



Governing Body

322nd Session, Geneva, 30 October–13 November 2014

GB.322/POL/5

Policy Development Section
Social Dialogue Segment

POL

Date: 19 September 2014
Original: English

FIFTH ITEM ON THE AGENDA

Follow-up to the Meeting of Experts on Labour Inspection and the Role of Private Compliance Initiatives (Geneva, 10–12 December 2013)

Purpose of the document

The Governing Body is invited to take note of the outcome of the Meeting of Experts on Labour Inspection and the Role of Private Compliance Initiatives, which was held in accordance with the Governing Body's 2011 action plan on labour administration and inspection, and to request the Director-General to bear the results in mind in the preparation of the Programme and Budget for 2016–17 (see the draft decision in paragraph 8).

Relevant strategic objective: Strengthen tripartism and social dialogue (Outcome 11: Labour administrations apply up-to-date labour legislation and provide effective services). The Meeting is also relevant to the area of critical importance on strengthening workplace compliance through labour inspection.

Policy implications: The final report of the Meeting, in the form of the Chairperson's summary and recommendations, form part of the ILO's continued deliberations on labour inspection and the role of private compliance initiatives.

Legal implications: None.

Financial implications: None.

Follow-up action required: The Office will be required to take action as set out in the draft decision.

Author unit: Labour Administration, Labour Inspection and OSH Branch (LABADMIN/OSH).

Related documents: GB.312/POL/6.

I. Background

1. The conclusions on labour administration and labour inspection adopted by the 100th Session of the International Labour Conference (2011) noted that “issues of private compliance initiatives, self-regulation and potential public–private partnerships are deserving of closer tripartite examination by experts to be drawn together by the ILO”¹ and requested the Governing Body to “consider an international tripartite meeting of experts ... on private compliance initiatives in the light of international labour standards”.²
2. At its 312th Session (November 2011), the Governing Body approved an action plan on labour administration and inspection.³ As part of the plan’s knowledge-building component, the Office committed to organizing “an international tripartite meeting of experts ... to examine the issue of private compliance initiatives in response to the growth of private labour auditing worldwide”.⁴ The Governing Body subsequently approved the composition and agenda for the Meeting of Experts on Labour Inspection and the Role of Private Compliance Initiatives.⁵ The purpose of the Meeting was to deepen the knowledge of the ILO, its member States and employers’ and workers’ organizations on labour inspection and the role of private compliance initiatives (PCIs) and to consider good practices and possible policy responses at the national, regional and international levels.
3. The Meeting was composed of eight experts nominated after consultation with Governments,⁶ eight Employer experts nominated after consultation with the Employers’ group and eight Worker experts nominated after consultation with the Workers’ group of the Governing Body. The Chairperson of the meeting was Ms Gundla Kvam (Norway). The Vice-Chairpersons were Mr Kris de Meester (Employer expert from Belgium), Ms Sarah Fox (Worker expert from the United States) and Mr Onkar Sharma (Government expert from India). In addition, government officials from 22 member States,⁷ representatives from the International Organisation of Employers and the International Trade Union Confederation, and representatives of the European Union attended the Meeting as observers.
4. The Office prepared a background paper entitled *Labour inspection and private compliance initiatives: Trends and issues*⁸ as a basis for the Meeting’s deliberations. The paper explored the notion and the different types of private, voluntary mechanisms for monitoring compliance with established public (law or regulations) or private (codes of

¹ Conclusions on labour administration and labour inspection, para. 16. ILO: Report of the Committee on Labour Administration, *Provisional Record* No. 19, International Labour Conference, 100th Session, Geneva, 2011.

² *ibid*, para. 22(8).

³ GB.312/PV, para. 386(a), and GB.312/POL/6, para. 17(a).

⁴ GB.312/POL/6, para. 12.

⁵ GB.319/PV, para. 316, and GB.319/INS/16, paras 7–10.

⁶ Brazil, France, India, Jordan, Morocco, Poland, South Africa and United States.

⁷ Australia, Brazil, China, Costa Rica, Finland, Germany, Guatemala, Indonesia, Islamic Republic of Iran, Iraq, Republic of Korea, Malaysia, Mexico, Myanmar, Netherlands, Philippines, Russian Federation, Spain, United States, Uruguay, Bolivarian Republic of Venezuela and Viet Nam.

⁸ See http://www.ilo.org/labadmin/info/WCMS_230798.

conduct, etc.) standards. It looked in particular at how PCIs contributed to workplace compliance and their interaction and impact on public labour inspection. It recalled that, according to international labour standards, labour inspection was a public function but that labour inspection systems also had a role in cooperating with private institutions engaged in similar activities.

5. Drawing on the background report, the Meeting focused on four discussion points: (i) the views of constituents on the impact of PCIs on working conditions and their interaction with labour inspection systems; (ii) options and practices for coordination between labour inspectorates and PCIs; (iii) the role of governments, workers' and employers' organizations with respect to PCIs; and (iv) the role of the ILO.
6. A summary of the experts' interventions and the discussions from the Meeting were captured in the final report, which consists of the Chairperson's summary and recommendations.⁹ During the presentation of the draft Chairperson's summary and recommendations, the experts expressed their views on the content, which were noted in the final report and which the Chairperson took into account in finalizing the summary and recommendations.

II. Follow-up

7. Since the Meeting, and in an effort to further explore the role of PCIs and their relation to labour inspection systems, the Office has undertaken some initiatives at the national and global levels, including through work under the area of critical importance on strengthening workplace compliance through labour inspection (ACI 7). For example, a comparative research project under ACI 7 will assess the interaction of labour inspectorates and PCIs. Also, policy briefs will be produced on workplace compliance, including the role of PCIs, covering topics such as the link between labour inspection and child labour monitoring systems. In Bangladesh, the Office is engaged in technical cooperation to strengthen the labour inspectorate in coordination with industry-led compliance efforts targeting factories in the garment industry. In Viet Nam, a technical cooperation project on workplace compliance is assessing the experiences of the Better Work programme and the Sustaining Competitive and Responsible Enterprises (SCORE) programme and how they can interact with and complement the work of the labour inspectorate. Furthermore, the Office is organizing a number of events for exchanging good practices and dialogue with the social partners on this topic. With the guidance of the Governing Body, the Office will pursue opportunities to strengthen its understanding of the range and impact of PCI action across all regions through research, technical cooperation and social dialogue. At the same time, the Office continues its work to promote and support strong public labour inspection systems and their capacity to ensure workplace compliance with national laws and regulations in line with international labour standards.

Draft decision

8. The Governing Body:

- (a) *takes note of the final report of the Meeting of Experts on Labour Inspection and the Role of Private Compliance Initiatives; and*
- (b) *requests the Director-General to bear in mind the Meeting's deliberations and the views expressed by the Governing Body, in preparing the Programme and Budget proposals for 2016-17.*

⁹ See appendix.

Appendix

Chairperson's summary and recommendations

Introduction

1. The role of public labour inspection is to promote compliance with labour legislation and to secure its enforcement in line with international labour standards and other ILO instruments. Recent decades have witnessed the development of a range of private compliance initiatives (PCIs) with differing objectives, including assessing, and in some cases certifying, conformity with national labour law and/or international labour standards.
2. The relationship between labour inspection and PCIs was discussed during the International Labour Conference in June 2011 in a general discussion on labour administration and labour inspection. On that occasion, the Committee on Labour Administration requested that “the Governing Body consider an international tripartite meeting of experts on PCIs in the light of international labour standards”. The Governing Body, at its October 2013 session, decided to hold a meeting of experts in Geneva from 10 to 12 December 2013.
3. It should be noted that ILO standards define labour inspection as a public function. They also recognize the existence of private institutions engaged in similar activities and call upon the competent authorities to promote effective cooperation with those institutions. Yet the ILO has not taken a position on how labour inspection services and PCIs might best interact with one another. The ILO is nonetheless well positioned to examine approaches to such cooperation.
4. The ILO has been asked to review current global trends in PCIs and their impact on working conditions in the light of international labour standards; to consider the respective role of governments, workers and employers with regard to PCIs and labour inspection systems; and to consider what role the ILO could play. This Chairperson's summary reflects a number of priority issues on which consensus was reached among the experts at the Meeting. The differing views of the parties on the points for discussion are reflected in the report.

Points for discussion

Point 1: What are the constituents' views on the impact of PCIs on working conditions in the light of relevant international labour standards? Have these PCIs interacted with, and affected, the functioning of labour inspection systems and, if so, in what way?

5. As far as the first point is concerned, it was emphasized by all the participants that labour inspection remains a public function. Efforts should be made at the national level to strengthen its role in both compliance and enforcement functions in conformity with the principles of the ILO Labour Inspection Convention, 1947 (No. 81).
6. It is essential to enhance the workers' and employers' role, as well as that of their respective organizations, in compliance at the workplace. Improving industrial relations can contribute to better compliance.
7. There is a variety of different types of PCIs and all participants agreed that the impact, sustainability and effects of PCIs in domains such as working conditions, freedom of association, industrial relations and safety and health, should be further analysed in their

different aspects. Workplace compliance is an important target and any attempts to improve it should be consistent with national law and ILO standards and principles.

8. Attention should also be given to the impact of PCIs on workplace compliance in the informal economy, small and medium enterprises and in supply chains.

Point 2: What options and practices exist for coordinated action, exchange of information, partnerships, etc. between PCIs and labour inspectorates towards strengthening measures to ensure workplace compliance?

9. Concerning the discussion on the second point, participants agreed firstly that PCIs are not a substitute for labour inspection or an alternative to fill the lack of resources of labour inspectorates. Synergies have to be found where the aims of the PCIs and labour inspection coincide, notably when considering the improvement of working conditions. It is important to clarify and define the role of the different partners involved in workplace compliance in respect of standardization, certification and monitoring. The inspectorate's enforcement function cannot be subcontracted or delegated to private bodies. PCIs should not exempt anyone from complying with labour laws or from workplace inspections by public authorities.
10. Among the various initiatives, such as certification and other workplace evaluation processes, it is clearly important to seek closer involvement of workers' and employers' organizations. The experts gave some examples from around the world where the success of compliance practices is based on the coordination of the various initiatives with labour inspection. This shows that when PCIs are conceived and developed in a coordinated manner, within a clear mandate, both knowledge of the law and level of compliance could be improved.
11. PCIs can only play a complementary role in helping the enterprise to fulfil legal requirements. Such collaboration and cooperation, as required by Convention No. 81, and the Labour Inspection (Agriculture) Convention, 1969 (No. 129), should be based on an exchange of information and discussion of programmes or plans with labour administration and labour inspection. Existing practices (joint training, tools, manuals, public joint reporting) demonstrate that cooperation is possible and can work successfully without undermining the role of labour inspection.

Point 3: What should be the role, if any, of governments (particularly labour administration and inspection), workers' and employers' organizations with respect to PCIs?

12. During the discussion of the third point, interventions from all groups referred to the desirability of identifying sound practices for improving coordinated action among PCIs, social partners and labour administration and inspections. PCIs, being private by nature, are autonomous from labour administrations, even though this does not exempt them from the application of the relevant regulations. In this framework, an efficient, robust, well-resourced and independent labour inspection mechanism is essential. From the discussion it was clear that different partners, such as workers, employers, NGOs and other agencies, could be at the origin of the development of PCIs. The involvement and participation of the social partners is key and the ILO's involvement, where relevant, could further enhance the fairness and sustainability of the PCIs. In this regard, there are examples suggesting that PCIs based on a bipartite or tripartite approach are more successful than others.

Point 4: What role should the ILO have, if any, with respect to PCIs, particularly in the light of the new ACI on strengthening workplace compliance through labour inspection for 2014-15?

13. The final point for discussion was about the role that the ILO should have with respect to PCIs, particularly in the light of the new area of critical importance (ACI) on strengthening workplace compliance through labour inspection for 2014–15. In the context of the new ACI, the ILO should maintain its programmes and technical assistance addressed to the labour administration and inspection systems in closer consultation with workers' and employers' organizations at the national and international level. Resources should be made available with a view to improving inspectors' capacity building, upgrading the technical knowledge of the subjects involved in workplace compliance, and paying special attention to the informal economy as requested by the Labour Administration Convention, 1978 (No. 150). Some guidelines on the scope and development of the PCIs, and their relations and complementarity with labour inspection systems in the light of ILO international standards and principles, could also be considered. Participants agreed that the ILO should seize opportunities to examine, in a tripartite context, the relationship between labour administration and PCIs through research, empirical studies and collection of good practices.
14. Last but not least, the result of the current Meeting should further inform ILO discussions related to this subject and, in particular, the forthcoming discussion on global supply chains at the International Labour Conference.

Recommendations of the Chairperson

15. In developing this summary, as Chairperson of this Meeting I understand that there is broad agreement on the need to further strengthen the role of labour inspection systems. At the same time, in the context of PCIs whose goal is to improve working conditions, we also discussed how to improve the labour inspection role and function. I firmly believe that the ILO can play a key role in the context of the new ACI on strengthening workplace compliance through labour inspection for 2014–15, for which resources should be allocated.
16. Therefore, I consider that the ILO could explore the following:
 - (a) The strengthening of labour administration and, in particular, labour inspection to further develop its role and its efficiency in the light of ILO principles and standards. The ILO, in the context of the ACI on strengthening workplace compliance through labour inspection, could pilot selected national programmes where labour inspection could improve cooperation with the social partners in examining compliance initiatives with a focus on an appropriate mix of measures and instruments such as awareness raising, prevention and partnership with other interested stakeholders.
 - (b) The undertaking of practical actions, focused research and studies on labour administration and its relation with PCIs should be encouraged with a view to collecting and disseminating sound practices.
 - (c) The establishment of a forum in the framework of the ACI on strengthening workplace compliance through labour inspection for continuing an open dialogue between labour administrations, workers and employers and their organizations.