

UKRAINE

ILO/USA PROJECT (UKR/01/51M/USA)

MID-TERM EVALUATION REPORT

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LIST OF ACRONYMS

CTA	Chief Technical Adviser.
CFTUU	Confederation of Free Trade Unions of Ukraine.
FTUU	Federation of Trade Unions of Ukraine.
ICFTU	International Confederation of Free Trade Unions.
ILO	International Labour Organisation/Office.
IOE	International Organisation of Employers.
LIEU	League of Industrialists and Entrepreneurs of Ukraine.
NCMS	National Conciliation and Mediation Service.
NCSP	National Council for Social Partnership.
NPAC	National Project Advisory Committee.
SOPU	Ukrainian Union of Leaseholders and Entrepreneurs.
UNDP	United Nations Development Programme.
US/DOL	United States Department of Labour.
VOST	ALL-Ukrainian Union of Workers' Solidarity.
WCL	World Confederation of Labour.

Executive Summary

1. The project was conceived and developed by the International Labour Organisation and the US Department of Labour in 2001 with a budget of US\$1.6m. provided by the latter.

2. In its current form the labour legislation is ill-adapted to a free market economy system and requires adaptation in the light of the developments that have taken place in society and in the economy since Ukraine's independence in 1993. The transition process has been a painful one for Ukraine. Unemployment has soared and wages remain unpaid in many places. Around 60 per cent of the economy is a "shadow economy" and women workers suffer from discrimination and inequality. Neither the Government, nor the trade unions nor the organisations of employers understand their respective roles in labour relations and many wish to maintain the status quo, with the government playing an interventionist role in the establishment of wages and conditions of work.

3. The project was designed to address these issues and to bring Ukraine closer into line with the relevant freedom of association and collective bargaining, equality of opportunity and discrimination Conventions of the ILO which it has ratified. The labour law would be re-written, a new labour inspection service installed and trained, the concept of freedom of association and collective bargaining promoted, settlement of disputes procedures reorganised and gender information centres set up to deal with inequality and discrimination issues.

4. The evaluation Team was set up to carry out a mid-term evaluation of the project, which it did between 23 and 28 September 2002 in Kiev. It carried out numerous interviews and held many meetings with all the relevant parties. It took note of the current status of the project, as follows:

a) A working group has established a Concept paper on the revision of the Labour Code and almost completed work of the redrafting of a new Code. The new draft is due to be completed by 15 October and it is the desire of the Minister to submit this to Parliament by the end of 2002.

b) A Legal Resource Centre has been established and opened in the Ministry of Labour and Social Policy.

c) Seven regional seminars have been carried out for the training of a newly-constituted State Labour Inspection Service and three more are planned. Training manuals have also been prepared.

d) Master Collective Agreements on a national, regional, sectoral and enterprise

basis have been drawn up by a tripartite group assisted by researchers and specialists, and the National Conciliation and Mediation service has carried out five major seminars on industrial relations and disputes settlement.

e) A major Sociological Survey has been completed providing an analysis of the legal and practical framework for the activities of workers' and employers' organisations.

f) A concept paper on Gender Information Centres has been prepared and proposals made for their establishment.

g) Statistical work on gender issues has been done and a national household survey will begin in December 2002.

h) A gender equality training module has been developed but not yet tested.

5. From all the information obtained the evaluation Team concluded that the project was both timely and important for the future of labour law and labour relations in Ukraine as well as for the improvement of the status of women. The initial objectives of the project remain relevant and the initial strategy and assumptions have not been overtaken by events. The project is executed by a highly competent and dedicated local staff and the stakeholders' interest and participation in all the activities of the project has been noteworthy. The potential for success is considerable but it is important that action be taken to implement the following recommendations:

(i) As regards the preparation of the new labour law, the ILO should, as a matter of the highest importance, make available technical advice on the various aspects of the draft once this has been completed and submitted to the ILO for comments (probably mid-end October). It will also be important to provide these urgently if the draft is to be submitted to Parliament by the end of the year. Technical advisory services may also be required and requested during the Parliamentary review of the draft law and it will be important that these be provided.

(ii) As regards freedom of association, collective bargaining, labour inspection, conciliation and arbitration and gender issues, ILO and international technical input should be substantially increased. The CTA should make every effort to ensure the presence of such expertise, particularly in seminars, and reduce the number of seminars in these fields if such expertise is not available.

(iii) The project would benefit greatly if worker and employer education courses on all the subjects covered by the project could be arranged. It is recommended that the CTA explore this possibility with the worker and employer specialist in ILO Budapest in the first instance and with ACTRAV and ACTEMP. The success of the project will be greatly enhanced if the employers and workers and their organisations are properly structured and understand their respective roles and functions in a market-oriented economy.

(iv) The Team recommends that the CTA take appropriate action to ensure that the Labour Resource Centre remains strictly within the mandate assigned to it by the project in order to avoid that it become a more general library.

(v) As regards the gender component, the statistical work that has been done, as well as that planned is unconvincing. Equally unconvincing is the plan to open gender information centres in two regions with a coordinating office at the Ministry. No further work should be undertaken until the activities under this component have been fully reviewed by the appropriate technical specialists in Budapest and at ILO headquarters in full consultation with DECLARATION.

PROJECT DESCRIPTION

1. Conceived and developed in the first half of 2001 by the International Labour Organisation (ILO) and the Government of the United States of America, this project is designed to promote respect for the fundamental principles and rights at work in Ukraine. The ILO commenced its execution of this project on 28 August 2001 with a budget of US \$ 1,600,141 provided by the US Department of Labour (DOL). Central to the project is the reform of the labour legislation which, in its current form, is ill-adapted to a free market economy system and is more relevant to the former centrally-planned economic system that was prevalent in Socialist bloc countries, including Ukraine. In addition, the legislation requires adaptation in the light of the developments that have taken place in society and in the economy since Ukraine's independence in 1993. The transition from a centrally-planned economy to a more market-oriented one has been a painful one for the country. Unemployment has soared and wages remain unpaid for long periods in many establishments. Around sixty per cent of the economy is operating "in the shadows" and untaxed, and many workers do not enjoy the protection of the law or of collective agreements. Women, who constitute around half the working population, also constitute about sixty per cent of unemployed workers, and are subject to various forms of discrimination and inequality. The labour market situation is confused, with neither the Government, nor the trade unions nor the employers' organisations fully understanding their respective roles. The Government continues to maintain an interventionist role in labour relations and the workers and the employers do not yet fully understand the purpose and meaning of collective bargaining.

2. The project was accordingly designed to address these issues. (See Project Document and Matrix, Annex 1). It provides for the comprehensive reform of the labour legislation in order to bring it into line, not only with good labour relations practices, but also with the provisions of the fundamental Conventions specified in the ILO's Declaration of Fundamental Principles Rights at Work, adopted by the International Labour Conference in 1998, relating to freedom of association and collective bargaining, equality of rights, forced labour and the elimination of child labour. In this connection, it may be noted that Ukraine has ratified the Freedom of Association and Protection of the Right to Organise Convention, 1948 (No.87), the Right to Organise and Collective Bargaining Convention, 1949 (No.98), the Equal Remuneration Convention, 1951, (No.100) and the Discrimination (Employment and Occupation) Convention, 1958, (No.111), which are more directly related to the objectives of the project.

3. Within the context of the reform of the labour legislation it was proposed to rewrite the existing Labour Code, for which purpose there would be technical seminars and workshops, the provision of international advisory services, consultations and study tours. In addition, a Labour Law Centre would be created within the Ministry of Labour

and Social Policy in order to allow access by Government officials, as well as workers and employers and their organisations, to a wide range of national and international documents and material on labour law and labour relations.

4. The project also provided for the establishment of a completely new labour inspection system as part of the Ministry of Labour and Social Policy. The objective was to ensure the improved application in practice of the labour legislation, and labour inspectors would receive appropriate training courses to enable them to carry out this mandate. Studies would also be carried out to determine the main infractions of the law and inspection manuals developed for use by labour inspectors.

5. Another important and related area addressed by the project was the promotion and development of the principles of freedom of association and collective bargaining and the settlement of labour disputes. A variety of interventions would be used to address these issues, including seminars and courses for workers and employers and their organisations as well as undertaking research to identify the precise situation of these organisations and their respective capacities to defend and promote the interests of their memberships. Effective mechanisms would also be developed at the national, regional and enterprise levels for conducting collective bargaining and master collective agreements at these levels would be prepared. A study would be undertaken of the role and procedures of the National Conciliation and Mediation Service (NCMS) in order to determine its effectiveness. Training would be provided to conciliators and mediators and manuals would be prepared. Technical assistance would also be given to the National Council for Social Partnership and its secretariat for establishing and maintaining programmes for the joint training of the social partners.

6. Finally, the project was designed to promote the principle of non-discrimination and equality of opportunity for women in employment. Improved information on the situation of women in the labour market would be collected and analysed and a national workshop held to examine the findings of such a pilot exercise. The legal framework for the promotion of non-discrimination would be studied with a view to reinforcing its application and training seminars would be held for Government, workers, employers and non-governmental organisations (NGO's) on gender equality issues. Activities would also be undertaken to enhance the public awareness of women workers' rights and improve the legal literacy of women workers. For this purpose, the project would develop resource and information centres within two regional employment services.

PURPOSE OF EVALUATION

7. The project provides for an independent evaluation at the mid-term (eleventh month) by a team which will include a representative of the donor. The evaluation team (hereinafter referred to as "the Team") comprised the following members: Ms. Kristin Lanz, representing the United States Department of Labour, Mr. Wael Issa, DECLARATION, representing the ILO, and Mr. W.R.Simpson, Independent consultant and team leader (previously Director of the former Industrial Relations and Labour Administration Department of the ILO). The aim of the mid-term evaluation was to determine the current status of the project, assess the strengths and weaknesses of the project as designed and implemented, identify any necessary revisions and amendments that might be required to the original design and management in order to maximise the success of the project within existing time, resource and environmental constraints. (See Project Monitoring Plan, Annex 2 and Project Workplan, Annex 3).

8. The mid-term evaluation was also intended to encourage all the stakeholders to enhance their overall project performance through an increased understanding of project components and any interim successes or failures there might have been. It would, in addition, provide greater appreciation for opportunities and challenges encountered during design and implementation, as well as further clarification of stakeholder roles and contributions. In the course of the evaluation the Team also took every opportunity to emphasise to all the stakeholders involved the great importance of the project for the social and economic development of the country and the unique benefits that could be derived for the country if the project were brought to a successful conclusion. In so doing the Team felt that it was contributing to a keener sense of understanding and ownership of the project on the part of the intended beneficiaries. Above all, the team unanimously felt that its predominant consideration should be to do everything possible, through its evaluation, to ensure the ultimate success of the project. (See SOW for Project Evaluation, Annex 4).

EVALUATION METHODOLOGY

9. Following some preliminary interviews with ILO officials in Geneva, the Team proceeded to Kiev, Ukraine where it carried out its evaluation from 23 to 28 September 2002. For the most part the evaluation proceeded on the basis of a very comprehensive programme of meetings that had been arranged by the local project staff in Kiev with Government officials, employers and workers and their respective organisations, academics and researchers. The Team also met with representatives of the United States Embassy in Kiev, the Deputy Resident Coordinator of the United Nations Development Programme (UNDP) for Ukraine and the National Correspondent of the ILO in the country. A list of people met is annexed to this report (annex VI). Throughout the evaluation Team had the opportunity to hold a number of meetings with the Chief

Technical Adviser (CTA) of the project and the project team. As a result of many absences the Team did not meet with the National Project Advisory Committee (NPAC). However it did have the opportunity to meet with the State Secretary of the Ministry, who is chairperson of the NPAC as well as of the National Council for Social Partnership. At a final meeting with the Minister of Labour and Social Policy, and a number of senior officials of the Ministry, it also had the opportunity to discuss with him some of its preliminary findings, it being understood that these would be subject to further discussion by the Team members and possible change.

10. The Team also made a thorough examination of all the documents that were provided to it by DECLARATION in Geneva as well as the many documents that were made available to it during the evaluation.

PROJECT STATUS

(a) Labour Legislation

11. Following a number of meetings between senior officials of the Ministry of Labour and Social Policy, the project staff, leading research and academic institutions of Ukraine, the social; partners, labour law specialists as well as ILO experts, a working group was established to design a concept paper for the reform of the labour law and eventually to write a new Labour Code. The composition of the working group and a work plan on this matter were approved by Decree of the Ministry of Labour and Social Policy, No.175 of 29 March, 2001. The working group was divided into three sub-groups, one to draft the Concept Paper on labour law reform, another, in consultation with scientific institutions and the social partners, to elaborate proposals for the draft Labour Code, and a third to draft and edit the new Labour Code. Since April, 2002, there have been numerous workshops, seminars and high-level meetings, sometimes chaired by the Minister himself, to discuss the reform process. A Concept Paper was finalised on the basis of which the working group is now preparing a draft text which they have been instructed to complete and submit by 15 October, 2002.

(b) The Legal Resource Centre

12. Situated in the Department of Strategy for Social Development of the Ministry of labour and Social Development the Legal Resource Centre has now been completed and is open, although not yet officially inaugurated. It is furnished, contains six computer work stations for users and already has a fair collection of books and publications.

(c) Training of State Labour Inspectors

13. Seven out of the ten regional seminars for state labour inspectors provided for

under the project were carried out between January and September, 2002. They were conducted in Kharkiv, Zhtomyr, Lutsk, Khmelnytskiy, Chernivtsi, Mykolayiv and Alushta. These seminars dealt with the role and functions of state labour inspectors in establishing a new system of labour relations in a transitional economy, and were aimed at raising the professional competence of the inspectors, most of whom have been recently recruited. Training at these seminars was provided by suitably qualified high-level government officials and by the project's National Coordinator. Three other seminars are due to take place before the end of the current year. A manual of guidelines for use by inspectors has been elaborated and published, and a publication by Mr. W.von Richthofen (ILO specialist on labour inspection) on the worst forms of child labour translated in to Russian and distributed to inspectors.

(d) Freedom of Association and Collective Bargaining

14. The principal organisations representing workers and employers have actively participated in the working groups for the elaboration of the Concept for the reform of the labour law and in the drafting process. They are also participating in all the meetings, seminars etc. concerning the application of the labour law through inspection, conciliation and mediation. As regards collective bargaining, under the project a tripartite working group has finalised work on the preparation of Master Collective Agreements at the national, regional, sectoral and enterprise levels. These Agreements, which are not mandatory in character, are being widely disseminated and should form the basis of collective bargaining arrangements for 2003. The National Conciliation and Mediation Service (NCMS) has organised and carried out five major tripartite seminars on industrial relations and the prevention and settlement of labour disputes.

(e) Complex Sociological Survey

15. This major work, undertaken over a period of nine months and involving visits to 500 enterprises, has been completed. It is a wide-ranging analysis of the legal and practical framework for the activities of trade unions and employers' organisations and the current status of collective bargaining and disputes settlement. It is intended to publish an analysis of the strategic findings of this survey, and seminars, also involving NGO's, are being planned.

(f) Establishment of Gender Centres within the State Employment Service

16. A concept paper for the establishment of these centres has been prepared and a formal proposal to commence work on their creation has been submitted.

(g) Statistical Survey of Households

17. Some statistical work has been completed to identify areas in which there is

discrimination against women or where equality of opportunity is not guaranteed. The national households survey will begin in December 2002.

(h) Gender Equality Module

18. The gender equality training module has been developed but not yet tested.

FINDINGS

19. Following his appointment the CTA of the project swiftly moved to recruit staff who are competent, extremely industrious and dedicated to the success of the project. In particular, the National Project Coordinator, with her former experience in important Government positions, has played a valuable role in establishing and maintaining close contacts with the various Government Departments with which the project is concerned as well as with all the social partners. By the end of the year (2001), the project office was established, refurbished and equipped within the Ministry of Labour and Social Policy and practical arrangements made with the ILO office in Budapest and the UNDP office in Kiev for the management and disbursement of project funds. In the meantime, the project had been officially inaugurated on 2 October in Kiev and a considerable number of meetings and consultations had been undertaken by the CTA and his staff in order to familiarise the participants in the project with its aims and objectives and to obtain their support for it. Many consultations were also undertaken with a view to carrying out activities under the project and also to set up a National Project Advisory Committee (NPAC).

20. In the course of the evaluation the Team heard much praise from practically everyone they met for the project itself and for the work of the CTA and the entire project staff. The Minister himself emphasised the great importance of the project for Ukraine at a time when the country was still suffering from the inherited inertia of the past and an insufficient understanding and awareness of the importance of adapting to the new economic environment. He very much appreciated the support of the US/DOL and the ILO and added that the project was fortunate in having a staff that was so competent and dedicated. The UNDP Deputy Representative also said that, thanks to the importance of the project and the work of the project staff, the project was widely known and discussed in Kiev and elsewhere in the country. The various organisations of employers and workers, as well as the many other government officials and academics who were interviewed by the Team also expressed their satisfaction with the project and praise for the CTA and his staff.

21. As regards the labour legislation component of the project, the Minister informed the Team that a radical reform of the law was essential and that the project had been instrumental in accelerating the work done to this effect. Speed was of the essence

since another draft labour code, which was largely a copy of the Russian labour code, had been submitted to the Parliament by a parliamentarian and was due to be discussed in the near future. He hoped that the draft being written under the project would be ready by 15 October and revised for submission to Parliament by the end of 2002. ILO expertise would be required to comment on the draft prior to its submission and also at the parliamentary review stage. This request was reiterated at a later meeting with the State Secretary of the Ministry who said that it was of the greatest importance that the new law corresponded with market forces. At a meeting with the Deputy State Secretary of the Ministry and the Head of Ministry's legal department, who are responsible for the new law, the Team was informed of the complexity of the exercise, especially as regards the balancing of the respective interests of workers and employers. The ILO guidelines on labour law were being consulted but they emphasised the need for further ILO labour law expertise. They would insist that the first draft be ready by 15 October.

22. The evaluation Team also met with 18 out of the 29 members of the tripartite (plus academics and researchers) group which had been established to develop the new labour code. They were greatly concerned by the deadline of 15 October that had been given to them for submitting a first draft although they appreciated the reasons for this. They felt, however, that the quality of the text would be prejudiced as a result. More ILO expertise was needed to complete the draft but there was no time for this. Each member had the responsibility for the drafting of a particular section of the text, but there was no general coordinator to finalise and edit the various contributions that would be made. The trade union members of the group, recognising that the draft would never be perfect, were inclined to the view that it was essential to complete a first draft within the deadline that had been given.

23. The Confederation of Free Trade Unions of Ukraine (CFTUU), which has applied for affiliation to the International Confederation of Free Trade Unions (ICFTU), was of the view that the project was crucial in raising awareness about fundamental ILO standards as well as providing a common forum which enabled the social partners to transmit their messages to the Government and to each other. They were concerned, however, about the new labour code, and thought that there was a "fair possibility" that the draft already presented to Parliament by a parliamentarian would be adopted.

24. While generally supportive of the project the Federation of Trade Unions of Ukraine (FTUU) which represents some 14.m. members throughout the country, told the Team that they feared that any new labour law would result in an erosion of worker rights. Employers, particularly those of new enterprises, did not understand the concept of partnership with the workers and did not respect worker rights. Previous attempts by the Government to revise the labour law had failed although some amendments had been made. They would work to ensure that the important new labour code provided the maximum protection for workers.

25. The Vice-President of the All-Ukrainian Union of Workers' Solidarity, (VOST) which represents some 50,000 members and is affiliated to the World Confederation of Labour (WCL), told the evaluation Team that the Project provided an excellent opportunity for all to exchange views on industrial relations issues in Ukraine. He said that the drafting group on the preparation of the new labour code, of which he was a member, was a good example of this.

26. The League of Industrialists and Entrepreneurs of Ukraine (LIEU), was founded in 1998 and is affiliated to the International Organisation of Employers (IOE). It is the largest organisation of employers in the country with more than 30,000 members in both the public and private sectors. Its President is the current Prime Minister. Executive members of the LIEU told the Team that the new labour code should contain provisions that would solve the problems of trade union proliferation and minimum wages. However, they considered the project to be a success since it addressed many real issues facing the country and was managed by an excellent project staff.

27. The Ukrainian Union of Leaseholders and Entrepreneurs (SOPU) was founded in 1990 and is a multisectoral association. It consists of two nation-wide organisations, 36 regional associations of entrepreneurs and 11 business associations. Forty-five per cent of its members are small and medium-sized enterprises. Although they were critical of the fact that the Government and the FTUU had "monopolised" the project document, the SOPU said that they were fully committed to the project and its implementation, particularly as regards the new labour code. It was thanks to the project staff that they were engaged in the activities of the project.

28. According to most interlocutors freedom of association and collective bargaining was not properly understood by any of the parties and the respective roles and functions of the government, the employers and the workers in labour relations were not clear. Even if there are distinct, recent laws permitting the formation of workers' and employers' organisations there are difficulties, particularly regarding their registration. The Committee on Freedom of Association of the ILO has been seized of a case submitted by one workers' organisation for refusal of registration, and following the recommendations of the Committee amendments were introduced in the legislation. Both the FTUU and the LIEU are closely interlinked with the Government, and Government officials occupy high-level positions in these organisations. The Minister told the Team that traditions died hard in Ukraine but the workers were beginning to learn how to be self-reliant and the new employers were very independent and not very respectful of worker rights. Reform in line with ILO standards was needed and trade unions and employers' organisations would have to adapt to the new environment.

29. According to the LIEU it was premature to consider bipartite relations between employers and workers without the government playing a role in the development of collective bargaining. While they were not opposed to the idea of

enterprise-level agreements, they nevertheless thought that bargaining should be undertaken by higher-level organisations of employers. They had much more dialogue with the Ministry than with the unions and felt that the project would enhance social dialogue in general in Ukraine. Employers' organisations were only beginning to emerge and the ILO should be providing more assistance to them. SÖPU said that it had developed excellent relations with its workers since it was created and true collective bargaining took place between its members and the workers. There was a much better environment now in which to improve worker-employer relations. The project was important in this respect and the tripartite regional seminars had been particularly useful in raising awareness about the benefits of social partnership. More comparative knowledge about other systems was required both for employers and for government officials in particular.

30. VOST told the evaluation Team that the trade union movement was complex and that changes came slowly. Many new enterprises were creating their own house ("yellow") unions and the FTUU was trying to maintain its monopoly position. The CFTUU also referred to the existence of many "yellow" unions and the dominant position of the FTUU.

31. The FTUU took the view that the Government continued to be the main regulator of social and labour relations and the unions did not wish the government to abandon that role. A bipartite approach may have to be considered but in the present political and social situation the government had to be involved. Another important question was that of determining the "most representative unions" for the purpose of membership of the National Council for Social Partnership. Currently, there were 87 national unions but only 22 available seats for the trade unions on the Council.

32. As for collective bargaining the working group that had been established to formulate "master agreements" told the Team that their work had commenced in a complicated situation since they had been told that the President of the country himself did not accept the idea of a social partnership or collective bargaining. Now that master agreements had been written after many seminars and workshops these would be used at all levels and labour relations would improve as a result. They hoped to be able to draw up social partnership guidelines under the project. Significantly, in their view, the incidence of strikes had already decreased considerably over the past few years.

33. Representatives of the National Conciliation and Mediation Service informed the team that they had been particularly active in a number of regional seminars that had been organised under the project and that some 400 conciliators would be trained before it came to an end. They regretted the absence of international expertise at these seminars. Documents provided to the Team revealed that the main participants in these meetings were "leading specialists from the Cabinet of Ministers of Ukraine, the FTUU and the LEIU". Disputes were common, especially in the private sector where there no trade

unions to represent the workers. The law provided that the Service deal with disputes arising from (i) changes in working conditions; (ii) the conclusion or amendment of collective agreements; (iii) implementation of collective agreements; and (iv) non-compliance with the legislation. Cases under (i) and (ii) would be referred to the Conciliation Commission while those under (iii) and (iv) would be referred to arbitration.

34. In the field of labour inspection the Team was informed by leaders of the State Labour Inspectorate that the Inspectorate had been completely restructured in 2000, with 750 new inspectors being hired. It was thanks to the project that a series of training seminars could be carried out in which 415 inspectors from 20 regions (ie. 56% of those newly appointed) had been trained. The Inspectorate does not deal with safety or health issues but rather sees itself as the protector of employment rights. It does not, however, intervene in collective disputes. Some ILO expertise had already been made available and they were looking forward to another visit by an ILO expert in the near future. The FTUU told the Team that they worked closely with the State Inspectorate and wanted the joint inspections provided for in the law to continue.

35. As regards the gender component of the project the Head of the Labour Statistics department of the State Statistics Committee described the work done since April 2002 to produce relevant statistics about the situation of women in the labour market. The Director of the State Employment Centre said that although the legislation protected women against discrimination and guaranteed equality of opportunity this was not the case in practice and that the project would be vital if progress were to be made in improving the situation. She said that she was submitting proposals, in accordance with the project document, for the establishment of two gender information centres in the regions, with, in addition, a national-level resource centre situated in the State Employment Centre in Kiev. Premises had already been identified and it was planned that renovation work be commenced soon and equipment purchased. She agreed that this was an ambitious undertaking but said that it would assist the many women who had lost their jobs to get back into the labour market. The project would also involve the training of trainers on gender issues.

36. In the course of the evaluation the Team learned that gender and equality issues in Ukraine fall within the mandate of the Committee on Youth and Family where there is a special department dealing with them. It is the intention of that department to introduce gender specialists in every Ministry and build institutions with NGO's to deal with problems of inequality and discrimination. It was the view of that department that new gender resource centres should not be situated in the Employment Department but in the Committee on Youth and Family.

GENERAL ADMINISTRATION

37. The evaluation Team discussed with the CTA and the responsible project staff the budget lines that had been established for the project and was able to clarify certain problematic, but insignificant issues that had arisen. The CTA explained that, as regards activities, realistic adjustments had to be made in the light of the practical situation in the country. For example there had been massive inflation since the project was drawn up and the activities originally planned would now cost some four times the amount originally allocated. Adjustments too had to be made since the same people in the regions and oblasts were dealing with all the planned seminars and meetings and could not cope. These accordingly had to be reduced in length and in number. In his view, however, these adjustments had not affected the effectiveness of the project. Women were well represented in the seminars and the labour inspection meetings regularly included 60% women.

38. The project had been initially hampered by the renovation of the premises in the Ministry and by the fact that the election campaign inhibited contacts with government officials for some time. Now, these were problems of the past and the personnel was fully operational. Some redistribution of functions and regarding may now be necessary and appropriate and proposals would be made to the ILO office in Budapest. (See Progress Reports, Annex 6)

CONCLUSIONS

39. The evaluation Team was unanimous in its view that this important project is timely and vital for the future of labour law and labour relations in Ukraine. Subject to what is stated below there can be no question that the initial objectives of the project or the strategy adopted have lost their relevance, nor have any initial assumptions been overtaken by events. Care should, however, be taken to be realistic about the eventual results and success of the project since these will depend not only on the project itself, but also on developments in the political situation, improvements in the dramatic economic situation, and the capacity of all the parties to accept that new approaches must be developed if the country is to succeed in adapting to a market economy system. That said, the dedication and enthusiasm with which this project has been received by all the parties and the positive results to date demonstrate the potential that exists for the project to accelerate change. For, despite strong resistance to change, there is considerable support for the transition process towards a market economy system and a desire to learn about the mechanisms that are needed to bring this about.

40. But the clear potential for the success of this project places an even heavier burden upon those who are responsible for its execution. The project is fortunate in

having a local staff that is highly competent, dedicated and enjoying excellent relations with all the participants. Indeed it is the efforts and hard work of the CTA and his staff that have generated the enthusiasm and dedication of the beneficiaries for the project and there is no indication that these are waning. The project is being well-managed and its resources disbursed with much prudence. On the other hand, the team gathered information that leads it to suggest that for this project to be successful, the ILO should substantially increase its technical support particularly in sensitive and vital areas such as freedom of association and collective bargaining, labour inspection, conciliation and arbitration and gender issues, and particularly in view of previous law and practice in Ukraine. Over the past year the majority of the numerous seminars that have been held under the project have been carried out without or with little ILO or international technical inputs. Without such inputs such seminars run the serious risk of perpetuating old ideas and practices rather than contributing to the development of new thinking on democratic labour relations and institutions. There is also great confusion about the labour legislation and its completion and there is little understanding of the proper roles and functions of a modern labour inspection or conciliation and arbitration service. Some labour law advisory services have been provided but practically none in the important area of labour relations, collective bargaining and disputes settlement. A number of papers of an international character have been prepared by the project staff and distributed at seminars, but this is not enough. It is important that this situation be improved.

41. On the gender component, the Team felt that although the objectives of this component remain valid the activities planned were not the best method of achieving less discrimination against women or more equality of opportunity. The planned gender information centres and the expenditure (some US\$70,000) that would be required for their establishment, as well as the planned survey (some US\$ 90,000) seemed exaggerated and unconvincing, and the Team was of the view that other and more effective arrangements could be made towards a more successful achievement of the stated objectives. The CTA shared these views. In addition, the Team had serious doubts about the sustainability of these centres once the project came to an end. On the other hand the Team had no objection to the focal point for any activity on gender issues remaining in the Employment Department of the Ministry.

RECOMMENDATIONS

42. More specifically the Team makes the following recommendations:

(i) As regards the preparation of the new labour law, the ILO should, as a matter of the highest importance, make available technical advice on the various aspects of the draft once this has been completed and submitted to the ILO for comments (probably mid-end October). It will also be important to provide these urgently if the draft is to be submitted to Parliament by the end of the year. Technical advisory services may also be

required and requested during the Parliamentary review of the draft law and it will be important that these be provided.

(ii) As regards freedom of association, collective bargaining, labour inspection, conciliation and arbitration and gender issues, ILO and international technical input should be substantially increased. The CTA should make every effort to ensure the presence of such expertise, particularly in seminars, and reduce the number of seminars in these fields if such expertise is not available.

(iii) The project would benefit greatly if worker and employer education courses on all the subjects covered by the project could be arranged. It is recommended that the CTA explore this possibility with the worker and employer specialist in ILO Budapest in the first instance and with ACTRAV and ACTEMP. The success of the project will be greatly enhanced if the employers and workers and their organisations are properly structured and understand their respective roles and functions in a market-oriented economy.

(iv) The Team recommends that the CTA take appropriate action to ensure that the Labour Resource Centre remains strictly within the mandate assigned to it by the project in order to avoid that it become a more general library.

(v) As regards the gender component, the statistical work that has been done, as well as that planned is unconvincing. Equally unconvincing is the plan to open gender information centres in two regions with a coordinating office at the Ministry. No further work should be undertaken until the activities under this component have been fully reviewed by the appropriate technical specialists in Budapest and at ILO headquarters in full consultation with DECLARATION.

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The Team wishes to express its sincere thanks to all those who were good enough to meet with it and assist it in carrying out its mandate. In particular, we appreciated the warm welcome and hospitality extended to us by His Excellency, Mr. Ivan Sahan, Minister of Labour and Social Policy, and all his colleagues in the Ministry. We also appreciated the time which many trade union and employer leaders, academics and researchers took to brief us on the work they were doing under the project. Our thanks too go to Ms. O. Zavalna without whose praise worthy interpretation efforts the Team would have understood little. A special word of thanks is due to Mr. Stanislaw Cieniuch, the CTA and his fine team in Kiev for the excellent organisation of the Team's programme, for accompanying the Team throughout the mission and generally for all the assistance they gave us. The Team greatly appreciated their friendship, their kindness and their efficiency at all times.

List of people met during mission

Ivan Sakhan Petro Ovcharenko	Minister of Labour and Social Policy State Secretary of the Ministry of Labour and Social Policy
Volodymyr Pavlyshyn	Director of the Department for Development of Social Partnership, Internal and External Relations, Ministry of Labour and Social Policy
Vasyl Rudenko	Head of the National Conciliation and Mediation Service
Grygoriy Ossoviy	Deputy-Chairman, Deputy-Chairman of the Federation of Trade Unions of Ukraine
Volodymyr Pastushenko	First Deputy - Chairman of the Donetsk Regional Trade Union Council
Yaroslava Ulvanska	Head of the Labour Department – Deputy-Head of the Central Administrative Department of Labour and Social Protection of the Population
Vasyl Kostrytsya	ILO National Correspondent in Ukraine
Manoj Basnyat	United Nations Deputy Resident Coordinator, UNDP Resident Representative
Andrey Pogrebnyak	Administrative Assistant
Volodymyr Pozhydaev	First Deputy Head of the Federation of Trade Unions of Ukraine
Zoya Vasylyova	Head of the Legal Department of the Federation of Trade Unions of Ukraine
Vasyl Shylov	Head of the International Department of the Federation of Trade Unions of Ukraine
Sergiy Ukrainets	Head of the Social-Economic Department of the Central Council of the Trade Union of the Sea Transport Workers of Ukraine
Olexander Ryabko	Head of the Workgroup tasked with development of master collective agreement; Senior Specialist of the Central Committee of the Metallurgy and Mining Industry Workers Union of Ukraine

Oleksiy Miroshnichenko	Vice-President of the National Association of Industrial and Entrepreneurs
Sergiy Prohorov	Acting Vice-President of the National Association Industrialists and Entrepreneurs
Gennadiy Groshylin	Director of the Department of Social Partnership of National Association of Industrialists and Entrepreneurs
Nadiya Grygorovich	Senior Specialist of the State Statistics Committee of Ukraine
Sofia Lytvyn	Member of the workgroup tasked with development of conceptual framework of the statistical survey of gender discrimination at work: Ukrainian nationwide module survey of households
Ludmila Pozhydayeva	Deputy-Head of Department of Forecasting of the State Statistics Committee of Ukraine
Olena Kozyreva	Head of Statistics Department of the State Statistics Committee of Ukraine
Mykhaylo Volynets	Chairman of the Confederation of Free Trade Unions of Ukraine
Viktor Ditkovskiy	Chairman of Independent Trade Union of Metropolitan Employees; Deputy Chairman of the Confederation of Independent Trade Unions of Ukraine
Anatoliy Akimochkin	Deputy Chairman of the Independent Trade Union of Miners of Ukraine
Mykola Kozyuberda	Chairman of the Confederation of Independent Trade Unions of Lugansk region
Mykola But	Chairman of the All-Ukrainian Trade Union “Justice”; Deputy Head of the Confederation of Independent Trade Unions of Ukraine

Yuriy Pryvalov	Director of the Centre for Sociological Research of Institute of Sociology of the NAS of Ukraine; Ser Researcher Officer of the Institute of Sociology of the N of Ukraine
Yuriy Sayenko	PhD in Economy, Professor of the Institute of Sociology the NAS of Ukraine
Gulbarshyn Mimandusova	Deputy Director of the Centre for Sociological Research the Institute of Sociology of the NAS of Ukraine; Ser Researcher Officer of the Institute of Sociology of the N of Ukraine
Nataliya Nechytailo	Post Graduate Student of the Institute of Sociology of NAS of Ukraine
Viktor Zhukov	Dean of the Social Management Department of the Acade of Labour and Social Relations of Ukraine
Olexander Goncharuk	Researcher officer of the Institute of Sociology of the NAS Ukraine; expert of the Centre for Social Research
Tamila Voytenko	Sociologist, expert
Viktor Dovgosheya	Sociologist
Anatoliy Rybak	Member of the Workgroup tasked with development of master General agreement; Professor of Sociology
Lidiya Parchevska	Member of the Workgroup tasked with development of master collective agreement; Deputy-Head of the Departm on Conclusion of Collective Agreements of the Ministry Labour and Social Policy of Ukraine
Svitlana Rodyna	Member of the Workgroup tasked with development of master sectoral agreement; Head of Department of Soc Economic Protection of Workers of the Central Committee the Trade Union of Workers of the Agro-industrial Comp of Ukraine
Nataliya Dudina	Member of the Workgroup tasked with development of master regional agreement; Ph.D. in Economy; Ser Scientist of the Donetsk Institute of Economy and Industry the National Academy of Sciences of Ukraine

Iryna Novak	Consultant of the Workgroup tasked with development of master collective agreement; Ph.D. in Economy; Senior Specialist of the Kyiv Field Office of the Central Council of the Marine Transport Workers' Union of Ukraine
Valeriy Klimov	Deputy Chairman of the National Conciliation and Mediation Service
Khrystyna Yuschenko	Head of Forecasting and Statistics Department of National Conciliation and Mediation Service
Mariya Sukhenko	Head of the Financial Department – Chief Accountant of National Conciliation and Mediation Service
Igor Grinenko	Head of NCMS Department in the cities of Kyiv and Sevastopol
Oleg Smirnov	Deputy Chairman of the Kyiv city Trade Union of Workers Education and Science; Labour Arbiter
Volodymyr Avtandilov	Legal Labour Inspector of the Trade Union of Workers Communication Service of Ukraine; Labour Arbiter
Lidiya Goncharuk	Legal Expert of the Executive Committee of Kotsubynskiy Village Council of the Kyiv Region; Labour Arbiter
Volodymyr Tyotkin	Director of the State Department of Labour Legislation Observance; Chief State Labour Inspector
Volodymyr Los'	Deputy Director of the State Department of Labour Legislation Observance; Deputy Chief State Labour Inspector
Tetyana Oliynyk	Consultant to the Director of the State Department of Labour Legislation Observance
Ludmyla Plastun	Head of the Territorial State Labour Inspection; Chief State Labour Inspector of the Kharkiv region
Mykola Osiychuk	Head of the Territorial State Labour Inspection; Chief State Labour Inspector of the Khmelnytskyi region

Oleksandr Shevchenko	State Labour Inspector of the Territorial State Labour Inspection of the Vinnytsya region
Victor Khmilyovskiy	President of the Association of Lessors and Entrepreneurs of Ukraine
Volodymyr Rozenblat	Vice-President of the Association of Employers of Ukraine; Director General of the Collective Company "VIPOL"; Deputy Director General of the "INKOM" Company
Eduard Yefimenko	Head of the Kyiv Representative Office of the Association of the Ukrainian Trade; Vice-President of the Association; Private entrepreneur
Bogdan Ilchenko	Vice-President of the Association of Lessors and Entrepreneurs of Ukraine
Maksym Pylypenko	Deputy Director General of the Association of Lessors and Entrepreneurs of Ukraine
Nataliya Ivanova	Director of the State Employment Centre, Ministry of Labour and Social Policy
Nataliya Zinkevich	Deputy Director of the State Employment Centre, Ministry of Labour and Social Policy
Valentyna Prusachenko	Head of the Department of Migration and International Cooperation of the State Employment Centre
Rayisa Butayeva	Senior Adviser of the Secretariat of the National Ombudsman
Valeriy Tantsyura	Deputy Head of the State Committee on Family and Youth Issues
Larysa Kolos	Deputy Head of the Department on Gender Issues and Family Policy of the State Committee on Family and Youth Issues
Ivan Gnybidenko	First Deputy of the State Secretary of the Ministry of Labour and Social Policy

Volodymyr Pavlyshyn	Director of the Department for Development of Social Partnership, Internal and External Relations, Ministry of Labour and Social Policy
Iryna Tubylets	Head of the Legal Department of the Ministry of Labour and Social Policy
Victor Novikov	Deputy Head of the Secretariat of the Committee of the Verkhovna Rada of Ukraine on Social Policy and Labour issues
Tetiana Prokopenko	Head of the Secretariat of the National Council of Social Partnership
Grygoriy Kabanchenko	Chairman of the Trade Union of Certified Workers of the Ministry of Interior of Ukraine
Olexandr Dzhulyk	President of the All-Ukrainian Association of Workers Solidarity
Viktor Gerbeda	Chairman of the Federation of Water Transport Workers of Ukraine
Anatoliy Shyrokov	Head of the Workers' Trade Union of the National Academy of Sciences of Ukraine
Igor Zub	Head of the Scientific and Expert Department of the Secretariat of the Verkhovna Rada (Parliament)
Svitlana Prykhod'ko	Scientific Secretary of the Institute of Legislation under the Verkhovna Rada of Ukraine (Parliament)
Vasyl Vakulenko	Labor Law Expert of the Kyiv University, Member of the workgroup to develop conceptual framework of the new labor legislation
Pylyp Pylypenko	Professor, Ph.D. in Law; Head of the Department of Labor, Agricultural and Economic Law of the Lviv National University named after Ivan Franko
Valeriy Geyets	Director of Economic Forecasting Department of the National Academy of Sciences of Ukraine

Iryna Kryuchkova	Head of the Department of the Institute of Economic Forecasting of the National Academy of Sciences of Ukraine
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Iryna Petrova	PhD (Economics), Professor of the National University of Economics
Kseniya Lyapina	Director, Institute of Competitive Society
Sergiy Melnyk	Deputy Director, Research Institute of Social-Labour Relations
Igor Shumylo	First Deputy of the State Secretary of the Ministry of Economic and European Integration Issues
Tetyana Solovyh	Deputy Head of the Department of the Budget Programme for Social Protection of Population
Sonia Urbom	Analyst of the Economic Section of the US Embassy
Geoffrey Anisman	Labour Officer, Economic Section of the US Embassy