TERMS OF REFERENCE

Technical Working Group on the extension of social security to the informal economy

Financing social security coverage to informal construction workers in Zambia: design of a social protection levy in the construction sector

1. Background

- **Policy environment and national strategic directions**

Over the past decade, Zambia has achieved macroeconomic stability and recorded a growth rate averaging 6.4 percent. However, this growth has primarily been driven by capital intensive sectors in urban areas, as a result, there has only been marginal decline in poverty while inequality has continued to increase. The economic climate is also negatively affecting government's ability to effectively deliver social services to vulnerable groups of the population.

Social security in Zambia is confined to the formal sector employees. According to the 2014 Labour Force Survey, 89.3 % of the employed population were employed in the informal economy, compared to 11.6% in the formal economy. Therefore only 11.6% of the labour force can be assumed to be covered by some form of social security. The majority of the labour force is left unprotected from long and short -term risks due to lack of access to existing social security schemes.

Government commenced the process to reform the social security system to provide for comprehensive social security coverage. Extension of social security to the informal economy is one of the objectives of the current social security reforms, and policy measures for extension of contributory social insurance to the informal economy are included in the National Social Protection Policy (NSPP) approved in 2014. The government constituted a Technical Working Group (TWG) on the Extension of Social Security to the Informal Economy comprising government agencies, key sector players, employers, workers and civil society organizations. The TWG was tasked with overseeing the analysis, elaboration and testing of models for extension of social security to the informal economy.

In collaboration with the Zambia Green Jobs Programme (ZGJP), the National Pension Scheme Authority (NAPSA) and Workers Compensation Fund Control Board (WCFCB) have implemented practical tools and strategies appropriate for extension of social security among MSMEs employers and workers in the construction sector. During the year 2015 studies were also conducted to assess options for the expansion of social security to informal workers including the domestic workers, small holder farmers and saw milling industry. The stakeholders' symposium held in December 2015 culminated in dialogue on concrete models for social security schemes for the informal economy. Lessons learnt from the studies together with key highlights from tripartite discussions have informed the establishment of a more structured approach to extension of social security to the informal economy. The TWG has endorsed a "universal approach" rather than piecemeal and fragmented solutions to extension of social protection to informal economy. In addition the TWG endorsed a roadmap to facilitate implementation of activities for extension of social security to the informal economy. The road map includes development of a national strategy that includes designing and implementation of integrated social insurance approaches tailored to the needs of the informal economy, and specific sectors. One sector of focus is the continued experimentation of practical tools and instruments for the extension of coverage to informally employed workers in the construction sector.

- The construction sector in Zambia

The construction sector has played a central role in Zambia's growth in recent years. The Zambia real estate and construction sector grew by 9.5% and 9.1% respectively in 2013 and 2014. According to the Zambia Development Agency (ZDA), "Zambia recorded USD 3.3 billion in foreign direct investment mainly in the construction sector in 2014. Building and construction has been the largest industrial sector of Zambia comprising 27.5% of the GDP with a growth rate of 12% in 2014".

The construction industry in Zambia is also a main purveyor of jobs. More than 180,000 workers are employed in the sector i.e. 3% of the total employed population (Labor Force Survey 2015). At the same time, jobs is the construction sector are typically characterized by high level of vulnerability. Informality of jobs is well spread - 83% of construction workers are informally employed. Employment arrangements in the construction industry are characterized by high specialization and casualization of work. Casual construction workers present atypical employment arrangement, where the employment relationship is sometimes hard to establish due to multiple layers of sub-contracting, and where oral contracts is the norm. Employment insecurity is high: most workers – who are often low skilled and come from local communities - are only employed for the duration of a construction project. After the construction is completed, they usually do not move on to the next location because workers from that other area are employed. Quite often these workers fail to find other immediate job opportunities and therefore face periods of unemployment and are left unprotected by employment regulations.

They also move from one employer to another within short space of time making establishment of stable employment relationship difficult. Casual workers' income are usually low, irregular and unpredictable. There is no single payment mechanism but rather a multiplicity of arrangements across occupations and within the same occupation. The way earnings are computed and the frequency at which workers are paid depend on the employer's preference. This is further complicated by the absence of pay slip or of any income payment record. These features make registration with current design of Social security systems challenging and severely impact the workers contributive capacity.

Informal workers including the construction workers have generally speaking a poor knowledge on social security rights, benefits and processes to access services. Most construction workers lack representation through unions. Construction workers representative organizations which could facilitate conveying messages on the need for social protection, and support workers raising their voice on their rights for social security do not have capacity to mobilize informal economy workers, they are fragmented, contributing to reducing strength of workers voice. This entails that the needs and voices of informal economy workers are rarely represented resulting in low demand for Social security.

At the same time, the construction sector is very prone to industrial accidents and injuries. For lack of any form of social protection – or continuity of social security benefits - construction workers are particularly vulnerable to ill health and exposed to falling into poverty in case of maternity, disease, unemployment, disability or old age. Families are also often left unprotected in case of death of the breadwinner due to lack of survivors and funeral benefit coverage.Poor living and working conditions reflect the absence or weakness of regulation, governance and enforcement of existing labour and social laws and programmes for workers in the construction sector.

The scope and extent of social security coverage in Zambia is extremely insufficient and confined to providing compensation to formal sector employees, essentially in the event of income loss due to old age or retirement, disability or loss of a bread winner, and in the event of occupational injuries and diseases. Provision of these benefits are mainly administered by the National Pension Scheme (established by the National Pension Scheme Act No.40 of 1996) and the Worker Compensation Fund Control Board (established by the Workers' Compensation Act, No. 10 of 1999). Piece workers are still excluded from the definition of an employee in the Employment Act, and therefore mandatory registration to social security schemes does not apply to this category of workers, who therefore do not access old-age pensions, medical and occupational benefits available to permanent workers.

In Zambia as in many developing countries, the existing social security mechanisms have been developed based on "formal employment" model, with predictable monthly earnings, and a stable and clear employment relationship. Their features and mechanisms are therefore not adapted for extension of coverage to the informally employed workers, and most noticeably to workers with atypical form of work, such as construction workers. In response to these challenges, and in order to enable access to social security benefits to a broader share of the population, NAPSA and WCFCB are considering developing new approaches and products designed for workers with atypical contracts, casual workers, piece workers and self-employed. The development of a strategy for extension of contributory social protection to the informal economy has debuted, through an ad-hoc technical working group bringing together social security institutions and key stakeholders. The guiding principle is to develop a standard approach, avoiding fragmentation but which could be tailored to specific sectors or groups of population. Among other, envisaged strategies include mixing short-term and long-term benefits and considering innovative financing mechanisms.

This calls for consideration of innovative practices which recognize the vulnerability of construction workers and propose adapted solutions to incentivize enrolment in social security schemes. Experiences in other developing countries - such as India and Indonesia - on the establishment of welfare funds financed through sector levy are of particular interest. These funds which provide construction workers with access to a range of social security benefits, are principally financed by a levy, calculated on the total value of the construction projects, and paid by the main contractor. These schemes, usually administered by governments, demonstrate that it is possible to extend social security coverage to informally employed workers in the construction sector. The levy promotes responsible procurement and addresses challenges of irregular incomes among construction workers and issues related to administrative costs that would be incurred with individual registration of construction sector workers.

Introduction of a levy as a way to finance a public security scheme is being considered in Zambia among the Technical Working Group on extension of social protection coverage to the informal economy. Discussions are still at a very infant stage: acceptability among key stakeholders, including private companies, must be assessed, the institutional, administrative and financial feasibility for introducing a a levy must be determined, social security benefits to be covered by the levy are still subject to discussion and analysis and institutional arrangements are still to be defined. In all cases, it is crucial not to create fragmentation in social security systems, but as far as possible to prioritize national approach - rather than sector based - and to build on already existing institutions.

In order to inform policy decisions and make progress on implementation of alternative financing mechanisms to extend social protection coverage to the workers in the informal economy, it is proposed that the Technical Working Group assesses the possibility of introducing a construction levy as potential avenue for financing social security benefits for construction industry. The assessment will focus on the opportunity, feasibility, practical design and operational modalities of introducing a levy in the construction sector. The work will be conducted in a participatory and consultative way, aiming at fostering engagement and building consensus and strong ownership of the policy decisions to be made throughout the assignment by the members of the TWG and national stakeholders.

2. Objective of the assignment

The Consultant work aims at assessing the acceptability, design options and operational feasibility of introducing a levy on contracts in the construction sector to facilitate extension of social security to workers in the sector, in support to the Technical Working Group on extension of social protection coverage to the informal economy. The consultant will support the TWG in formulating preferred options for the design and operationalization of such a levy considering alternative and already existing institutional arrangements and implementation modalities.

3. Scope of work

Drawing on international experiences, good practices and the Zambian local context, the consultant, in support to the TWG and sub-committee appointed by the TWG, will undertake the following tasks:

a) Map the current levy/contributions taxes already incurred by the construction and other sectors and elaborate proposals for harmonization and reduction of administrative costs both beneficiaries & service providers
b) Gather and document lessons learnt with the introduction of levies in other sectors (agriculture, health, etc.), outline key conditions of success.
c) Assess compatibility of the establishment of a levy with existing legislative framework on Taxation, Social security and with existing social security mechanisms/procedures (gaps, redundancy created)
d) Analyze the type of social security benefits that are more prone to be financed via construction sector levy, taking into account the nature of insured risks, workers registration, accrual and calculation of entitlements
e) Assess social security priorities from construction workers' perspective and propose good design features to inform finalization of the product and guide future actuarial valuation (basic level of protection vs more comprehensive package, level of protection, incremental access to benefits, validity of benefits beyond conclusion of the working relationship, eligibility criteria etc.)
f) Propose options on financing aspects of the levy including a) definition of the contribution base, application of a ceiling on the taxable value of the project? b) contributions from both employee and employer? co-contributions from the Government? etc.; c) pros and cons of creating a sector-specific risk-specific fund or co-financing into broader risk pool
g) Discuss and propose options on applicability and coverage aspects: progressive application to small businesses? Differentiation of measures depending on business scale? coverage to both formal and informal workers?
h) Discuss and propose possible institutional and operational arrangements for declaration of workers, enrolment, contribution/levy collection, benefit claims, awareness rising, complains mechanisms and enforcement, keeping in mind the need for harmonization and reduction of administrative costs both beneficiaries & service providers
i) Discuss and propose alternative institutional and operational modalities for the management/flow of resources captured through the levy, including financial pooling arrangements
j) Discuss and propose measures to ensure maximum compliance amongst workers and employers
k) Assess acceptability of a levy among the key stakeholders in the sector (Ministries, Social Security institutions, ZRA, National Construction Council, construction companies, employers' organizations and workers unions etc.)

4. Expected deliverables

The consultant is expected to produce the following deliverables:

PRODUCT 1. Inception report, including proposed methodology, expected timeline and limitations

PRODUCT 2. Situation analysis report, and presentation to the TWG

The situation analysis report will include the following:

- Mapping and review of current levies incurred by the sector and other sectors, including analysis of failures and successes and subsequent recommendations for the introduction of a levy in the construction sector in the objective of efficiency, cost containment and harmonization.
- Review of legislative framework on Taxation and on Social security to assess the legal feasibility of establishment of a levy or if appropriate legal amendment required

PRODUCT 3. Position paper

The consultant will provide guidance and technical support to the sub-committee designated by the TWG, to produce a position paper, which will ultimately build a common stakeholders position on the feasibility of the introduction of a levy, including formulating its design as well as legal, financial, technical and institutional modalities. The position paper will cover the following areas:

- Financing model proposal: including features related to contribution, management of financial flow, pooling arrangements
- Definition of type of benefits and workers covered considering workers' and employers' priorities, technical and institutional feasibility and progressive realization. The paper will also include positions on the scope of application of the levy and exemptions
- Report on institutional and operational arrangements for declaration of workers, enrolment, contribution/levy collection, benefit claims, awareness rising, complains mechanisms and compliance
- Stakeholders analysis and mapping, based on positions towards introduction of a levy
- All together, these work will form a draft proposal on the feasibility and possible operational modalities of the levy, to be subjected to stakeholders' considerations in TWG.

For each of the above mentioned deliverables, the consultant will (i) provide initial technical inputs to assist the sub-committee in the formulation of the position paper, (ii) organize and facilitate workshops, (iii) finalize the draft paper.

The preliminary report will be subjected to stakeholders' considerations through a TWG workshop, facilitated by the consultant. The consultant will provide a power point presentation of the preliminary findings and recommendations to key stakeholders and partners.

PRODUCT 4. Final report

- Final report covering the full scope of work including a roadmap for implementation, based on the stakeholders' inputs to the position paper.

PRODUCT 5. Five pager policy

- Five pager policy brief highlighting key features of the proposed levy design

5. ILO/MoLSS Responsibilities

The ILO will facilitate access to partners, consultant and to relevant documentation.
The ILO/MLSS will supervise progress of the assignment and will provide guidance

6. Duration

The joint work is expected to be conducted in the span of 90 days.

7. Reporting

The consultant will report to the Chief Technical Adviser on Social Security for the ILO Lusaka Country Office who will liaise with the MoLSS Department of Social Security. Technical steering will be provided by the Technical Working Group.

8. Fee and payments

ILO terms and conditions shall apply to the payment of full fees of this assignment based on the consultant's background and experience

The payment schedule for the above mentioned assignments will be as follows:

- 20% of the consultancy fee to be paid upon reception and approval by the ILO of Product 1
- 40% upon reception and approval by the ILO of Products 2 and 3
- 40% upon reception and approval by ILO of Products 4 and 5

9. Consultant's Profile

The contract to support the work carried out by the TWG will be awarded to a consultant with the following qualifications:

- University level academic qualifications in social protection, economics, international development, law or other relevant fields, or equivalent in experience.
- At least 8 years of demonstrated experiences of relevant work on similar assignments
- Experience and knowledge of working on social security in the informal sector in developing countries, with focus on financing and tax systems
- Good report writing and communication skills
- Excellent command of English, both written and spoken.

Interested candidates can send their CV and a financial and technical proposal (2 pages) to Shebbah Hamusimbi at the address: **hamusimbi@ilo.org**. Deadline: 9th of September 2016.