



International
Labour
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Geneva



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**LABOUR INSPECTION:
WHAT IT IS AND
WHAT IT DOES**

> A GUIDE FOR EMPLOYERS



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A GUIDE FOR EMPLOYERS



INTRODUCTION

Changes in the structure of labour markets and in employment relationships have led to sudden changes in the reorganization of labour inspectorates. In particular, labour inspectorates have to respond in a more efficient way by ensuring compliance through preventive measures, advice and the detection of labour law infractions. Many of these changes - including subcontracting, outsourcing and increases in undeclared or illegal work - are linked to the emergence of new business models and modes of production, globalization and increased labour migration, as well as technological advances.

Sudden and widespread disruptions in national labour markets, linked to the current financial and economic crisis, have tested the ability of labour inspectorates to promote and ensure compliance with labour law. There have been redundancies, plant closures and a variety of temporary crisis-related work arrangements (such as work sharing, job sharing, and partial unemployment). Labour inspection responses have been mixed. In some countries, there have been cuts in operational budgets and in the number of inspectors, as part of broader governmental efforts to reduce expenditures. The reverse has been true in other countries, where governments have strengthened inspection services despite cost-cutting pressures, recognizing the importance of a strong inspectorate during periods of labour market turmoil.

In general, labour inspection reform has not been a major policy response adopted by national governments to address the crisis. However, the role of labour inspection in protecting workers has certainly increased during this period, and this has perhaps accelerated efforts on the part of some governments to build up the capacity and effectiveness of inspec-

torates. In this context, “this Guide for Employers” is most welcome. It will particularly prove useful as good knowledge of the labour inspection issues and implications can contribute to national progress through its efforts in preventing accidents at work, protecting workers and improving their working conditions. Efficient labour inspectorates have the potential to enhance labour productivity by guaranteeing a decent working environment. This is in the interest of both workers and employers alike.

Labour inspection remains one core instrument for promoting the ILO Decent Work Agenda into practice and has the pivotal role in promoting compliance with principles and rights stemming from international labour standards.

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WHAT IS THE ILO?

The International Labour Organization (ILO) is the only “tripartite” United Nations agency, in that it brings together representatives of governments, employers and workers to jointly shape policies and programmes aimed at promoting rights at work, encouraging decent employment opportunities, enhancing social protection and strengthening dialogue in work-related issues.

The ILO is the global body responsible for drawing up and overseeing international labour standards. ILO standards take the form of international labour Conventions and Recommendations. ILO Conventions are international treaties, subject to ratification by ILO member States. Recommendations are non-binding instruments – often dealing with the same subjects as Conventions – which set out guidelines orienting national policy and action. Both forms are intended to have a concrete impact on working conditions and practices around the world. Working with its 183 member States, the ILO seeks to ensure that labour standards are respected in practice as well as in principle.

The ILO has four principal strategic objectives:

1. to promote and realize standards and fundamental principles and rights at work;
2. to create greater opportunities for women and men to secure decent employment;
3. to enhance the coverage and effectiveness of social protection for all; and
4. to strengthen tripartism and social dialogue.

The two most important ILO Conventions on labour inspection, the Convention No. 81 on Labour Inspection and the Convention No. 129 on Labour Inspection (Agriculture), (both having main relevance with Governance) have been designated in the 2008 ILO Declaration on Social Justice for a Fair Globalization (the Social Justice Declaration). The Social Justice Declaration invites ILO Members to review their situations with regard to the ratification or implementation of these instruments, amongst others. These Conventions play a pivotal role in maintaining and promoting decent conditions of work through an efficient and effective labour inspection system; such a system is an essential means of ensuring the long-term sustainability of social and economic development and continuous improvements in the realization of decent work.

The ILO helps to establish such efficient and effective labour inspection systems in member States to ensure compliance with labour laws relating to conditions of work and the protection of workers; this includes general conditions of work, occupational safety and health, industrial relations, equality of opportunity and treatment, the elimination of child labour and forced labour, etc.

The right of workers to decent working conditions is a fundamental human right, one that the ILO has sought to promote ever since its creation in 1919.

WHAT IS LABOUR INSPECTION?

Labour inspection is a public function of labour administration that ensures the application of labour legislation in the workplace. Its main role is to convince the social partners of the need to observe the law at the workplace and their mutual interest in this regard, through preventive, educational and, where necessary, enforcement measures.

Ever since the appointment of the first labour inspectors in the United Kingdom in 1833, labour inspectorates have been established in almost every country in the world. For about 175 years, labour inspectors have gone about their work improving working conditions. Their achievements across the world have been many and their record has been one to be proud of.

Inspection services are organized differently from country to country and resource allocation also varies because of different levels of economic development, political and professional support and different national priorities and so on. Nevertheless,

the functions of labour inspection services are often broadly similar worldwide, corresponding closely to those laid down in ILO Conventions.

In the world of work, labour inspection is the most important instrument of state presence and intervention to design, stimulate, and contribute to the development of a culture of prevention covering all aspects potentially under its purview: industrial relations, wages general conditions of work, occupational safety and health, and issues related to employment and social security.

Nowadays, labour inspectorates perform their duties in a challenging environment involving important changes in the economic and social context, in industrial developments; in the organization of labour and employment relationship; in the social and political expectations, in technology and in the nature of work hazards.

Labour inspection services promote and ensure compliance with national legislation, in such areas as occupational safety and health, working conditions and other aspects of the employment relationship. These services also help to increase the effectiveness of employment policies at the enterprise level, preventing the conflict and promoting social peace.

HOW AND WHERE DID LABOUR INSPECTION BEGIN?

Labour legislation is a consequence of the industrial revolution that began in Europe at the end of the eighteenth century and continued throughout the nineteenth. The whole of the nineteenth century was marked by innumerable strikes and riots, and often degenerating into violent revolts which led Governments, to realise that the State should intervene in the organisation of labour relations and the determination of working conditions. Labour inspection services were set up and developed to supervise the application of the first protective laws.

The earliest national legislation for improving working conditions dates from 1802 when the British parliament passed an “Act to preserve the morals of apprentices”, where “morals” were defined in terms of safety, health and welfare, and the “apprentices” were child workers. Voluntary committees made up of local notables supervised the application of the Act. For various reasons, the application of the Act was ineffective and in 1833, the government appointed the first four “inspectors”. In 1844, the inspectors became civil servants. This system was subsequently copied throughout Europe, with variations due to the national administrative custom. What existed during those decades was a proliferation of different practices and a wide diversity in the powers and duties of the inspection services.

In 1890, representatives of 15 countries attended a conference in Berlin to adopt the first standards for improving working conditions and for inspection services. That conference affirmed that laws in each State should be supervised by an adequate number of specially qualified officers, appointed by government and independent of employers and workers. This initiative

was given further impetus with the creation of the ILO in 1919. Actually, Part XIII of the Treaty of Versailles, which was to become the Constitution of the ILO, declared that an improvement of conditions of labour was urgently required and stressed that the failure of any nation to adopt humane conditions of labour was an obstacle in the way of other nations which desired to improve the conditions in their own countries. The Treaty stated that it was particularly important that “each State should make provision for a system of inspection (...), in order to ensure the enforcement of the laws and regulations for the protection of the employed”.

At its First Session in 1919, the International Labour Conference was already showing the importance it attached to labour inspection by expressing the wish that Members should establish, as soon as possible, not only a system of efficient factory inspection, but also a government service specially charged with the duty of safeguarding the health of the workers. Four years later, the Conference adopted the Labour Inspection Recommendation, 1923 (No. 20), which laid down the general principles for the organisation and

In 1833, the British Government appointed the first labour inspectors who paid particular attention to the long working hours for adults and children. In 1919, the Treaty of Versailles stated that it was particularly important that “each State should make provision for a system of inspection in order to ensure the enforcement of the laws and regulations for the protection of the employed”.

HOW AND WHERE DID LABOUR INSPECTION BEGIN?

functioning of national systems of inspection. Although it was a Recommendation rather than a Convention and thus not binding for member States, it paved the way for the later adoption of much more comprehensive instruments for labour inspection, including Convention Nos. 81 and 129 and their accompanying Recommendation Nos. 81 and 133, in 1947 and 1969, respectively.

The size and complexity of labour inspectorates continued into the twentieth century, initially in industrialised countries and latterly in developing countries, which often modelled their inspectorates' organisation on those of the former colonial powers. The responsibilities of inspector-

ates have also broadened considerably over recent decades to cover a wider range of economic sectors and also technical and employment issues. Thus, modern-day inspectorates may spend much more time than in the past on topics such as work-related stress, violence at work, illegal employment or forced labour, and less time on traditional topics such as boiler or crane safety, or industrial disputes.

In more recent decades, labour inspection systems have gradually become better established and better resourced, and their real contribution to improving working conditions has become more widely recognized at national and international levels.

HOW DOES THE ILO HELP STRENGTHEN LABOUR INSPECTION SERVICES?

Convention No. 81, which applies to industry and commerce, remains the principal international reference for labour inspection services and is as relevant today as it was over 60 years ago. It has become one of the most widely ratified of all ILO Conventions (141 countries) and has served as a model for most national laws and regulations creating modern inspection systems. Convention No. 81 and Recommendation No. 81, taken together, clearly constitute the rules to be applied in the field of labour inspection.

Convention No 129, which applies to agriculture, repeats in essence the provisions of Convention No 81 while enlarging the scope of the enterprises and workers covered as well as the areas of competency of the labour inspection system.

Convention Nos. 81 and 129 define the functions, duties and responsibilities of labour inspection systems, requirements for the recruitment of staff, means of action for inspectors, enforcement powers and obligations of inspectors in relation to ethics and reporting on activities. They also provide for the reporting of accidents and diseases. The Labour Inspection Recommendation 1947 (No. 81) gives further details as to what information should be included in annual reports and contains further guidance for collaboration between inspectors, employers and workers, mainly in the area of safety and health.

What are the main functions entrusted to labour inspection under the ILO Conventions?

- a. to secure the enforcement of the legal provisions relating to conditions of work and the protection of workers while engaged in their work, such as provisions relating to hours, wages, safety, health and

welfare, the employment of children and young persons, and other connected matters, in so far as such provisions are enforceable by labour inspectors; legal provisions include arbitration awards and collective agreements upon which the force of law is conferred and which are enforceable by labour inspectors;

- b. to supply technical information and advice to employers and workers concerning the most effective means of complying with the legal provisions; and
- c. to bring to the notice of the competent authority defects or abuses not specifically covered by existing legal provisions.

The obligations set in the Conventions are binding while allowing for a large degree of flexibility with regard to their scope. In this regard, differences can be observed from country to country in the extent and nature of the legislation covered, and the powers conferred on the inspectors. The powers of the inspectors may relate to all legislation dealing with working conditions and the working environment or may be restricted to certain matters, for example, safety and health or wages. The system can cover all sectors of the economy or only some of them; it can cover the whole of the national territory or only part of it. The tasks of the national inspection services can be narrowly restricted or extremely wide, depending on the country, and still meet the international definition of the purposes of inspection, as long as the main labour inspection functions defined above are properly ensured.

Member States have become increasingly aware of the need for stronger and more effective labour inspection services in order to meet the challenges of a rapidly changing

HOW DOES THE ILO HELP STRENGTHEN LABOUR INSPECTION SERVICES?

global economy, and the ILO provides technical assistance where called for.

Since 2006, the ILO supports a global strategy for the “modernisation and reinvigoration” of labour inspection. An ILO programme has been established to assist constituents in promoting decent work by strengthening labour administration

machinery, including labour inspection, to make them more effective. The strategy includes a number of activities at both global and national levels, such as helping member States to undertake audits of labour inspectorates, develop national action plans to enhance the effectiveness of labour inspection, and secure training for labour inspectors.

ILO Conventions Nos. 81 and 129

Benchmarks for effective labour inspection under this universal standard are:

- labour inspection should be organized as a system applying to all workplaces in respect of which legal provisions relating to conditions of work and the protection of workers are enforceable;
- labour inspection should be placed under the supervision and control of a central authority so far as is compatible with the administrative practice of the country;
- it should ensure both educational and enforcement functions in relation to conditions of work (such as hours of work, wages, safety, health and welfare, the employment of children and young persons and other connected matters) and alert the competent authorities of any defects or abuses not covered by existing relevant legal provisions;
- inspectors must be public officials assured of the stability of employment and independent of changes of government and improper external influences;
- they must be recruited with the sole regard to their qualifications and they must be adequately trained for the performance of their duties;
- their number must be sufficient to secure the effective discharge of these duties in regard to, inter alia, the number, nature, size and situation of workplaces, the number of workers employed, and the number and complexity of the legal provisions to be enforced;
- they must be properly equipped with local offices and transport facilities and measurement material;
- they must be provided with proper credentials and be legally empowered.
- workplaces must be inspected as often and as thoroughly as is necessary to ensure the effective application of relevant legal provisions.
- inspectors should supply information and advice to employers and workers on how to comply with the law;
- adequate penalties for violations of legal provisions enforceable by labour inspectors and for obstructing labour inspectors in the performance of their duties must be provided for by national laws and regulations and must be effectively enforced; and
- operative performance of the labour inspection system can be achieved through effective cooperation with other government services and private institutions engaged in labour protection as well as with employers and workers and their organizations.

HOW DOES LABOUR INSPECTION WORK?

What is the purpose of labour inspection services?

The primary mission of any system of labour inspection is to ensure compliance with relevant labour laws meaning the set of national standards designed to protect all workers and where appropriate, their families. Modern systems also cover the self-employed and the environment from certain work-related hazards.

The main purposes of labour inspection include the need to ensure that:

- relevant labour legislation is respected in workplaces with a view to achieving decent employment and working conditions;
- employers and workers get information and guidance about how to comply with legal requirements;
- enterprises adopt adequate measures to ensure that work practices and environment do not put employees into safety and health risks; and
- feedback information and lessons learnt from the practice are used as a means of developing legislation to improve the legal coverage, taking into account new social, physical and psychological work-related risks.

How do labour inspectors ensure decent working conditions?

There is a range of means at the disposal of labour inspection to achieve the desired result of decent working conditions. The two main methods are enforcement of law (which is traditionally perceived as control

or supervision) and preventive measures. There is no contradiction between prevention, on the one hand, and control and sanction, on the other. The law was written so that risks would not be taken and so that disastrous consequences would not take place. This is also, by definition, the purpose of a policy of prevention.

Labour inspection services are increasingly devising and implementing prevention policies, which focus on the responsibility of both employers and workers. The idea behind it is that initially eliminating poor working conditions or minimizing risks is more beneficial than systematically having to resort to sanctions because such conditions exist. Prevention in the context of labour protection means a determined effort to help workers and employers to avoid or eliminate the risk of accidents and diseases, labour disputes, conflicts and unfair treatment of workers, etc. In preventing these categories of risk, labour inspection services avoid or reduce human, social or economic losses for the individual, the enterprise or society as a whole. In practical terms, the preventive role of the inspection services implies an increasing emphasis on proactive activities (carrying out planned inspection visits for such purposes as education, assessing plans for new buildings, plant, equipment and processes, etc.). Proactive preventive action is complemented by reactive activities, mainly consisting in investigation after accidents have occurred or reaction to complaints.

Labour inspection services achieve decent working conditions through law enforcement and preventive measures.

The promotion of a prevention culture in the enterprises themselves, among employers and workers, is recognized as a long-term and essential objective of labour inspection systems.

How do inspection services ensure the enforcement of labour law?

Inspection services ensure the effective application of legal provisions through two main functions: (1) securing enforcement and (2) supplying information and advice to employers and workers. These tasks of inspection, information and the provision

of advice are closely connected and are often found together.

The enforcement functions of labour inspectorates vary considerably from country to country, but labour inspectorates tend to perform both proactive (planning monthly and annual, national, field and sectoral inspection activities, identifying cases of non-compliance and taking corrective action), and reactive functions (dealing with complaints, accidents, incidents and disputes).

Since enterprises are expected to observe certain laws and regulations, inspection services are responsible for verifying

Enforcement has a dual nature: it includes an advisory as well as an inspectorial function.

Labour inspection services give much information and advice to employers, workers and others, through workplace visits, a function that is vital to the effective working of the organization. Where necessary and frequently as a last resort, inspectors may use their injunction powers and take formal enforcement action in order to achieve compliance with the law.

A new approach was adopted in the Netherlands to coincide with the new Working Conditions Act that came into effect on January 1, 2007. Before carrying out an inspection, the inspection service now sends out a booklet to businesses that it intends to visit, containing an overview of the regulations and risks for the sector concerned. The inspection service also indicates which standards will apply during the inspection. To emphasize the cooperative aspect of this new approach, the Inspectorate also supplies examples of practical solutions to hazardous working conditions. The Inspectorate stresses that the aim of the service is not to hand out warnings and fines, but to make improvements in the workplace. For more information see

http://osha.europa.eu/fop/netherlands/en/nl_developments/nieuwe_aanpak_arbeidsinspectie

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how far they actually do so. Although law enforcement is based essentially on inspection visits to workplaces, inspection tasks can also take other forms depending on the inspection system adopted by the country and its precise purpose (for example, requiring employers to arrive to inspection offices).

While the primary mission of labour inspection is to ensure that employers comply with the law by managing and preventing risks effectively, sanctions remain an essential part of enforcement.

There is wide range of sanction schemes available, which can include verbal or

written warnings, administrative orders, administratively imposed monetary fines, increased regulatory burden and go as far as prosecution as a means of last resort. The appropriate use of enforcement powers is important both to secure compliance with the law when other measures have failed, and to ensure that those who have duties under it are held accountable for failures.

Information, advice and education to employers and workers contribute to ensuring the application of the legislation, in addition to enforcement. Inspectors do not restrict themselves to carrying

In Brazil, the intervention of labour inspectors has not only helped firms bring their practices into compliance with the law but has also promoted innovative legal and/or technical solutions which in some cases, enhanced firms' competitiveness and productivity.

Due to widespread violations of national legislation (informality, poor working conditions, high rate of occupational accidents, etc), labour inspectors in the area of Minas Gerais started to issue hundreds of fines and threats of criminal lawsuits against fireworks firms. Their policies also included seizures of farmers' estates (grain and seed production) for purposes of land reform. Parallel to this, labour inspectors provided technical and legal assistance that was decisive in promoting compliance. In the case of agriculture, alternative hiring arrangements for temporary harvest workers were developed which were less costly to the farmers and lead to formalizing 65,000 workers in 2001. In the fireworks industry, compliance with the health and safety standards improved working conditions and reduced working accidents to one a year (previously six per year). Inspectors also provided assistance in the upgrading of the product resulting in a viable competitive strategy in the international market. Additionally, with the support of the labour inspectors the firework firms set up in 2006, a quality certification scheme that requires the same quality standards for imported products, and has been a major step towards improving the ability to compete in the global markets without lowering industry standards.

For more information, see Roberto Pires, "Promoting sustainable compliance: Styles of labour inspection and compliance outcomes in Brazil" in *International Labour Review*, Vol. 147 (2008).

out a retrospective supervision to ensure that everything is in order. They may, for example, give advice about the measures to be taken to ensure safety, to explain the legal requirements concerning the payment of wages, to indicate where and how medical examinations can be carried out, to demonstrate the importance of limiting work hours and to discuss existing or potential problems with the employer.

The supply of this information can be done through such means as providing advice and information during the inspection visits, upon written or verbal requests, education campaigns (courses, conferences, TV and radio broadcasts, exhibitions posters, pamphlets, films) etc. In many countries, the supply of information and advice is institutionalized to a large extent, especially with regard to occupational safety and health and also where new important legal provisions have been adopted. Labour inspectorates are increasingly using the possibilities offered by modern information technology to provide technical information and advice on the content of the labour legislation and the most effective means of complying with it.

Due to its educational nature, the function of supplying information and advice can exert an influence beyond the case in question and play a part in prevention: its effects can be felt on other, similar, or even different, cases and can entail improvements going further than the legal requirements.

Inspectors determine what means (advice, warnings or legal proceedings, or a combination of these) will best ensure that the law is observed. The choice should ideally fit in with the nature of the workplace and the specific circumstances of the inspection activity. Labour inspectors draw up reports, which are deemed

authentic, unless they are either disproved or their authenticity is challenged before the courts. If inspectors decide on legal proceedings, they can either bring the matter before the courts directly or recommend legal proceedings.

Supervision without the threat of penalties or legal action would weaken the credibility of the labour inspection function. On the one hand, the law is imperative for all and does not allow compromise; on the other hand, the goal is not to punish offences but to have the law enforced. If labour inspection had only an advisory function it would lose its authority. At the same time, inspection without advice would be too legalistic and would be met with great reluctance. Inspection and advice should go hand-in-hand to:

- give incentives to employers to adhere to the objectives of the law and accordingly adopt a more positive attitude to the need for improvements in working conditions;
- encourage information-sharing and an exchange of best practices between enterprises;
- stimulate a dialogue between employers and workers; and
- give workers a better understanding of their rights (awareness-raising).

Why are sanctions important to promote compliance?

Deterrence is the most important purpose of sanctions and a key to promoting compliance. However, sanctions are not an end in themselves. It is more important to ensure employer cooperation and

incentives that lead to a positive attitude towards legal requirements. It would be regrettable in every respect if employers preferred to pay fines as a less costly alternative to taking positive measures to ensure compliance with legal requirements. This is why the technical and legal assistance to help employers find sustainable solutions to the problems identified by inspectors is very important.

Consumers and the general public are now less tolerant of industrial risks and of organizations that do not ensure decent working conditions. They are increasingly pressing regulators to take a firmer line with those who cause harm, and subsequently to support those who have been harmed by work activities and are pursuing compensation. They are calling for corporate social responsibility and accountability.

How does labour inspection help improve labour legislation?

Labour inspectors are active agents for social progress. In carrying out visits and exchanging with the social partners and other actors, inspectors acquire a wide knowledge of the material situation of the workers, of their working conditions, of the economic and social situation in various branches of activity and of all sorts of technical problems. Thanks to their direct knowledge and experience of the workplace, labour inspectors are ideally placed to identify gaps (outdated legislation or protection gap) in labour legislation (laws and regulations) and to

propose remedial action. Actually, one of the main functions of labour inspectors is to bring to the notice of the competent authority defects or abuses not specifically covered by existing legal provisions. Their role is to analyse the situation, point to the consequences of present legislation and practices and their weaknesses and suggest what improvements are needed. The defects noted can result from the unsuitability of the existing provisions or from omissions whose consequence is that the legislation does not provide proper protection either for certain classes of workers. The inspectors' knowledge of labour problems and of the workers' situation, especially concerning the protection guaranteed to the workers by the social laws and regulations, puts them in a position to keep the authorities informed.

What issues do labour inspection services oversee?

The range of regulatory oversight of labour inspection is potentially huge and varies significantly from one country to another, according to national objectives and legislation. The range of topics that labour inspectors may cover includes:

- promoting occupational safety and health including the prevention of accidents and diseases, welfare facilities;
- protection of income levels including checking wages/salaries records, overtime payments;
- checking records of working hours and overtime, holidays and rest periods including sick and maternity leave;
- promoting fundamental labour rights (e.g. combating forced labour) and

- anti-discrimination measures (e.g. with regard to gender issues or HIV/AIDS victims);
- accident investigation and work injury compensation;
 - employment matters (from illegal employment, work permits to employment promotion, including vocational training programmes). It is important to underline that all workers should be entitled to the same protection so long as they are engaged in work, regardless of their irregular employment status;
 - social security contributions;
 - employment of women, children and young persons and other workers with special needs (e.g. physically challenged); and
 - social dialogue and industrial relations issues and monitoring of collective agreements.

Many labour inspectorates only cover some of the above activities. For example, some deal exclusively with occupational safety and health or/and specific aspects of working conditions and the protection of workers (wages, child labour, annual leave, industrial relations, etc.). In some countries, inspection competences are divided between two or more inspectorates, each of them dealing with specific areas. In countries where the inspectorates are “generalists”, inspectors have a broader mandate that includes a number or all of the areas listed above.

In most countries, labour inspection is organized as a central government function with a decentralized field organization under its direct supervision and control. It will normally be part of the Ministry of Labour or its equivalent. This is because

the problems that arise in most of the sectors are very similar if not identical and also because this allows for more efficient and more economical administration. The functions of designing, monitoring and evaluating labour inspection policy may also be separated from field operations and inspection.

The legal mandates of inspectorates vary from one country to another. Their remit is potentially a vast one and may include such diverse topics as occupational safety and health, welfare, working time and wages, social dialogue, labour relations, illegal employment, discrimination issues, child labour, forced labour and more recently HIV/AIDS.

Which principles guide labour inspection?

Public service: The public service handles the problems and challenges that employers and workers face.

Accountability: Labour inspection staff are public officials assured of stability of employment and independent of improper external influences, whether political or financial. Labour inspectors are accountable for their actions and performance.

Efficiency and effectiveness: Priorities are set on the basis of appropriate criteria to maximise impact.

Universality: The aspiration of the labour inspection services is to achieve universal coverage, widening its role and activities to embrace the largest possible number of

HOW DOES LABOUR INSPECTION WORK?

working people in all economic sectors, even beyond those covered by traditional employer/employee relationships.

Transparency: Employers, workers and other stakeholders are informed of their rights and duties, what is expected of them under the law, and what they can expect from the labour inspection service.

Consistency and coherence: In labour inspection matters, inspectors will treat similar cases in similar ways under similar conditions to achieve similar prevention and compliance ends. Inspectors in all field offices are provided guidelines for common, coherent and consistent intervention approaches, including the exercise of authority, discretion and judgement.

Proportionality: Proportionality means relating enforcement action to risks. Enforcement actions are commensurate with the seriousness of the violations as well as the actual or potential risks

to health and safety. The compliance capacity of the enterprise is taken into account and the most appropriate ways of achieving the same compliance goal are considered.

Equality: Equal protection for all workers in comparable situations is ensured with regard to the law.

Cooperation: Inspection staff cooperates with other organisations and bodies to ensure the implementation of the labour law in enterprises. These include public and private organizations like technical and medical experts, engineers, architects, research institutes, educational and training organisations, police and fire authorities, as well as the justice system, insurance organisations and others.

Collaboration: Inspection staff should collaborate with employers and workers and their organisations at a national, sectoral and enterprise level.

WHO ARE LABOUR INSPECTORS AND WHAT DO THEY DO?

Labour inspectors are professional civil servants, and as such, they should be thoroughly competent and able to carry out their work in accordance with high technical standards. This implies good selection processes, high academic qualifications on entry into service and in-service training.

Obligations of labour inspectors

Integrity, Independence and Impartiality:

Inspectors are prohibited from having any direct or indirect interest in the undertakings under their supervision. In most countries, this prohibition is set out in the conditions of service of the civil servants and in special provisions. The status of public officials confers independence to labour inspectors, which must be complete in respect to both changes of government and improper external influences. The independence and impartiality of the inspectors are essential conditions if the two parties, employers and workers, are to have full confidence in their objectivity and neutrality when they are applying the law.

Inspectors have to adopt the highest standards of professional integrity, including a set of values and principles that guide their actions including trustworthiness, honesty and courtesy. Their conditions of service should be such that they are protected from any kind of corruption. This implies a prohibition of accepting gifts or services from employers or workers. Integrity guarantees the credibility of public inspectors and their actions and decisions.

Professional secrecy: Inspectors may not reveal, even after leaving the service, any manufacturing or commercial secrets or working processes, which may come to their knowledge in the course of their duties. Inspectors are generally bound to

secrecy because of their status as civil servants, in accordance with the legal provisions applicable to the civil service. This obligation is often included in the written undertaking that they have to sign or the oath that they have to swear on taking up their duties. They undertake to observe secrecy, not only for the period of their employment, but also for life. Normally, in the event of a breach of professional secrecy, inspectors are liable to disciplinary penalties in force in their public service, without prejudice to civil or penal penalties.

Labour inspectors are supervisors, advisors and enforcement agents, with an overall mission of guidance for improving both working conditions and productivity in the workplace.

Confidentiality regarding the source of complaint:

Inspectors have to treat as absolutely confidential, the source of any complaint and shall give no intimation to the employer or his representative that an inspection visit was made in consequence of the receipt of such a complaint. This obligation arises from the dual concern to protect workers who have made complaints and to render the inspector's work more effective. If this duty was not respected, workers would be reluctant to report infringements for fear of possible reprisals from employers.

Professionalism and Competency: A high standard of professionalism is required in labour inspection. Employers and workers take advice and turn to labour inspectors only if the latter are perceived as a professional and competent body from which they can learn.

The powers of labour inspectors

Right of free entry into any workplace:

The first power of the inspector - without which there would obviously be little inspection-, is that of visiting enterprises. Labour inspectors provided with proper credentials are empowered:

- to enter freely and without previous notice, at any hour of the day or night, any workplace liable to inspection; and
- to enter by day, any premises which they may have reasonable cause to believe to be liable to inspection.

Unannounced visits enable the inspector to observe actual and true conditions in the enterprise. On occasions, labour inspectors announce their visits in order to provide the employer time to get together any relevant information, alert managers and workers to the timing of the visit and arrange meetings to facilitate the inspector's visit. The disadvantages of announced visits include mainly window dressing, senior management being deliberately absent and documents being "missing". Employers and their representatives should facilitate the access of accredited inspectors to the workplaces in order for them to be able to conduct their duties efficiently. Most legislation sanctions employers that obstruct public officials in the performance of their duties.

Right to free investigation: Inspectors are authorized to carry out any examination, test or enquiry which they may consider necessary in order to ascertain that the legal provisions are being strictly observed. This implies the right to interrogate, alone or in the presence of witnesses, the employer or the staff, the right to require the production of any books, regis-

ters or other documents the maintenance of which is prescribed by national laws or regulations and the right to take samples for purposes of analysis. Employers should be open and ready to facilitate inspectors with all required documentation that is required. Full cooperation from employers can lead to a constructive dialogue to find solutions to identified challenges or non-compliances.

Powers of injunction: Labour inspectors are empowered to take steps with a view to remedying defects observed in plant, layout or working methods which they may have reasonable cause to believe constitute a threat to the health or safety of the workers. With a view to "remedying defects observed", the inspector can either draft an order allowing the employer a specified period in which to rectify matters or require immediate measures to be taken in the event of imminent danger. In some cases, injunctions may require employers to submit plans to the inspectorate, specifying how they will comply with them. Failing to follow the injunction leads to either administrative measures or/and sanctions, including in certain countries, arrest and possible prison sentences. In deciding whether to prosecute, inspectors take into account the seriousness of the offence and its consequences, and whether it is a case of recidivism.

Inspectors' professionalism confers margins of freedom and discretion to make the most appropriate decisions in relation to the action to be taken (warning, injunction or legal proceedings).

Decisions taken by the inspector are generally subject to a right of appeal by the employer, to prevent or rectify possible abuses. Appeals procedures vary from one country to another, but in most cases a higher public officer, a specialized labour body or the court can review an inspec-

tor's decision on appeal. Appeals normally have to be submitted to the competent authority within fixed deadlines. Appeals, as a rule, have suspensive effect with respect to orders with a time limit, but do not have this effect with respect to orders with immediate executory force in view of the imminent danger they are aimed to address.

Old myths and new realities

Inspectors are repressors; their only objective is to catch offenders: Inspectors issue sanctions in order to remind reluctant employers that they have to abide by their legal obligations. But sanctions are not an end to themselves; they are complementary to other approaches aimed at finding sustainable solutions to compliance challenges. In the process of enforcing the law, inspectors may give employers time to comply where reasonable or where genuine efforts are being made to this end. Certain measures, nevertheless, call for immediate implementation (such as in the case of

imminent danger to the health or safety of workers). Currently, labour inspectors, instead of engaging only in traditional (control) activities, place greater emphasis on: the development of labour protection policies at the workplace; prevention as a mean of promoting business interests (cost effectiveness and competitiveness); promotion of better industrial relations through social dialogue; and introduction of "self-regulatory" (OSH management) regimes.

Inspectors are outdated and not prepared to convince or advise firms on what they should do to comply with the law and modernize their business practices: The forms and frameworks of the employment relationship, production processes and technologies used at the workplace change at an increasing pace. More and more inspection services are recognising the importance of these officials being regularly informed and kept up-to-date of changes in the economic situation and their effects on work and employment. Labour inspectors have a comprehensive view of labour problems, which are

In 2008, the Labour Inspectorate in Spain launched the Volunteer Accident Reduction Programme (PREVEA), which is designed for companies that experience high work-related injuries and want to improve their preventive systems and reduce the number and severity of accidents. to improve their preventive systems and reduce the number and severity of accidents. Those companies that participate in the programme do not receive programmed visits from labour inspectors and no fines are imposed except in cases of severe accidents, death or complaints.

The exclusion from sanctions is conditioned to following a work plan and achieving the set objectives of improving safety and health conditions. PREVEA is based on the analysis of accidents and their root causes. Companies commit to taking proactive and preventive measures to improve working conditions. To be able to participate in the programme, the company needs to have the support of its workforce or their representatives.

often interdependent. Public authorities are increasingly conscious of the need to ensure training for labour inspectors in many fields so that they develop sufficient technical knowledge to recognise hazards and call in specialists in medicine, engineering and chemistry etc. when particular problems arise. The inspector is no longer alone with his/her legal and technical competences; teams of specialists often support labour inspectors. Employers can play an important role through social dialogue to support efforts to strengthen the labour inspection.

Inspectors apply the law too literally when the law is obsolete: It is essential that labour legislation keeps pace with technical and industrial processes to match with new employment relationships or aspects of conditions of work. Employers would also suffer from ineffective outdated legislation, which they have to comply with as it is still in force. Employers and workers have an essential role through social dialogue to ensure the legal framework is reviewed in order to maintain its relevancy.

Inspectors do not act on the basis of ethical values: Labour inspectors, as civil servants must act under a set of principles such as integrity, impartiality

and independence. Inspectors are liable to disciplinary penalties in force in the public service, without prejudice to civil or penal penalties, in those cases where they do not comply with these obligations. Employers should report such cases to ensure that the profession does not suffer from the unethical actions of specific individuals and abstain from exercising improper influence on labour inspectors.

Inspectors interpret and apply the law to their convenience: The role of labour inspectors is not to promote their own ideas, however noble these may be, but to make sure that the legislation in force is respected. Their role is to be the faithful and active instrument of the competent authorities of their country - the law-makers - in the field of labour protection.

Inspectors impose serious burdens on business: From an employer's perspective, observance of prescribed standards can sometimes jeopardize employment, since expenditures on safety, health and working conditions are presented as being at the cost of other more necessary investments. However, if the inspector failed to act and an accident took place, the inspectorate would be exposed to public outcry. The measures required by inspectors are to

In recent decades, several countries have merged their separate inspectorates into new and more integrated organisations, to improve inspection effectiveness and to become more efficient. Based on the "One inspector: one enterprise" approach, countries like Bulgaria and Vietnam, have reorganised their inspectorates into single institutions and trained their inspectors in a wider range of disciplines. The results have been positive, both for employers and workers, who have had more ready access to professional advice on employment issues. Although political and economic constraints may inhibit such integration in some countries, it seems likely that the trend will continue and more will adopt this approach in the foreseeable future.

be proportional to the risk they aim to avoid. Employers however, are often not familiar with measures they could easily implement to facilitate compliance or to transform compliance into good business. Inspectors have to lead employers towards compliance by finding legal and/or technical solutions that create positive incentives for employers to improve working conditions while ensuring productivity and competitiveness. Labour inspectors should also pay special attention to support initiatives taken by employers.

There are too many inspectorates with different organisations responsible for safety, health, general working condi-

tions, employment relations and so on and they are not coordinated: Having separate organisations supervising these different topics has meant that enterprises face multiple visits from different inspectorates and advice is often fragmented. From the government's point of view, having several inspectorates is also inefficient, duplicating effort such as transport and office functions and having less impact and coherence with enterprises overall. The solution that many countries have now adopted has been to integrate labour inspection services into the "one-stop service", within one national organisation responsible for safety and health, working conditions, employment relations, etc.

HOW IS AN INSPECTION VISIT PERFORMED?

Visits to workplaces are an essential part of inspection and the principal places where inspectors perform their activities are the places where the work is being carried out: enterprises, worksites and offices. Although law enforcement is based essentially on visits to workplaces, the visits are not an end themselves, but rather the means by which the inspectorate can fulfil its main task and ensure that the legal provisions are applied.

The principal aim of the visits is to establish, through observation of the premises, examinations of the records kept by the management of the workplace and talks with the head of the workplace and the representatives of workers, whether the labour legislation is applied and, if not, to ensure that it is.

There are different types of visits:

Routine visits: This is the normal type of visit. It is unexpected (no notice is given, except for special reasons) and ideally exhaustive, the aim being to inspect the whole of the installation and to check how far the legal provisions that apply are being observed.

Visits by request: Labour inspectors are sometimes requested to visit a workplace to settle a problem concerning the application of a legal text, the prevention of a

hazard, the exercise of trade union rights, or to give an opinion on the layout of a workshop or the planning of social services, or again to investigate a worker's complaint. In any case, the visit following a complaint should be performed in the same manner as a routine visit to observe the obligation of confidentiality.

Emergency visit: This is the type of visit determined by events that require inspectors to be on the spot without delay (for example occupational accidents), which call for a prompt inquiry for both practical and legal reasons, or fires or explosions. In the event of an accident, inspectors may investigate the cause either to determine where the responsibilities lie or recommend measures to prevent a repetition of such events in the future.

On their arrival at the workplace, the labour inspectors notify employers of their presence and show their identity badge and/or card to the employer or their representative. Whenever there are workers' representatives at the workplace, it is desirable for inspectors to meet them, observing any conditions laid down in the legislation. They may decide, for example, to inform workers or their representatives of their presence on arrival and see them later in a room made available to them. Other contacts are often useful, espe-

The dialogue between inspectors, heads of enterprises and workers or their representatives allows inspectors:

- to learn and to persuade;
- to point out the ways of achieving the desired result;
- to show the dangers of doing nothing in short; and
- to make an informed decision on the action to be taken.

cially with the enterprise's physician if there is one, with the safety and health specialist (inspectors can get one or more to accompany them on their visit) and with members of the safety and health committee. In certain cases, inspectors can arrange joint-visits with external specialists: medical inspectors, experts from approved bodies, and preventive supervisors from the social security service.

Inspectors organise the visit and decide the details on their own; they decide whether it is to be a full visit or a visit with a narrowly defined aim. As a general rule, with a view to making full use of the time available and reducing costs, inspectors turn any visit into a full routine visit. Inspectors in this case, check all installations, especially those that present specific hazards, and also the sanitary

arrangements and the social services provided.

At the end of the visit, inspectors must inform the employer of their observations, which they normally do in writing. Most legislation requires the enterprise to keep an inspection register in which the inspector's observations must be entered; if need be, they can be entered in condensed form, with an indication that further comments will be sent to the employer at a later time. Inspectors are empowered to make an official report, should they consider it necessary, on any violations observed. Inspectors revisit shortly after to verify the required measures have been taken. They may also ask the employer to bring proof to their office that their observations have been acted on, if the nature of the verification permits this procedure.

WHY IS IT IMPORTANT TO HAVE A STRONG LABOUR INSPECTION SERVICE?

An efficient and effective labour inspectorate should be well funded, well staffed, and well organized. The need to strengthen inspection systems has become more obvious in recent years. Labour inspection provides a comprehensive solution to a wide variety of the problems that have arisen in response to globalization. A strong role for labour administration, combined with socially responsible enterprises and sound industrial relations could be a win-win strategy for promoting sustainable development.

A level playing field is created for all:

Irresponsible enterprises which fail to comply with legal provisions relating to general conditions of work and occupational safety and health and abstain from the necessary investments prejudice the workers and engage in unfair competition vis-à-vis complying employers. The labour inspection system must ensure that such behaviour is prevented or punished.

Investment in creating a good working environment and applying OSH regulations is a must for a company which aims for sustainable growth:

- disputes, accidents and diseases reduce efficiency and give a negative return on investment;
- a good working environment attracts

and retains qualified workers and leads to increasing productivity;

- a safe and healthy working environment promoting equality of treatment helps to build confidence and trust amongst customers and investors;
- successful competition in national and international markets cannot be achieved with low quality production methods, poor working conditions and an unsafe and unhealthy working environment; and
- activist and consumer groups increasingly demand decent working conditions and compliance with labour standards in global supply chains.

Prevention contributes to quality. There is increasing awareness that although prevention in the world of work may lead to short term costs, these are largely offset by the medium and long-term benefits for the enterprise as well as society as a whole. These benefits include not only huge savings but also the sustainment of working capacity, increases in productivity and quality, improvements in the motivation of workers, the stability of employment, etc.

An efficient and effective labour inspection system ensures both workers' welfare and improved financial results through higher productivity.

ARE THERE ANY DIFFERENCES?

Labour inspection vs. administration of labour justice: Both are public services that share the purpose of the implementation of the labour legislation but they are separate institutions and have different mandates for reaching complementary goals. The Administration of Labour Justice specializes in labour law and its task is to solve individual and collective legal disputes.

Even though in certain countries the labour inspection system is entrusted with mediation and conciliation of labour conflicts, the ILO standards recommend that the matter be entrusted to a separate body. In a certain number of countries, there are specialized industrial relations departments for conciliation and mediation within the Labour Administration for dealing with these conflicts. This is preferable in order to preserve the credibility of the labour inspection system.

Labour inspection vs. technical inspection: Some high-risk workplaces or operations require greater attention and specialist knowledge than others to ensure that the risks are properly managed and controlled. These include major hazard sites like many chemical works or nuclear power plants, certain laboratories (e.g. microbiological ones) as well as boilers, cranes, electrical or gas installations, and work with ionizing radiations. In many countries, the inspection of such hazardous plants or operations is entrusted to specialist technical organizations, which may be accredited or approved by the Ministry of Labour, rather than labour inspectors themselves. Such specialist organizations will usually inspect relevant plants or operations at legally prescribed intervals and submit a report or certificate to the employer concerned. Additionally, labour inspectors will check that relevant certificates are available and up-to-date during their routine inspections.

Labour inspection vs. auditing: Independent auditing or monitoring has some common features with labour inspection. Both aim to inspect and independently assess working conditions and compliance with legal requirements, but there are also some important differences. Labour inspection is a process for independent assessment, giving advice and taking enforcement where necessary to promote compliance with relevant labour legislation. It is a legal and public function mandated by government, which ensures that employers, workers and other duty-holders obey labour legislation. The initiative of the inspection visit is of the Inspectorate. Inspectors have wide-ranging legal powers so as to be able to enforce the law effectively, including free access to workplaces and the ability to impose sanctions such as initiating or recommending legal proceedings.

Auditing is a systematic, independent and documented process for obtaining evidence and evaluating it to determine the extent to which defined criteria are fulfilled. Audits are used by a third party to check compliance with some well recognised voluntary standard, which can then lead to certification in that standard. It is important to note that auditors do not have the legal powers to issue sanctions or the right of access that inspectors possess. However, such audits can have a significant impact on a business which does not meet certain stipulated criteria, for example if it fails to meet the exacting requirements of a client within a supply chain.

Public-private partnerships could be very useful for promoting workers' rights, if the framework for this collaboration is well defined and transparent. Corporate Social Responsibility is not an alternative to legislation and public labour inspection. The two may be complementary.

HOW CAN LABOUR INSPECTION HELP YOU?

Labour inspection can significantly boost product competitiveness. Any industrial dispute, work-related accident, injury or disease should be seen a failure in the system of a business organization affecting its financial, personnel, production, maintenance and other subsystems. Labour inspectors today increasingly act as systems evaluators, advising management on how to ensure overall sustainability.

Inspectors' duties of providing information and advice to employers and workers include:

- explaining the content of the law;
- indicating whether legal requirements in a workplace are met or not; and
- explaining what needs to be done to comply fully with the law.

In more and more countries, labour inspectors are providing training for employers, their organizations or their staff (such as safety engineers or occupational nurses). Increasingly, in the small

enterprise sectors, workers benefit from training programmes provided by the inspectorate that combine elements of business management and basic labour protection issues.

Your local inspection branch is in direct touch with the world of labour - with the employers and workers and other stakeholders involved in work-related issues. Labour inspectors are entrusted with:

- answering any question employers or their organizations may have related to working conditions, occupational safety and health, social security and labour rights and obligations. In particular, they can provide information and advice on developing complementary approaches to enforcement and preventive measures to reduce workplace risks and hazards;
- providing information or advice at meetings of bodies such as safety and health committees or work councils or conciliation meetings;

Labour inspectorates assist management in developing good labour practices and achieving social justice and decent work for all.

The Danish Working Environment Authority has published risk assessment checklists for 60 different sectors or workplaces. These checklists are designed to help small enterprises carry out the mandatory risk assessment, and they can help you identify the major hazards in your workplace. However, it is still the employer's responsibility to ensure that the risk assessment carried out is appropriate, comprehensive, prepared in co-operation with the employees, and monitored regularly so that it can be revised if necessary. The checklists contain a series of questions to which the company should answer yes or no. All questions to which the company answers yes constitute a working environment problem that must form part of an action plan which the company must draw up in connection with the checklist.

- giving information, courses or training to explain both the letter and the spirit of labour legislation, in particular new legal provisions, to ensure that it is better understood, accepted and therefore, implemented; and
- providing advice on how to address poor management practices which lead to improved working conditions and higher productivity rates.

In the industrialized countries, the role of the labour inspection has been gradually changing over the last years, particularly as a result of the increased responsibility taken by enterprises with respect to the management of occupational health and safety. Mechanisms for the self-evaluation of occupational hazards have been implemented to this end.

The Ministry of Labour in Jordan has started to apply the Golden List Programme. Enterprises which apply for participation in this programme are evaluated against the provisions of the Jordanian Labour Law on wages, hours of work, overtime and generally, the terms and conditions of decent work. The Ministry evaluates the commitment of enterprises by assessing their actual performance and their compatibility with the relevant standards and mechanisms. The Ministry maintains continuous coordination and continuous consultation with the enterprises. Any enterprise that is included in the Golden list after meeting all the applicable conditions is exempted from the bank guarantee required by the Labour Law instructions for the recruitment of foreign workers.

The Labour Inspectorate of Chile provides employers with a free and anonymous online tool for them to assess their level of compliance with national labour legislation. Once the employer fills out the tool, they are provided with a guide on how to make improvements and correct possible non-compliances they have identified. Employers are also informed about the amount of the fines they are exposed to as a result of non-compliance and all the relative legislation applicable. The main objective is to ensure that employers are familiar with current legislation and address the challenges they are facing.

WHAT CAN YOU DO TO COLLABORATE WITH THE LABOUR INSPECTORATE?

Labour protection is a social function in which all actors have equal responsibility, and only the correct sharing of this responsibility can produce optimal results in terms of productivity and the quality of working life. Such an approach requires the active engagement of the social partners. Only employers and workers together can implement employment and occupational safety and health standards effectively and make improvements on a sustainable basis. The role of the labour inspectorate is to stimulate and facilitate compliance; monitor compliance and non-compliance; and respond to cases of non-compliance with authority, credibility, equity and integrity.

Adopt positive values, attitudes, practices and behaviour, which are conducive to

maintaining a working environment that not only complies with the law but is also a good place to work. Such an approach motivates workers and increases their commitment to their employer, encouraging innovation and dedication, with obvious advantages for business productivity and for workers' well-being in general.

Commit to prevention show determined effort to avoid incidents, disputes, accidents, conflicts, occupational diseases, etc. by assuring compliance with existing legislation.

Adopt voluntary compliance systems (Self-regulation, self-reporting and voluntary compliance schemes). They are helpful in promoting compliance since they provide a sound organizational framework within

In the United States, the Strategic Partnership Programme for Worker Safety and Health (OSPP) was adopted in 1998. With the OSPP, the Occupational Safety and Health Administration (OSHA) enters into an extended, voluntary, cooperative relationship with groups of employers, employees, and employee representatives in order to encourage, assist, and recognize their efforts to eliminate serious hazards and achieve a high level of worker safety and health.

Partnering with OSHA is appropriate for the many employers who want to do the right thing but need help in strengthening worker safety and health at their worksites. Partnerships must include each participating employer's commitment to implement in a timely manner, an effective workplace safety and health management system or to address a specific hazard.

OSPP moves away from traditional enforcement methods that target individual worksites and punish employers who violate agency standards. Instead, in a growing number of local and national Partnerships, OSHA is working cooperatively with groups of employers and workers to identify the most serious workplace hazards, develop workplace-appropriate safety and health management systems, share resources, and find effective ways to reduce worker injuries, illnesses, and deaths. Most of the worksites that have chosen to partner with OSHA are small businesses, with an average employment of fewer than 50 employees.

WHAT CAN YOU DO TO COLLABORATE WITH THE LABOUR INSPECTORATE?

which legal obligations and responsibilities can be more readily identified and met.

Take greater responsibility for matters that were traditionally handled by labour inspectors. Create joint safety and health committees, workers' committees, joint consultative bodies, and informal work groups to assume responsibility for some of the matters normally undertaken by labour inspectors such as working conditions, safety and health, enforcement of labour law at the workplace. The more inspectors can rely on workers and management to take responsibility for their rights and obligations under the law, the more time

they can devote to enterprises where this type of responsibility is lacking..

Undertake initiatives to go beyond the floor established by the national law and undertake to be guided by international standards and principles on rights at work even in the absence of national ratification of the relevant ILO instruments. Reflecting provisions of international law in company Codes of Conduct or other CSR tools – as well as in collective bargaining agreements - can be a successful CSR strategy.

Collect, elaborate and record information on the conditions of work and employment

UK Safety and Health Awareness Days

These were started in the agriculture sector and later extended to other sectors like construction. In partnerships between the labour inspectorate, the Health and Safety Executive (HSE), the national employers' and workers' organizations and the national training institutes, awareness-raising events were held at training centres that were primarily aimed at SMEs and the self-employed.

The events generally lasted half a day and focused on safety and health issues set by the labour inspectorate (which were known to cause the most serious safety and health risks). The events were very practical and trainers gave demonstrations of how to improve working conditions and prevent risks. Attendance is voluntary and free of charge with lunch and refreshments provided. Free information and guidance is available during the day.

An incentive was created by the labour inspectorate to encourage participation and that was namely, not to select the enterprises for preventive inspection in the following 2 years. Such an incentive proved very successful, and many SMEs and self-employed attended. Subsequent evaluation showed that many of them put the advice into practice as a result.

HSE has run over 140 of these events in the past ten years, which have been attended by over 43,000 people. The audience is usually made up of family farmers, the self employed and those employing up to four workers.

For more information see: <http://www.hse.gov.uk/agriculture/shads.htm>.

in the enterprise. Employers are usually required to keep records for a period of time, frequently over a number of years. The main purpose of these records is to provide a historical overview of compliance. A number of standard forms and samples are usually elaborated by the labour authorities to facilitate brief and clear recording of all the required information. Frequently, these documents include some instructions for the collection and recording of the data. Forms and samples are increasingly made available on the websites of labour inspectorates. These standardized documents are useful to both employers and inspectors as they facilitate a transparent and structured interaction.

Report for example, data on work-related accidents and diseases give guidance to inspectorates when setting priorities and planning inspection programmes or campaigns. Failure to provide such data may negatively impact the effectiveness of prevention activities. Data on labour disputes, employment and collective labour relations are also required. The forms for notification frequently are standardized in

order to ensure that all necessary information is included.

Respect the labour inspector as a representative of the public authority it is an obligation to collaborate in good faith with labour inspectors and abstain from any obstruction in the performance of their duties.

Engage in dialogue with workers on ways to improve working conditions and the working environment.

Contribute to national and sectoral committees which are advisory structures that define and coordinate actions, policies and strategies.

Engage actively in political processes which may lead to better support for labour inspection from the public authorities in the preparation of the national budget. Emphasize the potential long-term benefits of a proper labour inspection system as opposed to the apparent and high immediate costs.

Help labour inspectors identify protection gaps to be covered by legal provisions and support their efforts to ensure that

An interesting initiative in Ireland has been the “Good Neighbour Scheme”.

Under this scheme, large companies work together with smaller companies to promote greater awareness of workplace health and safety issues. The scheme aims to “marry” the two, with the larger companies offering a helping hand to the smaller companies. The type and level of support is left entirely up to the companies concerned.

A similar scheme is operating in Japan, with a more active involvement of the Labour Inspectorate.

There, if small enterprises refuse the help of experienced professionals from the larger companies, the officers of the Labour Standards Bureau may in consequence target them for in-depth inspection. Certain provinces in Canada are also experimenting, on an entirely voluntary basis, with sponsorship schemes or linkages between large and small companies.

WHAT CAN YOU DO TO COLLABORATE WITH THE LABOUR INSPECTORATE?

legislation is kept up-to-date and that it is fair.

Keep ahead of developments and adhere to good working practices that can be shared with your employer, as good practice is good business.

Become a member of organizations of employers. They can provide advice to members on good working practices, and assist them in undertaking self-inspection as good practice is good business.

Participate in mentoring schemes which means partnerships between large companies and SMEs to exchange labour protection and labour relations experience, information and best practice.

The effectiveness of inspection services is greatly increased when they receive support from employers and workers, their organisations and their representatives.

Be open to change.

Employers must not abdicate their responsibilities by awaiting an inspection from the enforcement authorities before taking needed action.

HOW DOES TRIPARTISM HELP STRENGTHEN THE LABOUR INSPECTORATE?

Tripartism constitutes the framework in which labour inspection plays an important role in ensuring that legal provisions are applied at the workplace and improved. This is promoted by the ILO and reflected in an interaction between the Government, represented by the labour administration system, and employers and workers, their organizations and their representatives. It is a framework of social dialogue for addressing common concerns, involving various means of interaction: sharing of information, consultations, negotiations and decision making. The specific knowledge and interests of each of the three parties can then be taken into account in addressing economic and social questions.

Tripartite interaction has several objectives:

- it enables the parties to be actively involved in issues of mutual concern and develop an understanding of mutual and conflicting interests;
- it allows for a balance to be found between economic and social concerns so as to conciliate individual and common interests;
- it aims at generating a broader consensus over policies, laws and specific solutions, thereby enhancing the legitimacy of the process and the acceptability of its outcome;

Tripartite cooperation can help reconcile the concern of enterprises to increase their competitiveness, while respecting the requirements of social justice and solidarity.

- it creates ownership amongst participants; and
- it provides the parties with an opportunity to contribute together to the process of achieving decent working conditions for all.

This tripartite cooperation can take place at different levels, in a co-ordinated manner:

- at the national level for defining the policy framework of labour inspection;
- at the sectoral and local levels, to give orientation for labour inspection in particular industries; and
- at the workplace level, which is probably the most regular form of collaboration.

National Level

The object of national policy on labour protection is to create a general framework for the improvement of working conditions and the working environment. Policy formulation has two major aspects: the design process and content. Policy design is best anchored in a framework of tripartite consultations. Many countries have established tripartite bodies specifically mandated for social dialogue in this context. Tripartite bodies can set, guide, monitor and control the policy formulation and implementation process.

These committees may be set up spontaneously, or in accordance with some procedure laid down by law, or they may be advisory bodies set up at different levels, for example, advisory labour councils, collective agreements supervisory boards, and national safety and health advisory councils. The aim is to organize regular meetings with meaningful agendas, and

to ensure that decisions made are brought into effect.

Tripartite committees can be made accountable for recommending new and amending existing legislation, developing policy, having responsibility for the direction and supervision of labour inspection services and activities, monitor policy implementation; evaluate the results; produce codes of practice and guidance; attribute resources and assume overall responsibility for the proper running of the inspection service.

Cooperation with social partners at sectoral and regional level

Many governments, in addition to national tripartite bodies, have established statutory tripartite bodies responsible for labour protection at regional and sectoral levels.

These bodies deal with a wide variety of topics, which may include labour protection legislation, wages policy, safety and health, occupational hazards, industrial relations issues and even vocational training. In most cases, qualification for membership is set out by regulation, and is usually confined to workers' or employers' representatives or members of professional organizations, with a vested interest in the matters under discussion. Sectoral bodies can be particularly effective in interpreting legislation for the processes or activities of the industry or sector in question, by agreeing and publishing detailed guidance. This reassures employers that the same requirements are being imposed on competitors, as well as assisting inspectors in their enforcement of agreed standards.

In the United Kingdom, social partners work together at the national level in the field of occupational safety and health. A national tripartite commission, the HSC, is responsible for advising the government and implementing long-, medium- and short-term annual plans covering legislation, policy, enforcement and information. It embraces a structure of tripartite consultation of industry sector committees, topic committees, and works health and safety committees (in addition to the appointment of health and safety representatives in each workplace). Having developed policy and broad based codes of practice and guidance, the HSC delegates responsibility for publishing sector relevant guidance to sector committees. There is consultation between the HSC and sector committees, standard setting organizations, insurance organizations and education establishments to develop the best environmental culture for occupational health and safety to improve.

- share strategic information;
- identify and design injury prevention priorities;
- collaborate on major injury prevention initiatives;
- liaise regularly at all levels within the organizations; and
- evaluate each others' agency contribution to injury prevention in the workplace.

Cooperation with social partners at enterprise level

One of the most utilised bodies for participation within the workplace is the safety and health committee, which is often provided for by legislation. These committees, which include the representatives of the employer and the representatives of workers or their organizations, complement some of the functions of the labour inspectorate, exercise in-plant supervision over conditions of work and, in particular, occupational safety and health and generally help prevent occupational and ever-increasing social and economic risks. Committee coordinators are generally the heads of the enterprises or their representatives, which help to ensure that the decisions taken by the committee will be followed by action. Technical experts,

including occupational physicians and safety officers, assist the committee if possible. The safety and health committee can, and indeed should, pay regular visits to workplaces to detect hazards, draw the attention of the management to safety and health problems or address complaints to it about such matters, suggest improvements, verify the action taken on earlier decisions, carry out inquiries in the event of occupational accidents and take the initiative in introducing the workers to the basic prevention of occupational hazards, in improving their knowledge and making the whole staff of the enterprise, from the top of the hierarchy to the bottom, participate in preventing occupational accidents and diseases. In many countries, the members of the safety and health committee have the right to accompany

In Brazil, the principal objectives of the National Standing Committee on Agriculture, set up in 2001, were a greater formalization of employment and the introduction of social protection coverage. The Committee's activities focus on efforts to find appropriate solutions in order to improve conditions of work in agriculture, coordinate planning, implement and evaluate accident prevention campaigns in agriculture and develop occupational safety and health regulations.

The Government of Portugal has announced that the labour inspectorate and the social partners have concluded an agreement on working conditions, health and safety at work, and combating occupational risks. The aim is to develop a national prevention plan and a plan of action targeting the most risk-prone sectors. The Government hopes that the implementation of this agreement will be an opportunity to reactivate the National Occupational Health and Safety Council, to establish an observatory for prevention and to improve collaboration between the occupational risks centres and other interested bodies. This should also facilitate the adoption or modification of legal provisions applicable to the sectors most affected by occupational accidents, as well as efforts to restructure the statistical system for recording and following up occupational accidents and cases of occupational disease.

labour inspectors when the latter carry out OSH inspections. The inspectors, as has been said, can attend the meetings of the committee or see the minutes. Experience shows that, where safety and health committees work well, collaboration with the labour inspectorate is common practice. The committee, which maintains almost constant watch, keeps participation and dialogue going at the workplace and is of great service in extending the work of the inspectorate.

The collaboration of the inspection services with workers' representatives may cover a wide range of workplace-related matters. In a number of countries, legislation states that trade union delegates and other staff representatives within the enterprise should have special responsibilities for conditions of employment and work. These delegates and representatives are specifically responsible for submitting

complaints and observations relating to the application of the legal provisions and regulations to the labour inspectorate.

The effectiveness of labour inspection systems would be considerably enhanced if employers and their organizations offered their support both locally and nationally. There is a global tendency to associate both workers and employers more closely with the work of the labour inspectorate. In many countries, occupational safety and health systems place on the employer the primary responsibility for the prevention and minimization of risks and hazards at the workplace. One of the functions of labour inspectors in this framework is to stimulate or influence, indeed persuade employers to do whatever is reasonably practicable to improve and safeguard working conditions and the working environment and, in doing so, to go beyond the legal minimum standards of protection.

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