national staff were not fully utilised as they had to quickly find alternative employment. Periods without CTA leadership contributed to increased workloads for national staff, who were instrumental to the project achievements.

⁶⁴ ILO Extra budgetary Technical Cooperation: Expenditure and Delivery. Annual Report 2015: http://www.ilo.org/wcmsp5/groups/public/---dgreports/---exrel/documents/genericdocument/wcms_222317.pdf

5. Recommendations

As this project is now closed these recommendations are directed towards ‘the continuing relevance of an FOA project’ and future ILO projects in Myanmar generally. It is also noted that these recommendations will be more easily implemented when the country has a DWCP and back stopping is more relevant to the ASEAN situation. The evaluator is not able to estimate the resource implications of each recommendation but considers them not to have onerous financial implications.

All eight recommendations are considered a high priority for the development of future FOA projects or projects with an FOA component in Myanmar given the current situation and the findings of this evaluation.

Recommendation 1: ILO Geneva, the ILO Liaison Office, ACT/EMP & ACTRAV

A 3rd Stage FOA project, with a minimum of 5 years, is deemed essential for FPRW and the future of social dialogue in Myanmar. A strong focus on capacity building is still needed at the sector, industrial zone and workplace levels so that the human, material and financial resources developed in stages 1 & 2 are not wasted:

- The project can be a component of the large US/Japan/Denmark/EU initiative but to avoid FOA being subsumed by the institutional capacity building element, a separate project would be preferable. Whether it is separated from or part of this large project, strong cooperation between the different sections needs to be put in place; with ACTRAV and ACT/EMP more involved in the design, implementation, monitoring and evaluation.
- A statistical base line to inform future project design, objectives and strategy, focuses on: union development and strength, employer federations, data on membership, number of workplaces with and without union organisation, number of functioning WCCs, OSH committees and CBAs; reported by sector and geographical locations with gender disaggregation. This collection of data supports targeting and decisions made on future FOA and IR institutional development and capacity building with clear objectives and indicators to measure outcomes and impact.
- Consolidation of the work done in the first two stages of the project is integrated into a future project application; following up employer and union organisations trained in these projects and noting the additional support required for long term sustainability.
- Constituent representatives are genuinely involved in all future project planning, implementation, monitoring and evaluation to ensure ownership and sustainability.
- Given the different backgrounds and experiences of employers and trade unions, separate activities are conducted initially for employer and union organisations followed by joint activities that strengthen sustainable social dialogue at the workplace and prevent the level of disputes experienced at the current time.
- International trade union and employer organisations are involved in future project planning and contribute to implementation where possible.

Recommendation 2: PARDEV, PROGRAM & ILO Liaison Office

Future FOA and IR projects for Myanmar have a (1) resourced PMP and PAC written into the application; (2) an exit Strategy that ensures sustainability and identifies wastage of knowledge and experience as a potential risk factor and; (4) a national Project Coordinator is recruited for future FOA projects, rather than an international expert, in order to utilise existing experience, ensure that the project is culturally relevant and save funding on international positions.

Recommendation 3: PARDEV, GED and ILO Liaison Office

Gender equality is mainstreamed into future ILO FPRW and FOA project objectives, activities, strategies and materials, recognising the discrimination of women in society, justice and employment in the country and consistent with ILO policies and Conventions on gender equality, discrimination and pay equity. Future projects disaggregate gender statistics throughout applications, implementation and reporting. Relevant ILO staff and constituents are trained to carry out gender equality audits and research⁶⁵.

Recommendation 4: ILO Geneva & the Yangon Liaison Office

A review of synergy and cooperation practices between the FOA and other projects implemented through the Yangon Liaison Office is carried out to inform (a) how FOA can be integrated into all projects and (b) prevent FOA being seen as an isolated issue in the future. This, together with the relevant Good Practice template, is used in the planning process for the next FOA capacity building project.

Recommendation 5: MOLES, Technical Legal Unions & ILO Liaison Office

Amendments are made to the LOL guidelines for establishing worker and employer federations that recognises the differences between the internal roles and structures of the social partners.

Recommendation 6: All relevant government departments, ILO Geneva, Technical Units and the ILO Liaison Office

The government in Myanmar commences the process of ratifying ILO Convention No.98 and revising the SLDL, with regard to the establishment and role of WCCs and CB, to avoid ongoing workplace conflicts. The role of trade unions as worker's representatives and collective bargaining at the workplace is clarified with amendments to enable effective representation and avoid confusion regarding representation for workers and trade unions. When the law is amended, the government considers developing training courses for WCC representatives.

Recommendation 7: ILO Liaison Office, Technical Units, MOLES & DLR

Work carried out with FGLLID inspectors, the Conciliation and Arbitration Bodies and the law reform process is used to consolidate learning from the project into policies for the future. This provides MOLES and DLR with a position that underpins any future projects or work to be carried out in these areas.

Recommendation 8: ILO Liaison Office, Technical OSH Units & DLR

As the OSH law is now before parliament, a separate project on OSH is designed, resourced and implemented for employers, workers and trade union with government sponsored training for OSH committees and worker representatives.

⁶⁵ This is based on the evaluation of this project only but it may be helpful to review all projects through a gender lens