

PW-ACU-187

A Document to Guide a Tripartite Review Of the Labour Markets

Submitted to:

**U.S. Agency for International Development
Mission to Ghana**

by:

Sigma One Corporation

for:

**Trade and Investment Reform Program (TIRP)
Improved Policy and Financial Intermediation Project
USAID Contract Number: 641-C-00-98-00229**

**In fulfillment of:
Milestone 2.5**

May 15, 1999



Sigma One Corporation

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MEMO

26 April 99

To: Dr. Joseph Goodwin, Chief of Party - TIRP, Sigma One Corporation

From: Ralph Franklin, Labour Policy Analyst, Sigma One Corporation

Re: Draft Labour Agenda - (2.5)
National Labour Forum - May 24-28 1999 Sogokope. (CLIN 6.2)
Methodology to Promote Labour Market Flexibility per CLIN 2.26.

The following memo outlines a course of action, which we have negotiated with the Government of Ghana for supporting the achievement of consensus on a new labour code, through participatory policy dialogue, that promotes more labour market flexibility.

At the request of the Ministry of Employment & Social Welfare (MESW) and using a strategy based on supporting an expanded Tripartite negotiation framework, we are proposing the following agenda:

General Work Plan for Labour

Item 1. General framework for supporting policy dialogue on labour issues in Ghana.

Continued support of policy dialogue, with a focus on the role of Labour in the macro economy for building a modern labour market regulatory framework that promotes competitiveness, growth and flexibility. The topics for dialogue will emerge from the debate of the "Social Partners¹". The proposed framework is flexible to address impasses in negotiation. An important feature of this approach is to bring those with diverse view points together to discuss the issues with the best available facts and best practices from other countries. As the issues are identified, scopes of work will be drafted to address emerging issues. The product of these scopes of work will include policy briefs, small focussed workshops, panels at larger workshops and presentations at Future National Economic Fora (or similar venues). This methodology has proved effective in Ghana building public space for addressing crucial policy issues.

¹ In Ghana this is seen as broadly representing the Government, Employers and Labour. In the past this has meant the Tripartite Committee composed of MESW/Dept. of Labour, The Ghana Employer's Association and the Trades Union Congress (TUC) with some representation of public sector civil servants associations through the TUC and MESW. The Government is endeavouring to broaden this group by including representatives of small business, the informal sector, and more explicit representation of civil servants associations.

Our ability to play a supporting role in this area is due to our access to and credibility with MESW, and representatives of employers and unions. Much of this access stems from the Ghana Policy Dialogue Project activities. This in turn was built on the success of the June 1997 North Carolina Conference and the September 1997 National Economic Forum. This trust and access is an essential ingredient to this strategy. USAID and Sigma One Corporation's role as honest brokers with all the parties and the emphasis on inclusion and the recognition of the need for change has generated this opportunity.

Steering Committee

To manage the process and identify and vet issues, the formation of a small technical steering committee is recommended. This labour working committee would be made up of representatives from the IMCC. Specifically, the formal private business sector (PEF/GEA), the Government (preferably from MESW at the director level or above), two representatives of labour- one from the formal private sector and a representative of the informal sector (not currently on the IMCC). If need be, a representative could come from one of the public employee associations. This steering committee would identify issues, help formulate scopes of work and help review the output. In the interest of preserving the need for rapid turnaround and to facilitate the Government's management of the current labour code reform process and as chair of the Tripartite Committee, the Government's representative should be the ultimate arbitrator of the topics to be addressed (in so far as they are within the scope of TIRP activities related to labour and are approved by USAID).

A two stage process is proposed . As issues emerge, the project would have a standing pre-approved mandate to commission rapid turnaround (2 weeks or less). Short briefs (2-5 pages) describing current knowledge and best practices, would be produced drawing from labour economics, development policy and successful Country policy reform experience. These briefs would help inform policy discussions and serve as guidance to the project and the steering committee with regard to any follow-up work, if need be. If the need arises for more in-depth exploration, expanded scopes of work for more extensive efforts could be prepared for the consideration of the full working group. These expansions would be based on the technical subcommittee's recommendation and availability of funds. We currently envision 5 to 10 of these briefs with maybe 3 to 5 expanding to larger activities.

To prepare the first drafts of these briefs, we propose retaining the services of a Labour Economist to work with the home office. We currently envision the briefs taking no more than 5-10 working days of effort to produce - at the initial exploratory stage. The briefs would then be circulated to the members of the labour working group for comments. Revisions would be made. The revised briefs would be circulated to all the Social Partners and informal working groups could be invited to discuss the issues. The briefs would help frame the debate and guide further analysis. The expanded scopes of work which emerge from the rapid turn around briefs would require additional expert time (by both Ghanian and

International technical assistance) and operational support from North Carolina depending on the type of follow-on activity. These expansions would be detailed in new scopes of work and requests for technical assistance approved by the steering committee and USAID. This design is proposed to ensure that activities are driven by Ghanaian policy actors.

Item 2. Operational Support to MESW for the National Labour Forum

A second and most crucial thrust of the agenda is to support (technically and administratively) the Ministry of Social Welfare as it coordinates the process of bringing a new labour code to Parliament and seeks approval of a new Labour Regulatory framework. This process will be based on an expanded tripartite negotiating framework. To this end we would like to support the National Labour Forum to be held on May 24-28, 1999 at Sogakope. We would provide administrative and financial support to the conference to help ensure that the debate on the new draft labour code is not derailed due to lack of appropriate funding by the Government. This conference will bring together the Government and people representing an expanded tripartite negotiating approach. The old approach was a team comprised of one representative of Government, Labour (TUC) and Employers (GEA) and a small supporting technical secretariat).

In October 1996, a version of the draft consolidated labour code failed because of the lack of public dissemination (among other things). In the intervening two years there has been a slow build up of activities coordinated by MESW and a planning committee for a new labour forum. The main output of this activity has been the delegation to the social partners of the responsibility to internally develop their comments to the preliminary draft labour code. The TIRP project has collaborated with MESW, the TUC and the GEA to consolidate these comments into one document (see *Ghana Draft Labour Bill for Discussion with Comments by the ILO, the National Advisory Committee on Labour, The TUC and the GEA*). During the Planning committee's preparation of the National Labour Forum it became apparent that a line by line review of the draft code was not likely to generate the expected results. As such, the Planning committee proposed postponing the Forum and reorganizing the process of generating a new labour code. That process now involves:

- 1) Reorganizing the Labour Forum on the lines of unresolved issues within a broad context of private sector lead growth and development.
- 2) These issues would be identified through a legal review of the current code. This document would then serve as the key background document to the Labour Forum.
- 3) The Labour Forum would then give guidance to the legal draftsmen of the new code through the legal review memo and the reports of the Labour forum. A committee would be named at the forum to review the output of the legal drafters. For the project's purposes, ideally this committee

would include, as a subset, the steering committee identified in Item 1 of the Labour agenda above. This forum steering would help identify unresolved issues for further study which emerge at the national labour forum.

This change of procedure from the old narrow negotiating posture is necessary because the Tripartite Committee legislative framework which gave the TUC and the GEA sole negotiating authority in labour matters is now obsolete and technically illegal under Article 21 of the Constitution, (freedom of association). A more open public hearing type arrangement is now needed to satisfy the broad range of "Social Partners" currently vying to get their positions recognized in the new labour code. This presents challenges and opportunities that the Ministry of Employment & Social Welfare is not yet well equipped to handle alone. We therefore, in response to a request from the Ministry², see the support to the National Labour Forum as a crucial step in broadening the dialogue on the labour issues to include flexible labour markets as a priority matter. This strategy also provides the government options for resolving logjam issues by bringing small groups together to flesh out labour market impasses and to seek viable solutions. It is anticipated that Sigma One Corporation through the USAID/TIRP Contract under CLINs 2.24 and 6 would support the National Labour Forum. Specifically we would like to support the steps identified by the National Labour Forum planning committee and vetted by MESW.

Item 2a. Pre-conference Support and Legal Review of Existing Labour Law and Practice.

In order to bring the National Labour Forum to fruition, The NLF Planning Committee, the Government and The Social Partners have agreed to address issues by theme instead of a line by line review of a previous draft consolidated labour code. In order to do this the Planning committee has released terms of reference for the drafting of a legal review memo to highlight differences of opinion on policy issues between the parties and areas where current legislation fails. An important consideration is to examine the existing legislation against the Constitution, ILO Standards and International Best Practices. To this end it is proposed that a team lead by the Drafter of the next version of the Labour code be funded. This team would be comprised of a legal drafter with labour law experience, an expert in excising labour practice, an expert in Ghanaian labour law and modern labour economist. This team would highlight themes for the national labour forum. The document and the results of the Forum would guide the first draft of the new labour code.

Item 2.b. Fund the Conference

We propose to pick-up the direct charges for the conference facility, room and board for the delegates at the conference. These charges would be based on Hotel Cisneros package rates for such conferences.

² See Letter of April 2, 1999 from Minister Mumuni of the Ministry of Employment and Social Welfare (attached).

The honorarium the Ministry has proposed for the 4 day conference would be to the facilitators MESW have selected in compliance with USAID rules for such honoraria. These honoraria would be paid for the rapporteurs and chairmen as well as the clerical support to the working groups at the conference per the proposal presented to Sigma One Corporation by the Ministry. It is our belief that the Ministries estimate of the administration direct support charges are low by a factor of 2 or 3 and facilities charges are under estimated by 25%. We anticipate that the charges for room and board are in line with standard rates paid by other institutions in Ghana. We anticipate these total charges to be between 35 and 50 thousand dollars for the 4 day conference. We would also provide additional support to MESW to produce a summary of the conference and a revised consolidated draft of the proposed labour code for further debate in Ghana. It is possible that the reports of the working groups could be consolidated for reporting at the next National Economic Forum (or a similar event).

Item 2.c. Provide an overall competitiveness and macro economic frame work to the National Labour Forum.

To help focus the daily session, we propose to provide an overarching series of presentations. These will help broaden the scope of the deliberations by providing a Growth and Vision 2020 context to the debate of the Social Partners. The proposed presenters are to be: Dr. David Franklin presenting an overview on how labour is linked to the macro economy; Dr. Alexandra Cox Edwards (UCLA) , to present the tradeoffs between the equity and efficiency issues in labour regulations and how these issues have been dealt with in other reforming countries; Dr. Dominique Hachette from the Catholic University in Chile, will address the international trade and growth implications for labour. We also are proposing funding an expert from the ILO to discuss model modern labour codes and Mr. Ralph Franklin to present a snapshot of the current labour market situation in Ghana. Copies of budget estimates are attached. These experts and the experts identified to draft or review the legal review memo would serve as resource persons to the working groups addressing the labour code issues at the forum.

Item 2.d Support to the preparation of the report from the Labour Forum.

The reports of the working groups, and comments by presenters would be consolidated into a compilation document that would serve to record the sense of the forum and serve as reference materials to the team of legal drafters writing a new draft labour code for Ghana. Support along these lines would be provided by a the Sigma One Corporation field office in Ghana with the direct input of the Ministry of Employment and Social Welfare Directorate for Program Planning and Monitoring (directed by Mrs. Bridget Kastriku).

Item 2.e. Support to the production of the first draft of the Labour code

The guidance of the Forum and the legal review memo would serve as the principal direction to the legal draftsmen for drawing up the “draft consolidated labour code of Ghana. Per the guidance of the National

Labour Forum planning committee and the Ministry of Employment and Social Welfare we have identified Mr. G. Nikoi as the indicated person. Mr. Nikoi served as a legal draftsman for the Attorney General's Office and for the Commonwealth secretariat. He has been vetted by the government, the employers and the unions. Ideally he would also draft the legal review memo identified by planning committee and participate in the labour forum. A purchase order to this effect will be drafted for approval.

Item 3. Continued Support toward the Presentation of New Labour Legislation to Cabinet & Parliament

After the conference, we will work with the MESW to assist them in continuing the policy dialogue efforts required to finalise the code for presentation to Cabinet and Parliament. This could include limited support for producing reference materials, the provision of a venue for working meetings and seminars as well as policy piece produced via Item 1 above.. We would also provide support for the tripartite group named at the forum in the review of the draft labour code, the emerging issues which have not been contemplated in the current draft legislation, and the first draft of the labour code.

Specific studies CLIN 2.24 and Monitoring & Evaluation Baseline.

Though there will be specific issues identified through the implementation of Items 1 through 3, Several other issues have been identified through the ongoing work with the Ministry of Finance and Ministry of employment and Social Welfare. These are outlined below in relative order of urgency and importance..

Item 4. Analysis of Winners and Losers from Policy Change - and the establishment of a Baseline.

There is an urgent need to develop a relatively simple model of returns to labour by sector. This model would estimate the winners and losers from various macro policy initiatives in addition to the initiative. The best source of data for such a model are the GLSS I, II, & III surveys. This data combined with information on importables, exportables and non-tradeables derived from National accounts data can be used to develop a simple three sector model. This simple model can be used as a spreadsheet simulation tool to measure the likely sectoral impact of macroeconomic changes on individual earnings and the relative costs by occupational level and sector of the economy. Sigma one has successfully developed variants of these models in Nicaragua, El Salvador, Ecuador, Peru and Panama. The important findings for labour that can be drawn from this work relate to the demonstration of the costs and losses by

vulnerable groups from poor exchange rate and trade policies. These are measured by the relative returns to household labour market choices. This work can be done with tabular data but is best done with individual household survey data available in the GLSSs. This data could also serve as another measure of baseline estimates for measuring the impact of growth and policy change in Ghana between 1988/89 (GLSS 1&2), 1991/1992 (GLSS 3) and 1998/1999 (GLSS 4). GLSS 4 is currently in the field in Ghana. These data are the only extant national data that allow for estimates of the gains (or losses) by specific groups in Ghana. To this end, the time Mr. Franklin has remaining in the year could be dedicated to developing the data and analysis with the support of a senior statistician to help deal with some of the sampling and estimation issues embedded in the GLSS surveys. As this data is developed we would work with local counterparts in the Research Department of the Ministry of Finance and Ministry of Employment and Social Welfare. This methodology and the spreadsheet models would then be run by those departments. The basic data would be made available to researchers in Ghana and the results disseminated in a series of briefs in Ghana. This analysis may also produce useful estimates for the MTEF and BEPEMS Macroeconomic modelling efforts currently underway and serve as the basis for the Labour section of the proposed State of Competitiveness Report.

Item 5. Formal Sector Employment Monitoring System

There is the need to develop a formal sector employment statistics reporting system using the administrative data from SSNIT. This can also provide a baseline for monitoring changes in formal sector employment and wages and fill a large void in the present statistics system. These data could be complemented with periodic national household surveys to give a more comprehensive view of the labour market in Ghana. This activity could be housed and managed at the Directorate for Research and Statistics in the Ministry of Employment and Social Welfare and be supported by a local consultant.

This task will require an assessment of the administrative data coming out of SSNIT administrative records and a draft protocol established for confidentiality, data disaggregation and data standards.

Item 6. Targeted support toward the development of a National Employment Statistics System.

This activity would complement the activities of the World Bank in support of survey based statistics at MESW. The bank is providing support to MESW in the areas of a household based small annual employment survey. MESW is also exploring under the same credit the possibility of a national establishment survey to track both formal and informal enterprises. Sigma One Corporation staff have in-depth experience with the United States Current population Survey which is used for this purpose. We could assist in adapting a highly simplified version for periodic application in Ghana.

Item 7. Commission a reorganization plan for MESW, the Factories Inspectorate and the Labour department so that it may better respond to the challenges of implementing the new Labour code.

Help with a prospective study of how to reorganize the Ministry, the Labour department and the Factories inspectorate so they might be able to deliver on the new labour code with in their programmed budget (MTEF's three year rolling plan sets the cost parameters).
