A Comparative Study of the implementation of ILO Convention 111 in the Republic of Korea and the Member States of the European Union

Inception Report
This Report was financed by the European Union. The views expressed herein are those of the contractor and do not represent the official views of either the European Union or the Korean Government.
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<th>Abbreviation</th>
<th>Description</th>
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<tr>
<td>CEACR</td>
<td>Committee of Experts on the Application of Conventions and Recommendations</td>
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<tr>
<td>CTSD</td>
<td>Committee on Trade and Sustainable Development</td>
</tr>
<tr>
<td>DAG</td>
<td>Domestic Advisory Group</td>
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<tr>
<td>EC</td>
<td>European Commission</td>
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<tr>
<td>EU</td>
<td>European Union</td>
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<tr>
<td>EUD</td>
<td>European Delegation to Korea</td>
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<td>FTA</td>
<td>Free Trade Agreement</td>
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<td>ILO</td>
<td>International Labour Organization</td>
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<td>LSA</td>
<td>Labour Standards Act</td>
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<td>NGO</td>
<td>Non-governmental Organisation</td>
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Executive summary

The comparative study on the implementation of International Labour Organisation (ILO) Convention no. 111 in Korea and the European Union (EU) Member States will be launched in July 2016. The project is being funded by the EU, and was designed in cooperation with the Korean Government. It is being implemented by DEVELOPMENT Solutions Europe Ltd (DS). The general objective of the project is to support the implementation of Chapter 13 of the Free Trade Agreement (FTA) between the Republic of Korea (hereafter ‘Korea’) and the European Union (EU).

In line with Chapter 13 and Annex 13 of the Korea-EU FTA and reaffirming their commitment to cooperate on the implementation of ILO conventions, Korea and the EU agreed at the fourth meeting of the Committee on Trade and Sustainable Development (CTSD) in Seoul on 9 September 2015 to launch a cooperation project under the EU Partnership Instrument on the implementation of ILO Convention no. 111 to better understand the state of play of implementation in Korea and the EU Member States.¹

The objective of this project is to contribute to enhancing the implementation of the Convention in both Korea and the EU Member States. The research for this project will result in a detailed comparative analysis of the implementation of Convention no. 111, and will provide a set of policy implications and suggestions to overcome any identified shortfalls and enhance the implementation of the Convention. There will be specific emphasis placed on lessons learned and good practices. The Final Study will reflect on the discussions and input provided by relevant stakeholders during interviews, meetings, questionnaires, Civil Society Meetings, a Workshop and a Seminar. The below figure 1 shows the main activities of the project in sequence.

Since 1958, the year when ILO Fundamental Convention no. 111 was adopted, the discrimination agenda has evolved and expanded significantly in order to effectively respond to emerging challenges.

Enhancing equality and fair treatment in employment and occupation in respect to several groups remains a constant priority when developing laws and policies for the labour market. Although progress and positive outcomes were registered in both Korea and the EU Member States, discrimination on various grounds including inequality between women and men still exists.

The Inception Report is divided into four parts. The first part has a general scope, describing the background of the project, noting the circumstances that triggered it. It also presents the objectives set in order to effectively respond to issues identified in Korea and the EU.

The second part summarises the methodological approach proposed by the expert team for developing the study, which is the main output of the project. Given the specificity and sensitivity of the theme, experts involved in designing the study...
propose to mainly employ qualitative methods for analysing the situation and identifying the relevant information. This part of the report begins with the historic circumstances, broad intent of the convention and evolution of the response to ILO Fundamental Convention no. 111 and to the changing labour environment in both the various countries of the EU and Korea.

The third part presents the proposed engagement activities between the consultants and those identified as stakeholders and the communication strategy used in order to guide the research and validate the findings of the study.

The last part of the Inception Report provides a detailed timeline, specifying the tasks, deliverables and activities to be completed throughout the project.

Finally, the annexes provide a number of documents pertinent to this report. Annex I provides the full text of ILO Fundamental Convention no. 111. Annex II contains the questionnaire that will be distributed to the expanding network of relevant stakeholders.
1. Background and introduction

1.1. Context

In July 2011, the Free Trade Agreement (FTA) between Korea and the EU entered into force. This agreement is the first FTA signed by the EU to include a fully developed Chapter on Trade and Sustainable Development (Chapter 13). Chapter 13 is devoted to tackling trade-related aspects of sustainable development, including labour issues, and to cooperate on trade-related labour and environmental issues.\(^2\)

Article 13.4 “Multilateral labour standards and agreements” of the FTA recognises the value of international cooperation and agreements on labour issues and acknowledges the Parties’ obligations and commitment under membership of the ILO to respect, promote and realise the principles concerning fundamental rights, including the elimination of discrimination in respect of employment and occupation. Additionally, Korea and the EU reaffirm their commitment to effectively implement the Conventions of the ILO that they have respectively ratified and to continue their efforts to ratify other fundamental and up-to-date ILO Conventions.

Under Annex 13 “Cooperation on trade and sustainable development” of the FTA, an indicative list of areas of cooperation is established to support the objectives and obligations under Chapter 13. This list includes cooperation on labour issues in international fora such as the ILO, the promotion of ratification of fundamental and other ILO Conventions with an impact on trade, and trade-related aspects of the ILO Decent Work Agenda, including on gender equality.

Regarding the institutional set-up, Article 13.12 “Institutional mechanism“ of the FTA establishes a Committee on Trade and Sustainable Development (CTSD) comprised of senior officials of Korea and the EU to oversee the implementation of Chapter 13 and the cooperation activities under Annex 13. The CTSD met for the first time on the 27th of June 2012, and has met on a yearly basis ever since.

Further in accordance with Article 13.12, each Party has established a Domestic Advisory Group (DAG) comprised of independent representative organisations of civil society regarding environment, labour, business organisations and other relevant stakeholders. The Korean and EU DAGs have met back-to-back with the CTSD during the annual Civil Society Forum since 2012 to conduct a dialogue encompassing sustainable development aspects of the trade relations between Korea and the EU and to advise on the implementation of Chapter 13.\(^3\)

The state of ratification of the ILO Fundamental Conventions is a prominent topic in the Korea-EU dialogue on labour issues in the framework of the CTSD. Korea has at time of writing ratified four of the eight ILO Fundamental Conventions (No. 100 on


\(^3\) The Civil Society Forum conclusions and joint statements are available here: http://www.eesc.europa.eu/?i=portal.en.external-relations-international-trade-monitoring-korea-csf

Equal Remuneration, No. 111 on Discrimination, No. 138 on Minimum Age and No. 182 on Worst Forms of Child Labour), while the EU Member States have ratified all eight ILO Fundamental Conventions.

Another prominent topic in the Korea-EU dialogue is the implementation of and compliance with ILO Fundamental Convention no. 111 of 1958 on the elimination of discrimination in respect of employment and occupation. While Convention no. 111 is ratified by both Korea and the EU Member States, some concerns about compliance with the Convention have been raised. The ILO Committee of Experts on the Application of Conventions and Recommendations (CEACR) has scrutinised Korea’s compliance with Convention no. 111 and discussed it as a country case at the International Labour Conference for three consecutive years in 2013, 2014 and 2015.

EU Member States’ compliance with Convention no. 111 also has room for improvement. This is illustrated by the CEACR observations addressed to Greece, Latvia, Slovakia, Spain and the United Kingdom in 2015 and the discussion of the Czech Republic as a country case at the 2010 International Labour Conference.

In line with Chapter 13 and Annex 13 of the Korea-EU FTA and reaffirming their commitment to cooperate on the implementation of ILO conventions, Korea and the EU agreed at the fourth CTSD meeting in Seoul on 9 September 2015 to launch a cooperation project under the EU Partnership Instrument on the implementation of ILO Convention no. 111 to better understand the state of play of implementation in Korea and the EU Member States.4

1.2. Project objectives

This project has to be considered in light of Chapter 13 on Trade and Sustainable Development and Annex 13 on Cooperation on Trade and Sustainable Development of the Korea-EU FTA. The general objective of the project is to support the implementation of the FTA and to contribute to the implementation of Chapter 13 and Annex 13 in Korea and the EU. It should feed into and enhance the ex-post evaluation of the Korea-EU FTA. The project also aims to strengthen the cooperation between Korea and the EU. Because this is a cooperative action, the Korean Government will be associated to each stage of the project.

More specifically, the objective of this project is to contribute to enhancing the implementation of the Convention in both Korea and the EU Member States. The research for this project will result in a detailed comparative analysis of the implementation of Convention no. 111 and will provide a set of policy implications and suggestions to enhance compliance with the Convention. There will be specific emphasis placed on lessons learned and good practices. The Final Study will reflect on the discussions and input provided by relevant stakeholders during interviews, meetings, questionnaires, Civil Society Meetings, a Workshop and a Seminar.

2. Contextual framework and approach

In recent decades, the discrimination agenda marked major shifts and evolved considerably at international, European and national level.

Specifically combating discrimination, enhancing equality of opportunity and treatment in employment and occupation has drawn much attention and was included in many international instruments, in the European Union legislative framework and in national constitutions and laws.

Although at legislative and policy level constant progress was registered, inequality between women and men and discrimination on grounds such as race, religion, political opinion, national extraction and social origin still exists in many countries.

In the world of work, the ILO is fully involved in setting standards and promoting efforts of eliminating discrimination in respect of employment and occupation.

In 1944, elimination of discrimination was included in the Declaration concerning the aims and purposes of the International Labour Organisation (Declaration of Philadelphia), document annexed to the Constitution of the ILO.

The main Conventions adopted by the ILO in order to enhance adhering states efforts in combating and eliminating discrimination in employment and occupation are Discrimination (Employment and Occupation) Convention, 1958 (No. 111) and Equal Remuneration Convention, 1951 (No. 100) and the Recommendations associated with them. These Conventions were also included by ILO’s Governing Body among the eight fundamental Conventions that all member states should ratify.

ILO’s Fundamental Convention no. 100 was first framed in 1958 to govern handling discrimination in the work place. The opening articles set the framework of the convention:

**Article 1**

1. For the purpose of this Convention the term *discrimination* includes-

   (a) any distinction, exclusion or preference made on the basis of race, colour, sex, religion, political opinion, national extraction or social origin, which has the effect of nullifying or impairing equality of opportunity or treatment in employment or occupation;

   (b) such other distinction, exclusion or preference which has the effect of nullifying or impairing equality of opportunity or treatment in employment or occupation as may be determined by the Member concerned after consultation with representative employers’ and workers’ organisations, where such exist, and with other appropriate bodies.

2. Any distinction, exclusion or preference in respect of a particular job based on the inherent requirements thereof shall not be deemed to be discrimination.

3. For the purpose of this Convention the terms **employment** and **occupation** include access to vocational training, access to employment and to particular occupations, and terms and conditions of employment.

**Article 2**

Each Member for which this Convention is in force undertakes to declare and pursue a national policy designed to promote, by methods appropriate to national conditions and practice, equality of opportunity and treatment in respect of employment and occupation, with a view to eliminating any discrimination in respect thereof.

**Article 3**

Each Member for which this Convention is in force undertakes, by methods appropriate to national conditions and practice--

(a) to seek the co-operation of employers' and workers' organisations and other appropriate bodies in promoting the acceptance and observance of this policy;

(b) to enact such legislation and to promote such educational programmes as may be calculated to secure the acceptance and observance of the policy;

(c) to repeal any statutory provisions and modify any administrative instructions or practices which are inconsistent with the policy;

(d) to pursue the policy in respect of employment under the direct control of a national authority;

(e) to ensure observance of the policy in the activities of vocational guidance, vocational training and placement services under the direction of a national authority;

(f) to indicate in its annual reports on the application of the Convention the action taken in pursuance of the policy and the results secured by such action.

The full text of the convention is attached in Annex I.

In 1958 the world observed a very different social order from today, and many forms of discrimination went unnoticed in many countries. As the course of human rights continues to the present day, new issues arise in such matters as equal pay between genders, between different races, respect for minorities including the recent emergence of lesbian, gay, bisexual, and transgender (LGBT) people’s rights as an issue and the right to privacy. Sometimes the terms of the convention far predates new situations. Notably this is true of migrant labour which hardly existed in its present form back in 1958. As will be demonstrated from the historical cases presented in the interim report, the recognition of discrimination by the discriminators...
is not always a simple path and national governance has not always responded proactively rather than reactively.

In the EU equality represents one of the “founding values”\textsuperscript{5} of the Union and all Member States “should make efforts to combat social exclusion and discrimination and promote equality between women and men”.\textsuperscript{6}

In 2000, the EU Member States approved at Council level the Directive 2000/43/EC of 29 June 2000 implementing the principle of equal treatment between persons irrespective of racial or ethnic origin and Directive 2000/78/EC of 27 November 2000 establishing a general framework for equal treatment in employment and occupation which is directly linked with the provisions included in the ILO Convention no. 111.

A comparative study on the implementation of ILO Fundamental Convention 111 in Korea and the Member States of the EU will be carried out and completed within eight months. The below section presents an outline of the activities to be delivered by the Project Team, and our approach for the successful implementation of the assignment.

The project primarily consists of two complementary parts: (1) a scientific and objective analysis of the situation in Korea and in the EU Member States regarding the implementation of the Convention, and (2) knowledge exchange and knowledge sharing activities that will build a network of relevant stakeholders from civil society and experts from Korea and the EU engaged in the promotion of equal opportunities and treatment.

\textbf{2.1. The study}

The study will analyse the situation in both Korea and the EU Member States regarding the implementation of Convention no. 111, identifying progress and shortfalls in the implementation and the good practices developed to ensure non-discriminatory access to employment and occupations as defined in the ILO Convention no. 111.

\textbf{2.2.1 Research agenda}

Combatting discrimination at work is an important part of the study of the advancement of human rights, of great importance in the second decade of the twenty-first century. The consultant's approach to this topic is the perspective that there is much to be learnt from both side's attempts to advance government's measures to avoid discrimination both in hiring practices and work place policies. There are transferable lessons to be gained though the analysis of both success and failures and the on-going challenges.

The consultant's aim is to produce a balanced analysis which could become the foundation of future studies, and perhaps future work together by the EU and Korea.

\begin{itemize}
\item \textsuperscript{5} Article 2 of the Consolidated Version of the Treaty of European Union.
\item \textsuperscript{6} Article 3, Para 3 of the Consolidated Version of the Treaty of European Union.
\end{itemize}
Our starting point is historical and comparative, since this allows the observation of the evolution of workplace human rights across time and cultures.

From an analytical point of view, the analysis must consider the different levels of policy advocacy, from supranational law, national law, regulators and administrative enforcement and/or incentives to comply, down to the complex appeal mechanism, supranational and national in the case of the EU and national in Korea.

From a theoretical point of view we see ILO Convention 111 operating on a series of levels, but preliminary analysis has already identified areas which have proved difficult for authorities in many nations, notably minority rights, migrant labour, provision for the disabled, gender equality and age discrimination.

The study will proceed through the following stages:

- Evolution of basic laws
- Administrative policy approaches and debates
- Case studies of dealing with difficult cases

**2.2.2 Methodology**

From a methodological point of view, the study will focus mainly on qualitative research methods (in-depth interviews with experts and stakeholders, sometimes using questionnaires, plus analysis of relevant documents and materials, i.e. Korean laws and EU Directives and Member States legislation) and will make use of both primary, empirical data and secondary data. Primary data includes court cases presenting the needs of the discriminated against. The study will begin with an in-depth literature review based on the existing body of literature from Korea, the EU and internationally. The research and analysis will be delivered in two main phases.

The first phase will establish broad sets of data for the completion of a comparative matrix, designed to compare the status of effective legal and administrative provisions adopted for the implementation of ILO Convention no. 111, both in Korea and across EU Member States. The legal analysis will identify key challenging areas in each region, highlighting in particular policies considered to be ‘good practice’. This phase will provide a snapshot and identify key issues and obstacles to the implementation of ILO Convention no. 111 in Korea and EU Member States. Where areas are of common concern or one partner has had success in dealing with the issue, these will be further investigated to see whether there are examples which can be followed. It is expected that this will include issues such as minority rights, migrant labour, provision for the disabled, gender equality and age discrimination. In addition, the study will make use of analyses, comments and recommendations from the ILO monitoring bodies and relevant stakeholders in order to ensure a broad coverage of views and opinions and to allow a full understanding of forces pulling in different directions.

In order to guarantee the legitimacy of findings, the study will make use of up to date references of trade and legal data. So far, the following Korean laws and EU legislation have been identified as being the most significant for the study; they are presented in the following table as far as practical matching comparable issues.

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<thead>
<tr>
<th>Korean laws</th>
<th>EU Legislation</th>
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<tr>
<td>Art. 32 of the South Korean Constitution</td>
<td>Consolidated Version of The Treaty on European Union</td>
</tr>
<tr>
<td>Labour Standards Act (LSA)</td>
<td>Charter of Fundamental Rights of the European Union (2010/C 83/02)</td>
</tr>
<tr>
<td>Labour Union and Labour Relations Adjustment Act</td>
<td>Community Charter of Fundamental Social Rights of Workers</td>
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The analysis of the legislative and policy framework conducted in the first phase of the research will help identify and highlight particular good practices in fighting discrimination in employment and occupation in both Korea and European Union Member States, along with challenges that would be addressed in the policy implications.

The second phase of the research will focus on the deeper analysis of the identified priority issues with a view to provide input to enhance policy effectiveness in both Korea and EU, in particular in relation to sensitive issues such as migrant workers and refugees as well as nationality, minorities and gender.

After the initial literature review, a series of interviews of selected experts and stakeholders from Korea and the EU Member States will be conducted. The interviewees shall be chosen from the following categories: specialised lawyers, governmental officials, social partners, representatives of the groups of people concerned by the implementation of ILO Convention no. 111, and ILO experts. The interviews will be carried out through questionnaires sent via email or by using the website, and complemented if and when necessary by phone interviews. Previous experiences have shown that few stakeholders will proactively complete questionnaires without first agreeing to a face-to-face meeting or with other enticement, such as when its completion is linked to a workshop attendance. Such procedures will be prioritised within the Project Team’s contact strategy.
2.2.3 Policy implications

The policy implications to enhance compliance with ILO Convention no. 111 included in the Study will be based on the thorough analysis of the legislative and policy framework both in Korea and EU Member States.

In particular the practical and theoretical issues which may arise between the authorities responsible for the administration of the labour market and employment policy, and official and NGO human rights organizations will be examined, both from an empirical point of view and from the court records of appeals to the Council of Europe European Court of Human Rights and the European Court of Justice for the EU, and in the case of Korea to the secular courts.
3. Stakeholder engagement

This section explains the methodologies and tools the Project Team will employ in conducting stakeholder engagement and consultation.

3.1. Interviews and meetings

Interviews conducted over telephone and face-to-face meetings will constitute the most direct form of stakeholder engagement under the project. Structured interviews will allow for the Project Team to interact directly with the stakeholder group and obtain detailed information.

The main objective of interviews is to obtain qualitative data on the subject matter and to further understand perspectives which might not at first be apparent to the Project Team. However, one major constraint of interviews is that they can be time-consuming. To ensure maximum efficiency, the Project Team will focus on the standard list of questions developed for the questionnaire, described below, as a basis for conducting interviews while allowing a degree of flexibility to the interviewer to interact with the interviewee.

Interviews will also be the main form of consultation when engaging with high-level government and business stakeholders, given that response rates tend to be higher in interviews than in alternative methods of stakeholder engagement such as questionnaires. The Project Team will leverage its networks in government institutions/regulatory authorities, trade unions/organisations representing trade unions, social partners, NGOs and other bodies in order to identify contacts and schedule meetings.

One-on-one meetings will also be conducted alongside the Civil Society Meetings in Seoul and Brussels, the workshop in Seoul and the Seminar in Brussels.

3.2. Questionnaire

The main advantage of using questionnaires is in their ability to gather large volumes of standardised information with a relatively efficient use of budgetary and personnel resources. In addition, stakeholders are given more time to prepare responses, allowing them to gather and utilise information that may not be readily available during an interview. However, major drawbacks of using questionnaires include the generally low response rates as well as the rigidity in this form of feedback. Inevitably, in some cases the questions asked may not be entirely applicable to the stakeholder. In order to minimise these risks and aim for a high rate of response, the Project Team will follow up with survey recipients via email or telephone calls where feasible.

The Project Team has produced a draft stakeholder questionnaire, which is available separately for consultation, but which will be included in Annex II after approval. The Project Team has attempted to include questions that will provide useful feedback for the ongoing discussions on the relevant issues, and collect as much data as possible.

The questionnaire will primarily be distributed through email, but also in hard copy during the civil society meetings in Seoul and Brussels and the Workshop in Seoul.
The EU adopts many good practices for democratic decision making, placing a high priority on considering the input of business and civil society stakeholders.

To maintain the study's standards of quality, relevance and credibility, a draft version of the questionnaire will be first examined by the Contracting Authority and Korean Government, then it will be presented at the civil society meetings in Brussels and Seoul. Any input received from the Contracting Authority, Korean Government as well as attending stakeholders and experts will be incorporated into the final version of the questionnaire.

3.3. Dedicated website for the Project

The Project Team is in the process of launching a dedicated website at www.korea-euilo111.com. The project website will serve as a communication platform and will be used to communicate information related to the project to the relevant stakeholders. The website will include the following key features:

- **Publication** of relevant information concerning the project’s progress, such as the workshop and the seminar, and background information after approval;
- **Timeline** for the project and its key deliverables;
- **Newsfeed** with updates on the project and events;
- **Detailed information on events** (civil society meetings, workshop and seminar);
- **Built-in questionnaire functionalities** for online stakeholder consultation;
- **Online comments form** for stakeholder engagement to permit the involvement of civil society;
- **Dedicated email address** for the project (inquiries@korea-euilo111.com);
- The website will be in **English**;

The website will be updated to coincide with the completion of each phase and the main project deliverables. The project website will ensure long-term visibility of the project through its continued maintenance for 12 months following completion of the project.

An information depository (“resources” page) within the project website will house project documentation (reports, workshop and seminar and publication/documentation sources).

The Project Team is in the process of launching a LinkedIn account, a Twitter account and a Facebook page for the project. These platforms will help to share knowledge with relevant stakeholders in both Korea and the EU about the civil society meetings, workshop and seminar.

3.4. Civil Society Meetings

At the beginning and towards the end of the project there will be three or four half-day public meetings, also referred to as Civil Society Meetings, in Brussels and Seoul. These meetings serve to share knowledge with relevant stakeholders and to inform them of objectives, planned activities and progress made on the project. They furthermore provide an opportunity for civil society to provide feedback to and interact with the Project Team, the Korean Government and the EU.
The first set of Civil Society Meetings will take place after submission of the Draft Inception Report, which will be made available to external stakeholders prior to the meetings. During these first meetings, the Project Team will present the scope of the project, its methodology and planned activities and will raise initial interest among stakeholders to participate in the workshop and the seminar.

The second Civil Society Meeting(s) will take place after submission of the Draft Final Report, which will be made available to external stakeholders on the project website prior to the meeting(s). During these meeting(s), the Project Team will present and discuss the draft study and its key findings with the relevant stakeholders.

### 3.5. Workshop, Seoul

One full-day workshop with both international and Korean participation will be held in Seoul to share knowledge with stakeholders for the project and the joint efforts undertaken by Korea and the EU to address shortcomings in the implementation of ILO Convention no. 111. The workshop will serve to engage interested stakeholders and promote dialogue, allowing them to contribute their knowledge and expertise to the study.

The Interim Report will be made available on the project website two weeks prior to the workshop to facilitate discussion among workshop participants. The Interim Report will include preliminary findings and orientations, as well as short-listed issues selected for deeper analysis.

The discussions, output and outcomes of this workshop will feed into the final study.

**Workshop details**

**Date:** TBC  
**Location:** Seoul, Korea

The Project Team will invite 20 to 40 relevant stakeholders, including members of the Korean and EU Domestic Advisory Groups (DAGs), government officials and experts from NGOs, academia and international organisations, including the ILO. To facilitate discussion and allow participation of stakeholders from both Korea and the EU, interpretation from and to English and Korean will be provided.

Key experts will present the intermediate findings of the project and the Interim Report. The main challenges and areas of improvement for the implementation of ILO Convention no. 111 will also be outlined. Workshop participants will then be invited to comment on the work delivered during the interim project phase and ask questions.

All workshop participants will be invited to complete a workshop evaluation form outlining their views on the workshop just prior to the closing remarks. The evaluation will be designed to capture feedback of technical relevance for the assessment and the merits of the workshop and the logistic, content and areas of future improvement. The summary of the results will be used for the workshop report and will be reported to DG Trade as part of the final report.

The agenda and experts for the presentations and panel discussions will be decided upon in close consultation with the Contracting Authority and the Korean Government.

3.6. Seminar, Brussels

Following the publication of the Draft Final Study, one full-day closing seminar will be held in Brussels to present and discuss the findings and policy implications of the final study to enhance compliance with ILO Convention no. 111.

The Draft Final Study will include detailed analysis and research on the implementation of ILO Convention no. 111 and a set of policy implications and suggestions to the Korean Government, the EU and the EU Member States on ways to enhance compliance with ILO Convention no. 111.

The seminar will bring together 50 to 60 governmental and non-governmental stakeholders, including members of the Korean and EU Domestic Advisory Groups (DAGs) and experts of NGOs, academia and international organisations, including the ILO. These will include most participants from the workshop in Seoul. To facilitate discussion, interpretation from and to English and Korean will be provided.

Key experts will present the final findings of the project and the Final Study. They will present and discuss the key policy implications to Korea, the EU and the EU Member States and further actions to be taken to enhance compliance with ILO Convention no. 111. Seminar participants will then be invited to comment on the final study and to ask questions.

All seminar participants will be invited to complete a seminar evaluation form outlining their views on the seminar just prior to the closing remarks. The evaluation will be designed to capture feedback of technical relevance for the assessment and the merits of the workshop and logistics, content and areas of future improvement. The summary or the results will be reported to DG Trade as part of the Final Study.

The agenda and experts for the presentations and panel discussions will be decided upon in close consultation with the Contracting Authority and the Korean Government.
4. Project timeline

Below is an illustrative timeline for the delivery of the project objectives outlined above. In addition, this section outlines the major inputs, activities and outputs being delivered by the Project Team. The Team has organised the project timeline into three phases: the first focuses on project preparation and planning, the second on implementation of stakeholder outreach, modelling, and case studies, and the third and final phase focuses on the final study. This is illustrated in the below flow diagram.

4.1. Phase 1 (months 1-2)

In Phase 1 the Project Team has been working to develop a framework for delivery of the research and have designed and begun the stakeholder outreach activities,
designing the website, the questionnaire and developing relationships with relevant stakeholders. The website and questionnaire is to be launched following feedback from the Contracting Authority and Korean Government.

In addition, the Project Team has focused on a review of relevant academic background information and data and on the preparation and methodology refinement required to conduct the research planned for Phase 2. Work has included a first round of contact with stakeholders and partners from the team’s extensive network. Phase 1 will also include the first two civil society dialogues in Brussels and Seoul. In Phase 1 the Project Team will produce detailed plans for the Workshop in Seoul.

The following section outlines the major inputs, activities and outputs being delivered by the Project Team in Phase 1:

**Inputs**

- Refine contact database;
- Prepare initial contact literature for key stakeholders (for further consultation at a later stage);
- Preparing templates for data gathering (questionnaires and interviews formats);
- Website creation and launch;
- Preparation of the agenda and presentations for the first civil society meetings in Brussels and Seoul;
- Initial planning input on the Workshop in Seoul and Seminar in Brussels;
- Gathering literature sources;
- Set strategic framework for collecting input from local perspectives;

**Activities**

The Project Team has commenced consultation work with the stakeholder network. The website has been designed and populated, and will be launched in the coming weeks. The Project Team is conducting a literature review of the policy and regulatory environment as well as the progress and status of implementation of the convention in Korea and the EU member states.

**Outputs**

- Project website (draft delivered)
- Questionnaire (to be posted on project website)
- Stakeholder consultation network contact list (draft delivered in Annex III)
- Organisation the first two civil society dialogues
- Inception report (draft and final)
- Report on civil society dialogue
- The kick-off meeting has been scheduled for July 1\textsuperscript{st} 2016.
4.2. Phase 2 (months 3 to 4)

Phase 2 of the study will focus on research content development, literature review, stakeholder outreach and methodology refinement. Phase 2 will entail a significant portion of the project’s core research and analytical delivery in addition to the Workshop in Seoul. Stakeholder outreach work will be central to the overall research process. The following section outlines the major inputs, activities and outputs to be delivered by the Project Team in Phase 2.

Inputs

- Desk research and outreach on key issues
- Use of stakeholder consultation results and existing literature to undertake qualitative research
- Subsequent rounds of qualitative impact assessment based on results of first and civil society dialogues and Workshop in Seoul

Activities

During Phase 2, the Project Team will liaise with a wide range of experts and stakeholders in Europe and Korea, to solicit comments on key issues. During this phase, the team will also plan and deliver the Workshop in Seoul.

At the start of Phase 2, the draft Interim Report will be submitted and discussed with the Contracting Authority and Korean Government. Following their feedback, the Project Team will revise and finalise the Interim Report taking into consideration comments given at the meeting and those received online or through the consultation network. Once finalised, the Interim Report will be shared with relevant stakeholders.

The Project Team will contact sector experts in target regions in order to seek signposting on key issues.

Outputs

- Draft Interim Technical Report
- Final invitations, agenda, list of participants & speakers, full minutes and presentations of the workshop in Seoul
- Workshop in Seoul
- Publication of workshop report
- Updates on the project website

4.3. Phase 3 (month 5 to 6)

Phase 3 will deliver a final round of qualitative analyses outputs for the comparative study to form the Draft Final Study. Following the publication of the Draft Final Study, the second Civil Society Meetings will be held in Brussels / Seoul. This phase will capture the final feedback and comments received online. The Final Study will also be presented at a Seminar in Brussels.
This section outlines the major inputs, activities and outputs to be delivered by the Project Team during Phase 3:

**Inputs**

- Report consolidation
- Revised qualitative analysis for development of flanking measures and policy impact assessment

**Activities**

Feedback from the Workshop during Phase 2 will lead to updates to the assessment methodologies to ensure that analysis and conclusions are targeted. Following the rounds of research, the Project Team will work to develop a set of policy implications and suggestions to enhance implementation of ILO Convention no. 111 in Korea and the EU Member States.

The Draft Final Study will be released at the beginning of Phase 3 and will be presented soon after at the second Civil Society Meetings in Brussels and Seoul to solicit feedback, primarily on the set of policy implications and suggestions. Feedback from these two meetings will be incorporated into the Final Study, which will be published in month 6 of the project, in advance of the Seminar in Brussels.

**Outputs**

- Draft Final Report
- Report and presentation for Second Civil Society Meeting in Brussels
- Minutes of Second Civil Society Meeting in Brussels
- Final Report

Below in table 4 is a draft overall timeline of project activates, as described above.
## Table 4: Overall project timeline of phases and key deliverables

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<th>Project Tasks</th>
<th>Month</th>
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Annex I - ILO Convention 111, Convention concerning Discrimination in Respect of Employment and Occupation (1958)

Preamble

The General Conference of the International Labour Organisation,

Having been convened at Geneva by the Governing Body of the International Labour Office, and having met in its Forty-second Session on 4 June 1958, and

Having decided upon the adoption of certain proposals with regard to discrimination in the field of employment and occupation, which is the fourth item on the agenda of the session, and

Having determined that these proposals shall take the form of an international Convention, and

Considering that the Declaration of Philadelphia affirms that all human beings, irrespective of race, creed or sex, have the right to pursue both their material well-being and their spiritual development in conditions of freedom and dignity, of economic security and equal opportunity, and

Considering further that discrimination constitutes a violation of rights enunciated by the Universal Declaration of Human Rights,

adopts this twenty-fifth day of June of the year one thousand nine hundred and fifty-eight the following Convention, which may be cited as the Discrimination (Employment and Occupation) Convention, 1958:

Article 1

1. For the purpose of this Convention the term discrimination includes--

   (a) any distinction, exclusion or preference made on the basis of race, colour, sex, religion, political opinion, national extraction or social origin, which has the effect of nullifying or impairing equality of opportunity or treatment in employment or occupation;

   (b) such other distinction, exclusion or preference which has the effect of nullifying or impairing equality of opportunity or treatment in employment or occupation as may be determined by the Member concerned after consultation with representative employers' and workers' organisations, where such exist, and with other appropriate bodies.

2. Any distinction, exclusion or preference in respect of a particular job based on the inherent requirements thereof shall not be deemed to be discrimination.

3. For the purpose of this Convention the terms employment and occupation include access to vocational training, access to employment and to particular occupations, and terms and conditions of employment.

Article 2
Each Member for which this Convention is in force undertakes to declare and pursue a national policy designed to promote, by methods appropriate to national conditions and practice, equality of opportunity and treatment in respect of employment and occupation, with a view to eliminating any discrimination in respect thereof.

**Article 3**

Each Member for which this Convention is in force undertakes, by methods appropriate to national conditions and practice--

- (a) to seek the co-operation of employers' and workers' organisations and other appropriate bodies in promoting the acceptance and observance of this policy;
- (b) to enact such legislation and to promote such educational programmes as may be calculated to secure the acceptance and observance of the policy;
- (c) to repeal any statutory provisions and modify any administrative instructions or practices which are inconsistent with the policy;
- (d) to pursue the policy in respect of employment under the direct control of a national authority;
- (e) to ensure observance of the policy in the activities of vocational guidance, vocational training and placement services under the direction of a national authority;
- (f) to indicate in its annual reports on the application of the Convention the action taken in pursuance of the policy and the results secured by such action.

**Article 4**

Any measures affecting an individual who is justifiably suspected of, or engaged in, activities prejudicial to the security of the State shall not be deemed to be discrimination, provided that the individual concerned shall have the right to appeal to a competent body established in accordance with national practice.

**Article 5**

1. Special measures of protection or assistance provided for in other Conventions or Recommendations adopted by the International Labour Conference shall not be deemed to be discrimination.

2. Any Member may, after consultation with representative employers' and workers' organisations, where such exist, determine that other special measures designed to meet the particular requirements of persons who, for reasons such as sex, age, disablement, family responsibilities or social or cultural status, are generally recognised to require special protection or assistance, shall not be deemed to be discrimination.

**Article 6**
Each Member which ratifies this Convention undertakes to apply it to non-metropolitan territories in accordance with the provisions of the Constitution of the International Labour Organisation.

**Article 7**

The formal ratifications of this Convention shall be communicated to the Director-General of the International Labour Office for registration.

**Article 8**

- 1. This Convention shall be binding only upon those Members of the International Labour Organisation whose ratifications have been registered with the Director-General.

- 2. It shall come into force twelve months after the date on which the ratifications of two Members have been registered with the Director-General.

- 3. Thereafter, this Convention shall come into force for any Member twelve months after the date on which its ratification has been registered.

**Article 9**

- 1. A Member which has ratified this Convention may denounce it after the expiration of ten years from the date on which the Convention first comes into force, by an act communicated to the Director-General of the International Labour Office for registration. Such denunciation shall not take effect until one year after the date on which it is registered.

- 2. Each Member which has ratified this Convention and which does not, within the year following the expiration of the period of ten years mentioned in the preceding paragraph, exercise the right of denunciation provided for in this Article, will be bound for another period of ten years and, thereafter, may denounce this Convention at the expiration of each period of ten years under the terms provided for in this Article.

**Article 10**

- 1. The Director-General of the International Labour Office shall notify all Members of the International Labour Organisation of the registration of all ratifications and denunciations communicated to him by the Members of the Organisation.

- 2. When notifying the Members of the Organisation of the registration of the second ratification communicated to him, the Director-General shall draw the attention of the Members of the Organisation to the date upon which the Convention will come into force.

**Article 11**

The Director-General of the International Labour Office shall communicate to the Secretary-General of the United Nations for registration in accordance with Article 102 of the Charter of the United Nations full particulars of all ratifications and acts of denunciation registered by him in accordance with the provisions of the preceding Articles.
Article 12

At such times as it may consider necessary the Governing Body of the International Labour Office shall present to the General Conference a report on the working of this Convention and shall examine the desirability of placing on the agenda of the Conference the question of its revision in whole or in part.

Article 13

- 1. Should the Conference adopt a new Convention revising this Convention in whole or in part, then, unless the new Convention otherwise provides:
  - (a) the ratification by a Member of the new revising Convention shall ipso jure involve the immediate denunciation of this Convention, notwithstanding the provisions of Article 9 above, if and when the new revising Convention shall have come into force;
  - (b) as from the date when the new revising Convention comes into force, this Convention shall cease to be open to ratification by the Members.
- 2. This Convention shall in any case remain in force in its actual form and content for those Members which have ratified it but have not ratified the revising Convention.

Article 14

The English and French versions of the text of this Convention are equally authoritative.

Available on the website of the ILO here:
Annex II – Questionnaire

Currently under review.