



International  
Labour  
Organization

# Decent Work in Myanmar

**ILO Programme Framework: November 2012 – April 2014**



ILO/Stone W

**November 2012**

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## Summary

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Building on the engagement with Government of the Union of Myanmar over the past decade and taking into account recent developments and decisions by the International Labour Conference, the ILO will develop its programme in Myanmar for the period November 2012 to April 2014 – a timeframe that reflects the need for immediate action on priority areas for the ILO as well as the preparatory work for a possible future Decent Work Country Programme.

The immediate focus of the ILO programme in Myanmar remains on Fundamental Principles and Rights at Work, notably through i) the continued implementation of the Memorandum of Understanding with the Government on Forced Labour and ii) a scaled-up Freedom of Association programme. In these two areas the ILO will implement a comprehensive programme of work, while undertaking activities during 2013 in other key areas identified by the Government with inputs from the social partners.

The overall programme consists of ten interlinked components, managed by the ILO Representative in Yangon with support from across the ILO.



## Introduction

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In June 2012 the International Labour Conference of the ILO (ILC) lifted the mandate restriction imposed 13 years ago by special resolution that limited Myanmar from participating fully in ILO meetings and from receiving technical cooperation on matters other than the elimination of forced labour. Those restrictions were lifted in response to Myanmar's renewed adherence to the original recommendations of the ILO Commission of Inquiry; Myanmar has adopted a national action plan to eliminate forced labour by 2015 and passed legislation making the use of forced labour a crime with provision for penalties under the Penal Code for breaches. Myanmar's recent political, social and economic reforms, including the 2011 decision to legalise Employer and Worker Organizations, give reason for optimism and have mobilized widespread support. Myanmar's progress within this context will be formally reviewed by the ILO in 2013.

The President of the Republic of the Union of Myanmar, H.E U Thein Sein, has in a widely publicized address on May Day 2012, committed to the elimination of forced labour, the successful implementation of freedom of association and the development of an inclusive society.

The leader of Myanmar's National League for Democracy, Ms Aung San Suu Kyi, addressed the ILC in June 2012. In her speech she praised the tripartite nature of ILO and the role of labour standards in creating effective solutions to complex problems –

*“Foreign direct investment that results in job creation should be invited. Investors should adhere to codes of best practices. Track records in regard to internationally recognized labour standards and environmental responsibility should be examined.”*

*“What I would like to see for our country is democracy-friendly development growth. I would like to call for aid that would strengthen the democratization process by prompting social and economic progress”*

Against this background the ILO is in consultation with Government and the social partners to develop a programme of technical cooperation with Myanmar, to be endorsed by the ILO's Governing Body.

## Background

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Myanmar joined the ILO in 1948 and signed in 1955 two fundamental ILO Conventions: the Forced Labour Convention, 1930 (No. 29) and the Freedom of Association and Protection of the Right to Organise Convention, 1948 (No. 87).

### Forced Labour

Forced labour, including underage recruitment into the armed forces, has been a serious and longstanding problem in Myanmar. The issue was examined by an ILO Commission of Inquiry in 1998, whereupon the ILC adopted resolutions in 2000 and 2001 calling for the ILO to focus its activity in the country solely on the elimination of forced labour.

In 2002 an Understanding was negotiated which permitted the establishment of the ILO Liaison Office in Yangon, and in 2007 this was further developed with the agreement of the Supplementary Understanding Complaints Mechanism, which enables any resident of Myanmar who is subject to forced labour to submit a complaint to the ILO. The mechanism is not only a means to stop the use of forced labour, but also calls for action against the perpetrators – which is an inherent part of accountability and the rule of law.

Following the political reform process and the signing of cease-fires in Myanmar since early/mid 2011, the ILO and the Government of Myanmar signed a Memorandum of Understanding on a comprehensive strategy with seven associated action plans for the elimination of all forms of forced labour in Myanmar by 2015.

## ***Freedom of Association***

Despite the ratification of Myanmar of Convention No. 87, the ILO Committee of Experts on the Application of Conventions and Recommendations (CEACR) and the International Labour Conference Committee on the Application of Standards have noted with great concern the continued failure by the Government, over several years, to eliminate serious discrepancies in the application of the Convention. More particularly, the CEACR has repeatedly recalled the complete absence of a legislative framework enabling the effective implementation of Convention No. 87. It has also urged the Government to adopt legislation which would enable workers and employers to freely establish organizations of their own choosing, while emphasizing the urgent need to repeal a number of legal texts, which continue to seriously impinge upon the right to freedom of association in the country.

The November 2010 general elections and the formation of the Government in March 2011 opened a window of opportunity. A new Labour Organization Law was signed and enacted by the President on 11 October 2011. It provides for the repeal of the 1926 Trade Union Act and contains provisions on the establishment of labour organizations, their functions and duties, rights and responsibilities, including the right to strike. This new law came into effect in April 2012 together with a new Labour Disputes Settlement Law. ILO input was sought by the Government in the drafting of both pieces of legislation.

While some interpretation and application problems exist and are being addressed, it is important to note that as at October 2012 some 277 labour organizations and one federation of seafarers were registered, and it is expected that the number will continue to increase steadily over the coming months as more employers and workers become aware of, and exercise, their rights.

## **Priorities for the ILO in Myanmar**

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Building on the engagement in Myanmar over the past decade and taking into account the most recent developments in the country, the ILO is committed to focus first and foremost on the promotion of full respect for and application of Fundamental Principles and Rights at Work in Myanmar. This rights-based foundation will be the basis for addressing a wider set of priorities identified by the ILO's constituents (government, and employers and workers and their organizations) in a participatory process. Assuming continued progress on the rights agenda in Myanmar, it is then envisaged to reach agreement on a full Decent Work Country Programme for Myanmar during 2014, aligned with and contributing to national development priorities and the overall assistance framework of the United Nations.

Against this background, over the next 18 months the ILO will pursue the following objectives in Myanmar:

### ***By the end of 2015, forced labour is eradicated in Myanmar ("1. Forced Labour")***

The existing MoU on Forced Labour, signed in March 2012 between the Government of Myanmar (Ministers of Labour and of Defence) and the ILO provides a framework for ILO support towards this objective, based on seven concrete Action Plans that are being monitored by the Joint Working Group, consisting of officials from different government institutions as well as the ILO. The complaints mechanism for forced labour abuses has been in place since 2007 and is now well established, receiving over 2,000 complaints. It is expected that the number of complaints will steadily decline over time, even if further media and awareness raising efforts may initially increase this number.

#### *Indicators:*

- *Number of complaints received through ILO mechanism, assessed as receivable and submitted to the Government for its action, reduces*
- *Number of cases submitted to the Government that have been resolved, target 80%*
- *Incidence of forced labour reduced (through perception surveys by community facilitators).*

***By the end of 2013, respect for the rule of law will have advanced significantly in Myanmar, with an immediate and specific focus on achieving and strengthening freedom of association. (“2. Freedom of Association and Social Dialogue”)***

The new Labour Organisation Law that came into force in March 2012 provides the basis for the establishment of labour organizations, their functions and duties, rights and responsibilities. A rapid rise in the number of such organizations has been witnessed: 264 workers’ organizations and 13 employers’ organizations had been registered by October 2012.

These newly formed organizations require capacity development support and training to enable them to evolve into strong democratic organizations that can engage in social dialogue and industrial relations at the level of enterprises and sectors, and nationally. There are also a number of challenges with the effective implementation of the legislation which needs to be resolved to create well-functioning social dialogue and democratic labour market institutions.

The Department of Labour staff, workers and employers, and members of the various dispute resolution bodies need to be supported and trained to accompany the process effectively, resolve issues and ensure respect for the Labour Organisation Law.

*Indicators:*

- *Number of people trained and evaluations of the training programmes*
- *Data on industrial disputes and recorded cases of legitimate trade union complaints on “unfair labour practices”.*
- *Development of functioning employer and worker representation structures*

***By the end of 2014, a Decent Work Country Programme (DWCP) for Myanmar will become operational, underpinned by tripartite consensus and aimed at tackling the decent work and employment challenges facing the country. (“3. Inception Phase DWCP Myanmar”)***

Following a Tripartite Workshop in October 2012, the social partners and the Department of Labour reached provisional agreement on an agenda called “Decent Work – a tool for Economic Development and Poverty Reduction”. This agenda sets out a number of principles and identifies six key policy areas that constitute the basis of a future Decent Work programme. Two of these are taken forward under Objective 1 (Forced Labour) and Objective 2 (Freedom of Association and Social Dialogue) respectively.

The five other areas are broadly described as: i) employment opportunities and vocational skills, especially for youth; ii) labour legislation and labour market governance; iii) enterprise development (FDI and SMEs); and iv) labour migration and v) addressing employment and labour issues in specific sectors. In these different areas the ILO will focus in this phase on preliminary assessments, research and support to policy development as well as capacity development. This will then make it possible to design more comprehensive interventions as part of a Decent Work Country Programme.

*Indicators:*

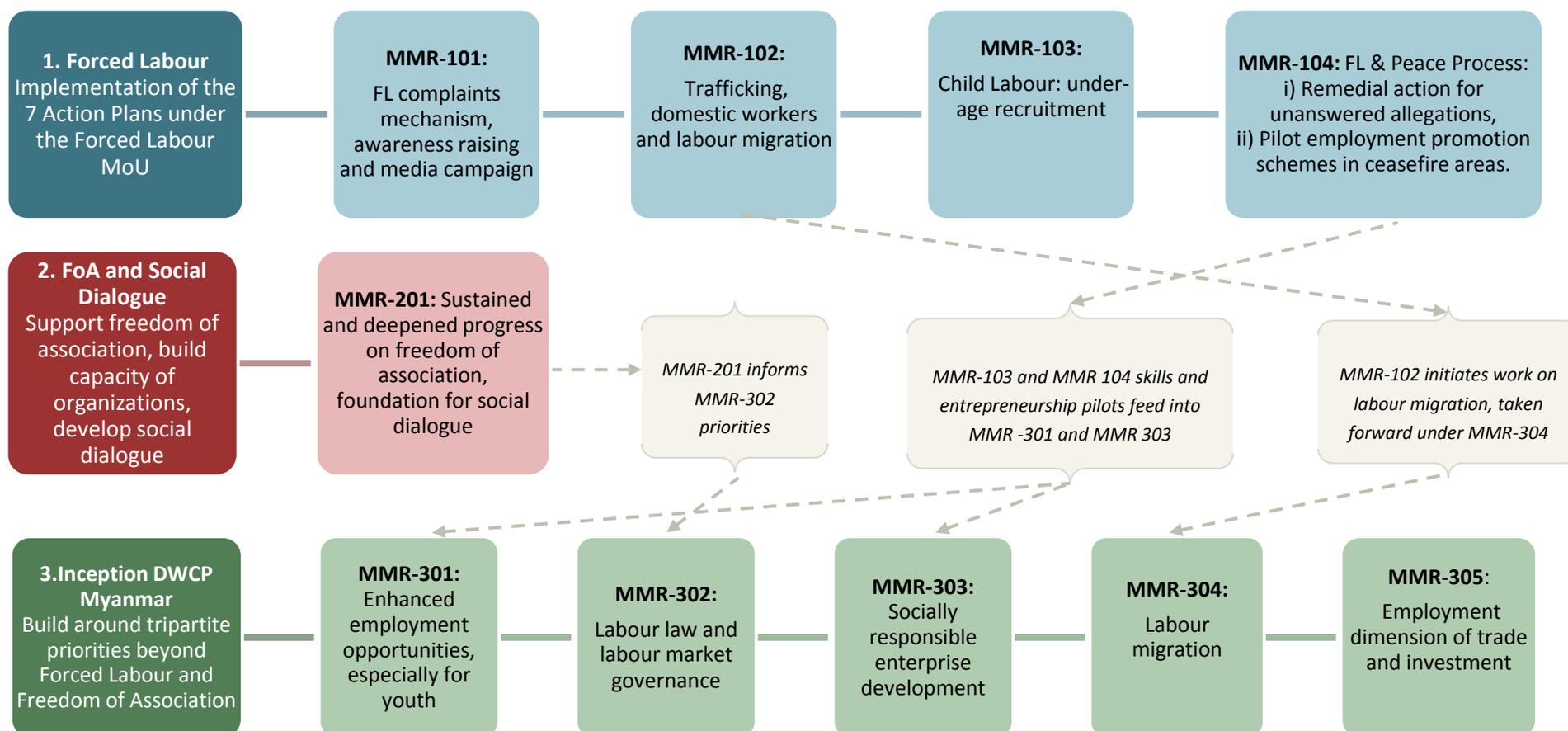
- *Number of assessments and policy analysis available in the four priority areas*
- *Existence of a Decent Work Country Programme approved by the tripartite constituents, aligned with national priorities and the UN country assistance framework.*

*ILO Myanmar Programme Outline (November 2012 to April 2014)*

**Programming Framework**

Within the context of the objectives mentioned above, the ILO programme will develop a number of interrelated initiatives and projects under one overall programming framework managed by the ILO Yangon Liaison Office.

This programme will build upon existing ILO interventions in Myanmar, funded by the ILO regular budget or by projects supported by donors. The framework will provide for a comprehensive workplan, common monitoring and evaluation arrangements, and shared management costs



## **Objective1: Forced Labour**

**MMR-101: Forced Labour Complaints Mechanism, Awareness Raising and Media Campaign, covering Action Plans 1 (Awareness Raising), 2 (Continued Work under Supplementary Understanding), elements of 4 (Specific areas and categories) as well as 6 (Judiciary, Parliament, Human Rights Institutions)**

This component covers the continued operation of the complaints mechanism as well as extending its outreach to ethnic areas that are now becoming accessible and into which the existing network of community facilitators will be extended. Targeted for extension are the Karen, Rakhine, Shan, Mon, Kachin, Chin and Kayah regions in particular, but final decisions will depend on the situation on the ground at the time of the extension.

The awareness-raising effort on forced labour will target national and local government from the Department of Labour, the Military and the Police, as well as judiciary officials and different human rights bodies. In accordance with the action plans agreed with the Government, there will be a specific media and communications campaign on forced labour, as well as the establishment of a hotline to report incidents.

Details are described in the attached note *MMR-101: FL Complaints Mechanism, Awareness Raising and Media Campaign*. An amount of US\$ 900,000 will be required for the period November 2012–April 2014 to deliver on all commitments in Action Plans 1, 2, 4 and 6 of the MoU. Taking into account the funding currently available, an additional amount of US\$ 750,000 will be required

**MMR-102: Trafficking, domestic workers and labour migration, part F of Action Plan 4**

The occurrence of forced labour for the purpose of human trafficking and/or use as domestic workers is identified in the MoU. The focus will be on those elements directly relevant to the issue of trafficking within the country, including the conflict zones, as well as the exploitation, including trafficking, of migrants working outside the country. Ground work will also be undertaken for a comprehensive labour migration programme, to be taken forward under component MMR-304, Labour Migration.

Details are given in the attached concept note *MMR-102: Trafficking, domestic workers and labour migration*. Extending the existing ILO regional project to protect migrant workers from labour exploitation (TRIANGLE) into Myanmar will require US\$ 700,000 additional funding to deliver on commitments in Action Plan 4 and an additional \$ 400,000 will be required to initiate and advance research, legislative review and capacity building on protection and empowerment of domestic workers.

**MMR-103: Child Labour, including identification, release/discharge and economic and economic re-integration of under-age recruits from army and militias (child soldiers), as reflected in Action plan 5 of the MoU.**

Initial action on the identification, release/discharge and economic re-integration of under-age recruits is foreseen under a joint UNICEF/ILO initiative supported by the Peace building Fund. It is estimated that up to 5,000 children could be released. The ILO will support the monitoring of the identification, release/discharge process, and will be leading the projects for location, release and discharge of underage recruits accused of

desertion , perpetrator accountability and the economic reintegration of discharged underage recruits back into their communities of origin.

In addition, the ILO is developing further child labour interventions in support of the planned ratification of the Worst Forms of Child Labour Convention, 1999 (No.182).

Details are described in the attached concept note *MMR-103: Child Labour*. Initial funding from the UN Peace building Fund of around US\$ 250,000 is available for the inception part; additional funding of US\$ 2,250,000 is required.

***MMR-104: Forced Labour and the Peace Process: i) Remedial action for unanswered allegations (AP 3) and ii) pilot employment promotion in ceasefire areas (AP 7 of MoU)***

A specific contribution of the ILO to the overall peace process is the effort that is required on ***investigation and remedial actions for unanswered allegations***. The objective is to achieve the satisfactory fulfilment of legal requirements under the ILO's supervisory machinery. It will be implemented through a time-bound project to address all outstanding cases alleging forced labour as documented by the ILO's supervisory bodies. A detailed scoping of the case-load is being carried out: the project would involve identifying the parties involved, and investigating and reaching agreement on remedial actions, which may include reconciliation between victims and perpetrators, prosecution of perpetrators, and indemnification of victims.

This is essential work to demonstrate that rights abuses are being addressed through appropriate mechanisms leading to restorative justice. The extent to which all cases can be investigated will depend on the evolving security situation in various parts of Myanmar. Interventions will require the consent of all parties involved.

A second element of the work under this component focuses on immediate employment creation through specific pilot programmes potentially in 4-5 ceasefire areas in ethnic regions selected in consultation with all stakeholders. This activity will be undertaken as part of the Myanmar Peace Support Initiative and in partnership with other UN entities as appropriate and in consultation with the Myanmar Peace Centre and Ethnic Nationality Organizations. The ILO will draw on global experience with employment-intensive investment schemes at the local level, including ILO's support to Myanmar after the Nargis cyclone disaster. The ILO will engage at community level in developing small-scale infrastructure with maximum employment intensity. These interventions will also inform further skills development and enterprise support programmes that the ILO will develop in Myanmar. The precise scope and choice of region remains to be confirmed, taking into account the evolving peace process developments.

The ILO is also planning to contribute the expertise acquired through the operation of the complaints mechanism and its engagement with community facilitators to train the staff of large-scale programmes of community-level interventions linked to the Peace Process, supported by the Myanmar Government and development partners.

Details are described in the attached concept note *MMR-104: Forced Labour and the Peace Process*. While full scoping of these interventions is still underway, it is expected that US\$ 500,000 will be required initially to address unanswered allegations, while the pilot projects in the conflict zones will require around US\$ 1,200,000 each.

## ***Objective2: Freedom of Association and Social Dialogue***

With the recent political reform and introduction of new legislation, new representative organizations of workers and employers are being formed at a rapid pace across the country and across economic sectors. The ILO has been requested by the constituents to provide support, both to ensure that a well-functioning and efficient registration process for workers' and employers' organizations is in place and to ensure the development of these organizations and of coordination between them.

The new organizations formed at workplace level will need training and capacity building to increase their understanding of national legislation, as well as their role in bipartite and tripartite consultations and institutions.

### ***MMR-201: Freedom of Association: sustained and deepened progress on freedom of association as a foundation for sound social dialogue***

The ILO has initiated work on promoting freedom of association, but this effort requires additional resources to expand the coverage, both geographically as well as at the level of individual enterprises. Using a training of trainers modality, the programme will make it possible to reach more organizations and individuals and will lay the groundwork for sustainable training capacities within the organizations. The ILO will train trade union and employers' representatives separately and/or collectively.

A strong focus will be on further strengthening trade union coordination at sectoral, regional and national level. Specific interventions will also be supported to foster young trade union leaders. The management of this component will also ensure coordination with a number of training and capacity-building initiatives by other development partners, targeting the social partners in Myanmar.

Similarly, the ILO will support employers' organisation through training and capacity building on freedom of association.

Beyond this focus on Freedom of Association, the programme component MMR-302 covers a broader programme of work around labour market governance and labour law reform.

The details of the work on Freedom of Association can be found in the attached component description *MMR-201: Freedom of Association*. Building on the resources available (US\$ 450,000), an additional US\$ 1050,000 is required to scale up and sustain the work until April 2014.

## ***Objective 3: Inception Phase Decent Work Country Programme (DWCP)***

The Department of Labour, in consultation with the social partners, has identified five areas in which ILO assistance is requested, in addition to the priorities already described above (Forced Labour and Freedom of Association). During 2013 preparatory work, research and policy development will be undertaken to inform further legislation and policies and to formulate the Myanmar Decent Work Country Programme.

### ***MMR-301: Enhanced employment opportunities, especially for youth***

The ILO will assist the Department of Labour and the Central Statistics Office to undertake a **Labour Force Sample Survey** which should provide a sound basis on which to build further policy development. In addition, a "School to Work Transition" study is foreseen to identify the specific issues for young people coming out of

education and entering the labour market. These elements will facilitate further employment policy development, including in the area of technical and vocational education and training. It will also guide the development of appropriate job placement measures (public employment services).

Details are given in the attached concept note *MMR-301: Employment opportunities*. An estimated amount of US\$ 2,100,000 is required to deliver the various elements of this programme.

### ***MMR-302: Labour legislation and labour market governance (capacity building), reflecting the labour law reform agenda of the Government and grounded in effective tripartite institutions and social dialogue***

Building the capacity of constituents on freedom of association is targeted under Objective 2. Beyond this, further support is needed to build the capacity of the Government and social partners to improve overall labour market governance. Labour market governance covers all forms of social dialogue (from enterprise through national levels), collective bargaining, labour administration and inspection, as well as labour laws and regulations. Training and capacity building to all three parties will be provided, and relevant institutions and practices will be built and/or strengthened.

In the process, significant progress will be made in on-going or pending labour legislation reform, including on minimum conditions of work, occupational safety and health, and gender equality. Beyond the effective implementation of the recent laws (the Labour Organization Law and Labour Disputes Settlement Law) supported under Objective 2, there is legislation on social security, minimum wages, employment and skills development, which is under discussion, while a series of older laws will be amended.

Details are described in the attached concept note *MMR-302: Labour Market Governance*. An estimated amount of US\$ 1,400,000 is required to deliver this programme.

### ***MMR-303: Socially Responsible Enterprise Development***

As part of its employment creation efforts, the Government has signalled the need to support enterprise development to promote transparent and socially responsible investment practices. Support is also required to representative business organisations to effectively provide services to their members.

In addition, there will be specific support to micro and small enterprises which have high job-creation potential, addressing such areas as market access, value added opportunities and cooperative activities. The ILO will further support entrepreneurship training, including through the ILO's Start and Improve Your Business (SIYB) programme.

Details are described in the attached concept note *MMR-303: Enterprise Development*. An estimated amount of US\$ 1,400,000 is required to deliver this programme.

### ***MMR-304: Labour Migration***

Building on issues related to trafficking and migration under the Forced Labour programme (*see MMR 102 on Trafficking, domestic workers and labour migration*), the ILO will further assist the Government in its on-going review of the labour migration programme, in line with the National Action Plan (2012-2017). This will include improving recruitment services and protection during employment, labour market and safe migration

information dissemination, increasing employability and skills of migrant workers and laying the foundations for enhancing the development impact of migration.

Details are described in the attached concept note *MMR-304: Labour Migration*. An estimated amount of US\$ 600,000 is required to deliver this programme.

### ***MMR-305: Employment dimension of trade and investment***

As the Myanmar economy opens up and expands, there is likely to be an increase in foreign direct investment and increased international trade and exports. It will be important to ensure that this process leads to positive outcomes for the citizens of Myanmar, not only in terms of jobs, but also in contributing to overall development.

Building on sectoral expertise from within the region, the ILO will work with the Government and industries to address employment and decent work challenges in specific sectors in a comprehensive manner. Initially it is proposed to target at least two of the garment industry, the fishery sector (aquaculture) and tourism.

Details are given in the attached concept note *MMR-305: Employment dimensions of trade and investment*. An estimated amount of US\$ 600,000 is required to deliver the initial modelling of the proposed sectors, identify the areas where work is needed, and design an action plan. Actual sector-level interventions at scale would need to be scoped in 2013.

### **Cross-cutting Issues**

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Across the ILO programme, two issues are mainstreamed and will be addressed in a comprehensive manner.

Training and capacity building programmes across the different components often cover the same institutions (ILO constituents, but also for example the judiciary and CSOs etc.). An overall database of planned and conducted training courses will be established, covering planned and actual participants, overview of curricula, evaluations etc. This will inform each of the components in seeking synergies in planning and implementing training activities. It will also provide a basis for a broader capacity assessment of organizations as a basis for future programme development.

Gender mainstreaming is an in-built feature of ILO programming, and existing guidelines and procedures will apply, including full disaggregation by sex of all data collected under the monitoring frameworks and for the indicators defined. In addition, ILO gender expertise will be available in 2013 to support further ILO programme development and help ILO constituents identify the areas where further progress on gender mainstreaming is required in Myanmar.

### **Management and monitoring arrangements**

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The ILO consults with its constituents in Myanmar on a regular basis through the ILO Representative in Yangon. Following the decisions by the International Labour Conference of June 2012, the ILO Governing Body will be informed on a regular basis of progress in Myanmar.

The ILO programme in Myanmar is managed by the ILO Representative in Yangon. He will be supported by a Programme Management Unit (PMU), consisting of a senior programme officer (international staff), a national programme officer (NO-A), an administrative and financial Officer (NO-A) and an administration and financial

assistant (GS.4). The PMU supports all on-going operational activities across the different components and is funded from ILO resources as well as budgetary provisions included in each of the individual projects to be established. The PMU uses the ILO's financial system for field offices, under the oversight of the Chief Regional Administrative Services of the ILO Regional Office in Bangkok.

Each technical component will have its own programme manager, providing management and technical expertise. The PMU will ensure overall monitoring of the programme, tracking an overview of all indicators contained in the different components. The PMU will also ensure compliance with ILO's guidelines for monitoring and evaluation, arranging the required mid-term and final evaluations with the ILO's Evaluation Unit.

The ILO will source the technical expertise required to implement and support the programme on a flexible basis. ILO specialists based in Bangkok will provide technical support complemented by additional expert from ILO headquarters.

### **Risks and assumptions**

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Political reform and the peace process are still young in Myanmar and possible set-backs or incidents may occur. There is a need to deepen and widen experience of democratic labour market governance and respect for fundamental principles and rights at work.

There may be challenges to the ability of the ILO to work across Myanmar and to develop interventions in conflict areas and ethnic regions. Continuing ethnic conflict, security restrictions and violence may impede work in certain areas. The ILO will work closely with the Myanmar Peace Centre, Ethnic Nationality Groups and its UN partners in this context.

The scaling up of ILO assistance to Myanmar requires substantial resources. A targeted resource mobilization strategy is followed to secure stable financing for the identified priorities for the upcoming 18 months, and early feedback from donors is encouraging.

## Budget

The programme's estimated overall budget is US\$ 15 million (as of November 2012, US\$ 850,000 had already been secured for some areas):

	USD		
	Budget	Available	Resources Required
<b>Objective1: Forced Labour</b>			
MMR-101: Forced Labour Complaints Mechanism	900,000	150,000	750,000
MMR-102: Trafficking, domestic workers and labour migration	1,100,000	-	1,100,000
MMR-103: Child Labour, including re-integration of under-age recruits	2,500,000	250,000	2,250,000
MMR-104: Forced Labour and the Peace Process	2,900,000	-	2,900,000
<b>Objective2: Freedom of Association and Social Dialogue</b>			
MMR-201: Freedom of Association, foundation for sound social dialogue	1,500,000	450,000	1,050,000
<b>Objective 3: Inception Phase DWCP</b>			
MMR-301: Enhanced employment opportunities, especially for youth	2,100,000	-	2,100,000
MMR-302: Labour legislation and labour market governance	1,400,000	-	1,400,000
MMR-303: Socially Responsible Enterprise Development	1,400,000	-	1,400,000
MMR-304: Labour Migration	600,000	-	600,000
MMR-305: Employment dimension of trade and investment	600,000	-	600,000
<b>Total</b>	<b>15,000,000</b>	<b>850,000</b>	<b>14,150,000</b>

Notes on the budget:

The current outline considers scaling-up ILO's programme over the next 18 months with a strong and continued focus on the human-rights based priorities. The framework takes into account current absorptive capacity of ILO's constituents and partners.

At the same time initial investments are proposed to ground a more comprehensive ILO programme in the years to come. Assuming further progress on the peace process and on respect for the fundamental principles and rights at work, the ILO programme in Myanmar might require from 2014 onwards in excess of USD 20 million/ year.



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# Annex: Programme Components

**ILO Programme Myanmar: November 2012 – April 2014**



**November 2012**

## OBJECTIVE I - FORCED LABOUR

### MMR 101: Continued operation of Forced Labour Complaints Mechanism

*Funding requirements: USD 900,000 (of which USD 150,000 available for work until March 2013)*

#### I. The challenge

Forced Labour has traditionally been a serious problem in Myanmar. This can be attributed to multiple factors including the weak rule of law and enforcement mechanisms and poor awareness of rights against forced labour abuses - both at the level of the general public and in the military.

Since 2007, the ILO has been operating a Complaints Mechanism on forced labour in Myanmar. Under this mechanism, any resident of Myanmar can submit alleged cases of forced labour to the ILO. The ILO assesses the complaint and, if deemed genuine and within the scope of the mechanism, submits it to the Government for its verification and investigation. Subsequent outcomes vary. For example, in the case of under-age recruitment into the military, it can lead to the discharge of the victim and his release from prison if convicted of desertion. In other cases, unlawfully confiscated land is returned, compensation paid for injuries or loss of life as well as apologies, acknowledgement of wrongdoing and prosecution and punishment of the perpetrators.

In parallel to the ILO process, the UN Security Council Resolution 1612 (Children in Armed Conflict) has placed Myanmar on the list of those using children in armed conflict.

Since 2007, the ILO registered over **2,000 complaints related to allegations of forced labour**, ranging from under-age recruitment into the army to traditional forced labour, bonded labour, human trafficking for forced labour, land issues that lead to forced labour, forced cropping, portering in conflict zones, forced recruitment into the military and for infrastructure projects, etc.

#### II. Strategy

The ILO's aim is to reach the milestones set out in the Strategic Action Plan on the eradication of forced labour in Myanmar by 2015 (as agreed by the Government) by implementing actions to stop forced labour, contributing to strengthen the rule of law, stopping impunity for forced labour perpetrators and fostering reconciliation among victims and perpetrators and their institutions.

##### ***Objective 1: Increased awareness amongst all sectors of Myanmar society and in government (military and civilian) on what constitutes forced labour***

The awareness-raising effort will target national and local government from the Department of Labour, the Military and the Police, as well as judiciary officials and different human rights bodies. In accordance with the action plans agreed with the Government, there will be a specific media and communications campaign on forced labour, as well as the establishment of a hotline to report incidents.

##### *Related outputs:*

- Media and communication campaign on Forced Labour: media monitoring, training of journalists, outreach materials for press kits, audio-visual materials, support to radio programmes, TV clips, billboards;
- Targeted workshops for government officials at local level;
- Forced Labour public hotline introduced.

##### ***Objective 2: Continued operation of the ILO Complaints Mechanism and extension into new areas***

The current operation will continue with an extended outreach into ethnic<sup>1</sup> areas that have now become accessible under the peace process. The existing national network of community facilitators will be expanded with particular emphasis on Karen, Rakhine, Shan, Mon, Kachin, Chin and Kayah.

*Related Outputs:*

- Case officers for network support and complaints facilitation in Yangon, Sagaing, Mandalay, Bago and Mawlamyine operational.
- Community facilitators' skills upgraded (knowledge of law, facilitation and negotiation skills)
- Additional community facilitators from ethnic areas identified and trained.

**Objective 3: Rule of law enhanced through the justice system, local government and human rights commission**

*Related outputs:*

- Training for judges, trainee judges, military officers on forced labour legislation;
- Consultations with bodies involved in drafting legislation and/or implementing regulations that have a direct or indirect bearing on forced labour issues;
- Collaboration between the existing Strategic Working Group (Government and the ILO) and the National Human Rights Commission in respect to the operation of complaints mechanisms, seeking comprehensive and sustainable national arrangements.

The programme has an important gender dimension. Although the official military has a firm 'no-women' policy, some of the non-state armed groups and local militias do recruit women and girls. Further, women and girls are vulnerable to forced labour in the form of enrolment into domestic work with different degrees of exploitation, human trafficking (as future wives to China, as sex-workers to Thailand etc.). At community level, women are often the subject of forced labour while men work in the family rice fields.

### III. ILO's added value

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The ILO is uniquely placed in Myanmar as it has been accepted over a number of years by the Government and by society at large as providing a credible, objective mechanism through which forced labour concerns can be addressed. People see the ILO as contributing to restorative justice for past wrong-doings, considered a precondition for a successful national process of peace and reconciliation.

### V. Target groups and beneficiaries

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Direct recipients	<ul style="list-style-type: none"> <li>➤ Victims of forced labour<sup>4</sup> throughout Myanmar, including the ethnic and border area</li> <li>➤ Government and military officials</li> <li>➤ Judges, journalists</li> </ul>
Final beneficiaries	<ul style="list-style-type: none"> <li>➤ Communities in Myanmar where forced labour abuses have contributed to a climate of insecurity, violation of human rights etc.: through strengthening of the Rule of Law as treatment of forced labour cases sets precedents in Myanmar common law system</li> </ul>

<sup>1</sup>In the case of ethnic violence that have recently broken out, any such operations will be deferred or adapted if they are scheduled to be held in these areas

## MMR 102: Trafficking, domestic workers and labour migration

*Funding requirements: USD 1,100,000*

### I. The challenge

The 2012 Action Plan concluded between the Government of Myanmar and the ILO aims for the elimination of all forms of forced labour by December 2015 latest. The present proposal seeks to support implementation of the 4th pillar of the Action Plan, with a particular focus on the prevention of forced labour in the private sector and the trafficking of migrant workers. Significant numbers of workers from Myanmar are crossing borders in search of decent work, but end up in exploitative conditions, including forced labour.

Large-scale foreign investments are deployed or planned in Myanmar, which are crucial for job creation, poverty reduction and rural development. While these investments present unique opportunities, their impact on decent working conditions, in particular freedom from forced labour should be closely monitored. Global business is increasingly concerned about forced labour practices which could unwittingly penetrate their supply chains.

Domestic work is a sector in which workers, both in the country and as migrants, most of whom are women, are at risk of abuse. Those who ‘live-in’ are the most vulnerable due to their isolation. They are often not granted freedom to leave the house, receive low pay and are subject to verbal, physical and sexual abuse. Domestic workers’ rights are typically insufficiently covered in labour legislation. This situation is compounded by the limited presence of associations of domestic workers that might provide effective protection and promote their rights and interests.

The Government, which has requested assistance from the ILO, is currently developing a “National Action Plan for the Management of International Labour Migration in Myanmar” (2013-17). The draft National Action Plan prioritizes the importance of protecting migrant workers at each stage of the migration cycle. In the US State Department’s Trafficking in Persons Report for 2012, Myanmar moved to the Tier 2 Watch List following seven successive years on Tier 3.

### II. Strategy

The proposed work is in line with ILO’s overall strategy to promote fundamental principles and rights at work, as laid out in the Framework for Action adopted by the International Labour Conference in 2012. It will also support one of ILO’s priority areas of work, namely to protect workers from unacceptable forms of work. Building on ILO’s mandate and overall strategy, country-specific components for Myanmar will be implemented to:

#### ***Objective 1: Prevent forced labour in the private economy, including in domestic work***

- Monitor foreign investments and their impact on fundamental principles and rights at work, including forced labour and internal trafficking
- Sensitize employers and business on forced labour indicators and promote due diligence and ensure that workers can take remedial action
- Undertake research on recruitment and employment of domestic workers within the country and make a review of legislation
- Identify CSOs and community organizations having the potential to work effectively on advocacy and empowerment of domestic workers, and impart training and capacity building

#### ***Objective 2: Increase protection of migrant workers and reduce recruitment abuses by strengthening policies and capacity of tripartite constituents and effective implementation of national, bilateral and regional commitments***

- Review of the Overseas Employment Agencies Act and development of the necessary regulations, in line with international labour standards and regional good practices
- Build capacity of government officials and social partners in development of gender-sensitive labour migration and counter-trafficking policy and mechanisms through participation in training and targeted study visits
- Develop and promote sector specific standard employment contracts
- Promote regulation of the recruitment industry
- Support the development of a trade union policy and action-plan

**Objective 3: To protect vulnerable workers, including migrant and domestic workers, from forced labour and to ensure their access to support services**

- Implement feasibility studies and recommendations on the establishment of a migrant welfare fund and on portability of social security
- Ensure delivery at community level, using local partners, of pre-employment information, counselling and legal assistance services
- Establish 5 Migrant Resource Centres in regions in central Myanmar and states bordering Thailand. Mon State has been identified as a priority area
- Strengthen Domestic Worker Organizations (DWOs)

### III. ILO's added value

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Trafficking has been recognised as a forced labour issue to be addressed under the action plans of the MoU between the Government and the ILO. In addition the ILO has been requested by the Government to make inputs to and aid in implementation of the National Action Plan on the Management of International Labour Migration (2013-2017) and to assist in its implementation.

The proposed work would complement existing ILO regional projects, namely “Enhanced action against forced labour in Asia” and ‘TRIANGLE’ project, which aims to reduce the labour exploitation of women and men migrants in the Greater Mekong Sub-region and Malaysia. At the regional level, ILO supports the ASEAN Committee on the Implementation of the Declaration on the Protection and Promotion of the Rights of Migrant Workers (ACMW); and promotes the role of tripartite constituents in the Coordinated Mekong Ministerial Initiative Against Trafficking (COMMIT) process.

At its 100th Session (2011) the International Labour Conference adopted the Domestic Workers Convention. The ILO has been providing technical assistance in this field in Indonesia, Cambodia and Thailand (among other countries) and this experience will be applied and adapted in Myanmar.

### IV. Target groups

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Direct recipients	Government officials – primarily from the Ministry of Labour, but also members and ministries that sit on the Supervisory Committee on Overseas Employment; business and employers organisations, including with RUMFCCI, Workers’ organizations, women’s groups and migrant associations, domestic worker organizations;
Final beneficiaries	At least 5,000 migrant workers will benefit directly from the programme, they will be significantly less vulnerable to human trafficking, having been prepared for safe and legal migration; In addition at least another 3,000 domestic workers in the country will benefit from support service, at least 5,000 workers of private sector companies in Myanmar will benefit from measures to prevent forced labour, many more workers will benefit from better policies, empowerment measures and direct services.

## MMR 103: Child Labour, including identification, release/discharge and economic re-integration of under-age recruits (child soldiers)

*Funding requirements: USD 2,500,000 (of which USD 250,000 available for the inception phase)*

### I. The challenge

Although the recruitment of children under the age of 18 years in the military is illegal in Myanmar, serious problems persist in practice. While no official figures exist on the number of under-age recruits, the estimates are that around 5,000 children may currently still be in the army. Poverty is documented as one of the main driving forces for parents to forge the documentation of age proof to pave the children's way into the military in exchange for financial incentive. Moreover, a situation existed where pressures from central levels to increase the number of recruits into the military at all cost led to under-age recruitment by local officials.

A particular problem has been the issue of under-age recruits who have been labelled and prosecuted as 'deserters' or 'AWOLs (Absence without Leave)'. Many of these 'deserters' have been apprehended and subjected to imprisonment with some receiving long-term or life-time imprisonment, or even the death sentence for alleged crimes associated with their desertion. Many others live in hiding, unable to lead a life free from fear of exposure and capture. The Memorandum of Understanding on Forced Labour between the Government of Myanmar and the ILO includes specific commitments to end under-age recruitment completely, and the Action Plan under the MoU indicates the ratification of Convention No. 182. Addressing under-age recruits and economic re-integration also falls within the 1612 Action Plan signed between the Government and the Country Task Force on Monitoring and Reporting of grave violations of child rights in armed conflict (CTFMR) in June 2012.

Beyond the situation of child soldiers, there is no data on the nature and extent of child labour in Myanmar. Legal protection is inadequate and the education system is very weak. Given that Myanmar has a largely rural economy, it is likely that a majority of child labour and hazardous work is found in the agriculture sector, including fisheries (aquaculture), as well as in the informal economy. The rapid opening up of the country to the outside world, increased tourism and urbanisation will likely increase the incidence of child labour in the services sectors, including in tea-shops, child domestic labour, brick manufacture and construction. It will also further increase the vulnerability of children from Myanmar to unsafe migration and trafficking for labour exploitation – both within the country and cross border.

### II. Strategy

The ILO has a three-pronged strategy on child labour in Myanmar. With the aim of directly addressing the issue of under-age recruits, deserters and AWOLs, objective 1a focuses on the support to the identification, release/discharge and rehabilitation of runaway or imprisoned under-age recruits, and objective 1b facilitates the economic re-integration of discharged under-age recruits. Objective 2 addresses the elimination of child labour in Myanmar generally.

#### ***Objective 1a: Seeking the identification, release/discharge and rehabilitation of runaway or imprisoned under-age recruits (classified as deserters) from the army***

As part of a larger effort of the CTFMR, the ILO will ensure proper identification, verification and discharge of runaway under-age recruits. This involves issues such as jurisdiction of the court "ultra-vires", the validity of past convictions, child rights protection and other relevant clauses of the law. Recognising that all citations will be precedents for further use in the court of law, these measures contribute to the revitalisation of the rule of law in the country. The ILO will also work with the military to ensure

accountability for unlawful recruitment and use of children. This entails both criminal prosecution of perpetrators as well as policy and administrative reforms. The focus will be on institutionalising systems, procedures and mechanisms within the military and the criminal justice system to appropriately respond to future incidents of use and recruitment of children and ensure that the perpetrators are brought to justice.

**Objective 1b: Supporting economic re-integration**

The ILO will support the economic re-integration of between 500 and 1,000 children released from the army. This will be done in close coordination with child protection agencies that will support family reunification and social aspects of re-integration. Economic re-integration support includes vocational orientation, skills development and support to start a business or access wage employment. In addition, the ILO will facilitate capacity building of local partners to provide these services, such as vocational orientation and entrepreneurship training.

**Objective 2: Time-bound programme to eradicate child labour (inception phase)**

The ILO will assist national authorities in building their capacity to address child labour through mainstreaming, policy formulation and establishment of functional institutional mechanisms. In addition, pilot models of intervention to respond to children in the worst forms of child labour will be developed and tested.

*Policy Advocacy Component:*

- Ratification of ILO Conventions of Child Labour (Nos. 138 & 182) and conformity between age of completion of compulsory education and minimum age for admission to employment;
- National Plan of Action and National Child Labour Policy;
- Assistance to Government to designate hazardous work for children and introduce regulations for minors.

*Direct Action Component:*

- Withdrawal and prevention of child labour through provision of educational and other services, focusing on 2 selected area-based interventions and 2 sectoral interventions, linking up in disadvantaged districts with donor-supported education initiatives to provide complementary services (such as school feeding);
- Provision of skills and entrepreneurship training to parents;
- Training of labour inspectors;
- Formation and training of provincial committees on community development.

*Research/Knowledge Component:*

- Baseline Surveys in targeted districts where direct action/livelihoods programmes take place;
- Knowledge Attitude and Behaviour (KAB) survey.

**III. ILO's added value**

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Child labour has been recognised as a forced labour issue under the action plans of the MoU between the Government and the ILO. Globally and in neighbouring countries, the ILO has long-standing experience, both in working on child soldiers as well as on eradicating child labour in general. Expertise from within the region will be readily available to deliver solutions in Myanmar, drawing on existing tools.

**IV. Target groups**

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- Victims (500-1,000) of under-age recruitment and their families
- Children in child labour situation
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## MMR-104: Forced Labour and the Peace Process:

*i) Investigation and remedial action for unanswered allegation (resources USD 500,000)*

*ii) Pilot employment promotion scheme in ceasefire areas (estimated at USD 1,2 million each)*

### I. The challenge

In 2007, the ILO and the Myanmar agreed to a Supplementary Understanding which gives Myanmar Resident Citizens the right to lodge complaints alleging the use of forced labour. The complaints mechanism allows victims of forced labour, with the assistance of the ILO, an opportunity to seek redress and/or remedy from the government authorities in full confidence that no retaliatory action will be taken against them. Since then **2,000 complaints** related to allegations of forced labour were registered.

However, it has not been possible to investigate the allegations reported through the complaints mechanism that occurred in the ethnic areas previously inaccessible because of the conflict. Through comments provided to the ILO's Committee of Experts by the International Trade Union Confederation (ITUC), information was received on a range of reports containing allegations of the continued use of forced labour, largely for portering, but also for road construction, collection and provision of bamboo to military camps, etc., in the Karen, Shan and Arakan States.

Past complaints and allegations of abuse must be investigated and addressed. This is an important contribution to the peace process as it addresses key concerns of many of the ethnic communities, namely:

- An end to human rights abuses to all people of Myanmar and the establishment of the rule of law, in which institutions of the state as well as its citizens are all accountable to the laws, with an independent judiciary;
- Restorative justice as an essential step towards mending relationships and establishing peace. There needs to be acknowledgement of past wrongdoings, redress for outstanding grievances and punishment. Only then will it reconciliation be possible.

Supporting the existing cease fire agreements and the move towards sustainable peace agreements involves the establishment of community cohesion, security and opportunities for independent livelihoods. The ILO has been requested by all of the stakeholders and in context of the Myanmar Peace Support Initiative to bring to bear its community-led employment expertise and to pilot small scale employment-intensive infrastructure and related investments in ceasefire zones.

### II. Strategy

Recognizing the direct link between armed conflict and the use of forced labour, ILO is working as part of the Myanmar Peace Support Initiative (MPSI), a mechanism supported by the Myanmar Government and the ethnic nationality groups that provides basic humanitarian and community rights services in areas that previously could not be accessed, to support the ceasefire. The programme will build on the existing complaints mechanism to ensure a clear rights-based approach in which effective handling of grievances and restorative justice will be implemented.

Building on its community engagements, ILO will contribute its employment-generation expertise through pilot employment creation programmes, potentially in up to 4 ceasefire areas in ethnic regions selected in consultation with all stakeholders. This activity will be undertaken as part of the Myanmar Peace Support Initiative and in partnership with other UN entities as appropriate and in consultation with the Myanmar Peace Centre and Ethnic Nationality Organizations.

### **Objective 1: Support the Myanmar peace process by addressing unresolved forced labour allegations in the ethnic areas<sup>2</sup>**

- Database scheduling unanswered allegations from the ILO's Committee of Experts' comments developed by category, geographic location and alleged perpetrators;
- Joint investigation procedure developed and carried out;
- Recommendations on remedial action developed and monitored. Remedial action can take many forms: offering of apologies, compensation, prosecution, etc.;
- Information-gathering and confidence-building groups established with participation from diverse groups, including community leaders from ethnic, religious and youth groups; teachers, business people and civil servants; political parties; and the military;
- Support to Government in reporting on the process and outcomes to the ILO supervisory bodies.

### **Objective 2: Employment opportunities and income generation at community level in selected regions**

The ILO has been requested to bring to bear its employment expertise for advice and pilot employment-intensive infrastructure and related investments in community level.

- Community-based and participatory schemes to build and maintain infrastructure, develop people's skills and support entrepreneurship examined and pilot actions to develop;
- Ex-combatants reintegration training developed: job creation, micro enterprise development; vocational skills transfer an access to markets whilst providing good practice modelled against the use of child labour.

## **III. ILO's added value**

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The ILO's Complaints Mechanism effectively provides an independent third party ombudsman process demanding accountability and respect for the rule of law. The mechanism helps to establish understanding between the duty bearers (government) and rights holders as to the shared benefits of applying the rule of law, opening the way for further replication of this principle in other areas of accountability and human rights application.

Under the mechanism, complaints can be made safely and in confidence. The ILO assesses the complaint; if deemed genuine and within the scope of the mechanism, the ILO submits the complaint to the Government for its verification and investigation. Subsequently a solution to the complaint is negotiated which may involve, for instance in under-age recruitment cases, the discharge of the victim, his release from prison if convicted of desertion and the punishment of the perpetrator under criminal and/or military law. In other cases it has involved returning land unlawfully confiscated, compensation in case of loss of life or limbs, apologies and acknowledgement of wrongdoing etc.

## **V. Target groups and beneficiaries**

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Communities in 4 cease-fire areas/regions where forced labour abuses have contributed to a climate of insecurity, violation of human rights etc. and where community-level investments supported by donors are being planned.

<sup>2</sup> The Government of Myanmar – ILO MoU signed in March 2012 commits in Action Plan 3 refers to 'Undertake Investigation and Take Necessary Remedial Action in Respect of Unanswered Allegation as documented in the Comments of ILO Supervisory Bodies'.

## OBJECTIVE II - FREEDOM OF ASSOCIATION AND SOCIAL DIALOGUE

### MMR 201: Sustained and deepened progress on Freedom of Association as a foundation for sound social dialogue

*Funding requirements: USD 1,500,000 (of which USD 450,000 already available)*

#### I. The challenge

Despite having ratified Convention No.87 (Freedom of Association and Protection of the Right to Organise) in 1955 the Committee on the Application of Standards and the Committee of Experts on the Application of Conventions and Recommendations have noted with concern that the Government of Myanmar has failed to eliminate serious discrepancies in its application. A process of transition to democracy, following a succession of ruling juntas since 1962, is currently underway in Myanmar and following elections in November 2010 and the formation of the government in March 2011 positive changes leading to opportunities for technical cooperation have occurred. In particular, a new Labour Organization law came in to force in March 2012 and contains provisions on the establishment of labour organisations, their functions and duties, rights and responsibilities, including the right to strike.

Since the enactment of this law there has been a steady increase, which is expected to continue, in the number of organizations registered. In June 2012 there were 40 workers organisations and 1 seafarers' organisation; this had increased to 265 by October 2012, while also 13 employers' organisations had been registered. Many of these organisations are small, inadequately trained and resourced, and often lack a full understanding of the law and the organisations role; many have contacted the ILO Yangon office asking for information, training and support. Ministers and government officials, who appear to be making efforts to make the new laws work, are also keen for advice and support.

In order to build the capacity to support a modern industrial relations system, and as an important component of the political reform process, the ILO sees a need to scale up its work on promoting freedom of association in Myanmar, both in law and in practice. The culture and practice of social dialogue still needs to take root in Myanmar. A comprehensive programme is proposed building on an initial effort and early experience on the ground through training interventions.

#### II. Strategy

The overall objective is to promote the effective recognition and realization of the fundamental worker's rights in Myanmar with a two pronged approach: (1) awareness raising campaign (2) capacity development of organisations

##### ***Objective 1: Increased knowledge of and roles of government, employers and workers' organizations in industrial relations***

- Workshops for government officials, registered employers organisations and registered trade unions on the provisions of the national legislation and international labour standards;
- Two groups: (i) labour related NGOs, journalists, (ii) lawyers, judges, and academic associations trained on fundamental rights at work and national legislation;
- A comprehensive awareness-raising campaign including the production and distribution of multiple language brochures, posters and DVDs, as well as radio and TV promotions.

##### ***Objective 2: Support well-functioning and efficient labour market institutions***

This includes support for both workers and employers organisations, and conciliation and arbitration bodies.

- Training provided on 2011 Labour Organisation Law to town registrars and labour officers;
- How-to-guide disseminated to trade unionists on content and implementation of 2011 Labour Organisation Law;
- Support conduct of elections of worker representatives on arbitration bodies and provide inaugural training for the members of the Arbitration Council.

***Objective 3: Develop capacity of unions and employers to better service their members and reach out to potential new members across sectors and regions***

This will include leadership development of the unions and the development of strategic planning.

- Basic, and later more advanced, training programme on trade union management, financial skills, organizational skills, accountability of union leaders, basic economics, freedom of association, and collective bargaining which will be extended to all regions of the country (which includes leadership development for the national conference);
- Hold national conference of union leaders for the development of national union strategy.
- Undertake assessment in respect of Employer Organization service needs and develop strategy for strengthening of employer cohesion and representation/social dialogue structures

***Objective 4: Support institutions for meaningful and effective tripartite & bipartite social dialogue***

Apart from work at national levels this will include a specific enterprise focus to promote labour-management collaboration.

- Tripartite workshops on benefits of good industrial relations and social dialogue at workplace, regional and national level;
- National workshop on the content and practical implementation of the 2012 Settlement of Labour Dispute Law.

***Objective 5: Laws, regulations and implementation procedures fully support effective freedom of association***

Further work is needed to strengthen the legal framework and its practical application through:

- Review of current labour laws and regulations in relation to FOA and recommendations developed
- Legal advice, technical assistance and capacity development of Department of Labour and social partners to address challenges related to FOA.

### **III. ILO's added value**

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The ILO Representative for Myanmar has created a relationship built on trust and confidence with trade unions, employers' organisations and the Government. As a result the ILO is in a unique position to support the development of social dialogue and industrial relations in Myanmar. The ILO supervisory mechanism, which monitors the progress in the implementation of labour standards, has identified both existing deficits on Freedom of Association as well as progress being made, providing specific guidance to the programme.

The ILO is the only tripartite UN agency, which places it in a unique position when dealing with governments, employers and workers organisations: this is a particularly pertinent point with regard to freedom of association and the effective recognition of the right to collective bargaining in the context of Myanmar.

### **IV. Target groups and beneficiaries**

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- Government: senior and junior officials of the Ministry of Labour, and other Ministries as relevant.
- National and regional authorities of the registration, arbitrations and labour inspection services.
- Workers' and Employers' Organizations
- The ultimate beneficiaries are women and men workers and employers in Myanmar.

## OBJECTIVE III - INCEPTION: DECENT WORK COUNTRY PROGRAMME MYANMAR

### MMR 301: Enhanced employment opportunities, especially for youth

*Funding requirements: USD 2,100,000*

#### I. The challenge

National reconciliation in Myanmar is still very fragile, and the sustainability of current trends in political and economic reforms hinges on generation of productive employment, particularly for young people in Myanmar. There is an urgent need for an intervention which contributes to both long-term (youth) employment policy development and short-term creation of decent work and training opportunities. Policies and institutions need to be in place and their capacities developed to provide adequate skills to the young labour force, to channel job seekers to currently available and potential future jobs, to monitor the quantity and quality of jobs that are being generated, to enhance earnings and livelihood of workers in agriculture through productivity gains, and to encourage movement of workers to a more diversified economy.

#### II. Strategy

Following the tripartite consultations in October 2012, the social partners and the Department of Labour provisionally agreed on an agenda called 'Decent Work – a tool for Economic Development and Poverty Reduction'. Building on the priorities identified in the agenda, the ILO will focus its assistance on 5 main areas:

##### **Objective 1: Generating new labour market information and research (USD 700,000)**

To have a sound basis on which to build further policy development, the ILO will assist the Department of Labour and the Central Statistics Office to undertake a labour force sample survey. In addition, a 'School to Work Transition' study will be conducted to generate data on the characteristics and labour market expectations of young people, as well as on the workplaces and enterprises that could absorb them. A central element of the strategy is the building of capacities and methodologies of national institutions for generating and using labour market information.

##### *Related outputs:*

- Comprehensive Labour Force Sample Survey: results tabulated, analysed and disseminated;
- Enhanced capacity to formulate, implement, monitor and evaluate employment and labour market policies, programmes and projects based on reliable, recent labour market information and analysis;
- A School to Work Transition study, publicly debated and with youth themselves associated to the recommendations flowing from the study; and
- Policy analysis of current and emerging economic activities with the highest potential for productive job absorption to inform future public and investment strategies and training systems.

##### **Objective 2: Enhancing the employment generation content of new investment strategies (USD 200,000)**

Foreign direct investment (FDI) is expected to surge, with much of it directed to extractive and energy sectors, offering relatively little direct employment unless appropriate policies are in place. The employment impact of investments will be assessed, allowing to orient skills development programmes.

##### *Related outputs:*

- Assessment of implications of the investment strategies on employment generation across sectors, particularly for youth; and
- Ways of enhancing the employment content of investment strategies are suggested and discussed by the stakeholders, including the economic ministries.

##### **Objective 3:**

**Immediate action A: Equip youth with skills to succeed in the labour market (USD 500,000)**

Myanmar's technical and vocational education and training sector needs to be re-tooled to produce a skilled labour force that can drive the country's future economic growth. The ILO will assess curricula and instructor capacities of the 30 Government Technical High Schools that aim to equip students with occupational skills for gainful employment and relevant entrepreneurial skills for self-employment. The focus will be on ensuring that the training offered responds to the needs of existing and emerging industries. Building on this, the ILO will work with employers, workers and the Government to strengthen and update training systems, including by linking it up with networks and expertise in the ASEAN region. Finally, the ILO will support the Government in its on-going efforts to develop the outreach of public employment services, providing job placement and career counselling to the youth.

**Immediate action B: Direct employment creation schemes for disadvantaged youth (USD 300,000)**

Early employment benefits must reach disadvantaged youth early on. The ILO will support the Department of Labour to implement pilot employment creation schemes in 2 regions. These pilot schemes will generate lessons for better future policy actions, including adequate targeting, incentive mechanisms needed to encourage self-selection of disadvantaged youth and cost effectiveness.

**Objective 4: Organizing long-term investment in skills development in Myanmar (USD 400,000)**

In the long-term, Myanmar needs a labour force with the right set of skills to take up the new employment opportunities. This will require adequate policies and funding for skills development, supplementing current limited public sector investment. One option is the establishment of a National Training Fund for Skills Development. Similar funds in countries such as Singapore, Thailand and the Philippines are financed by levies on enterprises (mainly FDI), but may also involve public contributions and donor financing. Such Funds, with the appropriate tripartite governance and safeguards in place, can:

- Ensure a regular stock of qualified technical human resources to meet demand of the private sector;
- Involve employers and foster collaboration among stakeholders and social partners;
- Promote active public-private partnerships in skills development; and
- Enhance quality through accreditation of training providers.

Alternative arrangements will be explored and the ILO will build the Government's capacity to be a competent and credible broker for donor or industry-supported investments in technical and vocational training.

**III. ILO's added value**

The ILO is assisting governments throughout the region in revising and enhancing labour market information, as well as in building national capacity to collect and analyse such data. The ILO has further comprehensive guidelines and tools on national youth employment policies and/or mainstreaming youth issues into national employment policies and strategies. This expertise will be brought to bear in Myanmar, following the request of the Government and the ILO constituents at large for this technical assistance.

**IV. Target groups**

- Department of Labour and Central Statistics Office of Myanmar
- Workers of Myanmar, especially youth
- Employers and their associations, chambers of commerce
- (Foreign) investment related programmes and institutions seeking a qualified workforce.

## MMR-302: Labour legislation and labour market governance

(reflecting the labour law reform agenda of the Government and grounded in effective tripartite institutions and social dialogue)

*Funding requirements: 1,400,000*

### I. The challenge

The Republic of the Union of Myanmar, is in a process of transition to democracy under a multiparty system. It has seen a succession of ruling juntas since 1962 when the military took control after a period of democratic government following independence from British colonial rule in 1948. The country joined the ILO in 1948 and in 1955 ratified two fundamental ILO Conventions, C. 87 on Freedom of Association and Protection of the Right to Organise and C. 29 on Forced Labour.

In October 2011, the Labour Organisation Law<sup>3</sup> was passed. It provides for the repeal of the 1926 Trade Union Act – which has been a subject of complaints by the ILO for many years – and contains provisions on the establishment of labour organizations, their functions and duties, and rights and responsibilities, including the right to strike. However, it is not fully in line with ILO standards and it is not yet clear how its practical application will work out. In March 2012 the Myanmar Parliament passed the Settlement of Labour Dispute Law which is currently being implemented with the appointment of tripartite conciliation and arbitration bodies.

Myanmar has a whole series of other, outdated laws covering various dimensions of employment and work.. The Government is committed to a complete overhaul but lacks the capacity and access to international expertise and best practice. The Minister of Labour has sought the ILO assistance to develop the capacity of the Department of Labour to foster good industrial relations, reform the labour legislation and engage in tripartite dialogue.

### II. Strategy

Building the capacity of constituents on freedom of association is targeted under MMR-201. Beyond this, further support is needed to build the capacity of the Government and social partners to improve overall labour market governance. Labour market governance covers all forms of social dialogue (from enterprise through national levels), collective bargaining, labour administration and inspection, as well as labour laws and regulations. Training and capacity building to all three parties will be provided, and relevant institutions and practices will be built and/or strengthened.

Support is needed to build the capacity of the Government (Department of Labour) both at national and local levels to ensure appropriate, effective and efficient labour market governance, including labour administration and labour inspection. This will be guided by a series of tripartite processes and institutions to ensure that consultation and participation of all actors from the World of Work are fully involved and committed.

In the process, significant progress will be made in on-going or pending labour legislation reform, including on minimum conditions of work, occupational safety and health, and gender equality. Beyond the effective implementation of the recent laws (the Labour Organization Law and Labour Disputes Settlement Law) supported under Objective 2, there is legislation on social security, minimum wages, employment and skills development, which is under discussion, while a series of older laws will be amended. These legislative and

<sup>3</sup>[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)

policy reviews will be undertaken in context of ‘the social protection floor’ concept’, which the Government has indicated as being one of its reference points.

**Objective 1: Labour market governance, labour administration and labour inspection capacities reinforced**

*Related outputs:*

- Capacity building needs assessment carried out for the Ministry and Department of Labour and labour market institutions such as the registry for new labour organisations, the labour inspectorate, the Conciliation Bodies, the Arbitration Bodies, the Arbitration Council and the relevant Courts;
- An education and training programme developed and implemented in basis of the recommendations of the assessment;
- Awareness raising on the ILO itself to the Ministry and Department of Labour staff at middle and senior levels carried out.

**Objective 2: Progress is achieved on on-going or pending labour legislation reforms**

Some laws have already been adopted, such as the Labour Organization Law and the Settlement of Labour Disputes Law. Other are newly or soon-to be adopted, such as the OSH law, Minimum Wage Law, Social Security Law, and Employment and Skills Development Law.

*Related outputs:*

- Assistance in the drafting of new legislation being developed, including through the provision of comparative international experience and examples;
- Assistance in the implementation and enforcement of new legislation;
- Capacity building packages on policy areas, operation, staff development, outreach developed and delivered;
- New legislation and policy reflects the social protection floor principles and concept.
- General capacity building of labour inspection and training of manager and labour inspectors delivered
- Relevant ILO and relevant publications translated from English to Myanmar and other relevant national languages.

### III. ILO added value

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The ILO’s tripartite structure places it in a unique position when dealing with governments, and employers’ and workers’ organizations. Moreover the ILO has extensive experience in development cooperation to assist member States in addressing technical and capacity issues in implementing new laws and moving closer towards compliance in law and in practice with ratified conventions.

### IV. Target groups

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**Direct Recipients**            The Minister and Department of Labour, the Arbitration Bodies, the Arbitration Council and labour administrations.

**Final beneficiaries**        Workers, employers and broader society in Myanmar.

## MMR 303: Socially Responsible Enterprise Development

*Funding requirements: USD 1,400,000*

### I. The challenge

After a long period of economic stagnation, recent developments in Myanmar indicate a likely surge of Foreign Direct Investment. There is a concern that FDI as well as the possible privatisation of enterprises must be managed in such a way that the people benefit from it by delivering decent jobs, knowledge transfer and skills development. Investment must be socially and environmentally sustainable. At the same time, the opening up of the economy offers a range of new opportunities for micro and small enterprises to develop. The infrastructure to promote and support business development is however not sufficiently in place.

### II. Strategy

The ILO has a three-pronged strategy, based on i) the need to ensure that the regulatory framework is conducive for investment while guaranteeing that social and economic benefits accrue to the people, ii) the need for appropriate representative organisations of business able to serve their members well and iii) the need to support Micro, Small and Medium Enterprises (MSMEs) and the self-employed to ensure the sustainability and growth of their businesses.

#### ***Objective 1: Ensuring that the regulatory framework for investment maximises positive employment outcomes***

*Related outputs:*

- The Investment Law and relevant parts of the legal framework for privatisation take into account the specific employment dimensions related to restructuring;
- The regulatory framework for large investors is conducive to maintaining competitiveness whilst encouraging local employment knowledge transfer, skills development and environmental and social responsibility;
- A regulatory framework supportive of small business development, minimising compliance costs and providing the necessary security of land tenure and asset protection structures, is in place;
- Technical advice is provided at national level to the Department of Labour, Employers' Organisations and the Trade Unions to develop their own policies and advocacy on these issues.

#### ***Objective 2: Strengthen chambers of commerce and other business associations to improve the services they provide to the enterprises that are their members***

This will require improving the governance of the business representation system, improving their structures and building capacity and systems to deliver services and effective representation. Planned short-term outputs:

- Study of the external factors that impact on enterprise performance and the present ability of the business associations to address them. This will be done through a survey and an assessment of the chambers and selected associations using the ILO's assessment tool on 'Enabling Environment for Sustainable Enterprises'
- Workshop on selected components of the Effective Employers' Organizations toolkit, adapted on the basis of the findings of the survey. The purpose of the workshop is to provide the Myanmar employers with a framework to think about how they want their own representative structure to be shaped and to operate, with advice from experts;

- Study tours and exchange of expertise with business organisations from a range of countries.

ILO will provide technical assistance on an on-going basis, both to the Federation of Chambers of Commerce and Industry as well as to other major industry associations to assist in improving operations and implement the priority changes decided by the above-mentioned workshop and its follow-up.

**Objective 3: Supporting the sustainability and growth of business by providing technical support to micro, small and medium enterprises and the self-employed, via ILO's entrepreneurship and small business development tools**

*Related outputs:*

- The capacity of MSMEs to create new jobs is enhanced, among others through enhanced skills-levels, linkages to finance, improved market access, value added opportunities and co-operative activities;
- Business development services to existing and aspiring micro and small entrepreneurs are provided by a cadre of partner institutions' certified trainers. A total of 250 certified trainers are trained, who deliver the 'Start and Improve Your Business'(SIYB) training to a total of 5,000 existing and potential entrepreneurs (of whom at least half will be women), and acquire the capacity to roll out SIYB training and complementary support activities on a sustainable basis; and
- A total of 15 partner institutions, including government and non-government actors, adopt and implement effectively ILO tools for entrepreneurship and business development services. Business development service providers are capacitated to address issues of labour-management relations and compliance with the regulatory framework (including in relation to investment).

### III. ILO's added value

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The ILO has close links with representative business organisations, specifically through its Bureau for Employers' Activities and its network of specialists. The ILO has experience in the ASEAN region with programmes for instance in the garment sector, where global buyers, the management of foreign-owned factories and the workforce cooperate to ensure respect for labour standards, improvement of working conditions and increase of productivity (SCORE and Better Work).

The ILO has more than 30 years of experience in implementing SME management training systems. Its SIYB family of products, offering training packages ranging from potential start-ups to in-depth training for existing enterprises, is one of the largest training systems of its kind. It has supported more than 5 million trainees in more than 100 countries, and contributed to the creation of an estimated 2.7 million new jobs.

Key advantages of SIYB in the context of Myanmar are its established structures for large-scale programme roll-out and a large pool of trainers and master trainers in the Asian region that can be drawn upon. SIYB also offers the flexibility to be tailored to specific country needs, including, in the Myanmar context, the foreseen emphasis on the topic of labour-management relations.

### IV. Target groups

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|-----------------|---|
| Target group(s) | ➤ Micro, small and medium sized enterprises |
|                 | ➤ Self-employed                             |
|                 | ➤ Trade Unions                              |

## MMR 304: Labour Migration

*Funding requirements: USD 600,000*

### I. The challenge

While labour migration generates substantial benefits for Myanmar in terms of jobs and remittances, abuses during recruitment and employment have been documented. Organized labour migration from Myanmar is mainly directed towards Thailand, Malaysia, Singapore, Korea and U.A.E. (MOL, Myanmar, 2012). Forty-five per cent of the registered Myanmar migrant workers are women. Much of the migration is through irregular channels, although recruitment agents in Myanmar will play an increasingly important role in facilitating labour migration. Myanmar and the primary destination country, Thailand, are committed to expanding regular migration under the MOU process, rather than repeated regularization windows. Regular channels must be made more attractive and at the same time, illegal brokers must be suppressed, especially those that are recruiting workers using false information and extending loans that prove difficult to repay.

Further, an informed and transparent labour market information system linked to requirements in the destination country is one of the ways that well-managed labour migration can be promoted and abuses reduced. Better information dissemination is needed for purposes of safe and legal migration, lowering migration costs and matching job seekers and employers. In addition efforts to provide pre-employment and pre-departure information on safe recruitment and migration, particularly for women, should be reinforced. Well qualified and trained workers along with the certification that guarantees standards and quality is an important element of well managed labour migration - it benefits employers as well as provides protection to the worker. This is a neglected area, including recognition of qualification/skills for returnees. From a migration and development perspective it is apparent that Myanmar places high priority on overseas employment as a safety valve for employment and a source of foreign exchange. For Myanmar, the opportunities that remittance flows and a diaspora present for contribution to national development should be considered.

The Government is currently developing a “National Action Plan for the Management of International Labour Migration in Myanmar” (NAP), which is modelled on the Cambodia Policy on Labour Migration (2010) developed with ILO assistance. The draft NAP is based on the six policy objectives recently identified by the Ministry of Labour and these have been taken into account in the development of this programme.

### II. Strategy

The action will build on ILO’s work in the implementation of the action-plan on eliminating forced labour. The **overall objective** is to ensure effective protection of the rights of vulnerable *women and men* migrant workers, enhance the development impact of migration and reduce irregular flows.

#### **Objective 1: Reduce migration costs and recruitment abuses by improving recruitment services; and increase protection of migrant workers during employment**

*Improving recruitment services:*

- Establishment of a monitoring and reporting mechanism on recruitment cost;
- Development of a rating mechanism for recruitment agencies and registration of sub-agents for more effective regulation and advocacy for reform of recruitment mechanisms;
- Support services to help migrant workers take advantage of complaint mechanisms.

*Protection in employment:*

- Protection measures for migrant workers strengthened by introduction of e-governance tools; developing standard employment contracts and a verification process;
- Transparent and streamlined procedures for monitoring of working conditions and settlement of complaints and grievances of migrant workers in destination countries;
- Migrant workers have access to support services (information, advice, dispute resolution and legal support) in countries of destination.

**Objective 2: Provide reliable information on overseas employment opportunities, and build capacity for matching qualified job seekers with the demand from foreign employers**

- A mechanism for transmittal of information on jobs (specifying: number, occupation, requisites (education/skills/work experience), terms and conditions of employment) will be established between employers and agents in the form of an Employment Information Portal;
- Integrated employment services for the national and foreign labour markets will be introduced in job centres/labour exchanges;
- Analytical and up-to-date information on labour and skills requirements and wages will be produced;
- Reliable pre-employment and pre-departure information available in target areas;
- A structured pre-departure orientation course for domestic workers and construction workers.

**Objective 3: Enhance training and portability of skills for outgoing and returning migrant workers and to enhance the development impact of migration and return**

*Increased quality of training and portability of skills*

- Recommendations and a road-map will be developed for better alignment and compatibility between job requirements (skills and qualifications and courses in education-training institutions);
- Identification and capacity building of skills testing sites (educational-training institutions and centres);
- Introduction of skills passports for returning migrant workers.

*Enhancing the development impact of migration and return*

- Research on return flows, remittance channels, followed by preparation and adoption of a migration and development strategy and road map for implementation;
- Programme and mechanisms designed for human, financial, social contribution by diaspora and returnees;
- Design of financial products and mechanism to leverage remittances for long-term development.

### III. ILO's added value

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The Government of Myanmar has requested the ILO to review the National Action Plan on the Management of International Labour Migration (2013-2017) and to assist in its implementation, once adopted. Under an existing regional programme, TRIANGLE, the ILO already works on protection of Myanmar migrant workers in Thailand and Malaysia.

### IV. Target groups

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Direct recipients	Government officials – primarily from the Ministry of Labour, but also members and ministries that sit on the Supervisory Committee on Overseas Employment; Recruitment agencies and their associations, women's groups and migrant associations.
Final beneficiaries	At least 5,000 migrant workers will be significantly less vulnerable to exploitation, having been prepared for safe and legal migration; the policies and practices will benefit many more over time as Myanmar puts in place sustainable migration benefiting national development.

## MMR 305: Employment dimensions of trade and investment (sector modelling)

*Funding requirements: USD 600,000 for assessment and initial actions plans for 2 sectors*

### I. The challenge

The political reforms hold great promise for development in Myanmar. Political leaders have repeatedly voiced concerns that while investment is welcomed, it will be essential to ensure that the benefits of these investments are felt by all the people of Myanmar.

While Myanmar's investment law continues to be discussed by the Parliament, it is foreseen that, once it is adopted, a few key industries and economic sectors will attract important amounts of foreign investment while at the same time generating significant employment growth. Among these sectors is tourism as well as export-oriented sectors such as garments and fishing (aquaculture).

The Government has requested the ILO for assistance in making sure that the new investments lead to quality jobs and productive enterprises, through a comprehensive set of interventions which address both the supply and demand side of the market. This will require a process of engagement and consultation among a range of government institutions, representatives of the private sector and employers as well as workers' representatives.

### II. Strategy

The ILO will carry out a comprehensive assessment for the 2 sectors, and engage in extensive tripartite consultation to get endorsement for specific action plans to address the employment and labour issues in the sector. Initial training and capacity building will be provided while longer-term sector support programmes are identified. The garments and tourism sector are singled out, with the fisheries / aquaculture being a further option

#### *Garments*

In 2000, garments were the country's largest exported manufactured goods, making up nearly 40% of exports. In that year, half of the exports went to the US, and 40% to the EU. Government figures state that the industry had 400 factories and 300,000 workers, producing nearly \$900 million in export value. Some have questioned the total workforce figures of the time, with one recent report suggesting that total employment was only 135,000. In any case, sanctions had a devastating effect on the industry. Export value decreased to \$300 million by 2005. Employment is now estimated at around 70,000. The industry operates at the "lower end" of the supply chain, relying on subcontracting and CMP (cut, make packaging). Wages in the garment sector are lower than all other Asian exporters except Bangladesh, and productivity is also estimated to be quite low.

It is expected that Myanmar will attract substantial investor interest, in light of a large potential workforce and low wages. Major US and European brands will however insist on decent working conditions and compliance with national laws and international labour standards, as part of their decisions to source from the country.

- Labour management cooperation to prevent labour disputes and improve productivity. The number of trade unions registered in the garment industry has increased substantially, along with the number of disputes. The main causes of disputes are termination, wages, and hours (especially overtime work). Good labour relations will require both unions and managers to be trained so as to understand and practice good communication skills and ability to handle grievances in line with the labour law;

- Ensuring that the labour law is enforced is the role of the labour inspectorate, which will be specifically targeted for capacity building and training. Myanmar has recently introduced a system of conciliation and arbitration for labour disputes that will need to be strengthened in order to handle the inevitable workload increase associated with increased investment;
- Women make up the large majority of the garment industry workforce. It will therefore be essential that the gender aspects of employment be fully taken into account. This shall include the development of guidelines on equal pay, recruitment and promotion of women, and harassment in the workplace.

### **Tourism**

Tourism is projected to expand rapidly in Myanmar, having seen a 25% increase from 2010 to 2011, and 1 million visitors expected in 2012. It is foreseen to be an increasingly important source of foreign exchange, generating \$390 million last year, and of employment (est. 50,000 jobs).

With this growth potential comes a projected large shortfall of skilled workers. Moreover, high-end hotels and restaurants will require a reliable supply of high quality fresh produce.

Areas of work:

- Competency-based training and job placement services. ILO will work with the industry to develop a curriculum that meets the demands of the hospitality sector's needs. Training centres and corresponding instructors will need to be identified to deliver the curriculum. As women are likely to make up a large segment of this workforce, special attention to gender will be paid throughout the curriculum development, training, and job placement cycle.
- Good labour-management relations and compliance with local laws helps boost productivity and increase staff retention. Good relations between workers and management are crucial for the tourism industry, so that staff can provide continuous high quality service to clients. Large hotels are often among the first establishments to be organized by trade unions. Training will be provided on communication and negotiation skills, establishing internal grievance procedures to prevent disputes from arising, and the Myanmar labour law so both sides understand their rights and responsibilities.
- Supply chains: the expected rapid expansion of the tourism industry can put pressure on domestic supply chains, particularly for foodstuffs consumed in hotels and restaurants. ILO has experience in training farmers and other producers on issues such as packaging and storing, transportation, as well as linking them with end users to ensure a consistent supply of high quality raw materials with respect for human rights in the supply chain. This can be complemented with microfinance schemes and development of cooperatives. This helps to build backward linkages, and embeds the tourism industry in the local economy, providing substantial income generating benefits, poverty reduction, greener tourism, and reduced reliance on imports, thereby keeping more foreign currency in the country.

### **III. ILO's added value**

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The ILO has broad experience in sectoral programmes in both tourism and garments. In tourism, the ILO is working in Cambodia on very similar issues as described above. The ILO/IFC programme Better Work is working in the garment sector in major producing countries to improve respect for labour standards while improving productivity. Tools and expertise in these sectors from within the region will be brought to bear on the programme in Myanmar.

The tripartite nature of the ILO and its convening power in Myanmar through well-established relations with the Department of Labour and representative organisations of employers and workers provides the ILO with a strong comparative advantage.