

Terms of Reference

Support the development of labour dispute related regulations and training programme for Mongolia

1. Background

New labour law

The Parliament of Mongolia has approved the revision of the Labour Law on 2 July 2021. The new (revised) Labour Law, having been published in the government gazette comes into effect from 1 January 2022. This concludes more than a decade of effort, on-and-off and at times concerted efforts, involving many rounds of drafts, and work of many dedicated bodies involving the Ministry of Labour, social partners, the Parliament, and experts and civil society, and engagement by the ILO.

The new Labour Law introduces numerous changes, including, in particular, new provisions for labour dispute resolution. In connection with this, major changes in the procedures and mechanisms/institutions for the resolution of various types of labour disputes will be made.

At the request of the Ministry of Labour and Social Protection (MLSP) in developing 6 regulatory documents in the labour dispute resolution, by the end of 2021, the ILO and EU funded two projects, “Promoting formal employment for inclusive and diversified economic growth in Mongolia” (MNG/18/01/RBS) and Sustaining Strengthened National Capacities to Improve ILS Compliance and Reporting in Mongolia– Trade for Decent Work (GLO/18/30/EUR), has supported the development of the following 4 draft regulations with support of a team of international consultant and the national consultancy team:

- Draft regulation of the Tripartite Labour Rights Dispute Settlement Committee (at the soum and district level)
- Draft regulation of the Labour Rights Dispute Settlement Commission (at the enterprise level)
- Draft regulation of Labour interest dispute resolution through mediation; and Regulation of Labour arbitration,

There remains further regulatory instruments to be developed:

- Code of conduct for mediators and arbitrators

(147.3. The Cabinet shall adopt regulations on settlement of labour interest disputes through labour mediation and approve rules of labour arbitration respectively. The National Committee shall adopt codes of conduct for labour mediators and labour arbitrators respectively.)

The remaining regulatory instruments need to be prepared by the MLSP for authoritative action by the Cabinet and/or the National Committee. The MLSP has requested the ILO to continue to provide support in this work.

Presently, the Tripartite Labour Rights Dispute Settlement Committee regulation was approved by the National Tripartite Committee for Labour and Social Consensus on the 10th of February 2022, and other draft regulations are submitted by the MLSP for the Government cabinet meeting for further endorsement and approval.

As new institutions, procedures, and mechanisms are established by the revised Labour Law, when these regulations have started to be implemented, it will be critical to support the persons who will work as the mediators, arbitrators, and members of the Tripartite Labour Rights Dispute Settlement Committees, and the local labour administration office personnel who have the responsibility to manage, administer, and coordinate the various procedures, mechanisms, and practitioners to develop good knowledge and expertise and operational requirements.

2. Objective of the assignment

The objective of this consultancy is to support the development of two remaining draft regulations on the code of conduct for labour arbiters and mediators and a training programme.

For this purpose, a team of consultants (an international expert consultant and a local consultancy team/firm composed of national experts) will be recruited and will work together to coordinate their activities and achieve the objective of this consultation.

3. Scope of the work

Under the overall technical guidance of the ILO Senior Specialist on International Labour Standard and Labour Law in Bangkok and Senior Specialist on Social Dialogue and Industrial Relations in Beijing, the consultants will be tasked to develop two remaining draft regulations, and develop the basic training programme and modules for the “practitioners” of the dispute resolution bodies, within the timeframe detailed below.

The national consultant team will carry out necessary activities at the national level under the technical guidance and leadership of the international consultant.

This activity will be carried out in close collaboration with the Ministry of Labour and Social Protection, the tripartite working group and the ILO. The work of the consultants will be reviewed by the Tripartite Working Group for final adoption.

The international consultant will perform the following tasks:

- ▶ Support the drafting two regulations (preparing initial draft for discussion):
 - Code of conduct/ethics for mediators and arbitrators:
- ▶ Engage with the tripartite working group -- including presentations and participation in its discussions regarding the draft regulatory instruments;
- ▶ Ensure technical support to the tripartite working group during the validation process of the rules and regulations;
- ▶ Design the capacity training programme and the essential training modules in collaboration with the national consultant team

Capacity building training programmes and training modules will address the needs of each groups of persons working in the various aspects of the new labour dispute resolution system, such as:

- Labour administration office in charge of managing the various aspects of the labour dispute resolution mechanisms

- Labour mediators, labour arbitrators
- Members of the local Tripartite Labour Rights Dispute Settlement Committee (who will actually preside over the “conciliation” procedure and the “decision” procedure)
- Members of the company-level Labour Dispute Settlement Commission

The training programme may consist of a number of “modules” focusing on, but, not limited to, some specific aspects and procedures, such as, “case management”, “conciliation work”, “decision work”; and the different “institutions”, such as, the Tripartite Labour Rights Dispute Resolution Commission, labour mediators, Labour Dispute Resolution Commission (company-level mechanism), etc.

- ▶ Provide guidance to the national consultant team in organizing pilot trainings; and deliver selected sessions.

Given the ongoing pandemic situation in the country and the ban on non-critical travel by the ILO, the consultations and meetings will be conducted remotely.

4. Deliverables, timelines and the estimated number of workdays:

- ▶ Output 1 – Prepare initial for-discussion-draft of the code of conduct/ethics for mediators and arbitrators, to be delivered by **5 April 2022** (12 days)
- ▶ Output 2 - Capacity building training programme including various training modules, to be delivered by **19 April 2022** (10 days)
 - For members and administrators (labour administration office and its staff at various levels) responsible for the administration of the various labour dispute resolution procedures and mechanisms, including, mediation, arbitration, and the operation of the Tripartite Labour Rights Dispute Settlement Committee, and the enterprise-level Labour Dispute Settlement Commission
 - Members of the Tripartite Labour Rights Dispute Settlement Committee
 - Members of the company-level Labour Dispute Settlement Commission
 - Mediators and Arbitrators
- ▶ Output 3 - Preparation, organisation, and execution (including presentations at sessions) of two pilot training, to be delivered by **20 April 2022** (2 days)
- ▶ Output 4 – Brief report on two pilot training including recommendations for further improvements, to be delivered by **26 April 2022** (1 day)

5. Contract period and payment terms

One-time (100%) payment will be made at the completion of the contract.

6. Deadline

Application letter should be submitted together with information on the daily professional fee and detailed CV(s) highlighting prior relevant experience. This must be submitted not later than 16 March 2022 to Trade for Decent Work project via email at ulaanbaatar@ilo.org.