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**Good labour practice compilation
of labour inspection practices
and guidelines for effective
labour inspections in EPZs**

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FOREWORD

Labour inspection, as a main part of labour administration, is vital in ensuring that all principles of international labour standards are implemented at the enterprise and branch level and in promoting good governance in the world of work and making Decent Work a reality. It helps to promote and ensure compliance with national legislation and increases the effectiveness of employment and work policies preventing the conflict and promoting social peace in any sector, enterprise and premises. In this context, EPZs call for special attention because of the significant challenges in carrying out labour inspection functions effectively. The general lack of resources (material and human) and training of labour inspectors and the non-existence of a clear legal framework giving them power to act in the general interest are especially remarkable in the EPZs. It should be kept in mind that labour inspection in EPZs does not differ substantially with labour inspection in similar premises, but some specific sensibilities and possible action should be taking into account.

The ILO Programme and Budget for 2008-09¹ includes a Joint immediate outcome on strengthening labour inspection with a strategy for achieving this. The strategy for delivering the Joint immediate outcome includes a number of activities at both global and national levels including sectoral approaches and a variety of tools and means of actions. In the framework of the joint outcome targets and outcomes, the present sub-programme will address the needs of EPZs workers and enterprise, to guarantee the right application of ILO principles and rights, in particular to guarantee working condition and safety and health. It will seek also to promote gender-sensitive policies through a correct application of international labour standards, including raising awareness on legislation which seeks to protect women (mainly affecting EPZ) but which at the same time can restrict their access to certain jobs and thus be discriminatory. Awareness will be raised about the role of labour inspection services to verify and promote the effective application of gender equality legislation at work in relation with these particular processing zones. However, action could be taken in some countries to improve the participation of women in labour inspectorates, as requested in ILO Conventions No. 81 and 129.

The overall sub-programme strategy is to assist a selected number of countries with important EPZs implantation (from a canvas already selected in the ED/Dialogue umbrella project) in their efforts to strengthen and modernise their labour inspectorates, to help them to enhance their overall effectiveness and impact, in particular in these zones. This will also help to promote compliance with national legislation and the implementation of international labour standards, and in the longer term should also enhance productivity and employment prospects. On the basis of the national experience some global product should be developed, in particular guidelines for a more effective inspection in the export processing zones including methods, approaches, training requirements, etc.

Current practices on labour inspection in EPZ were collected at the national level to help modernise and strengthen labour inspection services in relation with EPZ. Different consultants undertook the revision of labour inspection literature, procedures, practices and existing internal information at the labour administration systems level in Bangladesh, Costa Rica, Honduras, Indonesia, Kenya, Mauritius and Sri Lanka. The consultants also performed an analysis of the existing labour inspection structure in terms of an EPZ visit, actions/campaigns, social partners relations (including tripartite committees and relation with EPZ national authorities) and reporting methods. This paper was therefore developed with the contributions of: Kabir Ahmed Choudhury (Bangladesh), Helena Pérez (Costa

¹ <http://www.ilo.org/public/english/standards/reln/gb/docs/gb298/pdf/pfa-13.pdf>

Rica and Honduras), _____ (Indonesia), Harun K. Mwaura (Kenya), Daniel Fok Kan (Mauritius), Shyamali Ranaraja (Sri Lanka).

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Acronyms

AHM	Honduran Manufacturers Association
AFRAFRANCAH	Honduran Export Processing Zone Association
BEPZA	Bangladesh Export Processing Zones Authority
BOI	Board of Investment
CSR	Corporate Social Responsibility
CUT	Confederación Unitaria de Trabajadores
CUTH	Confederación Unitaria de Trabajadores de Honduras
CGT	Central General de Trabajadores
COHEP	Honduran National Business Council
EFC	Employers' Federation of Ceylon
EPZ	Export Processing Zone
FLA	Fair Labor Association
FDI	Foreign direct investment
FIP	Factory Improvement Programme
GGP	Guidelines of Good Practice
ILLSA	Improving Labour Systems in Southern Africa Project
IRD	Industrial Relations Division
JAAF	Joint Apparel Association Forum
MEF	Mauritius Employers' Federation
SAIL	Automated System of Labour Information
SAECI	Sistema de Información de Seguimiento de Casos,
SMWU	Special Migrant Worker's Unit Mauritius
STSS	Secretaría de Trabajo y Seguridad Social de Honduras (Ministry of Labour of Honduras)
WRAP	Worldwide Responsible Accredited Production
WRWC	Workers Representation and Welfare Committee

1. Introduction

1.1 Objective of Collection

The concept of good labour practices has been in use for the past several years in a very wide and general sense, as a synonym for all kinds of successful experiences in the world of work. As a preliminary approximation, a good practice can be defined as any experience guided by appropriate principles, objectives and procedures, and/or any advisable guidelines in line with a certain normative perspective or a consensus-based standard, as well as any experience that has produced positive results by proving to be effective and useful in a given context. The above notwithstanding, the concept of good practice is generally used in an spontaneous, unregulated way, with reference to any experience subjectively considered as successful from a wide variety of points of view, with no pre-established minimum benchmarks that might make it possible to identify such experiences in objective terms. It should be pointed out that good practice is a dynamic concept, one that can evolve and change over time. A practice may be considered positive, even consensus-based, and yet evolve in the direction of conflict or other undesirable manifestations.

The ultimate purpose of this document is to be able to document and disseminate those cases that in an enterprise (EPZ), an export processing zone or a country, have produced *situations, developments and labour inspection models/ actions* that may be defined as exemplary when measured with a variety of criteria, for purposes of successful replication.

There is no objective or universally accepted definition of a good labour inspection/ labour administration practice, one that would make it possible to build a database of practical examples. Most texts on this topic, including those created by the ILO, simply use the concept without defining it, with the resulting lack of clarity as to the objective pursued. According to the documentation examined, there does not seem to exist, a general good labour practices concept, even though various papers and studies clearly try to capture examples fit to be converted into models regarding various aspects of labour administration matters. Even within the ILO, there is no concrete definition of this concept, in spite of the availability of several documents and manuals devoted to this topic², and the creation of a number of guides and/or compendia.

One of the desired and expected outcomes is how labour inspection services could adopt modern methods and practices suitable for bringing about positive change in the EPZs: how labour inspection services can endear themselves to the EPZs as agents of better things in the EPZs, regarding safety and health and industrial relations; how through some policy, legal, administrative changes labour inspectorates together with the traditional social partners and other partnerships may transform the EPZs into providers of decent jobs, goods and services and truly become the bedrock of fair globalization.

² For instance, *Good Practices: Gender Mainstreaming in Actions against Child Labor*; International Programme on the Elimination of Child Labour (IPEC), ILO, 2004; *Through People Design, Monitoring and Evaluation of Technical Cooperation Programmes and Projects Environmental Business Management: An Introduction*, ILO; *Good Practice Guide: Microfinance for Self-Employment in Industrialized Countries*, ILO; *Moving Forward Towards Decent Work for People with Disabilities. Examples of Good practices in Vocational Training and Employment from Asia and the Pacific*, Debra A. Perry Editors; *Employment of Home Workers: Example of Good Practice* Ursula Huws and Sarah Podro (Working Paper condi/T/ w.p 5/1995).

1.2 Importance of Convention No. 81 and priority issues³

Labour inspection, as a main part of labour administration, is vital in ensuring that all principles of international labour standards are implemented at the enterprise and branch level and in promoting good governance in the world of work, making Decent Work a reality. It helps to promote and ensure compliance with national legislation, and increases the effectiveness of employment and work policies preventing the conflict and promoting social peace in any sector, enterprise and premises.

In 1947, the ILO conference adopted an ambitious and comprehensive set of standards: the Labour Inspection in Industry and Commerce Convention (No. 81)⁴ and three associated Recommendations: Nos. 81, 82 and 85. In 1969, the ILO adopted the Labour Inspection (Agriculture) Convention, 1969 (No. 129)⁵. The guarantee to protect the largest number of workers possible by labour inspection was further strengthened by the adoption in 1995 of a Protocol, the ratification of which is open to Members bound by Convention No. 81. Both Conventions No. 81 and No. 129 have been designated "priority" conventions by the ILO Governing Body, thereby encouraging member States to ratify them because of their importance for the functioning of the international labour standards system. The principles laid down are still valid and entirely relevant today, even in highly industrialized countries. In many ILO member States, they form the basis of labour inspection legislation.

These instruments, first of all, set forth the principle that labour inspection is a public function, a responsibility of the Government, and it is best organized as a system, within the larger context of a State system to administer social and labour policy and to supervise compliance with national legislation, regulations and standards which give effect to it. Therefore, labour inspectors should have the status and independence of public officials, and exercise their powers and functions in an impartial manner compatible with their public office, free of undue pressures and constraints from outside the service and with sufficient means for an effective inspection. As representatives of the State in the world of work, labour inspectors are empowered with considerable executive rights, but also bound by a set of duties regarding the manner in which they exercise their functions. The proper exercise of these rights and duties is fundamental to the authority of inspectors and the inspection system as a whole.

A second principle concerns the need for close cooperation between labour inspection and employers and workers. This cooperation is essential. It often begins with the collaboration in the formulation of labour protection legislation and the general policies regarding its application at the workplace, and often extends to preventive work through training and information. Cooperation presupposes that participation of workers' representatives in suitable form is guaranteed, and that employers assume their responsibilities in full measure, but also that the Government provides and "drives" the enabling institutional frame.

³ M. RUEDA, 2008

⁴ Convention No. 81 has received 139 ratifications to September 2009.

⁵ Convention No. 129 has received 47 ratifications to September 2009.

⁶ The Protocol of 1995 has been ratified by Azerbaijan, Cyprus, Finland, Guyana, Ireland, Luxembourg, Republic of Moldova, Norway, Russian Federation, Sweden, and Tanzania Tanganyika.

The effectiveness of labour inspection is directly linked to the interest that management takes in labour protection issues, and the resources it devotes to solving them. As a rule, it is also linked to the presence and action of trade unions at the workplace. Hence, the difficulties of ensuring labour protection in small enterprises, or when workers are not represented, or, more generally, where the trade union movement is weak or fragmented. The purpose of inspection is to ensure that the greatest possible number of problems relating to the protection of workers are solved at the workplace as a result, of dialogue and concentration between the actors directly involved, employers and workers, with supervision and advice by the labour inspectorate regarding compliance with legislation, minimum standards, and the terms of any relevant (enforceable) collective agreements.

Another principle relates to labour inspection's increasing orientation towards and emphasis on prevention. To speak of prevention in the context of labour protection implies, first of all, a determined effort to avoid incidents, disputes, accidents, conflicts, occupational diseases, illegal employment, etc. by assuring compliance with existing legislation and standards. Preventive orientation today, however, with the ultimate objective of developing a culture of prevention as a social and labour policy paradigm, aims more and more also at the broader goal of enabling an individual to lead a long, productive and healthy life, and at the same time to reduce the exponentially growing costs of non-prevention, or loss caused by all manner of incidents to individuals, enterprises, and society as a whole. It is therefore increasingly defined as a holistic or "open" strategy, aimed at avoiding a multiplicity of technical, social, medical, economic, etc. hazards. One therefore notes a major change in labour inspection orientation since the 1990s, towards a broader, multi-disciplinary approach to prevention. This integrated vision is considered a prerequisite to dealing effectively, in a preventative manner, with a host of complex, interdependent problems that exist in the world of work today.

These fundamental principles must form the basis for an ongoing dialogue with labour inspection's partners on the role, scope and functions of inspection, its organization, methods and resources, with a view to continuously adapting them to economic, social and technical development.

The conditions for effective labour inspection according to universally accepted international standards (ILO Convention No. 81 provides the essential benchmark)⁷ can therefore be summed up as:

- Labour inspection should be organized as a system (Article 1) applying to all workplaces in respect of which legal provisions relating to conditions of work and the protection of workers are enforceable (Article 2);
- It should cover a set of functions, such hours of work, wages, safety, health and welfare, the employment of children and young persons, and other connected matters (Article 3.1);
- Inspectors should supply information and advice to employers and workers on how to comply with the law, and alert the competent authorities on any defects or abuses not covered by existing legal provisions;
- Labour inspection should be placed under the supervision and control of a central authority (Article 4.1);

⁷ The study references Convention No. 81 as its scope of application covers industrial workplaces, which is directly relevant to EPZs, while Convention No. 29 applies to agriculture which is not directly relevant to the scope of this collection.

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- Inspectors must be public officials assured of stability of employment and independent of changes of government and improper external influences (Article 6);
 - They must be recruited with sole regard to their qualifications and adequately trained for the performance of their duties (Article 7);
 - 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 of and complexity of the legal provisions to be enforced (Article 10);
 - They must be properly equipped with local offices and transport facilities (Article 11);
 - Workplaces must be inspected as often and as thoroughly as is necessary to ensure the effective application of relevant legal provisions (Article 16);
 - Adequate penalties for violations of legal provisions enforceable by labour inspection and for obstructing labour inspectors in the performance of their duties must be provided for, by national laws and regulations and effectively enforced (Article 18); and
 - The central inspection authority shall publish annual general reports dealing with issues such as laws and regulations relevant to the work of the inspection service; staff of the labour inspection service; and statistics of workplaces liable to inspection and the number of workers employed, inspection visits, violations and penalties imposed, industrial accidents and occupational diseases (Articles 19-22).

Convention No. 81 has received 139 ratifications, as of September 2009, including all of the countries relevant to the study: Bangladesh, Honduras, Costa Rica, Indonesia, Kenya, Mauritius and Sri Lanka. The Committee of Experts on the Application of Conventions and Recommendations has expressed its concern through different observations and direct requests in recent years over the application of Convention No. 81 in export processing zones and over exceptions made to the scope of application of labour laws that exclude EPZ. Most recently for example, the CEACR in 2009 noted that in Djibouti the Labour Code applies throughout the national territory except in export processing zones which are governed by special legislation and are therefore beyond the competence of the labour inspectorate. Also in 2009 the Committee requested the Government of Kenya to confirm that the provisions of the occupational health and safety acts apply to all workplaces, including establishments located in EPZs. In different occasions the Committee has called for more detailed information regarding statistics on labour inspection activities carried out in industrial and commercial establishments located in EPZs, such is the case for example of Kenya in an observation of 2009. Also of concern for the Committee has been the free access of inspectors to workplaces in EPZ, for example in Sri Lanka and India. The need for strengthening of labour inspection in EPZ has also been highlighted by the Committee and the means at inspector's disposal to effectively carry out their duties within the zones.

1.3. Concept of good practices in labour inspection

According to an analysis based on objective elements, a **good labour inspection practice** would be one:

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- Allowing to secure the enforcement of the legal provisions relating to conditions of work and the protection of workers while engaged in their work,
 - To supply technical information and advice to employers and workers concerning the most effective means of complying with the legal provisions;
 - To bring to the notice of the competent authority defects or abuses not specifically covered by existing legal provisions;
 - That helps to solve problems before the risks are materialized.

In any case any further duties which may be entrusted to labour inspectors shall not be such as to interfere with the effective discharge of their primary duties or to prejudice in any way the authority and impartiality which are necessary to inspectors in their relations with employers and workers.

Given this, and with the intent of making a more in-depth analysis of this issue and facilitating a common *modus operandi*, this collection attempts to develop the guidelines of an operational good practices methodology, one essentially aimed at labour inspectorates, as a way not only to promote unanimous consensus on such a definition, but also to provide certain tools, a degree of training, and establishing the basis for its dissemination among, labour inspector and other labour administration staff, safety and health technicians, workers and employers in order to build a decent work environment.

1.4 Specifics of Export Processing Zones

EPZs has been defined by the ILO as industrial zones with special incentives set up to attract foreign investor, in which imported materials undergo some degree of processing before being exported again. EPZs have been received by the host countries with high expectations of creating the much needed jobs, foreign exchange earnings, resources utilization, skills and technology transfer and providing a pivotal link to global economy among other objectives. Different EPZs host countries have adopted different methods of attracting foreign investment. These range from total eclipsing of labour legislation to operate in the EPZs, creation of special authorities with full responsibility of licensing the operations of the EPZs, specific EPZ legislation and various competitive tax and procedural incentives. Since 2002 EPZ exports increased significantly in several countries around the world and for different reasons, mainly because of the exclusion of EPZ workers from the scoped of labour law, problems related with standards applications and consequently protection of working condition and safety and health of workers are faced.

Where the labour laws are applicable to EPZs (in most of the countries recognised today, labour laws in EPZs are the same as in the rest of the country, Honduras⁸, Kenya, Costa Rica), application became difficult especially if the national labour inspection is weak. In some countries, however, such as Bangladesh, Djibouti, Panama and Zimbabwe, specific laws apply to EPZs. In the case of Bangladesh in the primary stage, all the labour laws and labour inspection systems were applicable in the EPZs. Since 1986 the government started to exempt EPZs from the national labour laws. After protest from civil society and national and international trade union, the Bangladesh Government, in 2004, adopted EPZ Workers Association and Industrial Relations Act, 2004 which create opportunity for the workers to form trade unions, until then impossible within EPZ. In other countries, such as Algeria, Cameroon and Mauritius, EPZs are subject to national

⁸ National minimum wage increase in effect since January 2009 is not applied in EPZ.

labour legislation with some exceptions in the areas of duration of work, levels of wages and overtime. Enforcement and labour practices vary between regions, as provincial and local labour departments have fairly wide discretion in handling local labour matters; and local governments are also concerned about attracting investment. Lack of resources, registry and even and integrated inspection are specially affecting this isolated special areas, concentrating an important work force and with special labour relation and production systems. On the other hand, EPZs are often regulated by a special authority, as in Sri Lanka and Madagascar, devoted to attracting investments and acting as a facilitator in the provision of various services to investors.

In this context, EPZs call for special attention because of the significant challenges in carrying out labour inspection functions effectively. The general lack of resources (material and human) and training of labour inspectors, and the absence of a clear legal framework giving them power to act in the general interest are especially remarkable in most EPZs. Other challenges posed include:

- The perceived (rightly or wrongly) status of economic importance associated with these enterprises;
- The near isolation (enclave culture) of these enterprises from the rest of the economic activities;
- Very low levels of unionization and almost non-existent social dialogue;
- Very low capacity of the EPZs in labour-management relations;
- Language and communication problems;
- The temporary nature of these EPZs (production period determined by orders from overseas consumers and, hence, closed during some periods).

New alliance with public and private institutions and the use of innovative working methods to improve labour law compliance (like CSR) should be in the national labour inspection agenda to strength inspectorates and to maximize the availability of existent resources but this cannot be a substitute for the labour inspection system as enshrined in the ILO Convention 81.

2. Guidelines summary

2.1 Effectiveness and coordination of labour inspectorate

2.1.1. Sufficient number of inspectors and units for labour inspection in EPZs

- Ensure a sufficient number of inspectors, including female inspectors, according to the number of workplaces and particular risks subject to inspection.
- Encourage the integration of inspection services, with both supervisory and advisory activities, dealing with occupational safety, occupational health and labour relations or a substantial level of co-operation in the use of available resources.
- Establish communication and coordination mechanisms amongst different inspection groups that have different responsibilities over different issues depending on the nature of the issue

object of inspection; i.e. socio-labour standards, safety and occupational health, payment of wages, social security.

- Outsource and contract out the more technical areas and use of qualified auditors within legal provisions.
- Specialize inspectors in specific sectors of activity or at the very least make them aware of the more common risks that pose threats to workers.
- Ensure that whether or not EPZ companies are under the general laws of the country, the access of the normal enforcing authorities of the country is allowed.
- Inspectors' authority should be widely known by both workers and employers.
- Increase visibility, security and presence of labour inspectors.
- Public inspectors must earn their legitimacy through their competence and efficiency. By improving reputation and legitimacy of inspectors, they will be seen as bringing value to workplaces as advisors or service providers and not only "social police".

2.1.2. Working together with other authorities

- Clarify different roles of different public authorities to avoid gaps and duplications.
- Establish clear written agreements to define roles and responsibilities.
- Commence formal or informal agreements to determine ways of collaborations with other authorities, including inspection and enforcement bodies such as police, social security institutions, tax authorities and quota offices.
- Open communication channels where different authorities can share information regarding labour conditions at factories.
- Design specific campaigns to raise awareness among other public authorities on labour issues to also encourage collaboration on reaching the same objectives.

2.1.3. Data collection

- Create a registry of operating companies with the minimum data relevant (for example, contact information, number of workers, main processes) and ensure it is updated regularly.
- Establish communication channels amongst different institutions, with data available on companies, i.e. Institutes of Social Security, Safety and Health, Taxes, Public Health, etc.
- Establish communication channels among different departments within the labour enforcement departments.
- Establish effective communication channels amongst different regional inspection offices and the central office.
- Determine systematic criteria and guidelines to record data to maximise statistical use, policy review, etc.
- Train labour inspectors on the criteria to record and classify data.
- Collect data, on a regular basis, at the national level on violations identified.

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- Labour inspectors need to submit reports to the inspection authorities on the results of their inspection visits.
 - Use data to perform planning based on risk-based inspections.
 - Use data to identify patterns of violations and target campaigns.
 - Use the data to work on preventive mechanisms, to analyse the problems and make proposals to improve working conditions.
 - Share data with worldwide comparability to help inspection system managers in other countries, or international organizations and institutions, in deciding on their research or technical cooperation priorities.
 - Share information with the social partners to create awareness and encourage them to collaborate with the inspectorate activities.
 - Share information with social monitors/auditors so they are aware of the current problems in the country.

2.2. Good combination in carrying out inspection of prevention, education and enforcement practices

2.2.1. Prevention practices and campaigns on EPZ: enforcement, self assessment and awareness rising campaigns and prevention

- Design national work plans or programmes of labour inspection:
 - With clear and realistic objectives;
 - With strategies for achieving the objectives;
 - With specific timeframes;
 - Where the responsibilities and priorities have been thought;
 - Matched with the resources available;
 - Coordinated at the regional, provincial or district level;
 - Including both enforcement and prevention activities;
 - Determining how progress is to be measured and achievement evaluated.
- Ensuring that work plans include EPZ inspection visits and preventive activities in the zones. Peak production periods and specific schedules should be considered when planning actions within zones.
- Allow time to investigate incidents and complaints but reactive inspections should be managed so it does not detract from the time available for preventive and pro-active inspections.
- Programme inspection visits and re-inspection visits to verify labour conditions at least once a year in every factory in EPZ.

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- Ensure a balance between advisory, enforcement and supervisory functions.
 - Labour inspection services should seek to accommodate multi-disciplinary, multi-approach and multi-partner practices of labour inspections.
 - Within the advisory function, give particular attention to motivating and convincing the disparate interests and stakeholders to cooperate.
 - Incorporate preventive, education and constructive actions or approaches within inspection visits.
 - Promote a culture of risk prevention through social dialogue, disseminating information, sharing best practices and educational activities.
 - Stimulate sustainable preventive action.
 - Disseminate a culture of compliance, organise courses, seminars, conferences, radio broadcasts, exhibitions and the distribution of posters, pamphlets, and other publications and films. Ensure that they are available in languages understood by workers.
 - Develop self-assessments to increase employer's knowledge on labour regulations and to help them voluntarily verify their compliance.
 - Encourage employers and workers to work together on developing workplace policies and programmes.
 - Labour inspectors should advise on the development of information campaigns and play a key role in the campaigns.
 - Labour inspectors may also provide training, especially to trade unions, employers, NGOs, labour court officials and other government authorities.

2.2.2. Administrative procedures and effective sanctions

- Ensure a speedy sanctioning process.
- Ensure that there are no obstacles either at an administrative level or at a judicial level and that remedies can be attained.
- Ensure effective sanctions with dissuasive effects.
- Ensure that there are remedial actions that correct violations identified.
- Compare corrective actions through different workplaces so employers can learn how labour conditions can be improved, so focus is placed on rectifying and preventing rather than just identification.

2.3. New approaches to deal with workers and employers

2.3.1. Involvement of workers and employers in inspection activities

- Involve union representatives in inspection visits.

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- Workers and their representatives should be involved workforce in inspection visits.
 - Encourage the creation and reinforce the role of safety committees and similar bodies as promoters of consciousness among the social partner actors, to investigate incidents and accidents and means of preventing them.
 - Labour Inspectorates could receive the assistance of investing companies to encourage more joint or mixed committees to actually form at an enterprise level.
 - Inspectors must have access to all workers.
 - Inspectors must have the authority and facilities to question workers in order to determine the conditions in which the work.
 - Efforts must be made to make it possible for workers to tell inspectors about their situations.
 - Confidential channels must be thought of to help workers communicate with the inspectorate in coercive environments.
 - Inspectors should be able to hold interviews with workers within and outside premises.
 - Provide call centres or anonymous channels for workers to channel their complaints.
 - Standardized forms should be made available to workers and to representatives of workers who believe that a violation of a labour law or health and safety regulation exists so that they can request an inspection.
 - Raising awareness of the role of labour inspection amongst employers, workers and other stakeholders, to help employers and workers understand their rights and responsibilities in regards to compliance and inspection.
 - Trade Unions and employers' organisations should be involved in dissemination campaigns about the labour inspection role and how they can help to develop sound labour relations.
 - Create alliances between trade unions, non-governmental organisations, human rights groups, women's organizations and solidarity networks to improve the working conditions of workers in EPZs.
 - Create alliances with community policing and monitoring groups, especially those living close to the EPZs, and have first-hand information that can be useful.
 - There should not be competition, just a meaningful working relationship whereby the concerned parties work towards a common goal among other partners and authorities that are currently involved in issues of labour rights, working conditions, investments quality of goods and services, and whose involvement should be welcomed and coordinated.
 - The unions need to improve their capacity of organizing and recruiting sufficient membership within the EPZs for effective representation, control and advice.
 - The community can also play an active role with preventive actions.
 - Voluntary initiatives can also assist in gathering information directly from workers and their views and concerns which can be used to understand problems and root causes of problems in countries.

2.3.2. Tripartite committees in EPZ

- Constitute subcommittee in tripartite social dialogue forums on EPZs:
 - To monitor labour relations, working conditions, and productivity and quality enhancement of EPZs.
 - To provide guidance and information regarding the regulatory environment, supervising labour conditions at factories, including actual inspections, and implementing a follow-up mechanism for the factories.
- Create tripartite zone level committees:
 - To monitor labour conditions;
 - To the resolution of conflicts;
 - To promote a culture of compliance.

2.4. Coordination at the labour administration level and collaboration with other authorities

- Inspectors must be permitted to enter the Zones immediately on production of proof of their identity as inspectors without any further authorisation.
- Training should be provided to security personnel to ensure that inspectors are not denied or delayed access.
- Arrangements should be made for labour inspectors to receive support from other law enforcement agencies when it is necessary to secure access.
- Cooperation and joint action between the labour inspectorate and the Zone authorities should be encouraged.

2.5. Capacity to deal with technical matters internal training policy generating an increase in labour inspectorates professional skills

2.5.1. Training programs

- Labour Inspectorates should have a structured training programme and strategy based on medium and long term objectives and needs for their staff.
- Inspectorates should analyse the training needs of inspectors where the competencies available are compared with the competencies required.
- Inspectors should receive training and increase their skills on issues as specific risks, technical areas, production processes and management involved in the operations of EPZ.
- The labour inspectors need to understand the important link between inspections, compliance with labour standards and export promotion.
- Labour inspectors should also increase their skills in negotiation, motivation and communication.

2.5.2. Effective materials to facilitate inspection

- Labour inspection services must continuously search for, and adopt new inspection practices that are holistic and multi-disciplinary.
- Inspection services must have human and physical resources needed to effectively inspect workplaces.
- Procedures manuals should be made available to inspectors to ensure that inspectors' activities and approaches are based in legal criteria rather than the free interpretation of the inspectors on how they should proceed.
- Checklists should be developed for inspectors to use during their visits, which capture the specific issues that are common within manufacturing processes.
- Inspectors should have access to updated laws, regulations and national jurisprudence.
- Inspectors should have access to experts that can provide technical advice and make proposals to remedy situations that can lead to risks.
- Inspectors need to be provided with transport facilities or reimbursement of expenses incurred to arrive to and from EPZs especially considering the enclaves they are in.

2.6. Private initiatives, CSR and other practices helping to develop labour inspection in EPZs

- To promote a culture of compliance, all actors of labour relations have to be involved, which requires engaging employers, unions and other stakeholders in a dialogue over labour standards. Companies will also be interested in participating in an active and positive approach to compliance, not only from a reputation point of view but as a prevention strategy. Companies can help stimulate, in enterprises, a systematic and sustainable improvement in working conditions.
- Labour inspectorates should provide employers with trainings concerning their statutory obligations, especially in a way that combines elements of business management and labour protection issues.
- Collaboration with multinationals could be pursued to deliver trainings to suppliers along with labour inspectors. Companies should be willing to participate in these sorts of initiatives.
- Companies can also encourage and assist in the establishment of internal grievance procedures in enterprises and alternative conflict resolution mechanisms for workers to raise their complaints and find adequate solutions for problems.
- Collaborations could also be promoted and facilitated by local trade associations which are also willing to bring their members up to speed in their rights and obligations, at the very least, to improve the image of their sector/country.
- Engage companies in promotional activities to increase multinational companies' knowledge of national legislation, the local specifics in business culture and real problems with compliance.
- Employers associations should be encouraged to improve their capacity to organize and recruit all EPZ enterprises into membership for ease of control and advice.

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- Engaging more effectively with Corporate Social Responsibility initiatives and employer-led audit schemes. This includes better integration of labour inspection programmes with existing public-private programmes and schemes, such as the ILO/IFC Better Work programme and other similar initiatives.

3. Effectiveness and coordination of labour inspectorate

3.1. Sufficient number of inspectors and units for labour inspection in EPZs

Convention No. 81 stipulates that measures should be taken to ensure that the number of labour inspectors is sufficient to secure the effective discharge of the duties of the inspectorate, taking into account the importance of the duties which they have to perform, in particular: the number, nature, size and situation of the workplaces liable to inspection; the number and the range of categories of workers employed in such workplaces; and the number and the complexity of the legal provisions to be enforced.⁹

With the increase of workplaces comes a rise in the number of enterprises liable to inspection and the demand for inspections. Unfortunately the number of labour inspectors in many countries continues to be very low compared to the employed population and the number of undertakings in the country. Another challenge is that the roles and responsibilities of labour inspectors in some countries are not limited to ensuring enforcement of legislation and the prevention. In practice, many labour inspectors also carry out functions of mediation and conciliation¹⁰, notifications, calculating benefits for workers and other administrative functions, which take time away from effectively conducting regular inspections of workplaces or from providing technical advice to employers, workers and unions on the application of labour legislation. Along with the increase of workplaces and excessive responsibilities, inspectors also encounter having to monitor emerging issues, new legislation, reduced human resources and lack of material and financial resources, which require inspectors to develop good inspection practices to carry out their responsibilities efficiently. Considering the lack of resources for increasing the number of labour inspectors in many labour inspectorates, there is a need for improving the planning, monitoring, and implementation and dissemination of labour standards, and there is likely to be a shift with the emphasis focusing on prevention.

In some countries, the Ministry of Labour has jurisdiction over all workplaces in the country, including those within the EPZs or under the EPZ regime for the enforcement of all labour legislation. Such is the case for **Costa Rica, Honduras, Indonesia, Kenya, Mauritius and Sri Lanka**. In **Sri Lanka**, in addition, the Industrial Relations Division (IRD) of the Board of Investment (BOI) also performs a limited inspection role, albeit on the basis of an internal arrangement between the investor and the BOI. On the contrary, in **Bangladesh** for example, the EPZ authority (BEPZA) is the absolute authority for any legal procedure in EPZ. So, the Ministry of Labour & Employment and Labour Directorate do not have any implementation responsibility in EPZs. The main role of the EPZ authority is to protect the investors interest so there is a gap of confidence of workers on their role.

⁹ 2006, General Survey, parr. 174

¹⁰ In Costa Rica for example, in January 2009 there have been new personnel hired to carry out conciliation functions. Until recently, it was the labour inspectors who performed both responsibilities, inspection and conciliation.

Some countries have smaller or specialised units with sectoral or technical specialists that deal with specific issues. Many countries have different units to deal with safety and health issues, social security, wages and working conditions. Such is the case of **Honduras, Costa Rica, and Sri Lanka**. Some countries have put in place integrated inspections systems so all issues of labour inspection within the responsibility of a Labour Inspection System under a country's labour laws can be addressed during one single visit. In 2007, the Ministry of Labour in **Sri Lanka**, for example, introduced an integrated inspection system with the assistance of the ILO, where a multi-disciplinary team of inspectors visited a factory to carry out an overall evaluation of all aspects of compliance. The Department of Labour though reverted to the former system of inspection and no longer performs integrated visits.

It is not common for labour inspectorates to have specific units of labour inspectors that are specialised in EPZ or that only perform their enforcement and preventive responsibilities within the zones¹¹.

In **Sri Lanka**, there is one Labour inspectorate now situated within one of the Zones itself and mediators are stationed in the Zones to deal with disputes. In the case of Sri Lanka, the Department of Labour does not have the manpower to effectively inspect all workplaces in the country; however, available resources could be adapted to carry out inspections within the EPZs in a more systematic and effective manner. There are only around 300 enterprises located within EPZs and Industrial Parks in the country. It should be possible to ensure that these enterprises are inspected at least once a year, given that they are located in close proximity to each other within the Zones, even though the EPZs are located in different parts of the country.

In Sri Lanka, there is one Labour inspectorate now situated within one of the Zones itself and mediators are stationed in the zones to deal with disputes.

Mauritius doesn't have a special unit for EPZs, but does have the Special Migrant Worker's Unit which since 2004 aims at providing services specifically for migrant workers, which, considering that a large proportion of the migrant workers, indirectly this unit would to a certain extent be taking care of EPZ enterprises. It is responsible for the "vetting of contracts" (entered into by these workers) and carries out "inspection at workplaces and makes investigation into companies regarding conditions of work for migrant workers". The Special Migrant Worker's Unit was set up due to specific problems encountered by these workers. These problems were in fact brought to the limelight following a number of illegal strikes by those workers protesting payment that they have effected to their recruiting agents, modalities of payment of their wages, lack of overtime, the food provided to them and their food allowance and accommodation. The conclusion of the Ministry is that since the setting up of this unit there has been less conflict involving migrant workers with a consequential drastic reduction in the number of stoppages of work.

Mauritius has the Special Migrant Worker's Unit which considering the large proportion of the migrant workers, indirectly this unit would be taking care of EPZ enterprises. Since the setting up of this unit, there has been less conflict involving migrant workers with a consequential drastic reduction in the number of stoppages of work.

¹¹ Guatemala has a specific unit of labour inspectors that have exclusive responsibilities over companies in EPZ regime. In 2005 there were a total of 10 inspectors in the unit to operate in the national territory.

In the case of **Bangladesh**, it is not the Ministry of Labour, but rather the EPZ authority that has the authority over the enforcement over labour legislation in the Zones. The BEPZA is a Governmental organization within the direct control of the Honourable Prime Minister's office. The BEPZA has an industrial relations department in every EPZ who among other responsibilities has the authority for enforcing labour conditions. The BEPZA has a total of 60 counsellors in their Industrial Relations Departments that have the responsibility to ensure compliance with the Workers Association and Industrial Relations Act (2004), and ensure proper implementation of the EPZ Labour Law, BEPZA Instruction Nos. 1 and 2. Since the appointment of these counsellors in 2005, they have been located within the EPZs they have been granted free access to any floor management or high official of the factory to discuss problems, issues, grievance & any complaints etc. Workers have expressed their discontent on the remedial action of the counsellors and claim that the dispute mechanism system is not fully transparent.

In Bangladesh, the BEPZA has an industrial relations department in every EPZ who among other responsibilities has the authority for enforcing labour conditions.

In **Honduras** for example despite the fact that there is no specific unit nor a systematic designation of inspection cases to labour inspectors where basically the Labour inspector supervisor designates who carries out what inspection visit depending on the volume of work, it is true that inspection visits to EPZs would only be assigned to those inspectors that had a good reputation and were more experienced in the sector. It is common that a team of 2 or 3 inspectors carry out one inspection at a time. In San Pedro Sula if a labour inspector has already visited a factory, s/he will likely be reassigned that same factory so at least one person from the team has previous experience in the facility. The Honduran Manufacturers Association (AHM) has expressed that they would like the Ministry of Labour to create a specialized unit of professional inspectors to only inspect the *maquila* sector. They consider that with a unit of these characteristics it would be easier to train inspectors in the specific processes and risks of the sector.

Another issue to take into account is that in most countries the overwhelming majority of workers in EPZ industries are women, but that there aren't sufficient numbers of female labour officers to highlight and resolve gender-related issues.

In particular countries, there is also a need for specific language skills considering the number of migrant (internal and foreign) workers employed in EPZ, both at a floor level as middle and top management.

3.2. Indicators to determine a good practice

- Ensure a sufficient number of inspectors, including female inspectors, according to the number of workplaces and particular risks subject to inspection.
- Encourage the integration of inspection services, with both supervisory and advisory activities, dealing with occupational safety, occupational health and labour relations or a substantial level of co-operation in the use of available resources.
- Establish communication and coordination mechanisms amongst different inspection groups that have different responsibilities over different issues depending on the nature of the issue object of inspection; i.e. socio-labour standards, safety and occupational health, payment of wages, social security.
- Outsource and contract out the more technical areas and use of qualified auditors within legal provisions.

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- Specialize inspectors in specific sectors of activity or at the very least make them aware of the more common risks that pose threats to workers.
 - Ensure that whether or not EPZ companies are under the general laws of the country, the access of the normal enforcing authorities of the country is allowed.
 - Inspectors' authority should be widely known by both workers and employers.
 - Increase visibility, security and presence of labour inspectors.
 - Public inspectors must earn their legitimacy through their competence and efficiency. By improving reputation and legitimacy of inspectors, they will be seen as bringing value to workplaces as advisors or service providers and not only "social police".

3.3. Working together with other authorities

The ability to collaborate effectively with authorities engaged in parallel or overlapping activities is rarely witnessed across the public sector in most countries. A common challenge among labour inspectorates is the lack of collaboration among public authorities or institutions when preparing or carrying out labour inspections. It is even very common that there is little or no exchange of information that could be useful among different agencies involved in labour issues.

It is often happening that separate departments within the same Ministry engaged in carrying out similar activities are not coordinated. Such is the example of countries that have different sections of inspectors depending on the nature of the visit, for example inspectors performing safety and health visits and those responsible for enforcing socio-labour legislation, or wages or social security benefits. This lack of coordination amongst the different sections within one Ministry creates a lack of efficiency and in cases duplication of work.

In **Sri Lanka**, the Board of Investment (BOI) who is the public authority responsible for generating and strengthening economic development and promoting foreign investment has an Industrial Relations Division with officers trained in labour and industrial relations. Many of the senior officers are former senior labour inspectors. The Industrial Relations officers are located in the two major EPZs in the country, Katunayaka and Biyagama, where over 70,000 workers are employed, have good labour relationships with labour inspectors responsible for labour enforcement.

In Sri Lanka, many of the senior officers of the Board of Investment (BOI) are former senior labour inspectors. The BOI is the public authority responsible for generating and strengthening economic development and promoting foreign investment.

In **Honduras**, labour inspectors could be accompanied in their visits by inspectors of the Honduran Institute of Social Security, but in fact there are very few instances where this is the case.

In different countries, the legislation provides that there must be communication between the different public authorities. For example, in **Sri Lanka**, inspecting officers are required to report complaints or evidence of workplace injuries to the Commissioner for Workmen's Compensation or the Factories Inspectorate. In **Mauritius**, labour inspectors are required to refer cases of non-compliance regarding health and safety issues when observed in an inspection visit to Occupational Safety and Health Inspectorate for necessary action. Also in those cases where inspectors identify non-compliances regarding migrant workers they are to inform the Special Migrant Unit.

Regarding safety and health issues, different countries have set up Safety and Health Institutes. For example in **Sri Lanka**, the mission of the National Institute of Safety and Health is to empower the tripartite constituents through education, training and research for preventing all forms of work related hazards to ensure Safety and Health at work. It is expected that the National Institute of Occupational Safety and Health and the Institute of Labour Studies, although not having inspection duties, will be able to provide the required technical support for the successful operation of a well coordinated inspection system.

Different countries also foresee labour inspectors requesting the assistance of a police officer in case of obstruction in the execution of their duties, for example **Mauritius** and **Honduras** but it is extremely rare that labour inspectors resort to police agents to access EPZ, which for example is a common challenge that labour inspectors face in the sector. Several countries have opted to sign protocols of MOUs with the Export processing zone authorities, or employers' associations to overcome this limitation. These collaborations we will detail in the section related to Coordination with other authorities.

3.4. Indicators to determine a good practice

- Clarify different roles of different public authorities to avoid gaps and duplications.
- Establish clear written agreements to define roles and responsibilities.
- Commence formal or informal agreements to determine ways of collaborations with other authorities, including inspection and enforcement bodies such as police, social security institutions, tax authorities and quota offices.
- Open communication channels where different authorities can share information regarding labour conditions at factories.
- Design specific campaigns to raise awareness among other public authorities on labour issues to also encourage collaboration on reaching the same objectives.

3.5. Data collection

Recommendation number 81 advises that any person who proposes to open an industrial or commercial establishment, or to take over such an establishment, or to commence in such an establishment the carrying on of a class of activity specified by a competent authority as materially affecting the application of legal provisions enforceable by labour inspectors, should be required to give notice in advance to the competent labour inspectorate either directly or through another designated authority. Every country should take measures to ensure that there is adequate up-to-date knowledge of the number and distribution of establishments and undertakings subject to inspection and the workers to be covered¹². A limitation in maximising use of information and programming inspection visits is that in many cases Labour Inspectorates, their central offices and or regional offices do not have access to a database or any type of registration of companies in order to programme inspections. They cannot know how many companies are operating or where they are located, the number of workers in the facility or production processes that they manage. They don't use the databases available in the social security institutions nor the ones from the tax authorities. The close down and opening of factories in the free zones is a common practice, even the registration of existing factories under new names to be able

¹² 2006, General Survey, parr. 175

to continue to enjoy the fiscal incentives that expire after certain number of years of operation.

For effective monitoring of labour standards, it is also highly recommended that a computerized system be put in place for the intake and analysis of data obtained during inspections. This also allows for better identification of risks, levels of compliance, programming inspection visits, organizing awareness rising and preventive campaigns, etc. It can be useful to brief the employers and trade unions on the and the state of compliance and competitiveness of the EPZs, measure the situation and extent of labour relations in enterprises, industries and in the nation and if sufficiently shared with social partners, the data would be a useful tool of strengthening relations and improving on working conditions.

In **Mauritius**, through a system of reporting, data collection is made easy at the level of the Ministry. Availability of such figures allows a better monitoring of the inspection services and ensures better use of the resources available. The Procedure Manual for Labour Administration Service issued by the Ministry in 2004 requests inspectors to keep an update of all enterprises in their region and requires the register of enterprises should be duly filled after an inspection visit.

In Mauritius, the Ministry requests inspectors to keep an update of all enterprises in their region and requires the register of enterprises should be duly filled after an inspection visit.

In many countries, for example **Sri Lanka**, there is no system in place to register all workplaces. It is therefore not unlikely that the inspection system does not cover the majority of the labour force. The preparation of a master register of all establishments liable to inspection has commenced.

In Sri Lanka, the preparation of a master register of all establishments liable to inspection has commenced.

In many countries, for example in **Sri Lanka and Indonesia**, administrative and information processes have in the past relied heavily on manual procedures, resulting in a massive flow of paperwork pertaining to inspections. It is well recognized that that the manual, paper-intensive system is low in productivity, inefficient, and not consistent with a modern approach to labour administration.¹³ In Sri Lanka, early 2007, all the districts offices of the Department of Labour acquired e-mail facility. In **Indonesia**, data on compliance required by the Ministry of Commerce /Industry or the Ministry of Small Enterprises on, for example, the extension of EPZ status was also handled manually.¹⁴

In **Honduras**, until 2007 all labour inspectors managed the inspection cases manually as there were no technological systems or resources to handle cases electronically. In 2006, the Project *Cumple y Gana* installed an electronic system to manage inspection cases (*Sistema de Información de Seguimiento de Casos, SAECI*). The new system is installed to allow labour inspectors to rationalize their working time, supervisors to follow-up cases in progress and have relevant information that could be aggregated in order for the responsible authorities to make management and planning decisions with better information. This system also foresees being able to supervise inspector's work more closely. The system was installed in Tegucigalpa early in 2007, starting the pilot phase

¹³ A. Sivananthiran 2007

¹⁴ A. Sivananthiran 2007

with the safety and health inspections. Later that year, it was installed in two other regional offices: San Pedro Sula and Choluteca. In San Pedro Sula, it wasn't operational until 2008, where labour inspectors that received training on how to use the system mention that since it is operational they are including all new cases within the system. The project managers highlight the success of the initiative comparing the number of complete inspection visits carried out in 2006 and the increase of 2007. There is no doubt that once the system is fully operational and used by all labour inspectors that the transparency in the labour inspectorate will increase and make both administrative and substantive work more efficient.

In **Costa Rica**, during 2008, the Ministry of Labour started to work with the *Cumple y Gana* Project to design and implement the Automated System of Labour Information (SAIL by its Spanish acronym) which intends to be a useful tool for labour inspectors to draft their reports and to create an electronic database that will allow them to extract relevant statistics. The implementation of the SAIL started off in September 2008 and is expected to work in all 29 Offices by the 10th of April, 2009.

In Honduras and Costa Rica, new electronic systems have been installed to manage inspection cases to allow labour inspectors to rationalize their working time, supervisors to follow-up cases in progress and have relevant information that could be aggregated in order for the responsible authorities to make management and planning decisions with better information.

In **Kenya**, the occupational safety and health inspectors collect data that includes hazardous conditions, hygiene/housekeeping, safety of machines, accidents, occupational diseases, noise and air pollution, fire precautions, lighting, ventilation, passage ways, first-aid, specialized installations (boilers, pressure vessels, hoists, lifts, etc). In the case of the Labour Department, the Labour Inspectors collect data on wages, working hours, rest days, annual leave, maternity leave, child labour, housing and house allowance, industrial relations including strikes and lockouts, state and extent of unionization, collective bargaining and other consultative arrangements including disputes' resolution methods and procedures; as provided by the relevant labour legislation or as concluded through collective bargaining.

The ILO-DIALOGUE Better Factories Cambodian Project is currently reviewing the computerization of garment factories. In Southern Africa, the ILLSA- Improving Labour Systems in Southern Africa Project- has also developed a software programme for monitoring and evaluating labour inspections. These are being implemented in four Southern African countries (Namibia, Lesotho, Botswana and Swaziland)¹⁵.

3.6. Indicators to determine a good practice

- Create registry of operating companies with minimum data relevant (for example, number of workers, main processes) and ensure it is updated regularly.
- Establish communication channels amongst different institutions, with data available on companies, i.e. Institutes of Social Security, Safety and Health, Taxes, Public Health, etc.
- Establish communication channels among different departments within the labour enforcement departments.

¹⁵ A. Sivananthiran 2007

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- Establish effective communication channels amongst different regional inspection offices and the central office.
 - Determine systematic criteria and guidelines to record data to maximise statistical use, policy review, etc.
 - Train labour inspectors on the criteria to record and classify data
 - Collect data on a regular basis at a national level on violations identified.
 - Labour inspectors need to submit reports to the inspection authorities on the results of their inspection visits.
 - Use data to perform planning based on risk based inspections.
 - Use data to identify patterns of violations and target campaigns.
 - Use the data to work on preventive mechanisms, to analyse the problems and make proposals to improve working conditions
 - Share data with worldwide comparability to help inspection system managers in other countries, or international organizations and institutions, in deciding on their research or technical cooperation priorities.
 - Share information with the social partners to create awareness and encourage them to collaborate with the inspectorate activities.
 - Share information with social monitors/auditors so they are aware of the current problems in the country.

4. Good combination of prevention enforcement practices

4.1. Prevention practices and campaigns on EPZ

Convention No. 81 establishes that one of the functions of the system of labour inspection is to supply technical information and advice to employers and workers concerning the most effective means of complying with the legal provisions. Recommendation No. 81 also determines that appropriate steps should be taken to ensure that employers and workers are given advice and instruction in labour legislation and questions of industrial hygiene and safety by such measures as: (a) lectures, radio talks, posters, pamphlets and films explaining the provisions of labour legislation and suggesting methods for their application and measures for preventing industrial accidents and occupational diseases; (b) health and safety exhibitions; and (c) instruction in industrial hygiene and safety in technical schools.

In many countries, the limitations of resources of the Labour Inspectorate constrain the possibilities of labour inspectors to carry out their duties efficiently. In many cases, especially in the cases of EPZ, most of the activities of the labour inspection are limited to enforcing labour legislation through programmed visits, although most of those visits rather than being *ex-officio* visits are actually demand driven, in other words acting on complaints. The Labour Inspectorate's lack of long-term planning, vision and strategy make labour inspector's role mainly reactive instead of proactive and preventive. There are very few initiatives in the Labour Inspectorates that are preventive, understood as any

effort to reduce accidents, work related diseases or any prevention strategy in general working conditions, unfair labour practices etc. Being reactive, it intervenes once the violation of the standard or the hazard has occurred irrespective of the intervention is initiated *ex-officio* or through the complaint of a worker. Inspectors limit their interventions to the traditional controlling activities indicating that a legal requirement is not being met in the company they are visiting.

Also instead of enforcing the law in a mechanic way it is much more effective to explain the law and the reasons for why specific action is required. Employers will tend to be more engaged with sustainable compliance when they are stimulated through cooperation instead of just being called to take corrective measures based on all the points that could be contrary to the standards.

The labour inspection services would need to lay greater emphasis on educating the employers and workers on the benefits of becoming self-inspecting and self-regulating. Greater emphasis on preventive and education inspection practices that would open the way to winning the trust and confidence of the parties creating the following advantages:

- Reduces need for constant inspections hence cost-effective.
- Frees of people to engage fully in productive work.
- Reduces adversarial relationships creating team spirit.
- Incorporates safety and health in the business plan.
- Creates strong linkages between safe-decent work productivity, competitiveness and development.

4.2. Enforcement

In many countries, the number of programmed visits to EPZ is not ideal. There are different reasons that have been outlined already, including lack of resources, increase in the number of enterprises liable to inspection, etc. many countries recognise that because of the lack of resources, most of the inspection visits that they perform on EPZ are based on complaints presented by workers instead of being able to follow their programmes or planning.

In **Costa Rica**, for example, EPZs are not perceived as a sector where workers are especially vulnerable to risks or violations of labour standards so the Inspectorate considers that due to the lack of resources their role is more effective in other sectors of the economy and therefore does not programme *ex officio* visits to companies under this regime. If they have performed inspection visits in EPZ during these years, it has been inspections at the request of workers or as a consequence of their complaints. Inspectors consider that these companies are more compliant because their customers require them to meet SAI, OSHA, INTECO and ISO standards. In **Mauritius**, on the contrary, with regard to planned inspections, the principle on which the inspectorate works is that each workplace should be visited at least twice a year, with particular emphasis on EPZ, hotels and the sugar industry. In practice this objective is not met.

In **Sri Lanka**, between 2006-2009, the Ministry of Labour put in place an effective system of monitoring labour inspections. In 2008, the number of inspections actually went up.

In **Mauritius** the Special Migrant Worker's Unit also verified the following:

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- Name and origin of agent and whether the agent has a representative in Mauritius.
 - Whether the worker paid a deposit before coming to work in Mauritius.
 - Whether the worker holds a valid work permit.
 - Whether the contract has been vetted by the Ministry of labour, Industrial Relations and Employment
 - Whether the worker has received a copy of the contract.
 - Whether the worker signed a different contract in his country of origin
 - Whether wages are paid in Mauritius.
 - Whether wages are credited in the worker's account in his country of origin or in the agent's account.
 - Whether food allowance is paid and/or the services of a cook retained.
 - Whether clearance for dormitory has been obtained from the Occupational Safety and Health Inspectorate, Ministry of Health and Fire services.
 - Whether gas, electricity and water are provided free of charge.
 - Whether the passport of the worker is in the custody of the employer without the tatter's consent.
 - Whether the air ticket of the worker is being paid by the employer.
 - Whether the worker is covered by workman compensation insurance.

In Mauritius, the Special Migrant Worker's Unit also verifies different issues to ensure application of standards for example whether a worker paid a deposit before coming to work in Mauritius, whether wages are credited in the worker's account in his country of origin or in the agent's account or if the air ticket of the worker is being paid by the employer. The Occupational Safety & Health Inspectorate also does inspection of dormitories for guest/ migrant workers.

In **Mauritius**, in addition to inspections undertaken for the purpose of the Occupational Safety & Health Act, the Occupational Safety & Health Inspectorate also does inspections of dormitories for guest/migrant workers who in fact mainly work in the EPZ sector. Such inspections by the inspectorate do not have any legislative backing and the Inspectorate itself feels that it could, more appropriately, be done by the Ministry of Health as part of their duties relating to public health. Over the past years a number of industrial unrests have been caused by poor conditions relating to dormitories, thus leading to the association of dormitories issues with labour rather than public health. Such inspections are, however, eventually undertaken according to guidelines provided by the Ministry of Health which provides for the size or rooms, number of people per room, windows, (lighting and ventilation) height of ceilings, bathroom, water supplies, lockers or cupboards, etc. Inspectors will also verify ventilation, lockers or cupboards, electrical and fire safety, potable water access, kitchen, facilities for taking of meals, bathrooms, etc.

Industrial Parks as companies under the EPZ regime, do not usually receive any type of inspection, only the factories within the parks are object of visits. There is room for labour inspection visits to the Industrial Park authorities, as they provide services to their

clients/factories that do need to meet labour standards. For instance, it is common that EPZs offer factories operating within its perimeter screening and hiring services. There tends to be high risk of discrimination in screening and hiring practices in this sector considering the volume of individuals requesting jobs and the lack of systematic procedures to ensure objective selection criteria not based on age, sex, family responsibilities and other grounds covered by the national legislation. Also considering that the EPZ authorities have the prerogative to allow access to the park, there is also a risk of the authorities not allowing entry to the park worker representatives or workers who are affiliated to a trade union. These services do not receive any type of inspection. Even if the factories being inspected have hired out these services to the EPZ, the inspectors will not verify the policies and procedures used in the screening and hiring of workers.

According to most legislation, re-inspection visits should be performed in each case to verify that the irregularities identified at the inspection visit have been corrected once the time-frame for correction has expired. But in practice, there are few instances where inspectors re-visit and ensure that the facility has implemented the adequate measures to correct the violation nor is it the case that the worker's right has been recognised and guaranteed. This implies that the focus is placed on the identification of the violation and, in the best case scenario, in the economic sanction imposed (which generally tends not to be a dissuasive measure) instead of placing efforts in the correction of the situation.

4.3. Self assessments

In **Kenya**, the Occupational Safety and Health Act (2007) establishes that workplaces, including EPZ, shall at least once a year, carry out a thorough safety and health audit of the workplace by a safety and health advisor, who shall issue a report of such an audit and shall send a copy of the report to the Director of Occupational Safety and Health Services. This audit report must be preserved and be kept available for inspection by the occupational safety and health officer¹⁶.

In Kenya the Occupational Safety and Health Act (2007) establishes that workplaces, including EPZ, shall at least once a year carry out a thorough safety and health audit of his workplace by a safety and health advisor, who shall issue a report of such an audit and shall send a copy of the report to the Director of Occupational Safety and Health Services.

The Ministries of Labour of **Honduras** and **Costa Rica** under the auspices of the *Cumple y Gana* Project developed a self-assessment form¹⁷ to increase the employer's knowledge on labour regulations and to help them voluntarily verify their compliance. The self-assessment is designed as a checklist that includes the main obligations that employers have to meet from the perspective of a labour inspection. It simulates an inspection visit performed by a labour inspector to verify compliance with labour legislation. It allows employers to prepare for an inspection visit, learn about the nature of the labour inspections and acknowledge issues that s/he might not have paid attention to in the past. Its role is educative and preventive. The questionnaire is generic; there are no specific questionnaires for any particular sector. In both countries, the self-assessment was validated with representatives of the Ministry of Labour, employers and unions who

¹⁶ As at the time of this collection, no report had been received by the Directorate since it is only recent, June 2008, that this Act came into being facilitating OSH inspection in EPZ as in all other places of work.

¹⁷ The *Cumple y Gana Project* has developed these forms in all the Central American countries under the scope of the project. Each of the self-assessments are adapted to the national legislation and validated with the three sectors.

provided their recommendations to improve the form and to reach a consensus on the most important elements of compliance. This tripartite dialogue, encouraged through the validation, also allowed the three sectors to reflect over the preventive role of labour inspectors. The self-assessment is conceived as a voluntary initiative and the results are completely confidential. The self-assessment is not handed over to any labour authority but rather it is filled in individually by employers in a confidential manner. If and when the employer fills in the questionnaire, s/he is encouraged to share the results internally with the workforce. In Honduras, the Ministry of Labour actually encourages that both employers and workers jointly analyse the situation in the facilities and answer the questions provided for in the self-assessment. When making reference to each of the compliance issues, the questionnaire includes the relevant articles of the applicable national legislation as well as the ILO Convention that has been ratified by Honduras and Costa Rica that includes the specific content.

The Ministry of Labour in Honduras acknowledges that labour inspectors cannot visit many workplaces but the questionnaire explicitly states that in no way is the objective of the self-assessment to substitute it with the inspection visits, but rather that the inspectors have instructions to verify specifically the articles included in the questionnaire. The previous Secretary of Labour authorised the distribution of this self-assessment among the inspectors to encourage its use during their inspection visits as currently labour inspectors do not have any type of format or questionnaire that includes a list of the rights and obligations that they would be verifying within their inspection visit. The Honduran National Business Council (COHEP) and the Honduran Association of Manufacturers (AHM) both provide these self-assessments among their members. COHEP even has copies of them in the reception/information desk. The self-assessment is also available on line.

This can be a very effective tool to promote voluntary compliance and help employers understand their obligations and what they can expect from a labour inspection visit. It can also help to increase transparency in the inspection process and promote cooperation of employers with labour authorities. It is a measure that has been well accepted and received by employer associations, which can also ensure that they continue to diffuse these formats. The impact of the measure still has to be measured as it is quite recent and has not been accessible to employers in the sector long enough to measure its efficiency and impact. Employers associations could collaborate in measuring impact and efficiency after an appropriate period of time.

<p>The Ministries of Labour of Honduras and Costa Rica developed a self-assessment form to increase employer's knowledge on labour regulations and to help them voluntarily verify their compliance. The self- assessment is designed as a checklist that includes the main obligations that employers have to meet from the perspective of a labour inspection.</p>

4.4. Advice, awareness and training

In **Mauritius**, the Special Migrant Worker's Unit, in order to help these workers to better know their rights, distributes brochures in English, Chinese and Hindi to disseminate information on the Mauritian Legislations which equally apply to migrant workers and services provided by various Ministries and departments. The Ministry has also recruited a Chinese interpreter to help facilitate communication between the Officers of the Ministry and the Chinese workers.

<p>In Mauritius, the Special Migrant Worker's Unit, in order to help these workers to better know their rights, distributes brochures in English, Chinese and Hindi. The Ministry has also recruited a Chinese interpreter to help facilitate communication between the Officers of the Ministry and the Chinese workers.</p>

In **Honduras**, in September 2006 the Labour Inspectorate launched the Mobile Labour Services Unit (*Unidad de Servicio Laboral Móvil*). This Mobile Unit's objective was to arrive to different free zones and attend inquiries from workers working inside the EPZs. The intention was to bring the STSS to workers and to avoid workers having to arrive to the STSS to present their claims or to be informed about their rights. This would allow workers to save money and time and not have to ask for special permits to leave their workplaces to go to the STSS. The Mobile Unit also distributed diffusion pamphlets and booklets on labour rights and self-assessments for employers. The Mobile Unit was financed by the *Cumple y Gana* Project.

The Ministry of Labour, AHM and the Export Processing Zone Association (AFRAFRANCAH) agreed on operational guidelines for the use of the Mobile Unit. The guidelines determined that two labour inspectors (and a driver) would arrive in the Unit to the EPZ which would be located inside the park in a location provided by and previously agreed with the free zone park, where access to electricity, bathrooms and food would be available. The visits of the Mobile Unit would be programmed in advance on a monthly basis along with all EPZs. Two days a week, the Mobile Unit would be located inside the parks, and one day a week the Mobile Unit would be stationed on public squares, universities, fairs, etc. The administration of the Parks would be notified of the Mobile Unit's presence inside the parks and the facilities would announce through the loudspeakers to workers that the Mobile Unit would be there available for them, and where it was stationed so that they could visit it to request information. At the end of the day, the labour inspectors assigned to the Mobile Unit would meet with representatives of the free zone park to inform them of the main issues brought up by workers. The labour inspectors would also inform the Regional Director of the Inspectorate who would also formally meet with the representatives of the Parks and officially comment on the information obtained. Once a month, meetings would be held between the Director of the Regional Inspectorate Office, AHM and AFRAFRANCAH to coordinate and evaluate the Mobile Unit's services. AHM would also assume the role of informing their affiliates of the existence and objective of the Mobile Unit.

Labour inspectors in San Pedro Sula did not consider the Mobile Unit to be useful. They mentioned that when an inspector was assigned to the Mobile Unit, they viewed it a punishment as they spent their time without any activities in the unit under the extreme heat. They mention that workers hardly used its services because workers thought that management was watching them and that they would be retaliated against if seen posing questions to the inspectors. Other workers simply did not arrive because they would not want to spend part of their lunchtime at the Mobile Unit. Inspectors consider that more people approached the Mobile Unit when they were located in the public squares.

The employers always referred to the Mobile Unit as "The Trojan Horse", which in itself says a lot about the attitude that management could have to the preventive initiative. AHM mentions that despite the formalised guidelines and their agreement, they were only involved in its coordination during 2006, so the agreed meetings to coordinate and evaluate the activities of the Mobile Unit only took place during the first months of operation. AHM has records of the number of visits performed from September to December 2006 (29 total) but since then, AHM does not receive any information from the STSS on the Mobile Unit's activities and does not have knowledge of the reasons why there has been no further collaboration. Other criticisms from employers include that on occasions on the same day, the Mobile Unit was located in their park they would receive inspection visits from other labour inspectors, which they considered created a high disruption to production and made them feel persecuted. They considered that they were acting in good faith by allowing the Mobile Unit around their facilities to give workers better access to the STSS and to their labour rights and that they would not expect to receive an inspection at the same time.

The CGT considered it a very positive initiative with little effects. They highlight that there was no commitment to confidentiality and workers had the feeling that the labour inspectors would give their data to the human resources department of the factories they worked at and feared retaliations.

The STSS Strategic Plan for 2007-2011 states, within the few objectives described for the Labour Inspection, that the goal is to increase coverage or services in free zone parks through the Mobile Unit in the regions and to provide training to companies on compliance to labour legislation. There is no information available to determine if the STSS has evaluated the impact of this measure nor if there is a strategy to ensure sustainability of the service.

This initiative is quite expensive for the limited use and objectives it has. If the objective is to make the Labour Inspectorate more accessible to workers, increase visibility of the Inspectorate in EPZ to discourage violation of standards and provide information to workers, there could be other and more efficient means to achieve these objectives including the current call centre to receive worker's questions and requests (which ensures anonymity) or specific campaigns that could be launched within the EPZs. It's hard to believe that the Ministry of Labour will continue to allocate part of its limited resources to this good initiative unless they are able to maximise the use of those resources with additional activities assigned to the unit. It is very important that before the STSS continues to invest resources in this unit the effects and impact are actually assessed in order to learn from the previous experience. If labour inspectors assigned to the unit could for example provide employers with advice on how best to comply with legal requirements, how to improve working conditions which will create a more favourable working environment and increase productivity, how to minimise current potential risks, how to develop more efficient policies and procedures, etc. these would improve working conditions through a preventive role of inspectors. If the Inspectorate used the Mobile Unit more efficiently, it could also improve the conception of the labour inspectors and their role among workers and employers. The initial collaboration with the employers association should also be resumed as well as the meetings to discuss the issues that are of major concern among workers in EPZ. Unions could also be invited to participate in order to involve all actors in the commitment of improving working conditions and so inspectors can also obtain feedback from these actors. The use of the Mobile Unit should be closely monitored and regularly evaluated in order to assess its efficiency.

In **Honduras**, the Labour Inspectorate launched the Mobile Labour Services Unit whose objective was to arrive to different free zones and attend inquiries from workers working inside the EPZs. The intention was to bring the Inspectorate to workers and to avoid workers having to arrive to the offices to present their claims or to be informed about their rights.

In **Kenya**, for example among their responsibilities inspectors provide technical information and advice to employers and workers on the most effective means of complying with legal (and agreed) provisions, and there are visible efforts by the inspectorates to get involved in the promotion of good labour-management relations through social dialogue and nurturing "self-regulatory" inspection regimes especially in occupational safety and health.

In Kenya, there are visible efforts by the inspectorates to get involved in the promotion of good labour-management relations through social dialogue and nurturing "self-regulatory" inspection regimes especially in occupational safety and health.

In different countries, for example **Kenya**, factories in EPZ have asked the labour inspectorate to come and provide advice before a private auditor sent by their clients comes to audit their company.

In **Mauritius**, while the main role of both the Labour & Industrial Relations and the Occupational Safety & Health Inspectorate is to carry out inspection, they also recognise that they have an important role to play in sensitising employees, employers and trade unions in labour, industrial relations, occupational safety and health and many other related issues. This is done essentially through training programmes undertaken by their Information/Training Unit either by means of seminars or on site talks aimed at both employees at shop floor level and employees at supervisory level. In fact such training sessions are considered to be an integral part of the inspection work as it is expected that they would result in better respect of the law by all parties concerned. During the year 2008, the Information, Education and Communication Division of the Labour & Industrial Relations Inspectorate organized around 32 seminars covering 936 participants of which 8 were for EPZ enterprises covering 192 participants. Among the themes covered for the various seminars aimed at EPZ enterprises were:

- Importance of workers' education & set up of the Ministry.
- Contract of employment, notice & severance allowance.
- Industrial injury & retirement benefits.
- Occupational safety & health at the workplace.
- EPZ Remuneration Order.
- Theft at the workplace & its consequences.
- International markets & trade agreements.
- Best practices at the workplace.
- Labour Act.
- Industrial relations.
- Work ethics.
- Absences & the legal provisions/Remuneration Order.
- Bullying, harassment, threat & violence at work.
- HIV Aids & sexually transmitted infection.
- Leadership, motivation & communication techniques.
- Human relations & industrial relations.

On site talks were also carried out for some 15 EPZ enterprises covering 434 employees and dealing with the abovementioned themes. On site talks are delivered at the request of employers or trade unions.

During the year 2008, the Occupational Safety and Health Section on its part offered the following two-full-day seminars for a total of 334 participants. Topics covered during these seminars were as follows:

- Causes of occupational ill-health.

- Conditions of work.
- Electrical safety.
- Healthy living habits.
- HIV/AIDS prevention.
- Machinery safety.
- Occupational safety and health legislation.
- Occupational safety and health management systems.
- Office safety (safe use of visual display unit).
- Role and functions of safety and health committee.
- Safe use of personal protective equipment.
- Safe use of pesticides.
- Safety and health at work for sectors being dealt with.
- Stress management.
- Prevention of substance abuse/alcohol/tobacco/violence at work.

In **Mauritius**, inspectors have an important role to play in sensitising employees, employers and trade unions in labour, industrial relations, occupational safety and health and many other related issues. This is done essentially through training programmes undertaken by their Information/Training Unit either by means of seminars or on site talks. These training sessions are considered to be an integral part of the inspection work as it is expected that they would result in better respect of the law by all parties concerned.

In **Bangladesh**, the role of the 60 counsellors responsible for enforcing the BEPZA Instruction No. 1 and 2, also have other responsibilities including developing good Industrial Relations, improve workers morale, achieve optimum productivity, reduce workers grievances, ensure proper work environment in the factory premises and see to it that no worker is mistreated and ensure that each worker is treated with respect and dignity. Their role also includes making workers aware about the EPZ Workers' Association & Industrial Relations Act, 2004, BEPZA Instruction No. 1 & 2 and rights and benefits that workers are entitled to. These counsellors will also be responsible for finding the root causes of workers' migration, absenteeism, break of discipline etc. and prepare analytical reports. The BEPZA through its EPZs conducted training and awareness raising programs for HR personnel, Counsellors, WRWC and WA members and general workers in order to encourage and promote compliance and ensuring good working conditions within the EPZs.

In **Sri Lanka**, the Factories Inspectorate has been carrying out an increasing number of worker and management training workshops, in collaboration with the Employers' Federation of Ceylon. Some of these campaigns have been held within the EPZs and have conveyed to workers information on workers' rights and safety and health. However, these efforts by various Divisions of the Labour Department could be better coordinated to more productively encourage prevention and reduction of violations of statutory provisions.

In Sri Lanka, the Factories Inspectorate has been carrying out an increasing number of worker and management training workshops, in collaboration with the Employers' Federation of Ceylon.

In **Honduras**, no specific campaigns as such have been launched from the Labour Inspectorate to promote compliance with labour standards within EPZs. The only activity worth mentioning is a campaign to promote the employment of people with disabilities and compliance with Convention No. 159. The Ministry of Labour launched a national campaign to promote the employment of people with disabilities and requested AHM financial support. AHM diffused all the material with their affiliates, and currently the EPZ sector is the one who employs the highest number of people with disabilities. The materials distributed include, the national legislation on the subject, ILO Convention No.159 on Vocational Rehabilitation and Employment (Disabled Persons) and a Guide to smooth the progress of integration of people with disabilities to the workplace. The materials have been reprinted to continue to be distributed during 2009. The sector currently cannot find enough individuals with disabilities to cover all the openings reserved for them.

In Honduras, the Ministry of Labour with the collaboration of AHM launched a campaign to promote employment of people with disabilities and compliance with Convention No. 159. Currently the EPZ sector is the one who employs the highest number of people with disabilities.

4.5. Indicators to determine a good practice

- Design national work plans or programmes of labour inspection:
 - With clear and realistic objectives;
 - With strategies for achieving the objectives;
 - With specific timeframes;
 - Where the responsibilities and priorities have been well thought-out;
 - Matched with the resources available;
 - Coordinated at the regional, provincial or district level;
 - Include both enforcement and prevention activities;
 - Determine how progress is to be measured and achievement evaluated.
- Ensuring that work plans include EPZ inspection visits and preventive activities in the zones. Peak production periods and specific schedules should be considered when planning actions within zones.
- Allow time to investigate incidents and complaints but reactive inspections should be managed so it does not detract from the time available for preventive and proactive inspections.
- Programme inspection visits and re-inspection visits to verify labour conditions at least once a year in every factory in EPZ.
- Ensure a balance between advisory, enforcement and supervisory functions.

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- Labour inspection services should seek to accommodate multi-disciplinary, multi-approach and multi-partner practices of labour inspections.
 - Within the advisory function, give particular attention to motivating and convincing the disparate interests and stakeholders to cooperate.
 - Incorporate preventive, education and constructive actions or approaches within inspection visits.
 - Promote a culture of risk prevention through social dialogue, disseminating information, sharing best practices and educational activities.
 - Stimulate sustainable preventive action.
 - Disseminate a culture of compliance, organise courses, seminars, conferences, radio broadcasts, exhibitions and the distribution of posters, pamphlets, and other publications and films. Ensure that they are available in languages understood by workers.
 - Develop self-assessments to increase employers' knowledge on labour regulations and to help them voluntarily verify their compliance.
 - Encourage employers and workers to work together on developing workplace policies and programmes.
 - Labour inspectors should advise on the development of information campaigns and play a key role in the campaigns.
 - Labour inspectors may also provide training, especially to trade unions, employers, NGOs, labour court officials and other government authorities.

4.6. Administrative procedures and effective sanctions

Most inspectorates have a range of sanctions when a violation is identified. These include verbal and written warnings, formal notices requiring action, administrative fines, closing down factories, and legal action, such as prosecution or reference to the public prosecutor. In many cases, the sanctioning system is not as efficient as it could be for different reasons, among them the presence of seedy administrative procedures, the high amount of cases, lack of willingness to correcting problems identified, and lack of resources both human and financial.

No specific good practices regarding administrative procedures, capacity to enforce and execute sanctions effectively were identified in any of the countries, particularly in the EPZ sector.

In Sri Lanka, the IRD takes proactive measures to ensure compliance by investors with all applicable labour laws and standards. In the case of non-compliance, the BOI initially gives notice to the enterprise that services provided by the BOI will be suspended unless immediate action is taken to rectify the situation. If within three months the enterprise fails to comply, the BOI suspends its services until the situation is rectified. Suspension of service could include the suspension of authorization of the import documentation or the suspension of the 'Green Channel' facility with regards to exemption from customs inspection extended to the operations of the errant Company. These sanctions are extremely effective as these facilities are of considerable importance to enterprises in the Zones. At least once in three months, officers of the IRD also visit enterprises in the EPZs. The IRD informs the enterprise prior to carrying out

investigations, which generally take place by mutual agreement. However, these sanctions are generally used in instances of non-payment of statutory dues such as wages, and are not used in other instances, such as where a trade union is not recognized. The decision to impose such ‘sanctions’ must also be taken by the Board of the BOI on a written recommendation made by the IRD, and is generally an extreme measure that is rarely adopted due to the potential impact on investment. Even if the measures adopted by the BOI to ensure compliance may be considered to be satisfactory, that is no substitute for the inspection by Labour Officers as provided by law. Costa Rica is another example where the export incentives could be cancelled in case that a company under the EPZ regime does not make contributions to the social security effective, but does not apply to not respecting other obligations.

4.7. Indicators to determine a good practice

- Ensure a speedy sanctioning process.
- Ensure that there are no obstacles either at an administrative level or at a judicial level and remedies can be attained.
- Ensure effective sanctions with dissuasive effects.
- Ensure that there are remedial actions that correct violations identified.
- Compare corrective actions through different workplaces so employers can learn how labour conditions can be improved and so focus is placed on rectifying and preventing rather than just conducting identification.

5. New approaches to deal with workers and employers

5.1. Involvement of workers and employers in inspection activities

Recommendation No. 81 establishes that arrangements for collaboration between employers and workers for the purpose of improving conditions affecting the health and safety of the workers should be encouraged. Such arrangements might take the form of safety committees or similar bodies set up within each undertaking or establishment and including representatives of the employers and the workers. Representatives of the workers and the management, and more particularly members of works safety committees or similar bodies where such exist, should be authorised to collaborate directly with officials of the labour inspectorate, in a manner and within limits fixed by the competent authority, when investigations and, in particular, enquiries into industrial accidents or occupational diseases are carried out.

Recommendation No. 81 establishes that the promotion of collaboration between officials of the labour inspectorate and organisations of employers and workers should be facilitated by the organisation of conferences or joint committees, or similar bodies, in which representatives of the labour inspectorate discuss with representatives of organisations of employers and workers questions concerning the enforcement of labour legislation and the health and safety of the workers.

In many countries legislation requires or at least allows inspectors to meet with workers representatives and workers during inspection visits. It is a common practice in

the sector, at least holding interviews with workers given the low number of unions present in EPZ. This said, inspectors also mention in the different countries that there are no new approaches on how to involve workers in the visits other than quick interviews where rarely workers feel they can be open with their concerns. Some inspectors highlight the challenge of ensuring confidentiality as a main concern for workers to speak openly during inspection visits. More communication with workers and employers would build trust between the inspectors, the employers and workers. Also with more fluid communication channels workers and employers are given an opportunity to ask the inspectors questions of mutual interest that would not have otherwise been asked.

In Mauritius, the Procedure Manual for Labour Administration Service issued by the Ministry in 2004, requires inspectors to meet union representatives when workers are unionised, and the members of the workers council in those instances where there is one established in the company. The Procedure reminds inspectors, that interviews held with workers should be made in private, without the presence of the employer and those workers interviewed should be chosen by the inspectors and should comprise workers of different categories, grades and sections.

In Kenya, the practice and procedure of involving as fully as possible employers and workers in the course of inspector's visit at the workplace has traditionally been the norm. In the new Labour Relations Act, 2007, the workers' representative (shop steward) has legally been given recognition. With this legal recognition, it would be fair and incumbent upon any inspection to give a shop steward an opportunity to exercise the mandate imposed by his/her newly upgraded position by involving him/her. In the new Occupational Safety and Health Act 2007, Safety Committees are to be established in workplaces with 20 workers and above. An occupational safety and health institute is about to start in the Occupational Safety and Health Directorate to enhance training for these committees and other users;

In Bangladesh, usually workers and their representatives participate and are consulted during the inspection visit by the counsellors. Additionally, the workers are informed about the actions taken on their grievances.

5.2. Indicators to determine a good practice

- Involve union representatives in inspection visits.
- Workers and their representatives should be involved in inspection visits.
- Encourage the creation and reinforce the role of safety committees and similar bodies as promoters of consciousness among the social partner actors, to investigate incidents and accidents and means of preventing them.
- Labour Inspectorates could receive the assistance of investing companies to encourage more joint or mixed committees to actually form at an enterprise level.
- Inspectors must have access to all workers.
- Inspectors must have the authority and facilities to question workers in order to determine the conditions in which the work.
- Efforts must be made to make it possible for workers to tell inspectors about their situation.
- Confidential channels must be thought of to help workers communicate with the inspectorate in coercive environments.

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- Inspectors should be able hold interviews with workers within premises and outside premises.
 - Provide call centres or anonymous channels for workers to channel their complaints.
 - Standardized forms should be made available to workers and to representatives of workers who believe that a violation of a labour law or health and safety regulation exists so that they can request an inspection.
 - Raising awareness of the role of labour inspection amongst employers, workers and other stakeholders, to help employers and workers understand their rights and responsibilities in regards to compliance and inspection.
 - Trade unions and employers' organisations should be involved in dissemination campaigns about the labour inspection role and how they can help to develop sound labour relations.
 - Create alliances between trade unions, non-governmental organisations, human rights groups, women's organizations and solidarity networks to improve the working conditions of workers in EPZs.
 - Create alliances with community policing and monitoring groups, especially those living close to the EPZs, have first-hand information that can be useful.
 - There should not be competition, just a meaningful working together towards a common goal among other partners and authorities that are currently involved in issues of labour rights, working conditions, investments quality of goods and services, and whose involvement should be welcome and coordinated.
 - The unions need to improve their capacity of organizing and recruiting sufficient membership within the EPZs for effective representation, control and advice.
 - The community can also play an active role with preventive actions.
 - Voluntary initiatives can also assist in gathering information directly from workers and their views and concerns which can be used to understand problems and root causes of problems in countries.

5.3. Tripartite committees in EPZ

Social dialogue at the zone level or at the national level is still very limited. In **Indonesia**, in 2007, the government called for the creating of local tripartite committees in each EPZ in order to increase labour competitiveness in the country's free trade zones. Each committee should consist of representatives of the local government, employers and labour unions, with the aim of serving as local social dialogue forums to address labour-relations challenges. Some enterprises had already established bipartite bodies for promotion of collective bargaining and settlement of disputes.¹⁸

In Indonesia, the government called for the creating of local tripartite committees in each EPZ with the aim of serving as local social dialogue forums to address labour-relations challenges.

¹⁸ Promoting Decent Work in Export Promotion Zones in Indonesia. By A. Sivananthiran

In **Honduras**, in 1991 two committees were created, one bipartite and another tripartite to oversee the EPZs. AHM and the unions CUT, CUTH, CGT formed part of the two committees. It was created to encourage dialogue and to try and solve any conflicts that would arise within the zones. Some unions considered this a very good initiative as many problems were solved during the meetings; others considered that they were just being used to show cooperation amongst themselves to international stakeholders. Unions do not trust that it will be reactivated, although they consider that it would be useful to increase dialogue between the parties. In the last two years, the role of the committees has been more reactive than preventive. They have not met as such during 2008. CGT continues to informally collaborate with AHM. When they find infractions in any of their affiliated companies, they will call the Association and ask them to encourage the factory to comply and to restore the violated rights. CGT mentions that AHM is more helpful in the cases of Korean factories, but if the factories are of American capital, they tend to not intervene.

<p>In Honduras, in 1991 two committees were created, one bipartite and another tripartite to encourage dialogue and try to solve any conflicts that would arise within the zones.</p>

There are some examples of tripartite social dialogue at the national level regarding appropriate strategies to attract FDI, including the EPZ option (as in **Mauritius, Kenya and South Africa**).¹⁹ For example, in **Sri Lanka**, the Board of Investment is a partner in the National tripartite Committee. Where at the zone level, through union pressure, employer or government initiative, bipartite dialogue has taken place; it appears to have benefited from lower levels of industrial unrest and labour turnover²⁰.

At the international level, some zone authorities have included trade unions on their boards (such as the Philippines, Singapore and Trinidad and Tobago). Others have promoted labour-management committees at enterprise level to deal with working conditions and occupational safety and health issues, though unions see some of these committees as a means of undermining independent workers' representation.²¹

In **Sri Lanka**, the ILO launched the Factory Improvement Programme (FIP) which was a multi-supplier training programme for the development of local factories' capacity in industrial relations, health and safety and working conditions, linking to areas of productivity and quality. It aimed to assist factories in adopting productive techniques to enhance competitiveness and bottom line results, to meet national standards in respect of worker rights substantiating a good business practice for and a requirement in today's competitive markets and the requirements of multinational brands by complying with their codes. The programme involves groups of six or more factories for a ten to twelve month training period and factory-level consulting / improvement programme. Two-day training sessions for each module are followed by factory visits and consulting in the specific needs of individual factories, resource persons being both international and national Experts. An Apex/Advisory Committee meets on a regular basis to review the progress of the programme and suggest improvements. The committee comprises of officials of the ILO, Employers' Federation of Ceylon (EFC), Joint Apparel Association Forum (JAAF), Trade

¹⁹ Promoting Decent Work in Export Promotion Zones in Indonesia. By A. Sivananthiran

²⁰ Promoting Decent Work in Export Promotion Zones in Indonesia. By A. Sivananthiran

²¹ Promoting Decent Work in Export Promotion Zones in Indonesia. By A. Sivananthiran

Unions, Department of Labour and the Board of Investment. Representatives also participate in training sessions. There are many EPZ factories participating.²²

5.4. Indicators to determine a good practice

- Constitute subcommittee in tripartite social dialogue forums on EPZ's:
 - To monitor labour relations, working conditions, and productivity and quality enhancement of EPZ's.
 - To provide guidance and information regarding the regulatory environment, supervising labour conditions at factories, including actual inspections, and implementing a follow-up mechanism for the factories.
- Create tripartite zone level committees:
 - To monitor labour conditions.
 - To the resolution of conflicts.
 - To promote a culture of compliance.

6. Coordination at the labour administration level and collaboration with other authorities

In 1994, ILO signed an MOU with the Ministry of Labour and Employment in **Bangladesh** to implement IPEC activities. Accordingly, a National Steering Committee (NSC) was constituted and thereafter the IPEC-Bangladesh started in 1995. ILO-IPEC has taken a major role towards the elimination of child labour from the country through some direct action programmes. The overall development objective of the IPEC country programme during the first stage (1995-1999) was to identify good strategies and workable models to combat child labour and to build capacity of the government, employers, trade union organizations, NGOs and other social partners to deal with the problem of child labour and its gradual elimination from the society. One of the significant successes of the programme during this phase was its partnership with the Bangladesh Garment Manufacturers and Exporters Association (BGMEA). BGMEA, ILO and UNICEF signed an MOU for elimination and rehabilitation of child labour from ready-made garments RMG industry sectors in Bangladesh. Under this programme, a joint survey for identification of child labour in the readymade garment factories was carried in 1995 by the BGMEA, ILO and UNICEF. All export oriented garment factories were visited and 10546 child workers below the age of 14 were identified. Thereafter effective steps were taken for removal and subsequent rehabilitation of the children. 9,500 children were enrolled in 336 BGMEA/ILO/UNICEF special MOU schools run by BRAC and GSS.²³

In Bangladesh, the BGMEA, the ILO and UNICEF signed an MOU for elimination and rehabilitation of child labour from ready-made garments RMG industry sectors.

²² Factory Improvement Programme (FIP) Summary Paper

²³ Extract from LABOUR ADMINISTRATION IN BANGLADESH Dr. Borhan Uddin Khan, Muhammad Mahbubur Rahman

Thereafter effective steps were taken for removal and subsequent rehabilitation of the children. 9,500 children were enrolled in 336 BGMEA/ILO/UNICEF special MOU schools.

In different countries, **Mauritius** for example, there is no requirement that EPZ enterprises be located in particular areas reserved specially for such enterprises. While in practice many export enterprises were located in particular industrial estates built for that purpose, many other were located in different location throughout the country. Some of these establishments outside the zones also act as suppliers for the larger factories inside the zones.

A very common obstacle that labour inspectors face when performing their enforcement duties in programmed and unannounced visits is the fact that inspectors are denied access to the EPZ without prior notice or authorisations or the process of notifying the factory that is object of the inspection is delayed. There appears to be reluctance on the part of the Ministries of Labour to insist upon the recognition of their legal right to enter and inspect workplaces and working conditions, even when the country has accepted the provisions of Convention No. 81. EPZ authorities or employers reserve the right to grant access to individuals that are not working in the factories that are inside the park and allege that this control is due to the security provisions necessitated by the EPZs being custom bonded areas. Labour officers and other governmental officials should be permitted access as soon as they identify themselves with the security officers at the entrance to the zones. This difficulty is not exclusive to EPZ and is sanctioned by the law in most countries that have ratified Convention No. 81 (for example, **Mauritius, Honduras, Costa Rica**) but fines for obstruction tend to be so low that they are rarely an effective dissuasive measure.

In **Sri Lanka**, it used to be required that anyone entering the zone, including labour inspectors must have BOI permission by way of appropriate identification, to satisfy the customs and legal requirements on security. To address this issue, back in 1999, the ILO Colombo Office brokered an agreement between the BOI and the MOL, resulting in an MOU between the two parties. One of the key points in the agreement was consensus to place an officer within the zones. Apparently this arrangement worked only in one zone and not in others. Currently despite the fact that there is no requirement that Labour Officers should inform the IRD of pending inspections within EPZs or in BOI enterprises outside the Zones, many labour officials prefer to inform the zone administrators before visiting the EPZ for inspection as a matter of courtesy or to avoid being queried by the security division.²⁴

In **Honduras**, in order to facilitate access of labour inspectors or any other public institution to the EPZ premises a Protocol was signed between the Labour Inspectorate and Honduran Manufacturers Association (AHM). The objective of the Protocol was to grant inspectors access to EPZ premises although it did not include access to the factories, who's representatives still have to decide if they will receive the public authority or not. The Protocol established that labour inspectors with proper identification would be walked in the premises of the free zone park and taken to main offices where the park authorities would notify the factory not only the identity of the person but also the objective of the visit. It also determined that the worker who had presented the claim, in cases of visits that were initiated by a worker, could accompany the inspector. This does not necessarily include workers representatives, who actually claim that are never allowed access to industrial park, even if they were to accompany a labour inspector representing a worker. The Protocol also determined that each EPZ would train their security guards on how to properly receive labour inspectors and the process that they should follow to walk them to

²⁴ The Committee of Exports has repeatedly focused its comments regarding the accessibility of labour inspectors to factories within EPZ premises.

the facilities to be inspected. Despite the collaboration of the Ministry of Labour and the employers association, inspectors claim that in many occasions they are still not granted access to the EPZs. In these occasions the inspector will return to his/her office inform the Ministry of Labour Regional Director who will informally call AHM to ask them to encourage the free zone to grant access to the inspector. AHM recognises that in some instances they are not able to convince their own affiliates to comply with the legal obligation of granting access to labour inspectors. It would be desirable that periodically EPZ authorities would be reminded of the existence of this protocol and their commitment to training security guards. In this initiative the Labour Inspectorate could also collaborate with AHM to show employers how the employers' association is also committed to the improvement of working conditions within EPZs.

In Honduras, in order to facilitate access of labour inspectors or any other public institution to the EPZ premises a Protocol was signed between the Labour Inspectorate and Honduran Manufacturers Association (AHM). The objective of the Protocol was to grant inspectors access to EPZ premises although it did not include access to the factories, who's representatives still have to decide if they will receive the public authority or not.

In **Kenya**, during 2005/06 the EPZ authority delivered a training programme as part of its corporate services on Human Rights in which the Ministry of Labour and ILO were involved in the facilitation. This was an open opportunity to educate the EPZ management on the role of Labour Inspections in pursuit of good work places.

In **Honduras**, Free Zone Parks have also signed collaboration agreements with public authorities on different issues, although these agreements are not signed through the Free Trade Zone Association but just individually. One of the EPZ authorities mentioned having signed a transit agreement with the local police office. Back in 1997-2001 there were many accidents caused by cars in the surroundings of the free zone park so an agreement was signed by which the EPZ authority would pay the expenses of having a transit police guard directing traffic from 6 a.m. until the end of the working day. Accidents decreased to a point that it was not necessary to continue with the initiative. In 2008 the EPZs collaborated in AHM campaign of mobility and road safety. Another agreement signed by this same EPZ authority with local police is to pay the gas expenses of local police officers to patrol on paydays and to provide an extension of three locks around the EPZ premises to avoid and discourage robberies.

In Honduras, Free Zone Parks have also signed collaboration agreements with public authorities on different issues, for example a transit agreement with the local police office to reduce the number of car accidents in the area, another to patrol on paydays and to provide an extension of three locks around the EPZ premises to avoid and discourage robberies.

6.1. Indicators to determine a good practice

- Inspectors must be permitted to enter the Zones immediately on production of proof of their identity as inspectors without any further authorisation.
- Training should be provided to security personnel to ensure that inspectors are not denied or delayed access.
- Arrangements should be made for labour inspectors to receive support from other law enforcement agencies when it is necessary to secure access.
- Cooperation and joint action between the labour inspectorate and the zone authorities should be encouraged.

7. Capacity to deal with technical matters

7.1. Training programs

Labour inspection is complex and demanding and requires not only commitment but also competency and professional training. Without regular and proper training it is difficult if not impossible for labour inspections to provide a high quality service. Inspectors should be suitably qualified, well informed, knowledgeable, motivated, dedicated to their roles and competent to deal with all basic non-complex labour protection and relations matters on an inspection visit. Officers need to be proactive and to prevent disputes and encourage good management and worker response. The need for quality in recruitment, good conditions of service and recognition of merit are essential in ensuring that the right officers with the right competency are available. Labour inspectors have to be well trained for and equipped with appropriate resources to be able to perform these tasks effectively.

Some countries have comprehensive training programs available for labour inspectors, but in most cases inspectors have either no access at all to training or the training is very sporadic and this does not necessarily cover their needs. In some cases they are trained if new legislation or procedures come into force but rarely are they ongoing. None of the countries in the study had training programmes in place that covered any of the specifics of EPZ. Rather, the case was that inspectors learn through experience.

In **Kenya**, the occupational safety and health has a clear policy on internal training. It starts from induction through the various stages of short internal seminars conducted by the experienced inspectors. These cover general aspects of inspection methods and procedures as well as hygiene. Currently, as officers become exposed to the inspectorate work, they are encouraged to pursue training in local institutions on self sponsoring basis with an arrangement for a percentage refund from the ministry upon completion. These include diplomas, higher diplomas and even masters degree. This arrangement has been well received in both inspectorates and many have taken advantage. In 2001-2004, under the sponsorship of ILO/SLAREA, the inspectorates received good quality training on inspections and labour relations. In 2003, ILO/SLAREA commissioned a study that culminated in a training policy guide for the Labour department that was fully accepted by the Ministry. This was emphasizing more on the role of labour inspections in the maintenance of industrial peace for development. There is an ongoing DANIDA project that is closely tied to the new labour laws. A series of training programmes are going on focusing on giving the Ministry and the various newly created institutions capacity to handle the new laws and also train the stakeholders on the same. While most of the materials and programmes are addressing training directly to do with effective inspection practices and procedures and also labour relations, other equally important aspects are included. These include: management skills, planning, problem solving and decision making, time management, communication, interpersonal skills, interviewing, report writing among others. These trainings are very useful tools for effective inspections as they allow inspectors to have a more proactive approach to their inspection duties.

In **Mauritius**, the minimum qualification required to be appointed as Labour & Industrial Relations Officer is five credits at the Cambridge School Certificate. Trainee Labour & Industrial Relations Officers must then follow a two-year course leading to a Certificate in Industrial Relations delivered by the University of Technology. It would appear that this certificate course has proved to be somewhat of a hindrance in retaining the trainees, many of whom have left before the end of the course. This in part explains the low number of Labour & Industrial Relations Officers in posts. The Ministry is actively looking into this issue with the aim of resolving the problem. In the case of appointment as Occupational Safety & Health Inspector, the applicant must hold at least a Diploma in

occupational safety and health or a Diploma in mechanical/civil/electrical/chemical engineering. Most of the current officers are however graduates. The Director for his part is a registered professional engineer with a MSc. in Occupational Hygiene.

In Sri Lanka, the Ministry has been investing in training especially to meet the new requirements of the service which is now focusing more on voluntary compliance as opposed to the earlier method of being seen as an enforcement agency.

In Costa Rica, in 1999, the Labour Inspectorate made an effort to upgrade the skills of labour inspectors and signed agreements with the University for labour inspectors to study and obtain their law degrees. In 1999, only 10 per cent of inspectors had a university degree, while now only 5 per cent do not have it. Not all inspectors have a degree in law, but it is the most common.

7.2. Indicators to determine a good practice

- Labour Inspectorates should have a structured training programme and strategy based on medium and long term objectives and needs for their staff.
- Inspectorates should analyse the training needs of inspectors where the competencies available are compared with the competencies required.
- Inspectors should receive training and increase their skills on issues as specific risks, technical areas, production processes and management involved in the operations of EPZ.
- The labour inspectors need to understand the important link between inspections, compliance with labour standards and export promotion.
- Labour inspectors should also increase their skills in negotiation, motivation and communication.

7.3. Effective materials to facilitate inspection

Labour inspectorates need to make efforts in order to homogenize the work of labour inspectors, trying to ensure that their activities and approaches are based in legal criteria rather than the free interpretation of the inspectors on how they should proceed. In many countries resources available are limited for example lack of office supplies, sufficient number of computers, lack of vehicles etc., are common limitations that make their daily routines less efficient.

In Kenya, a manual of workplace inspection procedures has been developed and made available to all inspectors for strict adherence. These are materials that can and are used as both training as well as guides to inspections and provide uniformity of inspections throughout the country.

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In 2004, the Ministry of Labour in Mauritius put in place a Procedure Manual for Labour Administration Service. This manual sets down for the first time in writing and in some detail, what is expected of labour inspectors: The manual includes: the Mission, Vision and Objectives of the Ministry, how to handle complaints, how to perform an inspections and enquiries, computation of overtime, computation of compensation, prosecution, industrial disputes, disciplinary committee and emergency procedures. Health and safety inspections are carried out according to set inspection forms requiring

inspectors to look at specific issues and include discreet meeting with employees. Inspection forms exist for the main sectors of activities, namely agriculture, construction and manufacturing.

In Mauritius, health and safety inspections are carried out according to set inspection forms requiring inspectors to look at specific issues and include discreet meeting with employees. Inspection forms exist for the main sectors of activities, namely agriculture, construction and manufacturing.

In **Costa Rica**, in the recent years, the Labour Inspectorate has made efforts in order to homogenize the work of labour inspectors, trying to ensure that their activities and approaches are based in legal criteria rather than the free interpretation of the inspectors on how they should proceed. To this end, in 2008, the Ministry of Labour issued the Labour Inspection Manual. The manual includes all procedures carried out by labour inspectors. Labour inspectors also have formats (checklist) to carry out their inspections which include a list of obligations that employers have to comply with.

In Costa Rica, labour inspectors have checklists to carry out their inspections which include a list of obligations that employers have to comply with.

In **Honduras**, the *Cumple y Gana* project, within its objectives, also helped the Ministry of Labour (STSS) to develop protocols and tools for labour inspectors in order to homogenize and normalize inspection techniques. The protocols determine the steps that labour inspectors should follow before, during and after an inspection visit (whether it be *ex officio* or special visits).

- The Good Practices Protocol is a collection of good practices provided and systemized by labour inspectors who consider them useful and should be used by all labour inspectors in their activities. It is divided into three sections:
 - Good practices before the visits which includes analyzing the case, previous records, preparation of material, etc.
 - Good practices in the visit which includes how inspectors should identify themselves, what to do in cases of obstruction, how to carry out interviews, how to collect and analyze documental information, etc.
 - Good practices after the visit which includes how to draft the Record, how to register the information, how to prepare the file, how to introduce the information into the database and how to carry out a re-inspection visit and close the file.
- The Verification Protocol is designed from the contents of the self-assessments, which includes a list of prioritized labour obligations that employers have to meet classified into categories. This allows the inspector to verify the different obligations in an orderly fashion and focus the inspection on certain subjects. This Protocol includes a specific chapter not included in the self-evaluation related to equality issues (from a gender perspective) to observe compliance of women and children rights considered especially vulnerable.
- The Investigation Protocol is a tool for labour inspectors to conduct investigations. It contains a set of techniques and procedures to corroborate and document violations based on SAI standards.

The Protocols were validated in May 2008 (13 labour inspectors participated in the validation) so they have only been in circulation several months, which implies that their use is limited and still not generalised, neither within the central office nor within the regions. Twenty-four inspectors were trained during two days on their use and it is likely

that they were inspectors from the Tegucigalpa Office as the labour inspectors interviewed in San Pedro did not have knowledge of their existence.

The third phase of the *Cumple y Gana* Project within its activities has programmed developing specific Protocols for two sectors of activity chosen by local stakeholders. AHM has already proposed that one of the sectors chosen be the free zones. AHM has also suggested that the protocols be based on the methodologies used by WRAP instead of the SA-8000 techniques as they are currently under a cooperation agreement with this organisation.

In Honduras, the Ministry of Labour developed protocols and tools for labour inspectors in order to homogenize and normalize inspection techniques. These include a list of good practices that inspectors should follow before the visit, during the visit and after the visit.

7.4. Indicators to determine a good practice

- Labour inspection services must continuously search for, and adopt new inspection practices that are holistic and multi-disciplinary.
- Inspection services must have human and physical resources needed to effectively inspect workplaces.
- Procedures manuals should be made available to inspectors to ensure that inspectors' activities and approaches are based in legal criteria rather than the free interpretation of the inspectors on how they should proceed
- Checklists should be developed for inspectors to use during their visits which capture the specific issues that are common within manufacturing processes.
- Inspectors should have access to updated laws, regulations and national jurisprudence.
- Inspectors should have access to experts that can provide technical advice and make proposals to remedy situations that can lead to risks.
- Inspectors need to be provided with transport facilities or reimbursement of expenses incurred to arrive to and from EPZ, especially considering the enclaves they are in.

8. Private initiatives, CSR and other practices helping developing labour inspection in EPZs

Concern for workplace conditions overseas by consumers in developed countries, and primarily the United States of America and Western Europe, began to emerge in the late 1980's and began to have a significant impact on the apparel-manufacturing sector in the mid 1990's. Since then, the private sector has had an active role in regulating and supervising their supply chains through the adoption of codes of conduct and auditing its principles. Voluntary initiatives that have emerged should not be seen as an alternative to public regulation and supervision, but not asking this sector to adopt an active role and take responsibility in some of the crucial changes that their presence is creating could be at the very least an opportunity cost. Many different types of institutions have developed a range of self regulatory initiatives, creating codes of conduct and methodologies to monitor and certify companies' compliance to a voluntary code, companies, trade associations, trade unions, non-profits, multi-stakeholder initiatives, etc. Despite its unending debate and

questioning their independence, credibility, expertise, and transparency it is a positive outcome that civil society and the private sector also take responsibility and invest time and resources in ensuring that the effects of globalization positively affect all sectors of society and that the current trends of the markets include sustainability. These can in no way replace but can strengthen the application of national legislation and international labour principles.

In some countries, either EPZs are not perceived as a sector where workers are especially vulnerable to risks or violations of labour standards or the Inspectorate considers that due to the lack of resources, their role is more effective in other sectors of the economy as consumer attention has led this sector to be highly scrutinized through the auditing of voluntary codes of conduct or other corporate responsibility initiatives established either by the companies under this regime or by their clients.

Employers associations and multination companies have taken different approaches to promote respect for national legislation and compliance with internationally recognised principles embodied within their codes of conduct.

In **Bangladesh**, in 2007, the BEPZA established two training institutes in the Chittagong and Dhaka EPZs with the objective of imparting continuous training programs for creating awareness on the rights and responsibilities of the workers and their productivity improvement.

In **Sri Lanka**, as mentioned above, the BOI has an Industrial Relations Department (IRD) located at the Katunayaka EPZ, and advises and assists enterprises to maintain a peaceful and harmonious industrial relations situation. Personnel from this IRD will visit the enterprises and guide the investors on all aspects in the area of industrial relations. Enterprises should bring to the notice of the Department any difficulties, disputes or problems faced by them so that they could be resolved speedily.” The IRD informs investors that it provides the following services to investors as well as employees, with a view to implementing and maintaining harmonious industrial relations:

- Handling grievances and complaints made by individual workers or Employees’ Councils.
- Resolving industrial disputes between employers and employees with the assistance of the Labour Department where required.
- Monitoring the compliance with labour laws, BOI guidelines and industrial relations’ practices by enterprises.
- Creating awareness on the rights and duties of employer and employees through educational programmes and seminars.
- Assisting employees to obtain statutory dues from enterprises in closure situations.

The IRD is therefore intended to provide an advisory and mediatory role rather than an enforcing or regulatory one. The BOI has published Guidelines for the formation and Operation of Employees’ Councils, and a Manual on Labour Standards and Employment Relations, which set out in detail the duties and responsibilities of employers with regards to terms and conditions of employment that should be provided to employees. The Manual states that all BOI enterprises, whether within the EPZs or outside them, are expected to observe the industrial relations principles and practices laid down in the Manual, and are bound by the provisions of the relevant labour laws and must provide terms and conditions of employment no less favourable than the basic standards set out in that Manual. These documents therefore confer a right on the IRD of the BOI to liaise with investors on all

matters pertaining to workers' rights and terms of employment. In the case of non-compliance, the BOI initially gives notice to the enterprise that services provided by the BOI will be suspended unless immediate action is taken to rectify the situation. If within three months the enterprise fails to comply, the BOI suspends its services until the situation is rectified. Suspension of service could include the suspension of the authorization of the import documentation (which has been used as a deterrent used against some persistent offenders in the Biyagama EPZ) or the suspension of the 'Green Channel' facility with regards to exemption from customs inspection extended to the operations of the errant Company. These sanctions are extremely effective as these facilities are of considerable importance to enterprises in the Zones. However, the Director, IRD, noted that these sanctions are generally used in instances of non-payment of statutory dues such as wages or EPF payments, and are not used in other instances, such as where a trade union is not recognized. The decision to impose such 'sanctions' must also be taken by the Board of the BOI on a written recommendation made by the IRD, and is generally an extreme measure that is rarely adopted due to the potential impact on investment. At least once in three months officers of the IRD also visit enterprises in the EPZs. The IRD informs the enterprise prior to carrying out investigations, which generally take place by mutual agreement.

In **Mauritius**, the Mauritius Employers' Federation (MEF), which today groups some 1,000 employers, has a general Code of Practice to which all its members must subscribe to. One of the underlying themes of this code is that members should apply the law. In practice there is no formal monitoring as such of the application by its members of the principles enunciated in the code. However whenever cases of non-application of the law come to its notice, the MEF would call in the defaulting member, though at the end of the day there is not much that it can do if the member persists in its deviant behaviour. At the end of the day, promoting respect for the law is done essentially through training, ensuring that members are kept aware of all relevant legislations and sharing out experiences and best practices. With respect to training, the MEF through its Management School offers a number of paid courses on industrial relations. One such course is the Certificate of Proficiency in Industrial Relations which is on offer every year. Though labour inspection does not appear as a theme covered in the course, it is dealt with in the module 'Labour Laws and their Applications' when the various Mauritian labour legislations and ILO conventions are examined.

In **Honduras**, AHM has increased their activities focused on awareness raising and encouraging compliance with labour legislation, introducing good practices and corporate social responsibility programs within their affiliates. They have also intensified their relationship with different organisms that promote compliance and social action. In 1997, they adopted a Code of Conduct which states that "the companies members of the Honduran Apparel Manufacturers Association will see after the compliance of the laws and rules which govern labour relations, especially regarding the child labour, pregnant women's job conditions, health and safety regime the wages and the working hours". The Code of conduct also includes the principle of equality, paying a competitive wage, recognize the workers' right to belong to any organization they choose, granted that the exercise of this right be consistent with law, and do not disrespect or violate neither the companies' right nor those of their executives. Any subcontractors of affiliated companies also have to comply. The Code foresees disciplinary measures to be imposed in cases of non compliance with the Code although there are no mechanisms in place in order to verify compliance. The Labour Services Department of AHM also organizes different capacity building sessions to increase legal compliance among its affiliates and has a specific programme operating since 2006 (PROCINCO) which provides capacity building and consultancy services on safety and health and productivity areas to the industry.

AHM is currently under the process of signing a cooperation agreement with the Worldwide Responsible Accredited Production (WRAP). The agreement covers the

development of a training programme to certify AHM staff to provide consulting and/or training services to companies interested in obtaining a WRAP certification and the creation of call centres for workers to confidentially channel their concerns, claims, etc. with the industry. The agreement also foresees collaboration with the Ministry of Labour, in particular: to “establish a cooperation partnership and/or and inter-institutional agreement between AHM, WRAP and the Department of Labour of Honduras to promote labour and social compliance in the manufacturing and textile industry of Honduras, through a training plan for the Department of Labour’s Inspector team for the corresponding monitoring and follow-up of current labour norms and Safety and Occupational Health compliance in the country, in accordance of the best practices established by the WRAP certification programme and international standards.” The approach is to train labour inspectors in the 12 principles covered in the WRAP Code of Conduct, on audit methodologies, on safety and occupational health issues, payrolls, etc.

In **Sri Lanka**, several National Awards schemes open to all enterprises in various categories have served to give prominence to workplace issues such as productivity and occupational safety. For instance, the National Safety Award, held once in two years, was commenced in 1994 by the leading insurance company providing insurance under the Workmens’ Compensation Ordinance to enhance Industrial Safety in Sri Lanka operated under the guidance of the Ministry of Labour. The Award has become the benchmark of organizational commitment towards an accident-free workplace. The National Safety Awards scheme is part of the Corporate Social Responsibility programme of the relevant insurance provider. Such industry involvement not only makes such Awards schemes sustainable, but provides an impetus for local enterprises to aspire to participating in the competition.

In **Kenya**, employers through their trade and representative associations such as KAM and FKE, collaborating with bodies such as KIM, have been running an annual “company of the year” Award (COYA) competition scheme. Among the many factors of success taken into account in judging the companies’ performance is CSR. During its final stages, ILO/SLAREA made attempts to factor in issues of labour relations and working conditions in this Award competition. The value and importance of CSR as an entry point of contact between the public and various companies and organizations cannot be overemphasized.

Different initiatives have also been created not from the private sector, but also from workers organisations or from civil society. In **Sri Lanka**, for example, there is a social dialogue forum among unions and NGO’s. ALaRM was created by a collective of trade unions, labour NGOs and observer organizations affiliated with the apparel industry, to work for the rights of women workers in the industry, specifically to train, educate and raise awareness of rights among women workers, study and publicize the working conditions of the workers in the garment industry, negotiate with the managers and owners of the garment factories to improve the welfare of women workers, and request the government and the buyers to act with responsibility on labour matters. At present, ALaRM is engaged in mobilizing workers, research and documentation, media and publicity campaigns, lobbying and negotiating with employers, the government and buyers - all part of an international campaign to improve the labour standards of workers.

The Fair Labor Association launched a project in **Guatemala, Honduras and El Salvador** funded by the United States State Department in June 2004. The objective of the Central American Project (FLA CamP) was to counter discriminatory practices in the apparel sector including, but not limited to discrimination due to union affiliation. To achieve this objective the FLA developed a set of Guidelines of Good Practice (GGP) on four issues that the FLA through its monitoring mechanisms had identified as frequent areas where discrimination at the workplace took place, especially regarding discrimination to union members. In order to draft the GGP the FLA consulted with local

stakeholders to ensure that the content met local standards and local needs, clarifying that the GGP were not a substitute of local legislation nor were promoting the revision of their labour legislation, but provided assistance to local employers to develop their internal policies and procedures in accordance to law, International Conventions and best practices in human resources in the industry. Parties that were consulted included representatives of the Ministries of Labour, trade associations, trade unions, NGOs, universities, individual workers and employers, labour lawyers, labour relations experts and MNEs participating in the project. The FLA CAmP also worked closely with the Ministries of Labour, not only in the drafting phase and consultation on the GGP, but also in the capacity building phase of the project, in particular with the Ministry of Labour of Guatemala. Within the objectives of the project the FLA CAmP was to train labour inspectors assigned to the textile and apparel sector in Guatemala on the GGP, so they would be able to detect violations to the national provisions regarding no discrimination at the workplace and also provide assistance to factory owners and personnel responsible for human resources on how to better implement this principle in practice within their hiring, termination, discipline and grievance procedures. The FLA CAmP also trained the GGP the staff from the Ministry of Labour's legal Department who is responsible for the approval of the internal regulations that employers draft and have to submit to the Ministry in order to come into force. With this training the labour authorities were also in a better position to revise the current models that the Ministry of Labour provides to employers to help them draft their internal regulations. After the experience in Guatemala in collaborating with the Ministry of Labour, even after the FLA CAmP had come to an end, the Ministry of Labour of El Salvador requested the FLA to provide training to the labour inspectors that the Ministry had recently hired. The training was delivered to the 52 new hired inspectors on the GGP.

Private initiatives and public inspection could collaborate within the inspectorate's function of securing the enforcement of the legal provisions relating to conditions of work, but more efficiently and maybe with less controversy, one way to move forward and where both activities could complement themselves is in their prevention policies and activities.

8.1. Indicators to determine a good practice

- To promote a culture of compliance, all actors of labour relations have to be involved, which requires engaging employers, unions and other stakeholders in a dialogue over labour standards. Companies will also be interested in participating in an active and positive approach to compliance, not only from a reputation point of view but as a prevention strategy. Companies can help stimulate, in enterprises, a systematic and sustainable improvement in working conditions.
- Labour inspectorates should provide employers with trainings concerning their statutory obligations, especially in a way that combines elements of business management and labour protection issues.
- Collaboration with multinationals could be pursued to deliver trainings to suppliers along with labour inspectors. Companies should be willing to participate in this sort of initiatives.
- Companies can also encourage and assist in the establishment of internal grievance procedures in enterprises and alternative conflict resolution mechanisms for workers to raise their complaints and find adequate solutions for problems.
- Collaborations could also be promoted or facilitated by local trade associations which are also willing to bring their members up to speed in their rights and obligations, to at the very least improve the image of their sector/country.

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- Engage companies in promotional activities to increase multinational companies' knowledge of national legislation, the local specifics in business culture and real problems with compliance.
 - Employers associations should be encouraged to improve their capacity to organize and recruit all EPZ enterprises into membership for ease of control and advice.
 - Engaging more effectively with Corporate Social Responsibility initiatives and employer-led audit schemes. This includes better integration of labour inspection programmes with existing public-private programmes and schemes, such as the ILO/IFC Better Work programme and other similar initiatives.