Final report

Meeting of Experts on Labour Inspection and the Role of Private Compliance Initiatives
(Geneva, 10–12 December 2013)
MEPCI/2013/7

INTERNATIONAL LABOUR ORGANIZATION

Labour Administration, Labour Inspection and Occupational Safety and Health Branch

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(Geneva, 10–12 December 2013)

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INTERNATIONAL LABOUR OFFICE, GENEVA


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A. Introduction

1. Following the general discussion on labour administration and labour inspection, which took place in June 2011, the International Labour Conference requested that the Governing Body “consider an international tripartite meeting of experts, during the next biennium, on private compliance initiatives in the light of international labour standards”. ¹ The Governing Body approved the holding of a tripartite meeting of experts during its 312th Session in November 2011 ² and, at its 319th Session in October 2013, decided to convene a Meeting of Experts on Labour Inspection and the Role of Private Compliance Initiatives in Geneva from 10 to 12 December 2013. ³ 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. The outcome of the Meeting should help guide the ILO on follow-up measures in that field.

2. The Office had prepared a background paper entitled Labour inspection and private compliance initiatives: Trends and issues which served as a basis for the work of the Meeting. ⁴

3. The Meeting adopted four points for discussion:

- **Point 1:** What are the constituents’ views on the impact of PCIs on working conditions in 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?

- **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?

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

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


² GB.312/POL/6, para. 17(b).

³ GB.319/INF/1.

B. Composition of the Meeting of Experts

4. The Meeting was composed of eight Government experts, eight Employer experts and eight Worker experts. On the basis of the Governing Body’s decision, the Director-General nominated Ms Gundla Kvam (Norway) as the Chairperson. The Employer experts identified Mr Kris de Meester (Employer expert from Belgium) as their Vice-Chairperson during the Meeting. The Worker experts identified Ms Sarah Fox (Worker expert from the United States) as their Vice-Chairperson during the Meeting. The Government experts identified Mr Onkar Sharma (Government expert from India) as their Vice-Chairperson during the Meeting. There were also Government observers from 22 member States and representatives from the International Organisation of Employers (IOE) and the International Trade Union Confederation (ITUC). In addition, representatives of the European Union attended the Meeting as observers. The list of participants is attached to the end of this report.

C. Opening statements

5. The Deputy Secretary-General, Mr Giuseppe Casale, welcomed the experts. He noted that PCIs had proliferated since the 1990s in both scale and scope and were found in every region of the world and economic sector. National systems of labour administration and labour inspection had been strengthened in many countries as a counterbalance to these initiatives, with varying results. There were nonetheless doubts on the justification and effectiveness of PCIs as discussed during the 2011 International Labour Conference, since their objectives were not always aligned with those of labour inspection and therefore could not be judged on the same basis. He emphasized that according to ILO standards, labour inspection was a public function and that the competent authorities were called upon to promote appropriate cooperation with PCIs. Even so, there was no ILO position on cooperation between labour inspection and PCIs, although the experiences of the International Programme for the Elimination of Child Labour (IPEC), Better Factories Cambodia, the Better Work Programme and ILO projects on forced labour offered examples for testing different approaches. Determining the criteria for such cooperation was an important consideration.

6. The Chairperson, Ms Gundla Kvam, expressed her thanks for having been appointed Chairperson and gave an overview of her professional experience as a Norwegian Government official. She recalled the important task given to the experts by the ILO Governing Body to deepen the knowledge of the ILO constituents on labour inspection and the role of PCIs, and looked forward to working with the Vice-Chairpersons and experts in order to share good practices and consider appropriate policy responses.

7. The Worker Vice-Chairperson, Ms Sarah Fox, thanked the Office for the background paper to the Meeting while noting that the Workers would have preferred more details and analysis on the problems related to PCIs. She emphasized in this regard the importance of labour inspection as a public prerogative and that available resources needed to be allocated to strengthen labour inspection and not voluntary initiatives. The workers had a range of concerns about PCIs which appeared to be part of a general tendency towards privatization.

8. First, PCIs had not delivered on the objective of improving compliance with labour standards, improving working conditions or changing labour practices, especially in labour-intensive manufacturing and agriculture. Although positive cases existed, these were often limited to occupational safety and health (OSH) and, to a lesser extent, working hours and wages. Non-compliance on freedom of association and trade union rights were not addressed by PCIs. These initiatives did not seem to contribute at all to the
empowerment of workers, whereas building mature industrial relations should have been their main objective. Enterprises should not have been certified if they did not have a union.

9. There was also little evidence that the findings of private audits were acted upon. She noted that the Rana Plaza factory collapse in Bangladesh had been the subject of previous audit reports. The social auditing initiatives directed at labour practices in supply chains had numerous shortcomings including misleading workplace information, contrived worker interviews and false reports. As a result, the role of buyers required more attention. Their demands on suppliers for high labour standards and extremely short production times and low prices were difficult to comply with. In addition, audits or compliance reports were often not public and unknown to inspectors who were thus unable to act upon them.

10. The background document did not fully consider the implications of the United Nations Guiding Principles on Business and Human Rights, which provided a test of business responsibility for adverse impacts in its supply chain. The discussion of remediation of adverse impacts of PCIs would have benefitted from the effectiveness criteria set out in the Guiding Principles.

11. She concluded that a number of conditions needed to be fulfilled for PCIs to be useful and complementary to labour inspection. These initiatives could never substitute the role of government enforcement. Sanctions were important and enforcement could not be privatized. Ultimately, compliance was enhanced when unionization was strengthened.

12. The Employer Vice-Chairperson noted that the topic of the Meeting was relevant for employers and workers in both developing and developed countries and that there was a need to clarify and increase knowledge about PCIs. He highlighted the importance of understanding what the term “private compliance initiative” did and did not mean. The Employers considered that this meant compliance initiatives taken by actors other than the state and that was not supported by public authorities. Initiatives that were taken or governed by state institutions could not be considered PCIs. Cases mentioned in the background paper such as “labour inspection-initiated PCI” or initiatives driven or dominated by public institutions could not be considered PCIs. These were either public initiatives where companies had a more active role or joint public–private initiatives. To be a PCI an initiative had to be voluntarily initiated and autonomously governed by parties other than governments or public institutions, such as companies, trade unions and/or non-governmental organizations (NGOs), with or without the involvement of other parties.

13. Secondly, it was important to distinguish between the respective responsibilities of labour inspection and PCIs. Labour inspection was responsible for enforcing relevant labour laws and regulations and it could not delegate this responsibility to other actors. PCIs were only accountable (in a non-legal sense) to their stakeholders for compliance related to specific criteria and objectives. This did not mean that PCIs had an obligation to cooperate with, or prove compliance to, labour inspectorates. It was not acceptable to consider PCIs as vehicles to improve the effectiveness and efficiency of labour inspections or to be controlled, regulated or even integrated into labour inspection action.

14. The parties initiating PCIs had different needs and objectives and were primarily interested in credibility and recognition of their own compliance achievements. The variety of PCIs was enormous and they arose from diverse needs to implement, complement or supplement existing legislation, whether in the area of child labour, discrimination, or OSH, etc. In this respect, PCIs were different from labour inspection in that they did not seek to ensure comprehensive compliance of a company with all of a country’s regulations.

15. A Government representative from the United States delivered remarks prepared by the Government expert from the United States. He welcomed the discussion and its timeliness.
given the mounting global attention paid to PCIs including from the social partners. He emphasized that the ILO had a unique role to play compared with other international organizations because of its tripartite structure, international labour standards and supervisory system, and capacity to evaluate how these initiatives relate to government responsibility over labour inspection. The respective role of governments and the private sector in the area of workers’ rights had received increased attention, notably through the UN Guiding Principles on Business and Human Rights under which governments had an obligation to protect human rights and businesses had the responsibility to respect them. PCIs were complementary to the role of labour inspection. In this respect, he recalled recent worker tragedies in Bangladesh in response to which the ILO was central in helping the Government strengthen its labour inspection system, all the while launching a Better Work Programme in the country and working to foster a more robust and transparent set of PCIs, such as the Accord on Fire and Building Safety in Bangladesh and the Alliance for Bangladesh Worker Safety. Ultimately, labour inspectorates and PCIs should both serve to advance the shared goal of improving protection for all workers.

16. The Government expert from India stressed the importance of the subject under discussion. He raised several issues for consideration: it should be determined against what standards PCIs should be measured, and to whom the responsibility should be given for setting those standards. In this regard, he asked what role the governments and the social partners should have in determining those standards. In addition, he queried whether credentials of auditors should be established, and where the responsibility for their appointment and their standards of accountability should lie. Labour inspection was a public function and governments were accountable to their parliaments. However, where companies appointed their own auditors there was the possibility of bias. He noted that even the garment factory in the recent Bangladesh tragedy was subject to a PCI at the time. Therefore, more careful study was necessary on the impact of PCIs. The scope of PCIs tended to be focused on multinational corporations and their supply chains but less so on work in the informal economy which accounted for over 94 per cent of India’s labour force. Moreover, PCIs tended to be oriented towards monitoring working conditions and health and safety matters but did not address important issues related to wages, social security or pensions. Lastly, he emphasized that labour standards should not be linked with private investment or protectionist trade barriers.

17. The Government expert from Morocco thanked the ILO for tackling this innovative field. She agreed with the Government expert from India that it was important to consider what the standard rules for PCIs might be and who was responsible for setting them. In Morocco, the labour inspectorate initiated a project that drew upon the procedures and methodology of PCIs, in the sense that labour inspectors started to visit enterprises with a view to assisting workers and employers in improving workplace compliance. This experience was similar to other PCIs which had a more positive impact than initiatives that were undertaken by employers or workers alone. It was relatively easy for PCIs to monitor standards related to OSH but more difficult to measure compliance with other rights such as freedom of association. She wondered, therefore, if the scope of PCIs should be limited to matters such as OSH or if their scope should be expanded to cover the full scope of the labour law.
D. Discussion

Point for discussion No. 1: What are the constituents’ views on the impact of PCIs on working conditions in 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?

18. The Employer Vice-Chairperson indicated that the Employers supported effective labour administration and inspection as a means for improving economic growth and promoting a culture of prevention. Enterprises faced many challenges as a result of globalization and supply chains, such as adapting the organization and management of enterprises to different countries. He considered that all compliance initiatives (not only private ones) fell into four categories: (i) labour inspection and enforcement measures whose purpose was to apply the law as a matter of public interest; (ii) public–private compliance initiatives that gave companies a more active role in ensuring compliance and enabled labour inspectorates to focus on situations of non-compliance; (iii) PCIs as business-led initiatives; (iv) other third party initiatives, for example by trade unions or NGOs, founded on a business case and designed to encourage businesses to comply with labour standards. The background paper considered compliance initiatives from the point of view of ILO standards and not from the point of view of enterprises, which were also concerned about increasing competitiveness and maximizing profit. PCIs driven by labour inspection or based on public–private partnerships (PPPs) were vulnerable to political influence. Only in cases where PCIs and labour inspection were based on an “organic cooperation” was the opportunity for interaction reinforced.

19. The Worker expert from the United States stated the need to change the present PCI model which had failed to produce the desired results. She cited a recent essay by Professor Richard Locke where he concluded that after more than a decade, private compliance programmes appeared unable to deliver on their promise of enforcing labour standards in today’s new centres of global production. This was not meant as a criticism of the management of companies, many of whom were genuinely concerned about labour rights. She noted that even collective bargaining was a kind of PCI. The recent Accord on Fire and Building Safety in Bangladesh’s textile industry included many promising features such as a binding commitment by buyers to provide resources to assist factories in improving compliance. Even so, these initiatives did not overcome the circumstances that were at the heart of these compliance challenges, namely the pressure of the global production system to pursue lower costs. PCI experiences so far had not yet exhausted all the possibilities for improving compliance.

20. The Worker expert from the United Kingdom presented her country’s Ethical Trading Initiative (ETI), which combined the voluntary efforts of companies, unions and NGOs to improve labour standards based on ILO standards. Companies were involved because of concerns over reputational risks related to sourcing from countries with poor labour standards and because of deficiencies in the national inspectorates’ capacity to enforce the labour laws. Initiatives like ETI filled a compliance gap in the export sector of sourcing countries. However, PCIs tended to focus on the export sector and generally lacked the means to reach the informal economy where concerns related to contract labour and undeclared work are prevalent. There was a concern about how to protect the rights of all workers in all countries, including those workers involved in production for the domestic market.

21. The Worker expert from Nicaragua expressed concern about the practice of certifying the working conditions of enterprises without consulting workers or trade unions. In his
experience, the audits were not successful. Often, workers were not even aware that a private audit, or even an inspection visit, had taken place, which diminished their effectiveness. He added that in some countries, paying for such certification in essence signified the privatizing of the labour inspectorate.

22. The Government expert from India stated that the ILO should not allow other international organizations to interfere in its exclusive areas of competence. He noted that the 309th Session of the ILO’s Governing Body confirmed this in relation to the International Organization for Standardization (ISO). India did not have a national statutory self-certification system. Self-certification systems were attractive to employers because they limited the frequency of inspections but this was not consistent with the provisions of the Labour Inspection Convention, 1947 (No. 81), according to which inspections should be periodic and unannounced. He added that PCIs did not cover all important labour matters such as discrimination, freedom of association and collective bargaining, social security, gender equality and social dialogue.

23. The Government expert from France was pleased to note that the Employers recognized the role of the state and workers in ensuring that fundamental rights were guaranteed. PCIs created by service providers required support and partnership from enterprises and workers to ensure a well-balanced result. Governments recognized that PCIs had their place, but not at the expense of compromising the legitimate powers of labour inspectorates. With reference to the Rana Plaza tragedy in Bangladesh, while the working conditions were poorly enforced, it was in fact the inadequate enforcement of construction standards that was at the root of the incident. A balance had to be struck between PCIs, national legislation and international labour standards. Everything could not be left to PCIs.

24. The Government expert from Morocco said that while the impact of PCIs may not have been clearly demonstrated by studies, when developed in a tripartite manner, PCIs had an impact. Even so, labour inspectorates must maintain their prerogative. The fact that an enterprise had complied with the requirements of PCIs should not limit the power of labour inspectors to carry out visits. Morocco had experience in PCIs including the Label CGEM (Confédération générale des entreprises) pour la Responsabilité Sociale de l’Entreprise and Fibre Citoyenne in the textiles sector. Even so, the Government had specified that obtaining a certification under these initiatives did not exempt an enterprise from an inspection visit.

25. The Government expert from Poland agreed that labour inspectorates must retain their prerogatives. However, PCIs were able to complement the labour inspection function. She presented examples from Poland including a PCI where large construction enterprises had developed and agreed to standards that subcontractors were expected to follow – with the support of the labour inspectorate. In another prevention programme implemented jointly with small and medium-sized employers, the labour inspectorate provided tools to assist companies comply with the labour law. The inspectorate then visited these workplaces, and awarded diplomas to those enterprises deemed to be in compliance.

26. The Government expert from Brazil was of the view that PCIs improved working conditions. He recalled the Employers’ statement that PCIs, by definition, were private but where there was interaction between PCIs and labour inspection this was not truly private. PCIs could, however, assist labour inspectorates and interaction between the two allowed for the sharing of good PCI practices. Such sharing was positive and the labour inspectorates should be able to learn from the results of such practices, but there should not in any case be a reduction in the capacity and frequency of official labour inspection visits.

27. The Employer Vice-Chairperson agreed with the Workers and some Governments on the importance of an effective labour inspection system. A sound labour inspection system was important and governments had an enforcement role that should be coherent. PCIs assisted,
supplemented and supported labour inspection and contributed to an overall improvement in compliance. The goals of PCIs were not always the goals of the labour inspectorate which explained why the results were not always reported or were of no interest to inspectorates. However, PCIs should be evaluated to ascertain their effectiveness. There was a role for PCIs in helping enterprises comply with labour legislation. The Rana Plaza and Tazreen incidents in Bangladesh centred on building and fire safety. While national legislation in this regard was prescriptive regarding technical standards, they did not provide for the security measures necessary to meet those standards. In such cases, insurance companies could be a driver to ensure compliance and were complementary to the efforts of regulators. The presence of national legislation was one aspect, but the question remained whether it was properly enforced. The action plan of the Accord on Fire and Building Safety in Bangladesh, the Alliance for Bangladesh Worker Safety, including the role of the Better Work Programme were good examples. He also noted that some of their members belonged to the ETI.

28. The Worker expert from Canada acknowledged that while there was no conclusive data regarding the efficiency or effectiveness of PCIs, available OSH research confirmed a strong correlation between being penalized for non-compliance and a reduction in occupational accidents. This suggested the importance of strong labour inspectorates identifying and sanctioning violations.

29. The Worker expert from Belgium stated that trade union PCIs, such as the Clean Clothes Campaign, tried to promote compliance with international labour standards. He noted that Belgium’s trade unions had supported action to protect pregnant workers in Tunisia from unfair dismissal drawing on ILO standards. PCIs were useful in supporting compliance with OSH standards, but appeared less effective in addressing issues such as freedom of association and collective bargaining. There was a market for PCIs including the granting of labels which sometimes falsely indicated compliance with international labour standards. It was thus important to consider criteria for PCI transparency and cooperation with public authorities. In this respect, the ILO could help to distinguish between PCI initiatives that functioned well and those that did not.

30. The Government expert from France stated that there should be consensus on this matter between Governments and Employers. Labour inspection, while important, had its limits. Consequently, there was a need to think strategically about the use of PCIs. One solution was to develop a systematic approach with the setting of objectives and indicators based on an agreed understanding of PCI targets and within the framework of international labour standards.

31. The Worker expert from Switzerland was concerned that too many different PCI models were being discussed and there was little equivalency between, for example, a voluntary PCI and one that was contractually based as in the Bangladesh Accord. Reliance on statistical measurement to prove or disprove the effectiveness of PCIs was problematic because they were generally based on accident rates which were not always reliable, and open to manipulation based on regulatory incentives. One value of PCIs was the improvement of dialogue between enterprises and workers. In any case, there was a need to change the “race to the bottom” mentality and there was no substitute for strong enforcement of labour laws by the competent authorities.

32. The Worker Vice-Chairperson said further research was required by the ILO in this area, in particular on whether the existence of PCIs was crowding out the labour inspection function. The impact of PCIs on labour inspection was tangible in that millions of dollars were spent on these initiatives without matching resources for labour inspection. There was also a lack of transmission of the results of these initiatives to the workers and labour inspectorates. She suggested that the sustainability of PCIs was doubtful since resources
were only committed for a certain period of time without any sustainable infrastructure to continue the work.

33. The Government expert from France noted a trend in Europe of increasing normative sources in the field of labour law whether by convention or even contract in the context of industrial relations. This evolution had led to a reduction of the legitimacy and role of labour inspection, to the benefit of PCIs.

34. The Government expert from India did not support the need to recognize the importance of PCI and to involve labour inspection. He highlighted experiences in India where this was happening in the field of specialized OSH issues as a result of limited technical capacity and resources. Complementarity between PCIs and labour inspection resulted from a system of certificated enterprises or private agencies that checked workplace conformity with standards on safety equipment, or technical requirements in mines. He suggested that the ILO could undertake an in-depth study on the mechanism and practices of various certifying agencies.

35. The Employer Vice-Chairperson disagreed with the suggestion by the Government expert from India. It was not the role of the ILO to set such standards for PCIs. Instead, it would be useful to inquire about the distinctive roles of PCIs and labour inspection, how to avoid negative interference and maximize complementarity. He further disagreed with the suggestion that there was a lack of proof on the impact of PCIs, and noted that the Employers’ group knew of examples that demonstrated significant positive impact.

36. The Employer expert from the United States reiterated that employers saw labour inspection as fundamental for the respect of labour rights and that it would be helpful if governments were able to be more effective in enforcing their labour laws. PCIs were never created to replace labour inspection. They emerged as a result of companies’ needs to address compliance gaps in global supply chains. These initiatives were intended to help enterprises along the production chain improve compliance with the law but were never intended to replace the state’s function. The same criticisms levelled against PCIs could equally be applied to labour inspectorates, which both faced challenges in achieving their objectives.

Point for discussion No. 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?

37. The Worker Vice-Chairperson said that her group was concerned about the relationship between PCIs and government inspectorates, believing that the outsourcing of inspection services was fundamentally mistaken. Other similarly problematic schemes included government reward schemes for companies that were awarded certification, draining public resources among others. Another source of concern was programmes where certification led to exemption from public inspection. The report referred to the situation in Viet Nam where Better Work Vietnam notified government authorities whenever it discovered instances of non-compliance. While such measures addressed the “black box” problem of transparency, their follow-up remained unclear. She noted that in some cases public labour inspectorates received PCI reports and expressed interest in further research on the impact of such measures. The key to the success of PCIs was worker empowerment, allowing workers to organize themselves and create environments where they felt able to report violations.
38. The Employer Vice-Chairperson said that PCIs opened up a large range of possibilities for coordinated action. However, the aim and objectives of PCIs and those of labour inspectorates did not always coincide. The discussion point seemed to suggest that coordinated action or partnership was always needed, whereas coordination and the exchange of information could not be institutionalized. In many cases, exchange would take place organically. Many countries had national labour councils which provided platforms where information exchange took place as a matter of course. Determining the objectives of PCIs should establish whether collaboration was needed and PCIs should never compensate for the shortcomings of labour inspection services. Employers did not see PCIs as a means of achieving exemptions but as a way of providing assistance towards meeting certain legal requirements. Above all, governments should ensure a good social dialogue climate, which would enable collaboration and the exchange of information. Key success factors were the frank and open exchange of information, partnerships, and the common ownership of initiatives. That was not the case in initiatives that only concerned governments. PCIs should be based on equality, transparency, consistency and honesty, providing equal benefits for all participants.

39. The Government expert from Morocco emphasized that coordination was needed to ensure that PCIs were effective. The social partners should participate throughout the process, from the formulation of standards and terms of reference to ensuring compliance at the enterprise level. Furthermore, making the outcomes of PCIs available to labour inspectorates could ease the pressure on them, while ensuring the continuity of their work.

40. The Government expert from India said that cooperative initiatives between public and private inspection services existed in some countries in limited areas. Labour inspection and PCIs shared the common objectives of achieving better working conditions and compliance with national labour laws and private initiatives. Their work was complementary, but labour inspection could not be substituted by PCIs, which should in no event create exemptions. PCIs could help employers improve compliance in the expanding informal economy but an appropriate methodology should be established in that regard. Broadly speaking, a coordinated approach to improving working conditions required regular dialogue for the exchange of ideas and information.

41. The Government expert from France stated that in a number of countries labour inspectorates were given access to the results of private evaluations. His Government was currently reforming the labour inspectorate and was looking for ways to improve its effectiveness. The use of data arising from PCIs could be relevant in the consideration of enterprises targeted for inspection as well as the focus of such inspections. A joint approach between the State and social partners on sharing the results of private and public verification would help develop greater transparency and give greater credibility to both the objectives as well as the results sought.

42. The Government expert from India was concerned that cooperation should not just include labour inspectors and PCIs but also trade unions, with a view to promoting greater transparency.

43. The Employer expert from the United States stated that a fair degree of coordination already existed. Her company had met with ministries of labour in a number of countries to learn about their national labour laws and to help them understand the company’s role in ensuring compliance. However, such work did not seek to undermine national labour systems. Her company also met with US embassies abroad and took full advantage of labour reporting officers to improve their understanding of national labour issues. In such circumstances, information sharing occurred naturally and greater emphasis should be placed on creating those opportunities. The ILO could be helpful in creating forums for dialogue between national labour inspection and PCIs. While PCIs could reach out to the informal economy, they could not be expected to address all national labour issues. PCIs
were the result of a contractual agreement between a buyer and a supplier. Buyers could, of course, seek to understand the informal supply level, but they were under no obligation to do so. Ultimately, governments continued to be responsible for ensuring that they had sufficient resources to address national labour issues and the informal economy.

44. The Employer Vice-Chairperson said that the social partners were well positioned to provide information on good practices and coordinated action. There were instances of coordination through cross-training between labour inspectorates and PCIs and the development of joint manuals or guidelines. Other examples of coordination included initiatives using third party auditing, where labour inspectors and PCIs conducted witness audits to evaluate the performance of private evaluation bodies. Information could be exchanged through public reporting initiatives and the participation of labour inspectorates and trade unions in steering units or technical working groups. He did not agree that the PCI performance of enterprises should be made public, as that would render such initiatives ineffective. PCIs encouraged smaller companies with low compliance to improve. If information was made public, companies would conceal information rather than seek to make such improvements. There was no miracle solution to address the informal economy and a policy mix would be needed to transfer informal work to the formal sector. PCIs had a role to play by creating “collateral advantages” but they did not provide the whole solution.

45. The Worker Vice-Chairperson was in agreement with the Employers’ call for sufficiently resourced labour inspectorates and she invited the Governments to share details of specific programmes in their countries.

46. The Government expert from Morocco outlined a series of initiatives undertaken in her country. The first was an ILO-supported project to promote decent work in the Moroccan textile industry carried out between 2005 and 2008. Its main objectives had been to improve social dialogue by reinforcing tripartite and bipartite consultation structures, improve the competitiveness of the textile industry and train national experts. Outcomes included the production of guides on social legislation, as well as training for trade union leaders and consultants. The Government had launched a national plan of action on social compliance to help enterprises improve their labour law compliance, and it had developed a social compliance standard, awarding certification on the basis of evaluation by a tripartite committee. An employer-led initiative provided corporate social responsibility (CSR) certification based on a number of indicators. Since 2007, 55 enterprises had received certification, allowing them to benefit from a number of preferential customs and banking conditions. The *Fibre Citoyenne* initiative had been jointly financed by the Government (60 per cent) and the private sector (40 per cent) and sought to eradicate child and forced labour and discrimination, improve OSH and promote freedom of association and respect for the environment. Lastly, a national OSH award had been set up in 2004 by the Ministry of Industry and Trade and awarded to 26 enterprises.

47. The Government expert from Poland explained that the labour inspection system in her country was unique because it was independent from the Government and only answered to the Parliament. One initiative had brought the labour inspectorate into close collaboration with the private sector by setting up a working group to develop self-assessment checklists for businesses in high-risk sectors, in particular the chemical and petroleum industries. Enterprises in those sectors conducted self-assessment on the basis of those checklists, which were then followed by up the labour inspectorate. Synergies had been found between self-evaluation and labour inspections, whereby businesses adopted their own preventive measures and initiatives to improve labour conditions, relieving pressure on labour inspection services.

48. The Government expert from Brazil presented the national agreement for the eradication of forced labour that had been established between the Government, employers, workers, and
NGOs to prevent forced labour in all operations and outsourcing activities. Government funding and collaboration was withdrawn from non-compliant companies and they were placed on a blacklist. The initiative included companies of all sizes and had achieved positive results.

49. The Employer expert from Madagascar said that her country had no experience in cooperation between the labour inspectorate and PCIs, which were generally unknown to the labour authorities. She therefore welcomed the proposal to adapt cooperation to each country’s situation, stressing the importance of sharing information within structures for tripartite consultation and social dialogue such as national labour councils. Such consultations should be a first step in determining the forms of cooperation. However, cooperation between labour inspection and PCIs could not be institutionalized.

50. The Worker expert from South Africa observed that the discussion highlighted a number of contradictions. While it was important to share information on PCIs, the subject should be handled with caution in view of the varying levels of national experience. In many cases, employers were wary of sharing information with governments and most PCIs reflected a buyer–supplier relationship where it was difficult to involve trade unions or address wider labour issues. While he welcomed the good practices highlighted by the Governments, many of their examples described PPP-style arrangements, which should not be confused with PCIs. The Meeting seemed to assume that a common understanding existed on PCIs and the way forward. In reality, that remained to be established.

51. The Employer expert from Mexico said that the starting point of the discussion should be to establish a clear distinction between the roles of labour inspection and PCIs. Employers were not opposed to adopting certain evaluation functions through social dialogue and they recognized a shared responsibility in that regard. However, PCIs had varying and specific goals and could not be addressed through a generic approach for the purposes of exchanging information. PCIs should never undermine labour inspection and the private sector would always be ready to participate in discussion on compliance, in particular with regard to unfair competition.

Point for discussion No. 3: What should be the role, if any, of governments (particularly labour administration and inspection), workers’ and employers’ organizations with respect to PCIs?

52. The Employer Vice-Chairperson recalled that PCIs were private and voluntary and by this definition, there was no role for governments. While governments could collaborate, where relevant, their main role was to ensure that labour inspection systems functioned properly including through innovative and cost-effective measures. Employers’ organizations were involved at the branch and sectoral levels in setting up PCIs at the request of members and, in such instances, had a role in ensuring good governance of these arrangements. Where PCIs were initiated by employers themselves, employers’ organizations assisted in implementation. In the case of worker-led PCIs, governments could be called upon to collaborate or support these initiatives. The same could be said of situations where employers’ and workers’ organizations collaborated on PCIs. Ultimately, the involvement of partners was dependent on the contribution they made to the PCI.

53. The Worker Vice-Chairperson suggested focusing the discussion further since there was a large number of PCIs, which often varied greatly between each other. PCIs related to internal efforts by employers to meet technical standards, obtain certification or improve management systems, were not a primary concern of this discussion or the ILO. Similarly, the focus was not on government-led initiatives meant to encourage compliance. Rather,
the Workers’ group wished to focus on private systems (often multinational firms with cross-border supply chains) whose purpose was to monitor compliance with national and/or international labour standards, including freedom of association. Where national labour inspection systems were weak, there was a potential role for PCIs to fill the compliance gap. PCIs were not, however, a substitute for public labour inspection. Ideally, the goal for PCIs was to be eventually replaced by a functioning public system. PCIs could, in this respect, actively engage with governments to help create conditions for a properly functioning labour administration and inspection system. The Accord on Fire and Building Safety in Bangladesh, while narrow and imperfect had a number of positive features that could serve as an example for other PCIs. First, it was an agreement negotiated at a local level with relevant unions and employers. Second, it included enforceable commitments on the part of buyers. Third, it recognized that suppliers in the supply chain faced immediate and longer term costs to bring facilities into compliance and it committed buyers to ensuring that resources were made available for this purpose. Fourth, the Accord was a five-year commitment which helped ensure stability in its implementation. Lastly, the Accord worked in cooperation with the tripartite partners in the country and focused on strengthening labour legislation and increasing the capacity of local labour inspection services.

54. The Government expert from India noted that both labour inspection and PCIs sought the improvement of working conditions. However, coordination between the two was not yet effective. Both PCIs and labour inspectorates should consider the root causes of compliance gaps and share information to help to overcome these gaps. Labour inspectorates could play a role in mentoring and building the capacity of PCIs. He also mentioned the development of a web portal that allowed employers to voluntarily disclose information about their businesses and levels of compliance. Trade unions and NGOs were also able to submit comments on the portal and inspection reports were also to be published on the site for full disclosure. Speaking on behalf of the Government group, he mentioned that a number of Government experts thought the ILO could provide guidelines and encourage tripartite forums on PCIs.

55. The Government expert from the United States said that for many years his country had faced the challenge of developing a mechanism that provided guidance on how PCIs could best function. Recently, baseline standards for social compliance systems were established by the US Department of Labor through the production of a toolkit for responsible businesses. This toolkit was a guide for business, though not a replacement for the legislative or enforcement role of the State. While the toolkit focused on forced labour and child labour, a company could still develop a PCI based on the guideline’s eight criteria that addressed other labour matters.

56. The Government expert from Morocco noted that improving working conditions was a shared objective of the tripartite constituents. As such, they needed to share information, experience and expertise, develop a common understanding of the applicable rules and exchange results of PCIs and public labour inspection. She stressed, however, that the supervision of compliance with national legislation was ultimately the responsibility of the State.

57. The Government expert from Brazil emphasized that PCIs were private and, as such, did not require specific regulation. However, if PCIs involved partnerships with government authorities, then regulation was relevant. The advent of PCI and government partnerships had to be accompanied by a change in the traditional labour inspection approach and depended on complete transparency to demonstrate to constituents that such novel approaches to inspection were effective in practice.

58. The Employer Vice-Chairperson agreed with the Workers that PCIs could not be government-led programmes. However it was less clear that PCIs extending to cross-
border supply chains were the correct focus since there was still much variety in these initiatives. As a general principle, he agreed that labour inspection was supposed to replace the role of PCIs over the long term. In practice, PCIs existed in countries because they were needed. While they were likely to continue to contribute towards strengthening workplace compliance, they would never be a substitute for labour inspection systems. As for the Bangladesh Accord, it was too early to determine the value of this approach before the outcomes were known. In any case, the agreement was part of a broader approach that included a wide range of initiatives beyond the PCIs highlighted by the Workers’ group. He reaffirmed that PCIs were voluntary by definition and thus did not require regulation, which would reduce the interest in setting up PCIs. It would be preferable if regulators concentrated their efforts on improving the effectiveness of labour inspection systems. He emphasized that compliance strategies and not just systems were important. This included looking at overall labour inspection action as well as compliance incentives. However, if initiatives were led by government programmes, these would not qualify as PCIs.

59. The Worker Vice-Chairperson noted that the Bangladesh Accord was illustrative of features of a PCI that were potentially useful if not necessary for the successful operation of other PCIs.

60. The Worker expert from the United States cited his research on PCIs in the garment industry, which focused on the PCI participants and how such initiatives were funded. He identified three types of PCIs: (i) unilateral PCIs; (ii) multi-stakeholder PCIs with trade union participation; and (iii) multi-stakeholder PCIs without trade union participation. The evidence suggested that PCIs without trade union involvement focused on basic OSH and minimum wage issues, but dealt less with freedom of association, which led to under-reporting and inadequate corrective measures in cases of freedom of association violations. The research also suggested that PCIs were mostly funded by large multinationals and that patterns of persistent violations were linked to the pricing mechanism faced by suppliers and the sourcing of materials. He concluded that where trade unions were involved in PCIs, OSH and freedom of association issues were better resolved. The role of labour inspectorates in enforcement remained important, also when relating to issues dealing with freedom of association.

61. The Worker expert from Canada explained that weak capacity to enforce labour standards could be overcome by a strong labour inspectorate. She highlighted five indicators of a strong, robust and neutral labour inspectorate: (i) inspectors with the right to freedom of association; (ii) a reasonable ratio between inspectors and workers that allowed for proactive instead of solely reactive inspections; (iii) adequately paid and resourced inspectors; (iv) properly trained inspectors; and (v) guaranteed independence of labour inspectors with the right to issue sanctions and initiate prosecution without fear of reprisals. She noted that in Canada, federal labour inspectors were at the bottom of the pay scale and that in federal law, all references to labour inspectors had been removed, opening the door to privatization of this work. Also, federal inspectors were told that voluntary compliance measures were preferred to issuing compliance orders.

62. The Government expert from India questioned the meaning of “private” in the term PCI. If information such as audit and inspection reports were available in the public domain, then automatically this would not be private. He said that the role of government was also to authenticate this information, and hence regulate.

63. The Employer Vice-Chairperson thanked the Worker expert from the United States for the overview of his research. The Employers’ group would have welcomed this research in advance of the Meeting, as some points were unclear. He asked whether the implication of the research was that worker and/or trade union participation in PCIs should be mandatory. It was not clear from the Worker expert’s overview whether or not this was the case and, if so, what would happen if workers refused to participate in PCIs.
64. The Employer expert from Malaysia asked to what extent information generated by PCIs should remain private. He cautioned that such information should not be used by a government to impose sanctions or for the prosecution of an employer.

65. The Worker Vice-Chairperson clarified that the research presented by the Worker expert from the United States supported the Workers’ view about the positive impact of trade union involvement in PCIs. She suggested that a useful output from this Meeting could be the development of basic criteria for PCIs and the appropriate roles of all parties, including the ILO. She did not agree with the previous speaker who said that the results of PCIs were private. This was problematic, particularly in cases where there were severe labour law violations that were a matter of public interest. The experience of the Better Work Programme in some countries in publicizing its results was instructive in this regard.

66. The Government expert from France noted that PCIs concerned all stakeholders in an enterprise, not only employers and that a key issue to determine was the effectiveness of these types of initiatives and the actors to be involved.

67. The Employer Vice-Chairperson indicated that collaboration or partnership could not be imposed beforehand since it depended on the goal of the given PCI. The same was true with respect to sharing information. Ultimately PCIs were of little value if information about their functioning could not be shared to determine their impact. There was a huge range of PCIs and many had helped to improve compliance. Sharing information about these PCIs was of interest to all parties, including the information provider. However, when a PCI was governed by an accreditation body, the rules were clearly laid out, including with regard to information sharing, which meant that governments might not have a say in the matter. But if there was no accreditation body involved, it was up to the creators of the PCI to set the rules, including with respect to information sharing. One concern was whether auditing mechanisms should accompany PCIs. If so, then they were not truly private.

68. The Employer expert from the United States confirmed that PCIs should not undermine the work or authority of labour inspectorates. She added that buyers regularly conducted audit visits of their suppliers as part of their contractual arrangements. In this context, trust had to be developed with suppliers to ensure that auditors had access to sufficient information to determine what was going on in the workplace. Making such audits public risked eroding the trust and transparency with the suppliers, making it more difficult to assess the extent of labour law compliance and gaining access to the enterprise in the first place.

69. The Worker Vice-Chairperson understood that there were competing concerns in the monitoring process. She noted, with respect to the impact of sharing information, that the Better Work Programme was considering how publicizing company reports affected levels of transparency among suppliers. It was also important to remember the importance of sharing the results of PCIs with workers. This did not always happen in practice but would constitute a good practice.

70. The Worker expert from the United Kingdom referred again to the voluntary ETI in her country. She recalled that employers were frustrated with the lack of labour law enforcement in countries where they operated – a situation that enabled firms to compete unfairly by undercutting labour standards. However, because of the direct involvement of trade unions in the ETI, unions were able to go directly to an enterprise to address violations more effectively and efficiently instead of depending on the normal and often unreliable enforcement mechanisms that existed in a country.

71. The Government expert from the United States said that there was an opportunity in the coming months to evaluate the issue of transparency based on the empirical evidence that
emerged from work under the Bangladesh Accord as well as Better Work’s programmes in Cambodia, Haiti, Viet Nam, and other countries.

**Point for discussion No. 4: What role should the ILO have, if any, in relation to PCIs, particularly in the light of the new ACI on strengthening workplace compliance through labour inspection for 2014–15?**

72. The Worker Vice-Chairperson said that the ILO should be aware of PCIs, especially since they increasingly incorporated international labour standards and fundamental rights. The ILO could have a monitoring role in that regard, through research and sharing existing information on the operation and impact of PCIs on compliance with labour rights. PCIs should meet a number of preconditions for ILO involvement, including trade union participation or worker representation, or the participation of Global Union federations in transnational initiatives; transparency; and cooperation with (not replacement of) labour inspectorates. The ILO could engage with PCIs through training and capacity building, with a view to strengthening compliance and improving working conditions in a sustainable manner. The Bangladesh Accord provided a good example of such engagement. Her group was concerned that, by focusing on particular sectors, PCIs often created advantaged categories of workers. If the ILO was involved, efforts should be made to ensure that benefits spread to other sectors in the form of training and social dialogue.

73. The Employer Vice-Chairperson said that the focus should be placed on PCIs that were clearly linked to the ILO’s areas of competence (for example, conditions in global supply chains) and to international labour standards. ILO involvement should be based on transparency and should ensure the participation of the social partners. The ILO should focus on the new ACI on strengthening workplace compliance through labour inspection. To that end, it should work with national labour inspectorates. In view of ongoing resource constraints in many countries, the ILO should prioritize technical assistance for compliance and reviewing labour regulation, to ensure clarity and focus, and labour inspection services, to ensure quality and quantity. Innovative approaches should not just address workplace inspections, but also a number of other areas.

74. The Government expert from India observed that PCIs have become important due to a compliance gap created by ineffective public inspection systems. The ILO’s priority was therefore to work with governments to fill compliance gaps by strengthening public inspection systems and providing technical assistance to address difficult issues, namely the informal economy. The ILO could continue and increase its capacity-building work by providing training for labour inspectors at the International Training Centre of the ILO in Turin. It should use its research capacities to identify good practices and innovative ideas and share them with member States. The Office should provide continuity in the discussion by organizing more regular meetings where information could be disseminated. ILO capacity building and technical support for public labour inspectorates should also seek to benefit PCI actors, with a particular focus on standard setting, certification and auditing. In standard setting, the ILO should promote tripartite discussion by creating forums involving social partners and labour inspectorates. In view of the variety of national standards and the multinational nature of many PCIs, the ILO could take a lead in developing a regulatory framework for PCIs.

75. The Government expert from Morocco said that the ILO had a mandate to improve workplace compliance with international labour standards, strengthen labour inspection and promote PCIs. To that end, the ILO should conduct studies to establish PCI frameworks and criteria to develop a common understanding and definition; it should develop a standardized framework to help governments monitor PCIs and their impact on
compliance; and it should strengthen coordination between labour inspectorates, the social partners and PCIs.

76. The Government expert from Poland observed that variation among different national regulatory frameworks and labour inspectorates hampered a comprehensive approach to PCIs. The ILO could concentrate its efforts by selecting a variety of PCIs, identifying best practices and developing codes of good practice for circulation. In view of weakened labour inspection processes and competencies related to the economic crisis and cost cutting, the ILO’s priority should be to strengthen labour inspection systems and labour inspectors’ skills. Labour inspectors should be free to use their powers independently and benefit from decent working conditions.

77. The Government expert from France agreed that the ILO could help to identify best practices in PCIs. To do so it would need to establish certain criteria, which would, de facto, set up a sort of ILO certification. A solid knowledge base should be developed through in-depth and critical research on PCIs.

78. The Worker Vice-Chairperson stressed that the ILO’s priority should be to strengthen public labour inspection, which included work on the promotion and ratification of international labour standards on labour inspection and other areas, in particular the Tripartite Consultation (International Labour Standards) Convention, 1976 (No. 144). As highlighted by the Governing Body, the ILO needed to safeguard its unique standard-setting role. The ILO lacked a research-based position on the impact of PCIs on compliance, which should be taken into consideration when setting its research agenda. One of the main difficulties in assessing PCIs was the issue of confidentiality and the Office should explore ways of working around it. The Workers did not consider that the ILO should actively promote PCIs, or that it should divert resources towards training inspectors. Furthermore, the Workers could not support any form of ILO approval mechanisms. While it had an important role in identifying best practices and evaluating PCIs as a whole, it should not award specific certification or labels. On the other hand, the ILO’s work on the Tripartite Declaration of Principles concerning Multinational Enterprises and Social Policy (MNE Declaration) could be used to raise awareness of different forms of CSR.

79. The Employer Vice-Chairperson endorsed the Workers’ position. The ILO should not standardize PCIs and, while it could identify and share good practices, it should not have an active role in their promotion.

80. The Worker Vice-Chairperson observed that any research in the area of PCIs could be effectively channelled into the discussion on global supply chains at the 2016 International Labour Conference.

81. The Employer expert from Mexico noted that the Meeting had discussed PCIs as if they were a specific and defined concept. However, wide variation among PCIs made it difficult or even impossible to establish a comprehensive framework. Governments were responsible for ensuring that labour inspection systems functioned. In view of significant resource constraints, trying to regulate or supervise tasks that belonged to a buyer–supplier relationship would only increase pressure on them. For its part, the ILO did not have a constitutional mandate to regulate private suppliers. It was moreover mistaken to think that standards were needed to regulate agreements between private parties for specific goals. In the world of work, the results achieved by suppliers that entered into PCIs spoke for themselves, but they could not substitute the work of labour inspection to supervise working conditions.
E. Discussion of the Chairperson’s draft summary

82. The Chairperson presented her draft summary of the Meeting. She informed the experts that the document was intended to summarize the main points that emerged during the discussions. The experts were then given an opportunity to comment on the text of the draft summary, which the Chairperson would take into account in finalizing the document. She recalled that any proposed changes to the draft summary that were not reflected in the final draft summary itself would nonetheless appear in the report of the Meeting. In any case, the Chair had the discretion to decide whether the draft summary should be modified in accordance with the experts’ comments.

83. The Employer Vice-Chairperson noted that the structure of the document could be improved. Many items contained in the draft summary had not been discussed during the Meeting. Also, the concept of PCI used was too broad and it was necessary to narrow it down for the purposes of the draft summary.

84. The Worker Vice-Chairperson concurred that elements of the draft summary had not been discussed during the Meeting and that it did not adequately frame the issue. As a result, the draft summary referred to a broad range of PCIs which made it challenging to prepare conclusions. She suggested beginning the draft summary by delineating the kind of PCIs that it covered. The Workers’ group understood that the PCIs at issue were those relating to monitoring systems intended to determine whether an enterprise was in compliance or not with labour standards.

85. The Government Vice-Chairperson thanked the Chairperson for the quality of the document which was a good reflection of the discussion. The Government group agreed with the document but had a number of specific points on the text which it would raise in the course of the discussion.

86. The Government expert from France noted that the summary seemed to be based on the premise that there was agreement on the definition of PCIs, when in fact a wide variety of divergent views had been expressed during the discussion.

(a) Introduction

87. The Employer Vice-Chairperson restated the need to frame the discussion at the outset of the draft summary, particularly on what the term PCI entailed. He suggested removing language that gave a negative connotation to recent PCI developments and that the draft summary should be limited to PCIs that were relevant to international labour standards.

88. The Worker Vice-Chairperson agreed on the need to define precisely to what kind of PCIs the text was referring. It was also necessary to indicate that PCIs were intended to assess conformity with international labour standards and not just national labour legislation.

89. The Employer Vice-Chairperson noted that the brief history of PCIs contained in the draft summary did not accurately reflect the development of these initiatives and that, in any case, the discussion had not focused on CSR.

90. The Employer Vice-Chairperson did not consider that the ILO was in a position to test approaches to cooperation between PCIs and labour administration and inspection systems so long as there was no consensus on the framing of PCIs.
91. The Government expert from the United States disagreed with a suggestion that labour administration and labour inspectorates had strengthened their systems with a view to creating more balance with PCIs. The word “balance” was potentially problematic because it could be understood as seeking the lowest common denominator.

92. The Worker expert from Switzerland said that the expression “voluntary initiatives” should be replaced by “PCIs” as not all initiatives were entirely voluntary.

93. The Government expert from France considered that the ILO had been called on to study the impact of PCIs on compliance with international labour standards. However, that did not include the operation of public inspection systems.

94. The Government expert from Morocco agreed that before the ILO could analyse the role of governments with regard to PCIs it should first develop a working definition of those initiatives.

(b) First point for discussion

95. The Worker Vice-Chairperson said that it was essential to enhance the role of workers and their organizations. The Employer Vice-Chairperson moreover indicated that the involvement of workers and employers should in all cases make reference to their respective organizations.

96. The Employer Vice-Chairperson considered that PCIs should first be consistent with national law before considering their compliance with international labour standards. The Worker Vice-Chairperson was in agreement that PCIs should respect national laws together with (and not substituting) international labour standards.

97. The Government expert from France observed that the document focused on PCIs in terms of OSH, but considered that it should also include other aspects, namely industrial relations.

98. The Worker Vice-Chairperson said that a wider approach to working conditions, in particular one including industrial relations, should analyse the bearing of PCIs on freedom of association, which was a precondition for industrial relations.

99. The Employer Vice-Chairperson considered that it was premature to focus attention on the informal economy. PCIs did not normally cover informal forms of labour. The subject would moreover be given substantial attention at the 2014 International Labour Conference.

100. The Worker Vice-Chairperson considered that the informal economy was of significant relevance in the discussion of PCIs since global supply chains often included informal sectors. The high level of interest in the informal economy warranted an analysis of the impact of PCIs in that regard.

101. The Government expert from France did not see how the impact of PCIs in supply chains could be evaluated without measuring their results in the informal economy.

102. The Employer expert from the United States considered that, notwithstanding the importance of the issue, the document should not overinflated the degree to which the informal economy was discussed in the Meeting.
(c) Second point for discussion

103. The Employer Vice-Chairperson reiterated that labour inspection and PCIs were two separate things. He was of the view that the role of labour inspectorates could be subcontracted out in practice and that, under the Labour Inspection Convention, 1947 (No. 81), governments were free to organize their inspection services as they saw fit. The main point was that PCIs should not substitute labour inspection.

104. The Worker Vice-Chairperson acknowledged the difference between labour inspection services and PCIs but observed that the intention of the Meeting was to consider coordination between both, especially in the light of Convention No. 81. She explained that the enforcement function of governments should not be subcontracted because the enforcement of law was their responsibility and could not be privatized.

105. The Government expert from France specified that Article 6 of Convention No. 81 said that states could organize their labour inspection systems. However, they should do so in conformity with international labour standards on labour inspection.

106. The Government expert from Morocco, moreover, stressed that PCIs should not exempt anyone from workplace inspections by the public authorities.

107. The Government expert from France observed that the document referred to the benefits of joint action on PCIs, but in his experience, work was mainly the subject of coordination.

108. The Employer Vice-Chairperson agreed that PCIs benefited from coordination. The broader their support base, the higher the chance of a successful initiative.

109. The Government expert from India said that, while PCIs could play a role by helping employers ensure compliance, they should not be envisioned as a joint labour inspection activity.

110. The Government expert from Brazil stressed that PCIs would always be insufficient if they were not conducted in the context of a strong labour inspection system. Interaction between PCIs and labour inspections should be based on transparency and seek credible auditing systems to improve working conditions.

(d) Third point for discussion

111. The Worker Vice-Chairperson noted that the participation of all parties in discussions on PCIs was desirable in order to identify sound practices for improving coordinated action among PCIs.

112. The Employer Vice-Chairperson stressed that, in the context of coordination with PCIs, the independence of labour inspection was essential. There was no consensus on the role of public administration in providing a framework for PCIs, but in the process of PCI cooperation, consistent with Convention No. 81, the parties were free to define any framework they chose. The government’s role was to ensure cooperation.

113. Regarding the role of the ILO with respect to PCIs, he considered that the suitability of its involvement depended on the purpose of such initiatives. While the summary suggested that the most successful PCIs were those based on a tripartite approach and a wider subject base, that was not necessarily the case. In addition, the text referred to PPPs, which opened up a different discussion and should not be included in the summary of the Meeting.
114. The Government expert from the United States agreed that there were instances where targeted and restricted PCIs were more useful.

(e) **Fourth point for discussion**

115. The Employer Vice-Chairperson considered that the provision of resources remained a matter for decision at the Governing Body. The summary mentioned the possibility of developing guidelines on PCIs, but he considered that it would be premature to do so before establishing basic parameters.

116. The Worker Vice-Chairperson said that, rather than being directly involved in certifying compliance, the ILO’s role was best suited to developing guidelines and identifying best practices. She moreover supported the call for resources in that area. The ILO should pursue work and technical assistance on labour administration and inspection systems at both national and international levels. Her group did not consider that governments should be involved in establishing criteria for the development of PCIs. They were responsible for providing coordination, while PCIs should ensure that they operated within the appropriate legal frameworks.

117. The Government expert from Brazil indicated that Article 5 of Convention No. 81 enabled authorities to make appropriate arrangements to promote cooperation in respect of PCIs.

118. The Government expert from France recalled that the Meeting had specifically discussed establishing minimum criteria for the development of PCIs. He was supported by the Government expert from Morocco who indicated that minimum criteria were needed to ensure that national and international labour standards were integrated in PCIs to improve working conditions. In that regard, countries required the ILO’s assistance.

119. The Government expert from the United States agreed with his colleagues and placed emphasis on the need for ILO assistance in that regard.

120. The Worker Vice-Chairperson explained that the Workers’ concern arose from the fact that some governments did not actively seek to improve labour standards, or even wished to keep standards low, as part of competitive strategies. Her group supported the ILO’s work to develop global guidelines on the basis of good practices, especially regarding sustainability and transparency. When examining best practices, the ILO should include its tripartite constituents.

121. The Employer Vice-Chairperson highlighted the difference between guidelines and criteria. Criteria could often limit the work of PCIs. It was important to begin work by establishing good practices before developing any criteria.

(f) **Recommendations of the Chairperson**

122. The Government expert from France considered that PCIs should include objectives that relate not only to working conditions but also to industrial relations, based on freedom of association, and that this aspect should be reflected in the text.

123. The Worker Vice-Chairperson was concerned about the reference to seeking donor funding to support the ILO’s work on strengthening workplace compliance through labour inspection. That was an ACI for the ILO which should be properly funded by the regular budget and should not depend solely on the availability of donor funding.
124. The Government Vice-Chairperson expressed concern that, based on the draft text, labour inspectorates were seen as involved in the designing and monitoring of PCIs. It was preferable to say that labour inspectorates may have a role in analysing PCIs and their impact on improving compliance.

125. The Worker Vice-Chairperson agreed that the wording “designing and monitoring” was problematic and that it was better to consider the coordinating role of labour inspectorates in compliance initiatives with the social partners.

126. The Government expert from the United States agreed with the previous speakers and suggested that the phrase “designing and monitoring” could also be misunderstood as implying undue activism by governments in the creation of PCIs.

127. The Worker Vice-Chairperson invited the Office to explain how selected national programmes would be piloted in the context of the ACIs.

128. The Deputy Secretary-General explained that the Office was in the process of determining the selection of countries, bearing in mind the need for regional balance. The intention was to help countries strengthen their labour administration and inspection systems and to explore the challenges they faced when dealing with PCIs. The experiences from those pilot programmes were expected to become examples for the ILO and its constituents to better understand the issues at stake.

129. The Worker Vice-Chairperson suggested that research carried out by the ILO on PCIs did not require a prior request but was in fact part of the work already mandated by the 2011 International Labour Conference. In any case, there was consensus among the three groups that the Office should carry out academic research, collect good practices and study the impact of PCIs.

130. The Government expert from France said that there were two kinds of research that should be undertaken. The first involved the study of the impact PCIs on improving working conditions and industrial relations in the light of international labour standards. Only then was it possible to consider the relationship between PCIs and systems of labour administration.

131. The Chairperson, in response to requests for clarification, explained that the reference made by the draft document to the establishment of a forum in the framework of ACIs was not a suggestion to create a new forum, but rather an opportunity for networking to further discuss this topic. The ACI in question, on strengthening workplace compliance through labour inspection, was the subject of ongoing discussion within the ILO regarding its programme implications.

Closing statements

132. The Chairperson commended the Meeting for its constructive discussion and assured participants that she would take their comments into account when finalizing her summary. She hoped that the document would give the ILO plenty of food for thought in moving forward. She thanked the Vice-Chairpersons for their participation and the secretariat for its support.

133. The Worker Vice-Chairperson noted that the subject of PCIs was a relatively new one, explaining the teething problems relating to its definition. Nevertheless, the Meeting had found areas of consensus which would hopefully provide the way forward for further ILO
work. She thanked the Chairperson and the other Vice-Chairpersons for their participation, and thanked the Office for its coordination.

134. The Government Vice-Chairperson thanked the groups for their open exchange during the Meeting. He also extended his thanks to his fellow Vice-Chairpersons, and the observers, for their useful insights in the group meetings.

135. The Employer Vice-Chairperson seconded his counterparts in thanking all the Meeting’s participants.

136. The Secretary-General expressed his satisfaction with the outcome of the Meeting and with the quality of the discussions. He thanked the Chairperson for her calm management of the Meeting, following up on discussions in 2011, which had also benefited from her leadership.
Appendix

Chairperson’s summary

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; and

   (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.
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