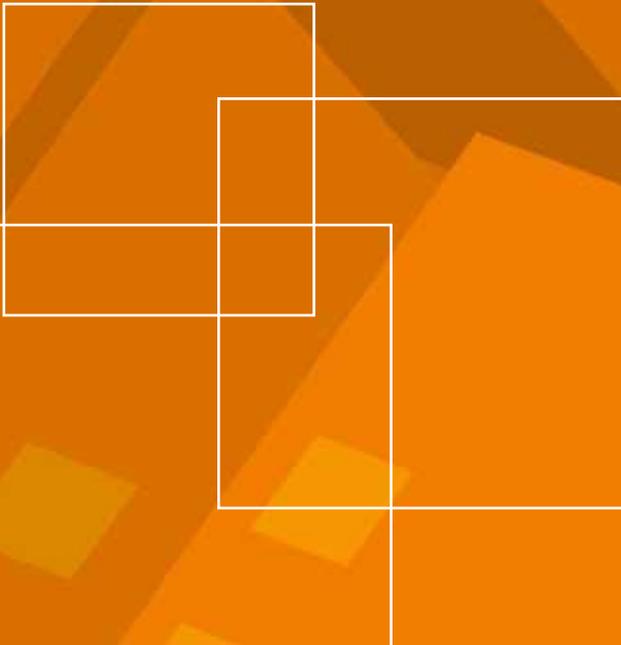




International
Labour
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Resolution and Conclusions on labour administration and labour inspection



Resolution concerning labour administration and labour inspection

The General Conference of the International Labour Organization, meeting at its 100th Session, 2011,

Having undertaken a general discussion on the basis of Report V, *Labour administration and labour inspection*,

Recognizing that labour administration and labour inspection are institutions for good governance at the service of ILO constituents and are essential to achieve the decent work objectives; to promote compliance with and enforcement of labour legislation; to protect workers' rights, including fundamental principles and rights at work: freedom of association and the effective recognition of the right to collective bargaining, the elimination of all forms of forced or compulsory labour, the effective abolition of child labour, and the elimination of discrimination in respect of employment and occupation; and to develop mechanisms for solving complex issues in the world of work,

Recognizing that labour ministries have a pivotal role to play in shaping social and economic policies as well as applying such policies in both the workplace and at the national level,

Affirming the urgent need to build, foster and maintain sound labour administration and inspection systems notwithstanding the financial and economic crisis, and to expand their coverage to all workers in an increasingly diverse global workforce, including workers in extended global supply chains, export processing zones, the informal economy and workers in a disguised employment relationship,

Recognizing that today's labour administrations' strategic, policy-making and coordinating roles are hampered in many countries by a lack of political support or a lack of financial, human or material resources,

Recognizing that sound labour administration and inspection systems are vital for the enforcement of labour standards, the promotion of

social dialogue, social security, employment services, sustainable enterprises, and the development of employment policies,

Bearing in mind that labour administration and labour inspection have been ILO priorities since its foundation, and that the importance of strong and effective labour administration and inspection is recognized in the ILO Constitution, the Declaration of Philadelphia, the ILO Declaration on Social Justice for a Fair Globalization and the Global Jobs Pact, as well as several ILO Conventions, Recommendations and other instruments,

1 Adopts the following conclusions;

2 Invites the Director-General to bring these conclusions to the attention of the member States and employers' and workers' organizations; and

3 Invites the Governing Body of the International Labour Office to give due consideration to them in planning future action, especially within the technical cooperation programme and the delivery of Decent Work Country Programmes, and to request the Director-General to take them into account both when allocating other resources as may be available during the 2010–11 biennium and when implementing the programme and budget for the coming biennia.

Conclusions on labour administration and labour inspection

01. Invites the Governing Body of the International Labour Office to give due consideration to them in planning future action, especially within the technical cooperation programme and the delivery of Decent Work Country Programmes, and to request the Director-General to take them into account both when allocating other resources as may be available during the 2010–11 biennium and when implementing the programme and budget for the coming biennia.

02. Effective labour administration systems, public employment services and labour inspection, are vital for good governance of labour matters and for economic and social progress. These systems can make decent work a reality in the workplace by enforcing labour standards and improving working and employment conditions, thus increasing accountability, occupational safety and health, competitiveness and productivity with social equity. At the same time, labour administration systems can help stimulate economic growth by developing and implementing economic and social policies designed to produce higher employment rates, social cohesion and decent work.

03. Experience from the recent financial and economic crisis has shown that labour administration has an essential role among government institutions, as good labour policies and efficient institutions can help to address difficult economic situations, by protecting workers and enterprises against the worst impact of an economic crisis and mitigating its economic and social consequences while facilitating economic recovery.

04. Ministries of labour and employment and their agencies are the core of labour administration systems throughout the world. They have a specific role to enforce labour laws and to provide information to workers and employers about their rights and responsibilities in order to protect workers, to enable and promote sound industrial relations including mediation and dispute resolution, to promote decent employment and better workplace practices, to ensure compliance with labour standards, and to improve the functioning of the labour market. Labour

administration systems can also be instrumental in enforcing gender equality legislation and policy.

05. Governments should build effective labour administration and labour inspection systems through genuine and timely tripartite social dialogue. Effective tripartism requires respect for freedom of association. The presence of workers' and employers' organizations facilitates labour inspection.

06. The current weaknesses of labour administrations in many countries prevent ministries of labour from delivering adequate services to their citizens or meaningfully influencing policy-making processes. It is important to strengthen and increase the leadership role of ministries of labour in these countries in the coordination and development of employment and labour market policies and national development plans. Consultation with workers' and employers' organizations is essential.

07. The lack of resources constitutes a major obstacle to effective labour administration in many countries. In countries where available resources are at critically low levels, a substantial and sustained increase of resources is necessary. In these countries, as in all countries, the focus should be on developing and retaining skilled human resources, since no labour administration can work without specifically dedicated staff who are qualified and adequately trained and equipped.

08. Public employment services are fully part of a labour administration system. Strong coordination and regulation of these services are required at the national level with a view to promoting balanced and equitable policies in order to avoid abuses, including with respect to vulnerable workers, such as domestic and migrant workers and people with disabilities.

09. Labour administration and inspection systems today operate in a rapidly changing environment characterized by dramatic economic, institutional, demographic and political transformations, including changing patterns of production, work organization, employment structures and relationships, labour migration and cross-border postings, outsourcing and extended global supply chains, and the expansion of the informal economy.

10. To cope with challenges in a rapidly changing world of work, labour administrations must continuously adapt and modernize. They should explore efficient and effective methods of governance and management and build tripartite partnerships as well as partnerships with other institutions and actors. However, any modernization effort must respect values such as the rule of law, tripartism, social dialogue at all levels, public interest, democracy, equity, good governance and transparency.

11. In their efforts to adapt and modernize, labour administration and labour inspection systems should take advantage of advances in information and communication technologies to improve their internal working methods and expand the range and accessibility of services for constituents while maintaining thorough inspections. A variety of online, mobile and networking technologies have the potential to increase efficiency and reduce costs, improve transparency, facilitate the collection and analysis of labour statistics, and assist with the dissemination of accessible information about labour laws and policies. While the adoption of new technologies is uneven between countries, developing nations can still greatly benefit from modest and cost-effective systems adapted to their own level of technological development.

12. As a main labour administration component, labour inspection is a public function and is at the core of effective labour law with wide powers and functions, including enforcement and sanctions that should be sufficiently dissuasive to deter violations of labour legislation while also providing corrective, developmental and technical advice, guidance, prevention tools and promoting workplace best practices. These functions should be regulated and balanced as part of a comprehensive compliance strategy in order to ensure decent working conditions and a safe working environment.

13. Labour inspection systems, particularly those in developing countries, face numerous challenges that are common to labour administrations as a whole, including the need for increased financial resources, more duly qualified inspectors, better equipment and better training, and improved recruitment procedures.

14. In order to ensure the integrity of labour inspection, conditions of service for labour inspectors should reflect gender equality

and facilitate employment stability and personal security in the exercise of their functions, underpinned by an appropriate regulatory framework.

15. Adequate resources must be made available by member States for the design and implementation of budgeted national training programmes with a view to upgrading technical skills, reinforcing ethical behaviour and ensuring independence of labour inspectors (as required under Article 6 of ILO Convention No. 81).

16. Labour inspection must be a public prerogative and be in accordance with international labour standards. However, the past decades have seen a growth in private auditing initiatives such as the establishment of social reporting and private monitoring systems. There is a risk that some types of private initiatives could undermine public labour inspection. The issues of private compliance initiatives, self-regulation and potential public–private partnerships are deserving of closer examination by tripartite experts to be drawn together by the ILO. The Committee therefore recommends that the Governing Body consider such a tripartite meeting of experts.

17. Promoting and enforcing decent working conditions, safety and health standards and respect for fundamental principles and rights at work are at the core of labour inspection activities. This includes, for example, action to combat undeclared work, child and forced labour. The provisions of labour law should apply equally to all workers and all workplaces. General compliance and preventive strategies are essential for ensuring fairness in the workplace and consequently sustainable enterprises and economic growth. These strategies should cover all workers, including those in the public sector, the informal economy, rural economy and agriculture and export processing zones (EPZs). It is unacceptable that some EPZs are exempted from basic national labour laws. Labour inspectors face the challenge of ensuring labour law compliance in workplaces that are difficult to detect (e.g. in the agricultural and construction sectors), or where the employment relationship is particular (home-based work, domestic work), or is difficult to identify (new forms of employment, outsourcing and complex supply chains). In this regard, the Employment Relationship Recommendation, 2006 (No. 198), should be noted.

18. It is important for governments to aim for an overall integrated strategy for inspection activities and to ensure the coordinating and supervisory role of the central authority recognized by Convention No. 81. Governments should also promote social dialogue in safety and health at sectoral and company level, particularly aimed at prevention. National tripartite dialogue could also focus on identifying specific prevention campaigns in sectors at risk or where widespread violations of labour law occur. Safety and health initiatives should where possible be based on the best available information and methods of work that are focused and effective.

19. For an overall effective system of labour inspection, the planning, programming and reporting cycle is also fundamental for achieving a coherent and objective basis for inspection action that responds to prevailing working conditions and anticipates geographic areas or sectors where targeted interventions may be required. However, many labour administrations are unable to provide comparable statistics. Collection by the ILO of basic national data on the number of inspectors and inspection activities and other related statistics could facilitate benchmarking and exchange of best practices.

20. In promoting a prevention culture and securing compliance, labour inspectors use a wide variety of interventions and tools including prevention initiatives as well as enforcement. Sufficiently dissuasive sanctions are an indispensable component of any labour inspection system. An appropriate mix of preventive measures such as risk evaluation, promoting a culture of leadership and best practice, implementing occupational safety and health measures, information guidance and awareness campaigns combined with sanctions should be adopted.

21. Prevention measures and enforcement sanctions are complementary to the overall purpose of promoting labour standards. It is essential for labour administration systems to establish appropriate and timely processes for imposing and enforcing fines, as well as timely proceedings consistent with the principles of due process.

22. The International Labour Office should use all appropriate means and apply appropriate measures including the following initiatives in order to strengthen labour administration and labour inspection:

- (1) Promote the ratification, implementation and effective application of the relevant international labour stand-

ards, in particular Conventions Nos 81 (and its Protocol of 1995), 88, 129, and 150.

- (2) Strengthen the consultation with and the capacity of workers and employers and their organizations in the design of labour administration and inspection policies and tools with a view to implementing the Decent Work Agenda.
- (3) Encourage international cooperation and exchanges, including South–South cooperation, and develop a database, accessible through the ILO website, on best practices in labour administration and inspection.
- (4) Promote, in cooperation with national governments, the exchange of best practices on transparent recruitment/selection processes, decent working conditions, security and protection, appropriate career development and training for labour administration officials and labour inspectors.
- (5) Encourage adequate and effective use of human and financial resource allocation for labour administration and inspection services.
- (6) Design a methodology for the collection and analysis of basic national statistical data, including gender-disaggregated data, to allow for international comparisons and benchmarking on inspection services and activities, available to ILO constituents.
- (7) Carry out research and provide advisory services, linked to the wider knowledge management strategy of the ILO, in those selected areas of interest to labour administration and inspection and social partners as identified in the report of the Committee on Labour Administration of the 100th Session of the International Labour Conference, including:
 - (a) research on the use of government procurement in advancing compliance with labour standards;
 - (b) research around the challenges for effective labour inspection posed by increased outsourcing, sub-contracting, disguised and triangular employment relationships and means or methods to extend and

enforce legislation to all workers in an employment relationship;

- (c) research and evaluation of training methodology as well as training content to ensure that it addresses labour administration and inspectorates' needs and objectives; and
 - (d) research on the risks and practices of the interface between labour administration and migration regulatory frameworks
- (8) Request 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.
 - (9) Design strategies for reaching out in order to promote the application and enforcement of labour legislation for workers in the public sector and for vulnerable workers, especially in the informal and rural economies, domestic workers and workers in EPZs.
 - (10) Consider the conclusions arising from the 2009 general discussion "Gender equality at the heart of decent work", and recall that labour administrations, including labour inspection systems, are instrumental in enforcing gender equality legislation and policy.
 - (11) Promote national tripartite dialogue to address problems around labour law enforcement and inspection related to the growth of new forms of employment, noting Recommendation No. 198 as an instrument to assist in dealing with disguised employment relationships.
 - (12) Develop a technical cooperation portfolio to support the Office in the delivery of technical assistance to member States with a view to strengthening national labour administration and inspection services and mainstreaming them in the Decent Work Country Programmes.
 - (13) Improve coordination and exchange of information in the areas of labour administration and inspection within and outside the Office and across the multilateral system, through regional networks supported by the ILO, for example.

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