

**SOUTH AFRICA**

## **Technical Memorandum**

**South Africa labour administration  
and inspection need assessment**

**LAB/ADMIN**

**Labour Administration  
and Inspection Programme**

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**Social Dialogue Sector**

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**International Labour Office - Geneva**



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## List of Acronyms

ALMP	Active Labour Market Policy
BCEA	Basic Conditions of Employment Act 75 of 1997 (South Africa)
BMAS	Ministry of Labour and Social Affairs (Germany)
CCMA	Commission for Conciliation, Mediation and Arbitration
COIDA	Compensation for Occupational Injuries and Diseases Act 130 of 1993
CPI	Consumer Price Index
DoL	Department of Labour
ECC	Employment Conditions Commission
EEA	Employment Equity Act 55 of 1998 (South Africa)
ESSA	Employment Services South Africa
ESDS	Employment and Skills Development Services
ESF	European Social Fund
GDP	Gross Domestic Product
HRDF	Human Resource Development Fund (Malaysia)
IEFP	Institute for Employment and Vocational Training (Portugal)
IEP	Individual Employment Plans
IES	Inspection and Enforcement Services
ILO TCP	International Labour Organization Technical Cooperation Programme
INDLEA	Institute for the National Development of Learns hips, Employment, Skills and Labour Assessments
LAB/ADMIN	Labour Administration and Inspection Programme
LRA	Labour Relations Act 66 of 1995 (South Africa)
LRA	Labour Relations Act 66 of 1995 (South Africa)
MOLSA	Ministry of Labour and Social Affairs
MSS	Management Support Services
MTSF	Medium Term Strategic Framework
MTSS	Ministry of Labour and Social Solidarity (Portugal)
NEDLAC	National Economic Development and Labour Council
NSA	National Skills Authority
OECD	Organisation for Economic Cooperation and Development
OSHA	Occupational Health and Safety Act 85 of 1993 (South Africa)
PES	Public Employment Services
PSA	Public Servants Association of South Africa
RAO	Risk and Office Administration
RMG	Rendimento Minimo Garantido
SADA	South African Defence Force
SDA	Skills Development Act 97 of 1998 (South Africa)
SEF	Sheltered Employment Factories
SETA	Sector Education and Training Authorities
TWG	Technical Working Group
UIA	Unemployment Insurance Act 30 of 1996 (South Africa)
UIF	Unemployment Insurance Fund



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## **1. Background and Methodology**

Effective labour administration and labour inspection are important for South Africa. An effective labour administration system is vital for good governance and economic progress as it can make Decent Work a reality in the workplace by helping to improve the working conditions, safety and health, employment conditions and productivity. This contributes to sustainable economic development.

As part of its modernization process, the Department of Labour (DoL) in South Africa requested, from the ILO, a need assessment of labour administration and inspection services. The final goal was to reposition itself in playing a key role in advancing the Decent Work Agenda. The 9-day mission was conducted between 27 October and 5 November, 2009.

The overall aim of the need assessment was to assist South Africa in improving the effectiveness and efficiency of its labour administration system and labour inspection services and draw up a series of recommendations for the implementation of such improvements. The collection of both qualitative and quantitative data was conducted through interviews, which sought to gather information regarding the present state of the labour administration and inspection system. Using the assessment methodology, the ILO team interviewed representatives from the Department of Labour, Provincial Offices and Labour Centres and met representatives of the Employers' Organisations and Trade Unions. The ILO team also interviewed the management of key parastatal organizations and visited Cape Town University.

This report contains preliminary recommendations for consideration by the DoL and the social partners on certain aspects of labour administration system, with a special focus on restructuring of the Head Office, functioning of labour inspection and administration of PES.

This report was preceded by an ILO technical note of November 2009, attached to this Memorandum. It addresses the role of Ministries of Labour in the government and their interaction with other government departments. It is hoped that the recommendations of the ILO will be considered in the context of these broader reforms at both national and provincial levels.

Follow-up activities, based on this Memorandum, will be envisaged between the ILO and DoL, taking into account the discussions during the joint workshop planned for February 2010.

## **2. Summary of Recommendations**

### **2.1. Restructuring the Head Office**

The management structure of the DoL's Head Office should be reorganised to emphasize key areas of labour administration, as identified by ILO standards and international practice. This reform should create real delivery chains that link policymaking to service delivery and simplify management and delivery structures at the national, provincial and local levels.

It is recommended:

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- create a specific Labour Inspection Branch under the Chief Inspector that reports directly to the Director General (DG);
  - create a Labour Market and Employment Services Branch to supervise the Unemployment Insurance Fund (UIF) and Compensation Fund (CF);
  - transform the current Labour Policy and Labour Market Programmes Branch into the Labour Policy and Industrial Relations Branch that supervises the Commission for Conciliation, Mediation and Arbitration (CCMA) and National Economic Development and Labour Council (NEDLAC);
  - place the Service Delivery Branch, responsible for financial and administrative management of Provincial Offices, directly under the DG; and
  - hold a discussion on the role of Provincial Offices amongst all stakeholders.

## **2.2. Administration of Public Employment Services**

- reconsider the current place of PES in the DoL's structure; in other words, create a direct link between policy making and service delivery;
- consider methods of obtaining more public funds as significant improvement of PES function in South Africa requires substantially increased funding;
- create a new legal basis for PES through the adoption of a new Act on Public Employment Services; and
- as the human potential and financial capacity of Employment Services South Africa (ESSA) are limited, urgent attention should be given to computerizing their vacancy database and increasing workers' accessibility so vacancies can be filled without direct involvement of the Labour Centres. In addition, the human resources available respectively to Labour Centres and Provincial Offices should be reconsidered in favour of frontline activities.

## **2.3. Labour Inspection**

The mission recommends:

- forming a High-Level Inter-Departmental Technical Working Group (TWG) to reorganize the existing labour administration structure in an effort to position the labour inspectorate in accordance with ILO Convention Nos. 81 and 150;
- restructuring the Central Inspectorate and strengthening the human resource capacity by increasing staff, in order to enable the system of labour inspections to fulfil the mandate and principles of ILO Convention No. 81;
- revising the existing labour inspections mechanism to ensure consultation and collaboration between the inspectorate, social partners and other stakeholders on all issues within the purview of labour inspections, including piloting of self-regulation mechanisms;
- reviewing entry qualifications of new inspectors and increasing the recruitment of university graduates to the inspectorate to facilitate the process of gaining Occupational Specific Dispensation for labour inspectors;

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- re-examining the salary scales of labour inspectors with the purpose of upgrading the existing salary scales that account for their quasi-judicial functions, and placing inspectors in a special category for Occupational Specific Dispensation;
  - establishing a Training Division to manage training programmes for inspectors and clients of the labour inspection system and undertaking capacity building for all inspectors;
  - taking steps to ratify Labour Inspection Convention No. 81;
  - developing the national inspection policy framework in consultation with social partners and other stakeholders; and
  - developing and implementing public information and awareness raising campaigns to improve the understanding of labour inspection services and increase knowledge of labour legislation.

## 2.4. ILO Conventions

It is recommended that the DoL, in consultation with social partners and other stakeholders, possibly within the framework of NEDLAC, establish a list of ILO Conventions related to the field of labour administration and labour inspection, which should be envisaged for ratification, as well as the measures needed for adoption. It is recommended to focus on Conventions Nos. 81 and 150.

## 2.5. Innovative Labour Policies

Consideration should be given to the adoption of innovative labour policies and other measures that are used by industrialized countries to mitigate social consequences of the global economic meltdown, such as:

(a) Work-sharing and partial unemployment

A technique widely used by countries such as Belgium, France, Germany and the Netherlands to limit the number of retrenchments by temporarily subsidizing shorter working hours through programmes that may include payment of “partial unemployment benefits” to workers who are obliged to work shorter hours.

(b) Extend Unemployment Insurance

Many governments have prolonged the insured period, increased benefits or extended insurance coverage to protect workers against poverty and to reduce the decline in aggregate demand as a factor of economic growth during the economic crisis.

*(Measures under a) and b)- listed above - could be financed by resources generated by the UIF, which would require amending the Unemployment Insurance Act).*

(c) Protect wages in case of employers’ insolvency

The purpose of this measure is to protect employees against a sudden loss of income in case of employers becoming insolvent. For example, all EU Member States are obliged to set up institutions to “guarantee” outstanding claims resulting

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from employment contracts and relating to pay under the EU Insolvency Directive 80/987/EEC. Similar protection is provided under the ILO Convention No. 172 on the Protection of Workers' Claims (Employer's Insolvency, 1992). Both documents provide protection going beyond the usual schemes that grant workers a privileged position in cases of bankruptcy, which in many cases, especially in current economic conditions, are insufficient.

(d) Introduce a national minimum wage

The crisis increased the interest of governments in the national minimum wage as an effective wage floor protecting workers against poverty, increasing their purchasing power and eliminating the worst forms of social dumping. As most national minimum wage setting machineries are based on social dialogue, ECC and NEDLAC would be ideal frameworks for minimum wage setting in South Africa. However, the government should keep its right of final decision in case of a failure in social dialogue.

(e) Increased protection for temporary agency workers

Many governments have been paying increased attention to these workers, who were the first victims of the economic meltdown. Their rights, including access to collective bargaining, social security programmes and to improved training, and employment conditions are being developed to match those of workers in regular employment.

## 2.6. ILO Assistance Follow-up

It is recommended that the ILO be considered for further involvement in the repositioning process after the February seminar. The ILO could provide support that is focussed on:

- labour inspection, including the capacity building of labour inspectors in the provincial offices; the development of the labour inspection policy framework in collaboration and consultation with labour inspectors, social partners and other stakeholders; the provision of technical advisory services for the restructuring of labour inspection services within the framework of the ILO Convention Nos. 81 and 150;
- public employment services, especially the finalization of the legal and institutional framework;
- preparation work for ratification of selected ILO Conventions, especially Convention Nos. 81 and 150; and
- the role of labour administration and labour policies in the crisis and the post-crisis period.

## 3. ILO Conventions

South Africa has ratified 20 ILO Conventions, which is a very low number compared to many other middle-income countries. In particular, many Conventions relating to labour administration, labour inspection and employment and employment services, have not yet been ratified, including the two principal ILO Conventions on labour inspection, namely Convention No. 81 on Labour Inspection (1947) and Convention No. 129 on Labour

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Inspection (Agriculture) (1969). These Conventions contain comprehensive provisions for labour inspection; accordingly, ratification by South Africa of these two conventions, as well as ILO Convention No. 150 on Labour Administration (1978) Convention should not be too onerous and complicated, as most of the necessary legal and organizational preconditions already exist.

#### **4. Economic and Employment Situation**

Between 2008 and 2010, South Africa's Gross Domestic Product (GDP) grew at an average rate of 4.12 per cent. The growth rate was particularly strong in the period between 2004 and 2008 with an average real growth rate of 4.66 per cent. Despite the growth rate, South Africa's economy has been negatively affected by the global economic crisis. The country is now experiencing its first recession in 17 years. Its economy is set to shrink by some 2 per cent this year, according to the finance minister, Pravin Gordhan, who cited the "formidable impact" of the global financial crisis on developing countries as a key factor in the country's recession.<sup>1</sup>

The South African Rand (ZAR) depreciated against the US Dollar (USD) in the period between 2004 and 2008, from 6.46 ZAR per USD in 2004, to 7.96 ZAR per USD in 2008. However, since March 2009, the Rand has risen 40 per cent against the American dollar, impacting South African exports.

Inflation between 2000 and 2008 averaged 6.01 per cent. The year-on-year inflation rate, as measured by the consumer price index (CPI) for all urban areas, increased to 8.6 per cent in February 2009 and then moderated to 8.5 per cent in March. Food price inflation continued its downward trend, increasing at a year-on-year rate of 14.7 per cent in March, compared with 15.8 per cent in the previous month. The International Monetary Fund predicts inflation to average 7.2 percent in 2009.

Wage settlements, which generally follow inflation trends with a lag, have also edged up slightly. According to the Andrew Levy Employment Publications, the level of wage settlements increased by 10.2 per cent in the first quarter of 2009, compared to the 2008 average of 9.8 per cent. Nominal unit labour cost increased over four quarters by 12.8 per cent in the final quarter of 2008. Nominal wage settlements are expected to moderate somewhat as the inflation rate declines. According to the Quarterly Employment Statistics survey by Statistics South Africa, in the fourth quarter of 2008, employment levels showed their first decline in four years, with more than 475,000 jobs lost in the last six months, representing a 5.6 per cent decrease in employment. However, employment growth in 2010 should benefit from preparations for, and the hosting of, the World Cup (football), which will boost tourism and related services, potentially adding 1 per cent to GDP growth.<sup>2</sup>

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<sup>1</sup> Reserve Bank - Statement of the Monetary Policy Committee, 30<sup>th</sup> April 2009.

<sup>2</sup> Economic Intelligence Unit, South Africa, November 2009.

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**Table 1. Economic Indicators in South Africa<sup>3</sup>**

<b>Descriptor</b>	<b>2001</b>	<b>2002</b>	<b>2003</b>	<b>2004</b>	<b>2005</b>	<b>2006</b>	<b>2007</b>	<b>2008</b>	<b>2009</b>
Real GDP (BLN ZAR)	947.373	982.121	1,012.76	1,062.03	1,114.76	1,174.08	1,233.93	1,271.72	1,244.11
Real GDP Annual % Change	2.735	3.668	3.12	4.864	4.965	5.321	5.098	3.062	-2.171
Real GDP per capita (ZAR)	21,037.57	21,565.74	22,011.87	22,858.58	23,774.81	24,774.28	25,787.08	26,120.26	25,275.28
GDP per capita (USD)	2,632.83	2,440.23	3,622.15	4,656.40	5,175.63	5,441.82	5,922.20	5,684.57	5,635.19
Inflation, average consumer prices	105.7	115.4	122.1	123.8	128	134	143.5	160.008	171.525
Average Inflation, CPI	5.7	9.177	5.806	1.392	3.393	4.688	7.09	11.504	7.198
Exchange Rate (ZAR/USD) <sup>4</sup>	8.62	10.53	7.57	6.46	6.36	6.76	7.05	7.96	7.49
Unemployment Rate <sup>5</sup>	29.4	30.4	28	26.2	26.7	25.5	23	22.9	24.5 <sup>6</sup>

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<sup>3</sup> With the exceptions noted, Source: International Monetary Fund, World Economic Outlook Database, October 2009.

<sup>4</sup> Source: CIA Factbook

<sup>5</sup> Source: ILO Labour Force Survey, Labour Statistics Database

<sup>6</sup> As of Q3:2009

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## 5. Legal Framework

The South African Constitution has a Bill of Rights that provides for certain rights including the right to equality, freedom of assembly, access to courts and administrative justice and labour rights, all of which are relevant to the development and implementation of labour regulation. Section 23 of the Constitution specifically relates to labour relations, stating that “everyone has the right to fair labour practice” and specifying the rights of workers, employers, trade union and employer organizations (RSA, 1996). These rights may be limited by a law of general application, but only if it meets certain standards of justification set by the Constitution.

The country’s labour law was amongst the first areas of law to be reformed with the democratization of South Africa in April 1994. The main employment law statutes of South Africa are:

- The Labour Relations Act 66 of 1995 (LRA). [N.B. This law was amended in 2002. Text of the Labour Relations Amendment Act, 2002].
- The Basic Conditions of Employment Act 75 of 1997 (BCEA). [NB: This law has also been amended in 2002 by the Basic Conditions of Employment Amendment Act 2002].
- The Employment Equity Act 55 of 1998 (EEA).
- The Skills Development Act 97 of 1998 (SDA).
- The Unemployment Insurance Act 30 of 1996 (UIA) [NB: This law has been repealed and replaced by the Unemployment Insurance Act, 2001].
- The Occupational Health and Safety Act 85 of 1993 (OHSA).
- The Compensation for Occupational Injuries and Diseases Act 130 of 1993 (COIDA).

Employment protection legislation applies to all employees who ordinarily work in South Africa, and therefore covers South African employees who may also work in other countries. Employment laws may not be superseded by employment contracts. Consequently, employees cannot modify their statutory employment protections unless specifically permissible by law, and even then, only to the extent legally allowed. In many cases, employment legislation is supported by statutory codes of practice in the National Economic Development and Labour Council (NEDLAC) or non-statutory codes in practice issued by the Commission for Conciliation, Mediation & Arbitration (CCMA). These codes of practice, although merely providing guidelines and having no legal basis, are considered by the Labour Courts when determining whether an employer has breached statutory employment regulations.

Collective agreements are normally legally enforceable between employers and trade unions. The Labour Relations Act 66 of 1995, (LRA) supports the primacy of collective agreements and emphasizes the need for organized labour and business to regulate its relationship through entering into collective agreements, which bind the employer, union members and, where the union represents more than 50 per cent of the employees in a workplace and if such intent is stated, non-union members in the workplace.

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## **5.1. Labour Relations Act No. 66 of 1995**

The Labour Relations Act was passed to “advance economic development, social justice, labour peace and the democratisation of the workplace”, by giving effect to the rights conferred by Section 27 of the Constitution, including the right to bargain collectively and other rights flowing from the country’s membership in the International Labour Organization (fundamental principles and rights at work). This law serves as a national labour code as it replaced older legislation and gives employees basic rights including freedom of association and the right to partake in collective bargaining, reach collective agreements, establish bargaining councils and take industrial action and participate in workplace forums. It also defines unfair labour practices and prohibits employers from engaging in certain behaviours that might undermine the success of labour unions. The Act discusses the roles of labour unions and the recognition process, delegating the responsibility of registering unions to the Ministry of Labour.

The Act also established the Commission for Conciliation, Mediation and Arbitration (CCMA), a body independent of the state, political parties, trade unions, employer organizations, employers, federations of trade unions, and federations of employer organizations. The CCMA is delegated the responsibility of resolving any dispute referred to it through conciliation, or (if that is not possible) through arbitration. The CCMA assists in workplace forums and in compiling and publicizing information and statistics about its activities.

A governing body comprising a chairperson and nine other members administers to the CCMA. All of the CCMA officials are to be nominated by NEDLAC and appointed by the Ministry of Labour for three-year terms. Of the nine members, three must represent the interests of organized labour, three those of the employers and three those of the State. The chairperson is also to function independently. Additionally, the Commission shall have a Director who, although chosen by the governing body, will not be able to vote in meetings of the governing body. The governing body may appoint commissioners and senior commissioners on either a full-time or a part-time basis to help fulfil responsibilities.

The Act also establishes a Labour Court as a superior court that has the same authority and inherent powers in matters under its jurisdiction, as a provincial division of the High Court has in relation to matters under its jurisdiction. The Labour Court will comprise a Judge President, a Deputy Judge President of the Labour Court, and any number of necessary judges, as deemed by the President in consultation with the Minister of Justice, NEDLAC and the Judge President of the Labour Court. The Labour Court has the power to grant interim relief, injunctions and declaratory orders, and award compensation, damages, court costs, and arbitration awards and to demand compliance with provisions of this Act. While it is possible to appeal the decision of the Labour Court, the case will be heard by three judges, of whom none can have ruled on the case previously. Generally, the rules for the Labour Court of Appeals are the same as those for the Labour Court.

There will also be a Rules Board for Labour Courts who will establish the rules for the Labour Court. The Rules Board includes the Judge President of the Labour Court, who will chair the Board, the Deputy Judge President of the Labour Court and five other members who will be selected by the Minister of Justice on the advice of NEDLAC.

## **5.2. Skills Development Act No 97 of 1998**

The Skills Development Act of 1998 was passed to “provide an institutional framework to devise and implement national, sector and workplace strategies to develop and improve the skills of the South African work force”. To this end, Parliament created

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the National Skills Authority (NSA), the Sector Education and Training Authority (SETA), and developed learnership and skills programmes and employment services.

The National Skills Authority was created with the responsibility of advising the Minister of Labour on the creation and progress of a national skills policy and strategy and the allocation of subsidies from the National Skills Fund. The NSA is charged to work with SETA in creating a national skills development policy.

Chapter 3 grants the Minister of Labour the authority to establish, and assist a sector education and training authority for a national economic sector. SETA is responsible for developing a sector skills plan within the framework of the national skills development strategy. To implement its plan, SETA should establish, promote and register learnerships, approve workplace skills plans, disburse grants to employers, educational institutions, and other training providers, and monitor education and training within its given sector. SETA consists of members from organized labour, organized business, relevant government departments, and potentially, any interested professional body and any relevant bargaining council. SETA is financed through skills development levies, monies from the National Skills Fund, grants, donations, surplus money from investments, income earned through services rendered, or any other source of income.

In addition to creating the NSA, SETA and describing their functions, composition, constitutions and relevant tools, the Act imposes the duty to establish labour centres that are responsible for providing employment services for workers, employers and training providers to help promote employment, income generating projects and education and training programmes.

### **5.3. Basic Conditions of Employment Act No 75 of 1997**

The Basic Conditions of Employment Act was passed with the purpose of “advancing economic development and social justice” and protecting workers’ rights in fair labour practices, as per Section 23(1) of the South African Constitution and ILO obligations. The Act establishes basic conditions of employment, regulates any variations thereof, and executes an enforcement mechanism to ensure compliance. This Act applies to all workers and employers, except for members of the National Defence Force, the National Intelligence Agency, members of the South African Secret Service, unpaid volunteers at charitable organizations and persons employed on vessels at sea.

Ordinarily, an employee may not work more than 45 hours a week, nine hours a day if the employee works five days or fewer per week. If the employee works more than five days a week, the employee can only work eight hours a day. Overtime, which must be paid at least one and one-half times the employee’s regular wage, cannot exceed three hours’ overtime in a day or more than ten hours’ overtime in a week. Other conditions governed by this Act includes leave, the particulars of employment and remuneration, termination of employment, prohibition of child labour and sectoral variations with regards to basic working conditions.

The Act also establishes the Employment Conditions Commission (ECC) with the purpose of advising the Minister on matters relating to the basic conditions of employment, including the determination of sectoral variations, the effect of government policies on employment and trends in collective bargaining and whether those trends undermine the purpose of the Act. The ECC is also to consult with the Minister of Welfare and Population Development regarding child employment issues and with the Minister for the Public Service and Administration regarding basic conditions of employment in the public sector. The ECC commissioners are chosen by the Minister of Labour, in consultation with NEDLAC.

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The last part of the Act creates the role of labour inspectors as a mechanism for monitoring and enforcing employer compliance with the law. In the scope of fulfilling their responsibility, inspectors may advise employees and employers regarding their rights and obligations in terms of employment law, conducting inspections, investigating complaints, and any other necessary function, including imposing fines and sanctions on employers for noncompliance. They also have the right to enter and inspect workplaces and to question employees and employers. Labour issues may also fall under the scope of the judicial branch, the procedure for which is also outlined in the Act.

#### **5.4. Skills Development Levies Act No 203 of 1999**

The Skills Development Levies Act, passed by the South African Parliament, imposes a skills development levy upon employers to support the Sector Education and Training Authorities (SETA). The law stipulates that employers must pay a skills development levy, the rate and basis for which would be developed by the Minister of Labour in consultation with the Minister of Finance. The Act applies to all employers except for public service employers, religious and charitable institutions, employers whose projected amount of remuneration in the next 12-month period will be less than R 250,000 and national or provincial institutions for which Parliament defrays at least 80 per cent of their costs.

The Act grants labour inspectors (as established by the Basic Conditions of Employment Act, No. 75 of 1997) the right to collect levies for SETA and it grants inspectors the right to monitor and enforce compliance with the Act. The Act sets forth general provisions that require the Minister of Labour to consult with the Minister of Finance and the National Skills Authority before making regulations on any matter regarding the prescribed terms of the Act or necessary for the effective administration of the Act.

#### **5.5. Unemployment Insurance Act No. 63 of 2001**

The Unemployment Insurance Act created the UIF to provide unemployment benefits to certain employees. It is also tasked with providing the payment for illness, maternity, adoption and dependant benefits related to the unemployment of such employees, in an effort to alleviate the harmful economic and social effects of unemployment. If a contributor has earned more than the benefit transition income level, they are entitled to a flat benefit, while a contributor who earned below the benefit transition income level is entitled to a percentage of their previous pay.

The UIF is funded through contributions from employers and employees as collected by the Commissioner of the South African Revenue Service. Funding also comes from contributions apportioned by Parliament, revenue from penalties and fines imposed in terms of this Act, interest or income generated through investments made by the Fund and donations or any other source of income. The Act delineates the determination of benefits, conditions, and situations in which the Fund can be disbursed to unemployed workers and beneficiaries. The Act also grants labour inspectors jurisdiction over the issue of unemployment insurance and gives them authority to demand compliance with the Act.

The Act establishes the Unemployment Insurance Board, which is responsible for advising the Minister on unemployment insurance policy, minimizing unemployment, the creation of schemes to alleviate the effects of unemployment and any other policy issue arising out of the Act or the implementation of the Act. The Board comprises 14 members, including the Chairperson and 12 voting members, who are appointed by the Minister for three-year terms. The 12 voting members must be first nominated by NEDLAC and three

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must represent organized labour, with another three representing organized business, three more for community organizations and three representing the interests of the State.

The Act also sets forth the Constitution of the Unemployment Insurance Board and the administrative procedures and provision of resources to the Board. Additionally, it contains the framework for making regulations and general provisions regarding the duty of employers to provide information, the duty of the Commissioner to create and maintain a database of contributors, beneficiaries and employers, and the powers and duties of the Directorate-General.

## **5.6. Occupational Health and Safety Act No 85 of 1993**

The Occupational Health and Safety Act was passed to “provide for the health and safety of persons at work and for the health and safety of persons in connection with the use of plant and machinery; the protection of persons other than persons at work against hazards to health and safety arising out of or in connection with the activities of persons at work; to establish an advisory council for occupational health and safety; and to provide for matters connected therewith”.

After defining key terms, the Act establishes an Advisory Council for Occupational Health and Safety, which is responsible for advising the Minister on policies relating to the provisions with the Act and with any matter related to occupational health and safety. The Act also gives the Council the right to collect and disseminate relevant information, establish rules for its operation, advise the Department of Labour concerning health and safety issues, and manage educational and training programmes about workplace health and safety. The Act also outlines the organization of the Council, stipulating the number and selection methods of councillors and describing other administrative issues. It also gives the Council the right to establish technical organizations to help them carry out the tasks described by the Act.

The Act imposes responsibilities upon Chief Executive Officers (CEOs), employers, employees, manufacturers, and suppliers in ensuring safe and healthy occupational conditions. The Act also creates the role of Health and Safety Representatives (§17), who, among other tasks, are given the responsibility of reviewing the effectiveness of health and safety measures of employers who employ over 20 employees. This must be done through identifying potential hazards and potential major incidents at the workplace, inspecting workplaces to ensure compliance with regulations and consulting with inspectors, whose role is described below. As employers are obligated to designate a Health and Safety Representative for every 100 employees, in case there are two or more Representatives, an employer must establish a Health and Safety Committee that allows the Representatives to coordinate their activities, make recommendations to employers and discuss any workplace incidents and any other functions that may be necessary.

The Act also creates the roles of a chief inspector and inspectors. They are responsible for inspecting workplaces in order to ensure compliance with relevant legislation. Inspectors, unlike Health and Safety Representatives, can enter workplaces without previous notice, can inspect work performed and seize books, records or other documents that may serve as evidence of noncompliance with the law. Inspectors, who must be approved by the Minister of Labour, also have special powers and the right to conduct investigations. The Act outlines the inspection and appeals process, penalties for noncompliance and other legal procedures. The Mines Health and Safety Act (No. 29 of 1996) and Regulations govern occupational health and safety in the mining sector. There are specialized inspectors from the mines department to ensure compliance of this legislation.

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## 6. Institutional Framework

The labour administration system in South Africa is composed of state bodies and parastatal agencies.

The main state body is the Department of Labour (DoL), divided into the Head Office based in Pretoria, 10 provincial offices (the Gauteng province is divided into two administrative units) and 127 labour centres.

### 6.1. Department of Labour (DoL) Head Office

The DoL is the central labour administration body in South Africa.

#### **Vision**

The Department of Labour will strive for a labour market which is conducive to economic growth, investment and employment creation and which is characterised by rising skills, equity, sound labour relations, respect for employment standards and worker rights.

#### **Mission**

The Department will play a significant role in reducing unemployment, poverty and inequality through a set of policies and programmes developed in consultation with social partners which are aimed at:

- Improved economic efficiency and productivity.
- Skills development and employment creation.
- Sound labour relations.
- Eliminating inequality and discrimination in the workplace.
- Alleviating poverty in employment.
- Enhancing occupational health and safety awareness and compliance in the workplace.

Nurturing the culture of acceptance that worker rights are human rights.

The head of the DoL in South Africa is the Minister of Labour. There is also a Director General (DG) of Labour who reports directly to the Minister. Under the DG's supervision are four branches: Corporate Services, Service Delivery, Labour Policy and Labour Market Programmes and Employment and Skills Development Services. There are two funds, namely the Compensation Fund and Unemployment Insurance Fund. There are two Chief Directorates and a Chief of Operations in addition to an Information and Financial Management System.

The Employment Skills and Development Service Branch consists of two Chief Directorates, the National Skills Fund, SETA Coordination, the National Skills Authority and the Skills Development Management Unit. Under the Chief Directorate for the National Skills Fund, there are Directorates for Skills Support Programme, Strategic Projects and Employment Services and a sub-directorate for NSF Administration. Under the Chief Directorate for SETA Coordination, there are Directorates for SETA Performance Management, SETA Support and Learnerships, and the Institute for the National Development of Learnership, Employment, Skills and Labour Assessment (INDLEA).

The Labour Policy and Labour Market Programmes Branch has a Chief Directorate for Labour Relations and a Chief Directorate for Labour Market Policy. Under the Chief

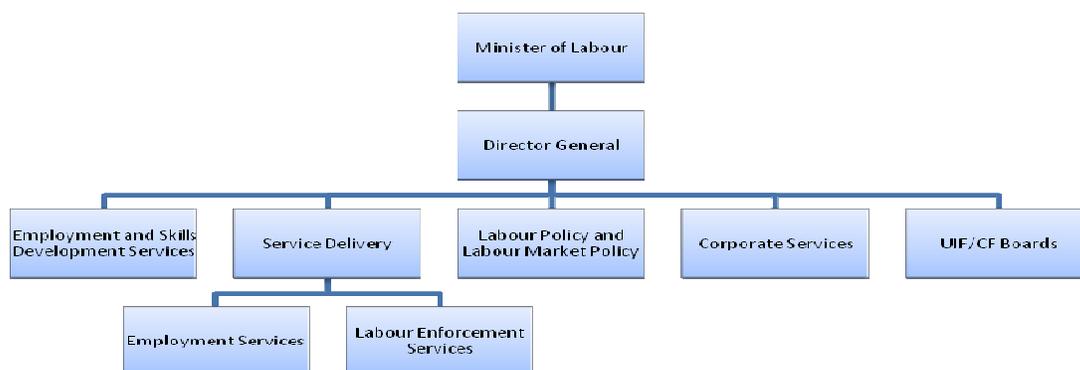
Directorate for Labour Relations, there are Directorates for Employment Standards, Employment Equity and Collective Bargaining and a sub-directorate for Support Services. Under the Chief Directorate for Labour Market Policy are the Directorates of Labour Market Information and Statistics, Research Policy and Planning and International Relations and a sub-directorate for Sheltered Employment.

The Branch for Service Delivery has a more decentralized system as it is split between 10 provincial offices, and two Chief Directorates, namely Occupational Health and Safety and Service Delivery Monitoring. Though there are only nine provinces in South Africa, there are 10 provincial offices as the Gauteng Province is split between Johannesburg and Pretoria. The Occupational Health and Safety Chief Directorate oversees the Directorates of Electrical and Mechanical Engineering, Explosives and Civil Engineering, and of Occupational Health and Safety. The Chief Directorate of Service Delivery Monitoring oversees the Directorates of Inspection and Enforcement Services, Monitoring and Evaluation and Special Projects.

The Branch of Corporate Services, which is primarily responsible for internal management has Chief Directorates for Human Resource Management, Communications, Legal Services and Directorates for Internal Audit and Security Services.

The simplified organizational chart showing the key functions of the Department of Labour is below:

**Figure. 1**



## 6.2. Provincial and Local Structure

Provincial offices (of which there are 10) provide technical and administrative support to local Labour Centres through five business units:

- IES – ensures compliance with labour legislation.
- BS – facilitates access to UIF and Compensation Fund.
- LMISS&P – monitors the labour market trends and manages information for the province.
- MSS – offers support services such as communication, HRM, finance, supply chain and risk management, among others.
- ESDS (Employment and Skills Development Services) – is responsible for training programmes, counselling and placement services.

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### **Organizational Structure of the Mpumalanga Provincial Office**

The Provincial Office is divided into several branches: Labour Market Information, Statistics and Planning; Beneficiary Services; Employment and Skills Development Services; Inspection and Enforcement Services; Management Support Services; Risk and Office Administration; and the Provincial Communications Office.

The Labour Market Information, Statistics and Planning Division is responsible for monitoring the impact of legislation, reporting about trends in the labour market to the DoL and exploring ways to improve the effective functioning of the market, maintaining information about the labour market and conducting labour market surveys. This Division is governed by a Business Unit Manager, with two assistant managers, one for Labour Market Supply and Demand, and the other for Unemployment and Occupational Health and Safety. There are four practitioners, one for each assistant manager, one for Data Management and one for Inspections and Enforcement.

Beneficiary Services is responsible for the local administration of unemployment insurance and COIDA. Beneficiary Services has adopted a decentralized system and expanded claims processing to three more offices in an effort to improve customer service, reduce the potential of human error and create a more controlled environment. COIDA has no approved managerial system and is managed by an Assistant Manager and a varying number of contract workers. The Provincial COIDA office is responsible for processing applications, providing letters of good standing, answering inquires, referring cases to inspectors and interacting with stakeholders. Beneficiary Services would like to improve its governance structure concerning lines of communication and reporting. It would also like to improve the turnaround time for processing COIDA claims and payments by decentralizing its organization and redesigning labour centres to accommodate a new service delivery model.

The Employment and Skills Development Services is responsible for helping job seekers and the underemployed gain access to training programmes, counselling and placement services. According to their presentation, the ESDS is facing challenges as the number of entrants to the labour market is increasing, the skills base of the country is getting lower, the organizational structure of the ESDS is not suited to provincial operations and the procurement process is long and cumbersome.

The Inspection and Enforcement Services (IES) is responsible for ensuring compliance with legislation, protecting vulnerable workers and promoting equity and skills development in the workplace. It also attends to areas related to Sector and Hazard Specific Advocacy. IES conducts its business through inspections, investigations, advocacy sessions and training programmes. IES is managed by a Business Unit Manager, who is responsible for the overall supervision of the department. The Business Unit Manager is assisted by an Administrative Assistant Manager, who is responsible for compiling and submitting reports and other administrative functions. The team is supported by three Cluster Managers, who are responsible for providing technical support to labour centres within the province, talking with stakeholders. The Cluster Managers work closely with labour inspectors, three Practitioners, and an administrative clerk. Additionally, there are 24 Team leaders and 64 Inspectors. Challenges identified by IES include obtaining access to all employers because of language barriers or restricted access, difficulty in prosecuting child labour cases, a lengthy prosecution process and increased employer hostility.

Management Support Services (MSS) is responsible for Knowledge and Information Management (i.e. resolving ministerial, DG and parliamentary inquiries); People Management, including filling vacancies, ensuring compliance with HR policies and practices; Financial Management which involves monitoring expenditure levels in line with the Public Finance Management Act; and Service Delivery, which is essentially rendering technical support, audits and inspections. There is a Business Unit Manager of MSS, who oversees Human Resource Management, Financial and Supply Chain Management, and Training and Performance Management. Challenges that MSS has identified are inconsistencies with provincial systems, an inadequate performance management structure and outdated job profiles.

The Risk and Office Administration (RAO) is responsible for ensuring a safe and secure environment for staff and clients, monitoring and improving internal controls, coordinating IT activities between different offices and securing sufficient, user-friendly and accessible office accommodations. The RAO is separated into IT and Office Services and Risk Management Divisions, which are overseen by a Business Unit Manager. Challenges that the RAO has reported include obtaining a commitment from the National Public Works Department to secure an alternative location and the limited availability in smaller towns and rural areas. The Risk Management Division faces difficulties in implementing measures that cover activities of the DoL in the Province. The Communications Office, consisting of the Provincial Communications Officer and a clerk, is responsible for promoting legislation and policies through electronic and print media, establishing strategic relationships with the public, establishing and enhancing stakeholder relationships and implementing marketing strategies.

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Labour centres (127) provide services directly for clients, including capturing and processing.

Satellite offices provide an extension of services, but have no processing functions.

Visiting points extend service provision to remote places without offices and in some cases, mobile trucks are provided. Points are visited once a month or twice a month and are based in church halls, libraries and community halls. For example, in the Western Cape, there are 90 visiting points and two mobile trucks.

#### **Organizational Structure of the Kwamhlanga Labour Centre**

The Kwamhlanga Labour Centre has many of the same functions and divisions as the Mpumalanga Provincial Office. The head of the Labour Centre is a Regional Manager, assisted by a clerk from Management Support Services. The directorate is supported by a Career Counsellor, the Employment and Skills Development Services, Inspection and Enforcement Services, Beneficiary Services and Mobile Labour Centre.

The Labour Centre has a Forum in which it meets quarterly with stakeholders to discuss the progress of the Centre and potential remedial actions. The main stakeholders of the Kwamhlanga Labour Centre include officers from local municipalities, government representatives, constituency offices, the CCMA, the Community Advice Centre (an NGO), COSATU Local and the Thusong Services Centre.

As part of its duties, the Kwamhlanga Labour Centre identified the need for an additional Employment and Skills Development staff to help address the high rate of unemployment, the need for increased attention on skills development programmes and the need for the Mobility Labour Centre to be more connected with rural areas.

*Source: Presentation to ILO/Head Delegation, Labour Centre Kwamhlanga*

### **6.3. Parastatal Organizations**

#### **6.3.1. National Economic Development and Labour Council**

The National Economic Development and Labour Council (NEDLAC) is a statutory social dialogue body funded by the DoL. It was established by the National Economic Development and Labour Council Act, Act No. 35, which was passed by Parliament in 1994. As a social dialogue body, its constituency comprises labour and business organizations, government departments and community groups (please see the table below). The organization serves as a forum for social partners coming together to discuss and develop public finance and monetary policy, labour market policy, trade and industrial policy and development policy. The three main challenges that NEDLAC seeks to address are facilitating sustainable economic growth, developing greater social equality and increasing participation of all major stakeholders. Though the Minister of Labour is the Executive Authority and is responsible for coordinating the government's position in NEDLAC, the chair of the organization rotates quarterly between the social partners.

NEDLAC conducts its business in nine distinct policy work streams: an Annual Summit, Executive Council, a Management Committee, a chamber for each policy area, a special projects unit and Section 77 Notices. Though the Annual Summit is not part of the Council, it serves as a forum for organizations not generally involved in the Council. It allows organizations to participate in national level discussions and provide feedback on the Council's activities. The Executive Council is a decision-making body comprising 18

members from all four constituencies. The Council meets at least four times every financial year to receive reports from the four Chambers and the Management Committee, assess its progress, reach agreements regarding policies and ratify agreements. The Management Committee consists of 20 members: four NEDLAC governors and four representatives from each Chamber, and is responsible for overseeing and coordinating NEDLAC's work. Most of the work and negotiation of legislation takes place in the four chambers: the Labour Market Chamber, the Trade and Industry Chamber, the Development Chamber and the Public Finance and Monetary Policy Chamber. Each sub-department deals exclusively within its subject matter jurisdiction and reaches a consensus regarding proposals to present to the Executive Council, Parliament and other relevant decision-making bodies. As Section 77 of the Labour Relations Act gives workers the right to take collective action, the work stream pertaining to Section 77 notices is responsible for bringing social partners together to resolve issues before industrial action is taken. The last work stream is responsible for special projects including: NEDLAC Review, the Growth and Development Summit Agreement, and the Decent Work Country Programme (DWCP).

**Table 2. NEDLAC Participants**

<b>Business</b>	<b>Labour</b>	<b>Government</b>	<b>Community</b>
Business Unity of South Africa	Congress of South African Trade Unions	Departments of Labour	Women's National Coalition
	National Council of Trade Unions	Department of Trade and Industry	South African National Civics Organisation
	Federation of the Unions of South Africa	Department of Public Works	South African Youth Council
		National Treasury	Disabled People South Africa
		Other departments	National Association of Co-operatives of South Africa
			Financial Sector Campaign Coalition
			SANGOCO

### **6.3.2. Commission for Conciliation, Mediation and Arbitration**

The Commission for Conciliation, Mediation and Arbitration is an independent body that was established by the Labour Relations Act, No. 66 of 1995. The mission of the CCMA is to promote social justice and fairness in the workplace by providing high-quality, ethical, innovative and cost-effective dispute management and dispute resolution services. The organization espouses values of integrity, non-discrimination, maturity, accountability, service and teamwork. The CCMA is a tripartite dispute resolution body managed by a Governing Body comprising of ten members chosen by NEDLAC: three representatives of the state, three of organized labour, and three of organized business and

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a chairperson, who is nominated by the Governing Body. Commissioners, who fulfil the tasks of the CCMA are appointed by the Governing Body based upon experience and expertise in labour matters and are bound to the Commissioner Code of Conduct. Each province has full time and part time Commissioners who facilitate, conciliate, mediate and arbitrate industrial disputes. Each province also has a Convening Senior Commissioner who is responsible for monitoring the professional standards of the CCMA and delegating cases to commissioners.

As per the Labour Relations Act, the CCMA's compulsory statutory functions are to: conciliate workplace disputes within 30 days of being referred a case, arbitrate disputes with legally binding awards on certain cases that remain unresolved after conciliation, establish picketing rules, facilitate the establishment of workplace forums and statutory councils, compile and publish information about their activities, and to support the Essential Services Committee. When a case is referred to the CCMA, it is screened and delegated by the Registrar and Convening Senior Commissioner. Some cases are redlined first to the Head Office, while other cases are directly sent for Case Management, where Case Management Officers appoint commissioners for each case, and refer some cases to the Labour Court. Cases that have been appointed a commissioner then go through the Dispute Resolution Process, which includes facilitation, conciliation and, in some cases, arbitration. Currently, the CCMA has a national settlement rate of 70 per cent.

Though the CCMA represents an improvement in conciliation and arbitration mechanisms in the past, according to a study by Haroon Bhorat of the Development Policy Research Unit, an increase in the financial and human resources capacity of the CCMA can help the organization achieve its statutorily prescribed efficiency goals, while simultaneously increasing the quality of conciliations. Between 2003 and 2006, there was an increase in the number of cases being resolved outside the 30 day limit, and the settlement rate, while almost twice as high as the previous dispute resolution body's settlement rate, is still below 70 per cent.<sup>7</sup> Increasing the resources available to the CCMA can reduce the caseload per commissioner, allowing them to make settlements that address underlying problems and the needs of the parties, resulting in improved performance.

### **6.3.3. Unemployment Insurance Fund**

The Unemployment Insurance Fund was established by Section 4(1) of the Unemployment Insurance Act of 2001, (Act 63 of 2001). It has the responsibility of registering all employers and employees in South Africa, and administrating the Fund to disburse unemployment benefits, illness benefits, maternity benefits, adoption benefits and dependants' benefits. Since the Unemployment Contributions Act of 2002, it has had the responsibility of collecting monthly contributions from employers and employees, who are each responsible for paying 1 per cent of the employees' monthly remuneration. Employees who work over 24 hours a month are required to contribute to the fund. Exceptions are public servants, workers who undertake employment primarily for skills development, as defined by the Skills Development Act of 1998, migrant workers who are temporarily working in South Africa as an apprentice or will be repatriated at the end of the programme, and workers who are compensated solely on a commission basis. The employer is responsible contributing to the fund and ensuring that the necessary deductions are taken from employees' payrolls. The UIF's goal is to contribute to the alleviation of poverty in South Africa by providing short-term benefits to workers who have lost their

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<sup>7</sup> Bhorat, H.; Pauw, K.; Mncube, L. 2009. "Understanding the Efficiency and Effectiveness of the Dispute Resolution System in South Africa: An analysis of CCMA data." Development Policy Research Unit Working Paper 09/137 (Cape Town).

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jobs. Their guiding principles are to render effective and accessible service to stakeholders, establish a sustainable organization with sufficient reserves and professionally administer the fund.

Employees are entitled to receive 238 days of unemployment, illness, adoption or dependants' benefits in a four-year period. They can also apply for a maximum of 121 days of maternity benefits, which does not interfere with an employee's right to collect unemployment benefits. Contributors are not entitled to receive benefits if they are receiving payment from the Compensation Fund, or any other unemployment fund or scheme through the Labour Relations Act, if the contributor fails to comply with the provisions of the Unemployment Insurance Act, has engaged in fraud related to the UIF, or if the contributor has resigned from work.

#### **6.3.4. Compensation Fund**

The Compensation Fund, a part of the Department of Labour, was established by the Compensation for Occupational Injuries and Diseases Act (COIDA), Act 130 of 1993, to compensate workers for disabilities incurred through occupational injuries or diseases contracted through the workplace, and families of employees whose injury or illness resulted in death. It is supported by levies upon employers, which are determined as a percentage or fixed rate of the annual earnings of employees. The Fund's strategic objectives of the fund are to: serve as a social safety net, manage the finance and assets of the fund, reform and restructure the fund to enhance its competence and performance, manage qualitative data and information, and manage communications and stakeholder interests.

The Compensation Fund is managed by the Compensation Board, which is a statutory body comprising representatives from organized business, organized labour, the government, mutual assurance companies associated with the Fund and medical experts. The Board reviews recommendations and advises the Minister of Labour on policy issues regarding annual benefit increases, appointments, and any potential amendments to COIDA. The Board has established the following subcommittees to help them fulfil its responsibilities and conduct the work of the Fund:

- Technical Committee on Occupational Diseases.
- Assessment and Rating Committee.
- Benefits Committee.
- Reporting and Statistics Committee.
- Communication, Education and Marketing Committee.
- Strategic Operational Committee.
- Finance and Investment Committee.
- Audit Committee.

In particular, the Audit, Benefits and the Finance and Investment Committees are central organizations that help the Board administer its authority. The Board also has an Ad Hoc Committee, which convenes when necessary to address issues that are not covered by the aforementioned established committees.

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### 6.3.5. Productivity SA

Productivity SA is a not-for-profit company that was established in 1976 as NPI. However, it has undergone significant restructuring and is now governed by a tripartite Advisory Council and Board that report to the Minister of Labour. The corporate governance structure includes the Board of Directors, who meets quarterly and sets the strategic direction of the company, in addition to reviewing the business plans and budget, an Internal Audit Division, Risk Management Division and Employment Equity Division.

Productivity SA aims to develop and enhance the productive capacity in South Africa by continuously improving labour practices in South Africa. It works to build institutional capacity through sound project management skills, and through developing working relationships with other governmental agencies. Their values are to develop and enhance productivity of South Africans, provide customer satisfaction through excellent service delivery, promote equity, use innovation and creativity to challenge existing assumptions, and act in a social and environmental conscientious manner.

Productivity SA consults with small, medium and micro enterprises (SMMEs) and provides training, advisory services and assistance to help the organization become a profitable enterprise. By minimizing waste, implementing sustainable and successful labour and business practices, and re-skilling the workforce, Productivity SA hopes to engender long-term economic growth in South Africa and increase the international competitiveness of the country.

### 6.3.6. Sheltered Employment Factories

Sheltered Employment Factories were created in South Africa to provide employment for workers with disabilities whose disabilities prevent them from holding a job in the open labour market. Currently, the SEF has 12 factories throughout the country, though primarily urban based, and produce items such as furniture, textiles, metal work, leather work and book binding, for example, and employ over 1,000 disabled people. It mainly employs citizens who were injured in World War II, and does not provide the same services for members from the Azanian People's Liberation Army (APLA) and the South African Defence Force (SADA).

As the mandate of SEFs has not been updated since 1983, and lacked a formal set of policies and procedures and had an unresolved legal status, in 2007, the DoL launched an investigation into the structure of SEFs, with a view to determine the appropriate legal persona and structure for SEFs and to introduce a new managerial framework that will allow it to better serve its constituency.

## 6.4. Past Restructuring Efforts

During the last decade, the DoL has made several attempts to reform its internal structures and increase its capacity to better respond to increasing demands on its services.

The ILO mission had an opportunity to study all relevant documents elaborated by external consultants and by the DoL itself, including *Customer Relationship Management Framework for the DoL* (Price Waterhouse Coopers, 2004); *Refocusing of the DoL, 2006*; *“Integrated Business Strategy 2006-07; Recommendation on the delivery of employment services (Siemens, 2006)*, etc.

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However, time constraints during the mission did not permit a detailed discussion of these documents; however, the mission can, based on a desk review of relevant documentation and meetings with many DoL officials, suggest the following comments:

1. previous attempts at reform exaggerated the focus on delivery mechanisms and structures, and neglected policy aspects, which meant there was a major gap, and the lack of evidence based employment strategy/policy was not addressed.
2. while some of these documents suggested restructuring of the Head Office, these suggestions did not address the most evident lacuna, the ambiguous responsibility of the main areas of labour administration. While main labour problems of the South African society are well known (employment, social protection, industrial relations, labour legislation), the Head Office structure does not provide for clear responsibility delegation and management chains. Instead functional structure was given priority over thematic structure, which resulted in a harmful separation of responsibility of policy makers from policy delivery. Policymakers should be fully responsible for its implementation to create an uninterrupted delivery chain. The *Integrated Business Strategy* maintained division between “policy and strategy development” and “provincial operations management,” and public entities were treated in a separate branch, without a real link to the policies they were supposed to implement.
3. our counterparts during the mission were rather clear about the obstacles, which impeded implementation of intended reforms:
  - Insufficient political will and support.
  - Resistance of senior management to changes.
  - Poor change management and leadership.
  - Too much personal interest involved.
4. private sector management models, as generally suggested by external consultants, are useful to deliver more efficient and better quality services, but they cannot be mechanically imported as contexts can markedly differ in various sectors. In State administration, the accountability for results should be accompanied by process accountability; explicit, formal and measurable standards of performance by trust in professional standards and expertise; an emphasis on output controls by controls on inputs and processes; and the unbundling and disaggregation of organizational units by hierarchically integrated forms of provision.
5. any future reform should be transparent and implemented in consultation with employees or their representatives. Consequences of the reforms on human resources should be envisaged and compensated by financial measures as well as by retraining programmes, mobility incentives, as one example, to avoid an *a priori* opposition by employees.
6. the DoL should accompany future reforms by organizational-performance measures, aimed at fostering employee engagement, talent management and accountability.

## 6.5. ILO and Comparative Perspective of Head Office Structure

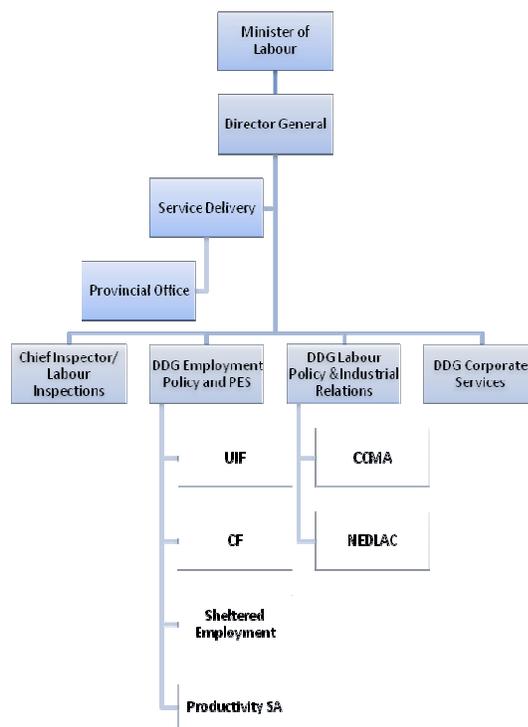
While there is no universal model for internal structure of the Ministry of Labour, most labour administrations make the distinction between broad areas such as labour policy, employment policy, social security, industrial relations, etc. Some examples are provided in the annex. The mission found two main critical issues in the Head Office:

1. inspection services are placed within the Service delivery branch, which does not allow them to function as an autonomous body within the meaning of the ILO Convention Nos. 81 and 129;
2. the ESDS branch is separated from the labour market policy unit and from two funds, UIF and CF, which can significantly contribute to achievement of employment policy objectives.

To address these two issues, it is recommended to:

- Create a specific Labour Inspection Branch under the chief inspector that reports directly to the DG;
- Create a Labour Market and Employment Services Branch, responsible for UIF and CF;
- Transform current Labour Policy and Labour Market Programmes Branch into Labour Policy and Industrial Relations Branch, responsible also for CCMA and NEDLAC;
- Service Delivery Branch could report directly to the DG and be responsible for financial and administrative management of Provincial Offices.

Figure 2. Suggested organizational structure



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## 7. Public Employment Services

The mandate of the ILO mission in the field of PES was limited to:

- Establishing the position of PES within the overall structure of DoL.
- Advice on legal and institutional framework of PES.
- Basic comparative information on administration of similar schemes in other countries.

The Memorandum therefore does not deal with labour market policies implemented by PES; this could be part of a possible follow-up, if requested by DoL.

### 7.1. Administration of PES

As in many other countries, in South Africa administering the PES has become a most challenging undertaking. Competing needs and limited resources impose seemingly unending demands on the time and resourcefulness of senior PES managers and these managers are aware that they cannot satisfy all the demands that are being placed on them.

In South Africa, this situation is even more dramatic because of an unusually unfavourable situation on the labour market, aggravated further by the economic downturn, and by extremely limited human resources, which is evident from the following table and even more evident if benchmarked with developed countries (see Annex III).

PES usually operate as a component of Ministries of Labour or, less often, as a separate executive agency. PES are the government institutions that plan and execute many active, and sometimes passive, labour market policies that governments use to help workers enter the labour market, to facilitate labour market adjustments, and to cushion the impact of economic transitions.

In many countries, social partners are involved in PES administration, either as through executive tripartite boards with management functions, or through non-executive advisory bodies at the national, regional or local levels.

As PES are the main tool of labour administration systems for implementing national labour market policies, PES structures are most often under the direct responsibility of the labour market branch of the Labour Ministry, guaranteeing the link between policy making and service delivery. Existence of such a link is also essential for regular feedback on efficiency of labour market policies and for the flow of labour market information. Regional structures of PES most often follow the administrative structure of other government departments. In countries with existing decentralized governments structures, PES also have structures at the regional or provincial levels, having mostly administrative functions. However, in smaller countries, the local network of “job centres” or “labour centres” is sometimes administered directly by the respective branch of the DoL, without any intermediary structures, giving local centres large autonomy to use their funds to priorities corresponding to local needs.

Important role of local centres is developing local partnerships with other government agencies, but also with business communities, trade unions, education and vocational training establishments, and non-governmental organizations, among others. This partnership is sometimes formalized in existence of local labour market advisory boards. Functioning of a “model” labour centre is described in the Annex II.

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**Table 3. Number of Officials Responsible for ES-Related Functions in SA**

	<b>Provincial Office</b>	<b>Labour Centre</b>	<b>Total</b>
<b>Head Office</b>			18
<b>Eastern Cape</b>	22	42	64
<b>Western Cape</b>	19	24	43
<b>Northern Cape</b>	11	14	25
<b>Free State</b>	13	22	35
<b>Gauteng North</b>	11	18	29
<b>Gauteng South</b>	26	28	54
<b>Kwazulu Natal</b>	19	35	54
<b>Limpopo</b>	17	24	41
<b>Mpumalanga</b>	14	26	40
<b>Northwest</b>	14	21	35
<b>Total</b>	166	254	420

Since the country embarked on the process of democratization at the beginning of the 1990s, one of the most urgent tasks was to make employment services accessible to the whole population. Series of reform steps have been done to this effect, focussing mainly on the training function of PES, trying to overcome the major gaps existing in the educational levels between the different groups of population.

With the promulgation of the Skills Development Act in 1998, the DoL shifted its focus and attention to Skills Development. The Employment and Skills Development Services Branch concentrated upon Skills Development and the pursuance of the objectives of the National Skills Development Strategy, which was adopted in 2003.

The previous work done by the ILO (audit of employment services elaborated in 2003) affirmed the following 10 services; with the first two considered the top priorities for attention:

1. Identify opportunities for self-employment (micro-enterprises) and social development.
2. Develop skills of unemployed and underemployed DoL clients for self-employment opportunities.
3. Identify opportunities within formal sector firms.
4. Identify threats within formal sector firms.
5. Refer and place learners in learnership opportunities (new entrants).
6. Manage cross-border labour migration.
7. Ensure that service providers are able to offer appropriate skills to work seekers.
8. Ensure that private employment agencies are able to offer efficient and high quality service to work seekers.
9. Implement an Employment Support programme for people with disabilities.
10. Improve internal management and administration issues.

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Actually, Employment Services Practitioners (ESPs) spent almost all their time and resources identifying pre-existing projects, and supporting and monitoring training programmes, neglecting the placement, counselling and labour information functions.

This situation has also been reflected in the position of the PES within the structure of DoL. The PES have been regarded as part of “service delivery”, disconnected with the labour market policy branch.

## **7.2. Integrated Business Strategy for Improved Service Delivery**

In 2006, the Department of Labour decided to revisit its mandate and engaged in a strategic planning exercise, and decided that in order to achieve the key objective of improved service delivery, the core business of the Department would be:

- Employment Services (including Social Security); and
- Inspection and Enforcement Services.

As a result of the Department’s new focus, Employment Services was redefined as a service that would use policies and programmes to proactively identify, respond to, and influence supply and demand in the Labour Market, and facilitate fair transactions between the suppliers and providers of labour.

In 2006, the Economic cluster of the Forum of Directors General called for “the development and implementation of the ‘Employment Services System’ by March 2007 in Action No. 5.3 of the Government Programme of Action.

The Department of Labour developed the system and designed the delivery mechanism for the following services:

i) Registration Services

Includes: registering individuals and opportunities.

ii) Career Information and Guidance Services

Includes: career, labour market, scarce and critical skills information and providing guidance on employability and accessing placement opportunities.

iii) Recruitment and Selection Services

Includes: proactively identifying opportunities through networking with stakeholders, matching individuals to opportunities, recruiting and selecting for particular opportunities, and placing workers in jobs.

iv) Training of unemployed persons

Includes: identifying training needs of jobseekers, referring jobseekers for training and ensuring that they are capacitated to participate actively in the labour market; managing this by identifying scarce and critical skills, developing the Provincial Implementation Plans, identifying possible training providers in the local areas, monitoring training and ensuring placement of trainees in opportunities, monitoring to ensure transfer of skills in cases where foreign workers are employed to bring in scarce skills.

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v) Information Services

Includes: producing information, such as brochures, pamphlets and packages, and advocating for accessible employment and skills development services

vi) Special Services

Includes: Providing services for special interest groups, such as people with disabilities, retrenched employees (social plan), ex-offenders, for example

### 7.3. Legislative Support

The ability of employers to register placement opportunities and vacancies on the Public Employment Services (DoL) system database was a critical factor as it facilitated the development of other services.

In its effort to regulate both the registration of placement opportunities by all employers and the associated operations of Private Employment Services Agencies, the Department of Labour published the “Regulations with regard to Employment Services” (Government Gazette Vol. 505 No. 30113 Notice 919) on the 27 July 2007, and then revised with public comments on the 27 September 2007; but then it was decided to wait for the promulgation of the Skills Development Amendment Act as Employment Services was written into the Skills Development Act of 1998.

After the Skills Development Amendment Act No. 37 of 2008 was signed in December 2008, the regulations was sent from internal legal services to the State law Advisors, who ruled that, “the draft Regulations are to a large extent *ultra vires*, the empowering provisions of the Act (i.e. section 36 read with sections 23(3) and 24) are therefore invalid.”

Employment Services, with the advice of legal services, decided to withhold the draft ES regulations and instead, draft the Employment Services Legislation to give effect to the clauses that were not covered by the Skills Development Amendment Act No. 37, 2008.

Another important aspect linked to legislation is the ratification and implementation of the provisions of the ILO conventions, with specific reference to the:

- Employment Service Convention, 1948 (No. 88).
- Private Employment Agencies Convention, 1997 (No. 181).

### 7.4. Integration of Skills Development Competencies into the Department of Higher Education and Training

The Presidential Proclamation on the transfer of Skills Development from DoL to DHET, effective 1 November 2009, added a new dimension to the Employment Services discussion. The Department of Labour was obliged to analyse the service delivery results in all 125 Labour Centres from April 2008 to March 2009. They found:

- 421 686 job seekers were registered (a fraction of the number of unemployed people who visit the Labour Centres to claim the Unemployment Insurance benefits).
- 26 170 Placement Opportunities were registered.

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- 13 107 job seekers were provided with career guidance services.
  - 8 531 registered job seekers were assessed and 7 270 referred to identified critical and scarce skills development programmes.
  - 14 898 job seekers were placed in employment.

The conclusion was that the DoL has to refocus and find ways to ensure that more effort is exerted for clients who visit DoL service centres and then, more generally, facilitate employment intermediation, which requires drastic improvements in the business processes, IT system, general infrastructure, human resource allocation and capacity and general governance of the DoL.

The DoL has started to draft an Employment Services policy, legislation, strategy, and a potential structure that will help the DoL deliver effective services.

Following his visit to Geneva in November 2009, the Director General of DoL has decided to officially acknowledge the service as 'Public Employment Services.'

## **7.5. Recommendations**

Taking into account previous efforts to modernize public employment services in South Africa and also recent developments concerning the skills development agenda, it is recommended:

- To create a new legal basis for public employment services by adoption of a new act on public employment services;
- This new act, similarly to other developed countries, could serve as a basis for adoption of a new strategic document, National Employment Policy; it should also define the tools of active and passive employment programs, establish the relationship between employment policy and unemployment insurance and regulate functioning of private employment agencies;
- As the human potential and financial capacity of ESA are limited, great attention should be given to effective use of information technology with the objective to place jobseekers without any direct intervention of Labour Centres;
- The role of social partners in administration of PES should be enhanced both at the national and local levels;
- Substantial increase of public funding is necessary to achieve significant improvement of public employment services in South Africa.

## **8. Labour Inspection system**

### **8.1. Introduction**

The labour inspectorate in South Africa is facing a number of challenges, including high turnover, which has affected the ability of the labour inspectorate in fulfilling its mandate under ILO Convention No. 81 on labour inspections.

Currently, the DoL is considering various measures and strategies to address the challenges created by the vacuum that results from high turnover and to improve the quality of services provided to clients. It is important that vacancies be filled expediently, and the new inspectors trained systematically to ensure that the staff can competently render services to stakeholders. Both employers and workers have stressed the need for inspectors to take a more authoritative approach to labour inspections.

## 8.2. Background

Today, within the DoL, there is general agreement regarding the necessity of revitalization the Inspection and Enforcement Service (IES), to more effectively fulfil its role of ensuring employers' compliance with labour legislation, as required by ILO Convention No. 81. A major constrain in this regard is the current organizational structure of IES which is insufficient to drive labour inspections as per ILO Convention No. 81 and ILO Convention No. 129.

The relatively high turnover of staff has resulted in an inspectorate that is understaffed and under-trained and unable to ensure compliance with labour laws. The lack of an effective communication system and record-keeping system has hindered the capacity of the inspectorate to perform inspections and properly follow-up on those inspections. These challenges can potentially strain the professionalism, independence and impartiality of inspectors.

This preliminary assessment of the labour inspection is divided into two parts .The first part addresses the structure and organization of the labour inspection system in South Africa. The second part addresses key policy issues and recommendations.

## 8.3. Organization and Role of Labour Inspection Services

Labour inspection services are organized at the Federal and Provincial levels in South Africa. The Inspector General is responsible for labour inspections at the federal (HQ) level, whilst Provincial Directorates are responsible for managing inspections at the provincial level.<sup>8</sup> Presently, there are 965 inspectors, comprising 17 at the HQ level, 860 general inspectors and 88 occupational safety and health (OSH) inspectors. The table below shows the national distribution of the labour inspectorate, revealing a gender balance within the department.

**Table 4. National Distribution of Labour Inspectors in 2009**

Level	Total	Male	Female
HQ	17	10	7
Provincial		423	437
Provincial OSH	88		
Provincial Gen.	860		
<b>Total</b>	<b>965</b>	<b>433</b>	<b>444</b>

Source: Discussion with Chief Labour Inspector (4 November 2009), The information is fluid as the DoL was in the process of recruiting inspectors.

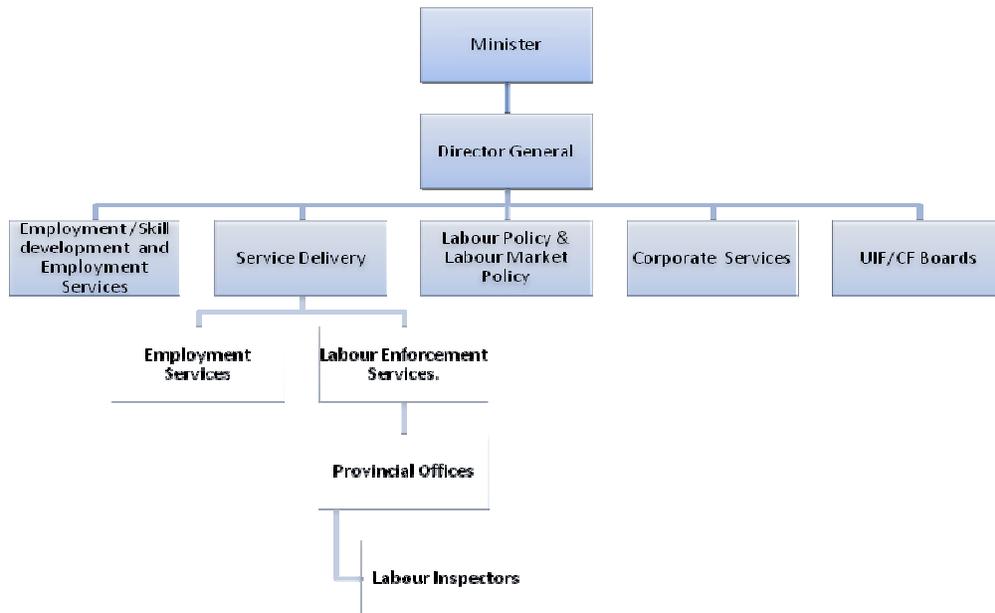
<sup>8</sup> Provincial Directorates comprise: Northern, Eastern and Western Cape, Mpumalanga, Gautang, Free State, Limpopo, Southern, Northern and North-western KwaZulu

At the Ministerial level, the Office of the Inspector General comprises three teams, Occupational Safety, Occupational Health and Minimum Labour Conditions, and Employment Equity, each of which is responsible for labour inspection matters within its jurisdiction. The inspectorate at the Ministerial level is responsible for assisting in policymaking. As such, they are expected to compile national statistics from provincial reports, develop policy and coordinate inspections on a national level.

Additionally they are expected to undertake impact assessment studies of labour inspection policies, to help formulate better national standards and guidelines. The Unemployment Insurance Fund and the Compensation Fund are two agencies of the labour administration system in South Africa that rely upon the inspectorate to ensure that the appropriate contributes are made by employers.<sup>9</sup> Figure 3 shows the labour inspection system within the Department of Labour’s organizational structure.

Currently, there are only seventeen inspectors at HQ, which requires additional staff to build its capacity and fulfil its responsibility. Of the HQ inspectors, only 3 are responsible for General Inspections and Employment Equity, which significantly hinders the ability of the inspectorate to implement key legislation on Employment Equity. The lack of human resource capacity means that the Department is constrained in its ability to help with policymaking, collecting and analysing data, and in giving direction for labour inspections and occupational safety and health.

**Figure 3: Organizational Structure of Labour Inspection system within the Department of Labour**



Each province has its own inspection manual and IES performance standards, and lacks a common Information Technology system, which inhibits their collaboration and the establishment of a national standard. Figure 4 shows the decentralized organizational structure of the labour inspectorate in South Africa.

<sup>9</sup> Recently, the UIF has recruited 12 inspectors to ensure the appropriate contributions are made.

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**Figure 4. Structure of Labour Inspectorate in South Africa**



#### **8.4. Strategic Policy Impediments and Recommendations**

In order to fulfil its mandate, the inspectorate must make a specific and measurable contribution to the MTSF to promote a balanced socio-economic development. However, for labour inspections to play a more prominent role in improving the workplace, a number of policy issues must be addressed. Though there have been past attempts to reform labour inspections, they were unsuccessful because they focused merely on customer service and compliance regime, rather than on the macro-perspective and structural issues pertaining to the centrality of labour inspections in a labour administration system. Thus, labour inspections were not given a central role as one of the four main pillars of labour administration, as suggested by Labour Inspection Convention No. 150.

The effectiveness of a labour inspectorate must be judged by its ability to formulate and implement labour inspection policies, forge partnerships with stakeholders and coordinate inspection strategies with departments that have a vested interest in labour inspections. These are competencies which are currently lacking. Additionally, the organizational structure of the labour inspectorate does not allow it to promote advocacy and training as a preventative strategy, nor does it allow it to evaluate and formulate policies with the social partners in a tripartite setting, as in France, Spain, Japan, Singapore and Hong Kong.

##### **8.4.1. Repositioning the Labour Inspectorate within DoL**

The current structure of the National Labour Inspectorate at the national level does not allow it to fulfil its mandate as provided by international labour standards (e.g. Convention Nos. 81, 129 and 150). The designation of labour inspections as a service delivery unit undermines the core spirit of Convention No. 81 and marginalizes its role in policy formulation, policy evaluation and hinders its ability to forge a strategic partnership with stakeholders and the social partners, thereby inhibiting the inspectorate's ability to develop an effective compliance regime. The Convention requires that the labour inspectorate is placed under the supervision and control of a central authority to facilitate the application of a single policy throughout the country and to rationally allocate resources.

In addition to this, the existing structure of the central inspectorate at the HQ is not well positioned to drive the labour inspections at the provincial level. It is therefore suggested that the HQ structure be restructured so that it can more effectively plan, monitor and implement labour inspection policy, and enforce legislation, such as the Basic Conditions of Employment Act, the Employment Equity Act and the Occupational Health and Safety Act.

From a comparative point of view, in most OECD countries, and countries where labour inspections are effective, the labour inspectorate is a key pillar of the labour ministry, which allows it to seek compliance with labour standards. In these countries, the Labour Inspection Department is headed by a Labour Commissioner, or Director General, who reports directly to the Permanent Secretary, or Minister, of Labour. The Department is also structured to promote teamwork, close interaction and direct communication between the Inspector General and inspectors, both at HQ and in the field. Such an organizational structure allows inspectors to better contribute to the overall success of the organization.

Additionally, a more team-based approach will allow HQ inspectors responsible for policy, evaluation and training to work closely and directly with field inspectors, ensuring uniformity in the inspection process. This will also give inspectors a specific job function, leading to the professionalization of the labour inspection system, which should help promote the common goals and overall objectives of the Department of Labour. There is no single organizational structure promoted by the ILO. Labour inspectorate may take many forms due to their specific historical, cultural, social and economic realities.

**Table 5. Role of Labour Inspections in Systems of Labour Administration-International Experience**

<b>Country</b>	<b>Role of Labour Inspectorate</b>
Spain	<i>The labour inspectorate in Spain is within the purview of the Ministry of Labour and Immigration and is a main actor within the system of labour administration. It has a broad mandate to enforce compliance with OSH and conditions of work regulations. The Spanish labour inspection system is a unitary organization of a generalist model, and is accountable to a tripartite board, and subsequently, to the Secretary General of Labour.</i>
France	<i>The labour inspectorate in France is centrally managed through a regional and local structure and is accountable to the Labour Minister. It has wide jurisdiction over OSH, working conditions, wages, hours of work, holidays, etc.).</i>
Japan	<i>The Labour Standards Bureau of Japan, also a centrally managed organization that is accountable to the Labour Ministers and Deputy Ministers, is responsible for health, safety and conditions of employment.</i>
Brazil	<i>The Office of Labour Inspections is one of four executive offices that reports directly to the Ministers' Office. The Office enjoys great prestige and holds a politically strategic position as it has branches, 27 Regional Labour Offices, which are then divided into 114 branch offices and again into 480 service agencies that are located throughout the country. The Regional offices, which also report to the Minister, are responsible for enforcing policies designed by the federal Office of the Labour Inspectorate.</i>
Malaysia	<i>The labour inspectorate in Malaysia is separated by jurisdiction: one department is responsible for conditions of work, including wages, working hours, holidays and migrant workers, and the other department is responsible for occupational health and safety. Both departments report to the Permanent Secretary of the Ministry of Human Resources.</i>
Singapore	<i>The labour inspectorate in Singapore comprises four agencies: OSH, Workers' Compensation and Labour Relations and Welfare, Employment Promotion, and Foreign Labour Management, all of whom report to the Permanent Secretary.</i>

**Recommendation 1:** The mission recommends the formation of a High-Level Inter-Departmental Technical Working Group (TWG) to reorganize the existing labour administration structure in an effort to position the labour inspectorate in accordance with ILO Convention Nos. 81 and 150.

The revitalization of the South African labour inspection system must have a clear labour inspection policy to provide a firm foundation for legislative reform, new structures and systems, and to provide direction for new operational arrangements that stress performance and service. It will also require a new approach to management of labour inspections at both HQ and regional offices, which an emphasis on leadership, planning, performance monitoring and a strong commitment to national development. In the reform process, the existing labour inspectorate at the Provincial level would become part of the national inspectorate to enable inspectors at HQ to plan effectively, better monitor programmes and evaluate labour inspections, as required by the relevant ILO Conventions.

A high-level committee can develop a system that suits South Africa’s unique federal system to create a partnership between the federal and provincial level, which fulfils the mandate of the ILO and delivers effective services to clients.

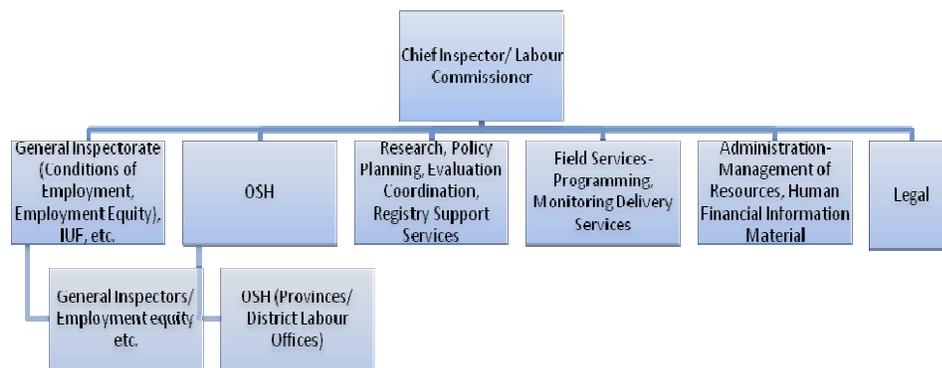
#### 8.4.2. Restructuring the Central Labour Inspectorate (HQ level)

The central labour inspectorate in Pretoria is responsible for policy-making, planning, staffing, legal matters and the financial and operations issues concerning the labour inspectorate. However, its ability to fulfil its responsibilities has been hindered by an organizational structure that does not lend itself to coordinate a national labour inspection policy. Consequently, each province has different inspection manuals, IES performance standards and lacks a common IT system, thereby inhibiting its ability to standardize inspections on a national level.

The effectiveness of a system of labour inspections depends upon a well-organized structure at the HQ level. Therefore, the inspectorate at the HQ while keeping the coordination method would need to have separate sections or units that serve each functional area, including OSH, Conditions of Work, Employment Equity, Legal, Field Services, Training, and Research, to ensure an effective labour inspection system.

Figure 5 provides an example of a typical labour inspectorate at HQ, designed under the supervision and control of a central authority that has units dealing with each functional area.

**Figure 5. Structure of Labour Inspectorate under the Supervision of a Central Authority**



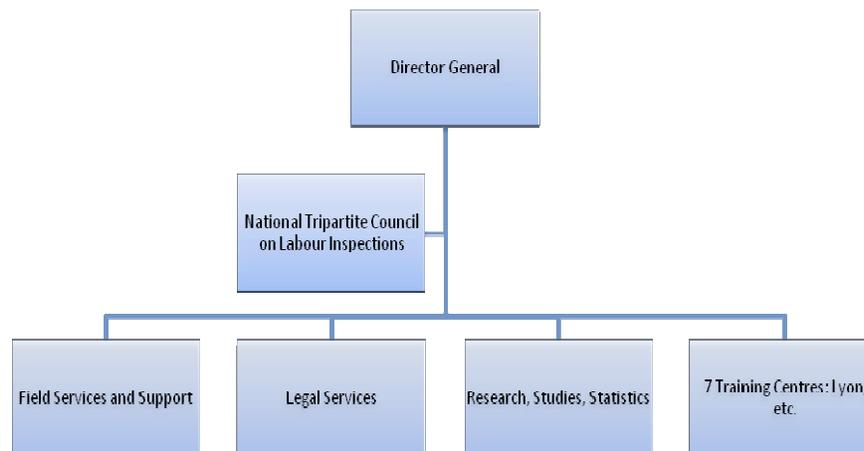
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The restructuring of HQ into key functional areas will help the Inspectorate:

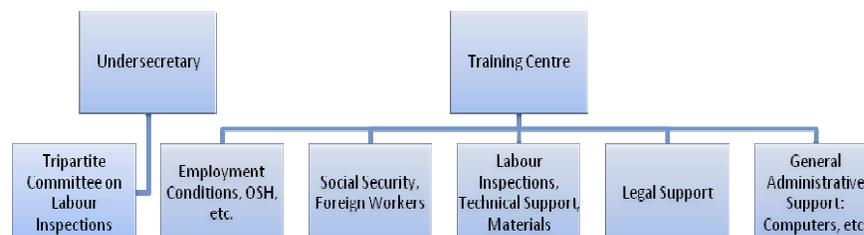
1. Facilitate the collection of empirical evidence for policy formulation.
2. Study the impact of labour enforcement on the labour market.
3. Research the cost of industrial accidents by sector of the labour market and the implications of Labour Hire in circumventing labour legislation.
4. Collect and disseminate information that is essential to policy making and evaluating.
5. Disseminate information to trade unions and employers in a clear and understandable format to help them make informed policy decisions.
6. Act as a think tank – the centre of knowledge management – to help it fulfil its role and responsibility as an element of organizational learning and performance strengthening.

The structure of the labour inspectorate at HQ in France and Spain (see Figures 6 and 7, respectively) highlight the key role played by the inspectorate in training, monitoring and coordinating labour inspection services.

**Figure 6. Structure of HQ Labour Inspectorate Office in France**



**Figure 7. Structure of HQ Labour Inspectorate Office in Spain**



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**Recommendation 2:** The mission recommends that the Interdepartmental Technical Working Group (TWG) restructure the Central Inspectorate and strengthen the human resource capacity, by increasing staff, so that the system of labour inspections can fulfil the principles of Convention No. 81.

In its restructuring, the Interdepartmental Technical Working Group can consider creating six units under the Inspector General: General Inspectorate for Conditions of Employment, Employment Equity and UIF; Safety and Health; Policy Research, Data Analysis, Policy Setting, Annual Strategic Planning; Field-Services – Administration of the Field Officers; Legal Services; and Resource Management – Human, Financial, Material, etc.

#### **8.4.3. Strengthening Partnerships with Social Partners and Stakeholders**

Labour inspectorate needs to forge strategic partnerships with the social partners and relevant stakeholders like in the case of CCMA and UIF. Both CCMA and IUF have been able to forge strategic partnership with the social partners and relevant stakeholders which account their success as world class institutions. Labour inspections system must also cooperate closely with employers and workers. Article 5 of ILO Convention No. 81 states that, “the competent authority shall make the appropriate arrangements to promote collaboration between officials of the labour inspectorate and employers and workers of their organization.” Furthermore, the collaboration should be facilitated through the organization of conferences or joint committees that promote a dialogue between the partners.

The labour inspectorate should encourage employers, employers’ organizations and trade unions to become more involved in labour protection by providing advice on potential reform measures and by holding training programmes that promote the self-reliance of employers and workers. Currently, this cooperation only exists with regards to occupational health and safety; however, implementation of systematic reform can help improve compliance with labour standards, making the inspectors’ jobs easier.

Furthermore, occupational health and safety in South Africa has to date been governed by different legislation and enforcement agencies for the mining and non-mining sectors. The mines are inspected by a separate inspectorate from the mines department. There are moves to coordinate their activities but this has not yet been accomplished. The mission recommends that the TWG follow up this issue to promote effective collaboration and strengthen partnership between inspectorate in the mining and the DoL.

**Recommendation 3:** The mission recommends that the existing labour inspections consultative mechanism be revised to ensure consultation between the social partners, stakeholders and the inspectorate on all issues within the purview of labour inspections. The TWG should revamp the Advisory Council for Occupational Health and Safety into a high level advisory council responsible for all matters pertaining to labour inspections under ILO Convention No. 81, and a permanent secretariat should be established to ensure its sustainability. The IUF and the mines inspectorate could be included within this partnership.

#### **8.4.4. Professionalizing the Labour Inspectorate**

Currently, about 60 per cent of labour inspectors in South Africa do not hold university degrees. The mission recommends that the selection of labour inspectors should be merit-based upon their qualifications and personal qualities, so that they can effectively

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perform their duties. ILO Convention No. 81 states that inspectors should be duly qualified to conduct inspections and enforce the legal provisions relating to conditions of work, the protection of workers' health and safety, and investigate the effects of processes, materials and methods of work on the health and safety of workers. As such, these responsibilities require inspectors to have technical skills and qualifications, in addition to the personal qualities that allow inspectors to work firmly and flexibly in a broad range of situations and with a wide range of people. This job is best accomplished by university graduates.

Labour inspectorates in most OECD countries primarily recruit university degree-holders, which better allows the inspectorate to form specialized inspection teams. In countries such as Spain, France, Portugal, Greece, Singapore, and in Hong Kong, staff is increasingly recruited from university and mainly those graduating in the fields of engineering, medicine, law, science, and social sciences. The future of recruitment of inspectors in South Africa should ensure that an increasing number of graduates are recruited to help the new inspections system play a preventative role in labour inspections.

Furthermore, there is also a need for standard criteria for the selection of inspectors at the HQ or provincial level, which is now being addressed. Job evaluation, which takes place presently when quarterly reports are submitted, must also specify the minimum qualifications necessary for the job. As this process varies between provinces, it has been difficult for the central inspectorate to provide guidance to, and drive the recruitment process.

The employment of inspectors should be governed by the conditions of service and status that ensures the stability necessary for them to fulfil their statutory responsibilities and exercise their power without the threat of improper external influences. Article 7(1) of Convention No. 81 and article 9(1) of Convention No. 129 stipulate that inspectors should be recruited solely on the basis of their qualifications and the performance of their duties, subject to national laws pertaining to the recruitment of public servants.

**Recommendation 4:** The mission recommends that the TWG review the entry qualifications of new inspectors and recruit more university graduates to the inspectorate to facilitate the process of gaining Occupational Specific Dispensation for labour inspectors.

The mission noted that the high turnover of inspectors is due in part to low salaries and the absence of career prospects, causing many qualified inspectors to join the private sector or more prestigious public service sectors, such as Energy and Minerals and the Public Works Department. Therefore, the Ministry should take steps to emphasize the important role of labour inspectors in advancing Decent Work. Although the mission is aware of budgetary restrictions of the government, the salary scales of existing labour inspectors has appeared to be a major cause of the high turnover of qualified staff.

Labour inspectors undertake quasi-judicial functions, and therefore cannot be placed in the existing service salary band. They are paid less than officials who come from revenue earning departments, such as Customs, Immigration and Tax Officials.

**Recommendation 5:** The mission recommends that the High Level Technical Committee re-examine the salary scales of labour inspectors with the purpose of upgrading the existing salary scales taking into account their quasi-judicial function, and to place inspectors in a special category for Occupational Specific Dispensation.

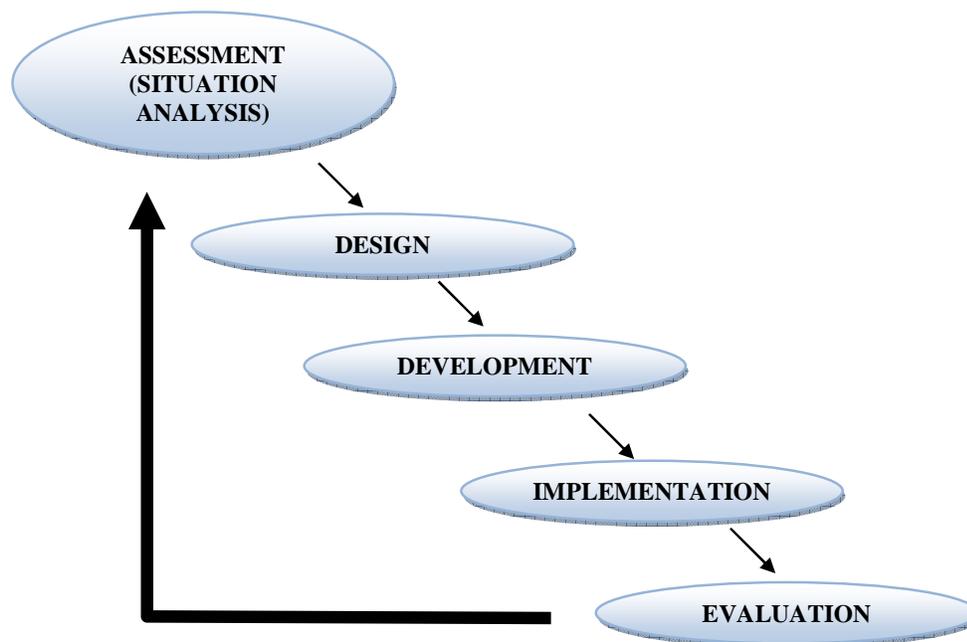
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#### 8.4.5. Capacity Building to ensure Consistency and Uniformity

Currently, the labour inspectorate lacks the capacity to conduct quality inspections and ensure consistency and uniformity in the application of labour laws. Labour inspections systems are effective in countries that have comprehensive training and in-service training programmes for labour inspectors; however, in South Africa, training programmes on regulations, procedures and capacity-building lack a permanent strategy, and there is no central unit responsible for systematically gauging the needs of, planning, and evaluating the training programmes. As a result, provincial offices have developed their own programmes in response to pressures for increasing the efficiency and productivity of inspectors, leading to the lack of a coherent national policy for training. The lack of centralization has had implications on the quality of inspections, and led to the inconsistent enforcement of labour legislation between provinces, thereby inhibiting the inspectorate's ability to earn the confidence of employers and workers.

There needs to be a systematic approach to institutional capacity building in which there is a feedback mechanism to build the strength of the inspectorate. Figure 8 illustrates one such system for institutional capacity building. Specific components of such a strategy requires that the labour inspections system has a clear policy vision, mission and definition of the range of competencies, both core and specific, of different units for the inspectorate to be efficient and fully operational. It also needs a capacity building policy, training modules, curricula design that includes contents and methods for adult learning, and a preparation, organization and implementation process. To effectively build the institutional capacity, there also needs to be a feedback mechanism through which reforms, such as training programmes, are monitored and evaluated to serve as input for the re-design and continuous development of the curricula.

**Figure 8. System of Institutional Capacity Building**



**Recommendation 6:** The mission recommends that the inspectorate establish a Training Division to initially manage training programmes for inspectors and clients of the

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labour inspection system. The Division can be developed further to provide training at the sectoral or enterprise level as part of a preventative strategy to improve labour standards. Furthermore, there should be competency levels for OSH and General Inspectors, as described in a comprehensive training package for inspectors, prepared by the Programme on Labour Administration and Inspection of the ILO (LAB/ADMIN).

#### **8.4.6. Ratification of Conventions**

ILO Conventions and Recommendations are a vital source of protection for working people. Convention No. 81, one of the priority Conventions ratified by 141 countries, has been one of the instruments with the most ratifications for many years. The ratification of Convention No. 81 and Protocol on Labour Inspections provide the legal basis for the application of these instruments on a national level. South Africa has the infrastructure and enabling legislation necessary to ratify this Convention.

***Recommendation 7:** The mission recommends that the DoL take steps to ratify Labour Inspection Convention No. 81.*

### **9. Conclusions and Follow-up**

Taking into account shortness of the ILO mission compared to complexity of the task, time constraints accompanying elaboration of this Memorandum and also the fact, that the situation is rapidly unfolding, the Memorandum should be considered only as a first step in the ILO's involvement in the repositioning project. LAB/ADMIN is ready, in cooperation with other ILO units to provide necessary support in order to facilitate the modernization process within DoL.

It is recommended to agree on further ILO involvement in the repositioning process after the February seminar. An important input in the modernization process, especially in the field of labour inspection, should be development of the national work plan that could be financed from the ILO technical cooperation project.

The ILO support could therefore concentrate on:

- Labour inspection, including capacity building of labour inspectors in the provincial offices; development of labour inspection policy framework in collaboration and consultation with labour inspectors, social partners and other stakeholders; provision technical advisory services for restructuring of labour inspection services within the framework of the ILO Convention Nos. 81 and 150;
- Public employment services, especially finalization of the PES Policy and implementation of related institutional arrangements. If there is a need to follow-up in the PES field, the ILO's involvements should be coordinated with other existing services provided to DoL by Germany and the EU.
- Preparation for ratification of selected ILO Conventions;
- Role of labour administration and labour policies in the crisis and post-crisis period.



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## **Annex I**

### **Technical Note to the Department of Labour, South Africa (24 November 2009)**

#### **Purpose and Content**

This technical note was developed within the context of the International Labour Organization's (ILO) assistance to the Government of South Africa in repositioning of the Department of Labour (DoL).

Its purpose is to suggest some measures that can be included in the DoL's Work Plan to promote the decent work within the Medium Term Strategic Framework (MTSF) and to provide information about comparative approaches to the mandate of the Ministry of Labour.

This note was written by, and reflects the views of, Messrs. Ludek Rychly and Alagandram Sivananthiram, members of the ILO mission who visited South Africa from 26 October to 5 November, 2009. It is not an official ILO document.

The project was undertaken at the request of the Directorate-General Jimmy Manyi for the purpose of the meeting of FOSAD on 25 November 2009. It will be followed by a full comparative report..

#### **Background**

The MTSF highlights the need for the Department of Labour to play a more active role in developing social policy, promoting social justice and improving governance through effective labour administration. The transformation and modernization of the economy to promote decent work remains at the core of the MTSF, and it is of utmost importance that the Department of Labour modernizes its functions and repositions itself to play an increasingly effective role in achieving the goals of the MTSF, including the alleviation of poverty through employment generation and increasing economic growth.

Labour administration systems are pivotal governance bodies because they can influence policy both at the workplace level and the national level through labour market reforms. The most important factor in determining the success of the South African government in achieving their goal is the quality of their governance. The labour administration system is the central institution for governing the labour market, as it is responsible for responding to economic, social and technological changes, especially those due to the current global jobs crisis. The scope of their position allows them to contribute to three main objectives of the MTSF: generating decent employment, developing the skills and human resources bases of the workforce and improving public services, including the service of labour administration systems. Therefore, labour administration systems ideally should be able to anticipate these challenges to improve the quality of their governance.

For the South African labour administration system to effectively contribute to the MTSF, the Department of Labour should invest in an organization that has an institutionalised process through which it can coordinate the activities of multiple strategic units to achieve the goals of MTSF. The loss of 475 000 jobs in the past six months is a challenge for the labour administration of South Africa, as it requires the Department of Labour to prioritise their plan of action so they can turn the situation into a national advantage. They can use this opportunity to build the capacity of managers, workers and organizations in the public and private sector to proactively implement and manage change; it can also learn from innovative labour policies adopted by other governments of industrialized countries.

The challenge here will be aligning key strategic programmes and units with ILO Labour Administration Convention, 1978 (No. 150), which requires the Department of Labour to develop its organizational capacity and its working partnerships with employers and workers. The Department of

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Labour's programmes and corresponding structures must be aligned with the priorities identified by the MTSF.

## **Proposals for the Department of Labour's Work Plan 2010**

Taking into account the objectives and priority areas as identified in the South African presidential document "*Together doing more and better: Medium Term Strategic Framework*" and the requirement to improve the government's performance, as described in "*Improving Government Performance: Our Approach*", the following measures can be incorporated into the DoL's Work Plan 2010:

1. Reposition and restructure the DoL Head Office, Provincial Office and Labour Centres
2. Adopt a fully developed and internationally benchmarked employment policy
3. Adopt innovative labour policies and other measures used by industrial countries to mitigate social consequences of the global economic meltdown.

### *1. Reposition and restructure the DoL Head Office, Provincial Offices and Labour Centres*

The management structures of the DoL should be reorganized according to main key areas of labour administration, as identified by ILO standards and international practice. This reform preferably should also create real delivery chains that link policy making to service delivery and that simplify management structures at national, provincial and local levels.

Reorganization of the DoL should also pursue the following objectives:

Increase the capacity of public employment services to provide relevant services to job-seekers and employers, while improving national employment policies.

Improve compliance with labour legislation by reforming labour inspections in line with relevant ILO Conventions and the best international practices.

Note: ILO recommendations in this respect will be detailed in a subsequent technical report due by January 2010.

### *2. Adopt a fully-fledged and internationally benchmarked employment policy*

While the MTSF contains very ambitious goals in terms of employment, it remains rather vague in terms of concrete policies. Therefore, the DoL, in consultation with social partners and other stakeholders, should develop a new policy document, a National Employment Policy, to guide the government's actions so that it can pursue the goal of halving unemployment by 2014.

The legal basis of such a policy can be created through the adoption of a new law on employment and public employment services, which will be adopted to fill the legal gap that resulted when the responsibility for the Skills Development Act was moved to the Department of Higher Education. As shown in the table below, laws regulating public employment services often regulate also wider issues, such as goals of national employment policy, its principles, target-setting mechanisms or measures and tools of active labour market policies (ALMPs).

This employment policy can be benchmarked with those of industrialized countries, such as European Employment Strategy of the EU or Jobs Strategy of the OECD, and with ILO standards and policies, such as the Employment Policy Convention, 1964 (No. 122), and the ILO Global Jobs Pact, adopted in June 2009.

Table A: Public Employment Service Laws and Broader Employment Policy

	Czech Republic <sup>10</sup>	Denmark <sup>11</sup>	Finland <sup>12</sup>	Indonesia <sup>13</sup>	Spain <sup>14</sup>
<b>General Provisions<sup>15</sup></b>					
Constitutional or social foundation for law	X	X		X	X
Goals/Purpose of Act	X	X	X	X	X
Definition of the Market	X		X	X	
<b>National Employment Policy</b>					
Goals of National Employment Policy	X				X
Principles of National Employment Policy			X	X	X
Structure and Organization of Labour Offices		X	X		X
Policymaking or Target setting mechanism		X	X		X
Investment Incentives (for the creation of new jobs)	X		X		
<b>Public Employment Services<sup>16</sup></b>					
Principles to be followed by PES			X	X	
Purpose/Mission of PES		X	X	X	X
Legal Definition of PES					X
Foundation of PES bodies	<sup>17</sup>	X			X
Relationship with other government Ministries		X	X		X
Employees Obligations (to PES)			X		
Employers' Obligations (to PES)	X		X		
Financing of PES	X	X	X		X

<sup>10</sup> Employment Act of 2004.

<sup>11</sup> Law on the Responsibility and Management of Active Employment Measures (2005).

<sup>12</sup> Act on the Public Employment Services (2002).

<sup>13</sup> Act of the Republic of Indonesia Concerning Manpower (2003).

<sup>14</sup> Employment Law (2003).

<sup>15</sup> In laws from Finland, Indonesia and Spain, the General Provisions are discussed at the beginning of the law. However, laws from the Czech Republic and Denmark include general provisions at the end of the legislation.

<sup>16</sup> In all of these laws, PES is discussed as a means through which to advance national employment policy and the two are sometimes discussed together. The table is for explanatory purposes.

<sup>17</sup> Though this law does not create the bodies of PES in the Czech Republic, it describes the functions of the Labour Office, as it relates to PES; the Jobcentre is one part of the Labour Office.

Vocational Training	X		X	X <sup>18</sup>	
Active Labour Market Policies (Measures, Tools)	X		X		X
Administration of Unemployment Benefits	X	X <sup>19</sup>	X	X	
Administration of Social Security Benefits	X			X <sup>20</sup>	X
Transitional Measures	X	X	X		X
<b>Industrial Relations</b>					
Settlement of Industrial Relations Disputes				X	
Mention of Employees' Rights			X	X	
Labour Inspections	X			X	
Emphasis on bipartite or tripartite cooperation		X		X	X
Occupational Health and Safety			X	X	
<b>Protection for Vulnerable Groups</b>					
Priority Groups	X				X
Equal Treatment and Non-discrimination clauses	X		X	X	
Denunciation of Child Labour	X			X	
Provisions for Women				X	
Employment of migrant workers	X <sup>21</sup>		X	X	
Provisions for Persons with Disabilities	X			X	
<b>Terms of Work (i.e. Minimum Wage, Working Hours, etc)</b>				X	

### *3. Adopt innovative labour policies and other measures that are used by industrialized countries to mitigate social consequences of the global economic meltdown, such as Work-sharing*

Keeping workers in their current employment position was a common objective for labour administrations during the crisis period. Here, interests of the State and companies were closely aligned, because firing workers can be a potentially expensive solution for businesses. In the short term, firing workers involves financial compensation; in the long term, it involves a loss of past investment in workers skills, and the risk of being unprepared for future recovery. Layoffs can also reduce productivity because changes in internal work organization can temporarily create stress, conflict and reduce employee motivation.

Some labour administrations have implemented or expanded subsidies for workers who are working few hours in an effort to save jobs.<sup>22</sup> Work-sharing was a technique used widely by counties, such as

<sup>18</sup> In Indonesia, vocational training is not under the purview of public employment services, but training is discussed in the legislation as an important part of labour policy.

<sup>19</sup>“The Employment Minister may, after recommendation from the Director of the Labour and Social Protection Agency, regulate the unemployment funds to perform duties under the Act on Active Employment” (§31).

<sup>20</sup> Social Security is not under the purview of public employment services, but other statutory legislation is referenced.

<sup>21</sup> The policy on migrant workers in the Czech Republic also includes provisions on aiding expatriates.

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Belgium, France, Germany and the Netherlands to limit the number of retrenchments by temporarily subsidizing shorter working hours, through programmes that may include payment of “partial unemployment benefits” to workers, who are obliged to work shorter hours. In Belgium, the government is offering a “bridging premium,” a supplementary income of €95 to €345 per month, for employees temporarily working fewer hours. Blue collar, temporary agency and fixed contract workers are also eligible to receive up to 75 per cent of their last income for hours not worked. Bulgaria is also offering a supplemental subsidy of 120 BGN for three months to individuals who work less than half of their legally established working time. In the Czech Republic, the state considered introducing a four-day working week, with 60 per cent of salary compensated by the employer and 20 per cent by the state.

Also, other countries are indirectly subsidizing or otherwise incentivizing work sharing programs by extending benefits,<sup>23</sup> implementing training programmes for hours not worked or finding creative alternative solutions<sup>24</sup>. Denmark, for example, has created a scheme to enable workers to alternate through unemployment. Employees work for two weeks, then collect unemployment benefits for one or two weeks, then return to work; employees may collect 13 weeks of unemployment benefits. The European Union has allocated €19 billion for “Shared Commitment for Employment,” a programme which encourages job sharing and temporary leaves to increase employability.

Keeping workers at employment through various work sharing schemes, both subsidized and non-subsidized, was an efficient measure in the short-run, and represented an interesting example of a relatively fair sharing of crisis-induced costs. However, its long term viability may be compromised due to lack of resources and the inability of involved parties to continually invest in it.<sup>25</sup>

### *Extend Unemployment Insurance*

In response to the financial crisis, many labour ministries have extended and increased unemployment benefits to ease the burden of unemployment on displaced workers. Many governments have prolonged the insured period, increased benefits or extended insurance coverage to protect workers against poverty and to reduce the decline in aggregate demand as a factor of economic growth during the economic crisis.

Countries that have extended their benefits include: Brazil, Canada, Italy, Poland, Romania, the United States, the Slovak Republic and Kazakhstan. The length of the extension of the benefits that each country has enacted varies by the pre-existing length of benefits and by the amount of benefits, leading to a significant variation in the increase of benefits from a five week extension in Canada<sup>26</sup> to a six month extension in Poland.<sup>27</sup>

Other countries, such as Chile, Finland, France, the Slovak Republic and Sweden, have relaxed their eligibility requirements for collecting unemployment benefits, allowing more workers to benefit from the scheme. Countries that have either discussed or implemented a new unemployment insurance scheme include the Bahamas, Kuwait and Vietnam.

*(Measures under a) and b) could be financed by resources generated by the UIF, which would require amending the Unemployment Insurance Act.)*

<sup>22</sup> Belgium, Bulgaria, Canada, France, Germany, Netherlands, New Zealand, Norway, Poland, Ukraine.

<sup>23</sup> Canada, Korea, Turkey.

<sup>24</sup> Denmark, Norway and Poland.

<sup>25</sup> Studies show that employers bear a residual cost for adopting work sharing programmes.

<sup>26</sup> From 45 to 50 weeks.

<sup>27</sup> From 12 to 18 months.

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### *Protect wages in case of employers' insolvency*

During the current economic downturn, the amount of wage arrears due to employees from the inability of employers' payment increased dramatically throughout the world. Traditional protection provided by bankruptcy legislation proved to be inadequate, slow, bureaucratic and sometimes unable to meet the claims of employees. Therefore, it is advisable to learn from those countries, which introduced more sophisticated wage protection legislation.

The purpose of this measure is to protect employees against a sudden loss of income in case of employers' insolvency. For example, all EU Member States are obliged to set up institutions to "guarantee" outstanding claims resulting from contracts of employment and relating to pay under the EU Insolvency Directive 80/987/EEC. Similar protection is provided under the ILO Protection of Workers' Claims (Employer's Insolvency) Convention, 1992 (No. 172). Both documents provide protection going beyond the usual schemes that grant workers a privileged position in cases of bankruptcy, which in many cases, especially in current economic conditions, are insufficient.

The EU Insolvency Directive 80/987/EEC aims to promote and improve the living and working conditions of employees in case their employer becomes insolvent. The Directive protects workers by requiring Member States to establish institutions that can guarantee the payment of employees' claims against their employer, including wages, social security contributions and old-age benefits or pensions.

Though the Directive does not specify the specific institution that should be responsible for wage protection, it establishes guiding principles to help Member States institute effective institutions. Firstly, the guarantee institution must be financial independent from the employing institution, the employer must contribute to financing the institution (unless the costs are covered by the public authorities), and the guarantee institution's liabilities must not be dependent upon employer contributions. These principals are important because they ensure that employees will have at least one source of protection in the case their employer becomes insolvent. Though the Directive establishes minimum standards that employers and guaranteeing institutions are responsible for, it also allows Member States to cap employer contributions, so the sum paid does not "exceed the social objective of the Directive".

The Protection of Workers' Claims (Employer's Insolvency) Convention, 1992 (No. 173) also affords workers a minimal level of fiscal protection in the case of employer insolvency by giving employees a privileged status, meaning that employees are paid out of the assets of the employer before other creditors are paid. The Convention also requires that a third party, either the government or a guarantor institution will provide protection for the workers' claims in the case of employer insolvency. This is similar to the EU Directive, but it is more flexible as it gives governments the option to be a guarantor for wages.

### *Introduce a national minimum wage*

The crisis increased the interest of governments in national-wide minimum wage as an effective wage floor protecting workers against poverty, increasing their purchasing power and eliminating the worst forms of social dumping. As most national minimum wage fixing machineries are based on social dialogue, ECC and NEDLAC would be ideal frameworks for minimum wage fixing in South Africa. However, the government should keep its right of final decision in case of failure of social dialogue.

Labour administrations can use wage policies to correct market failures because minimum wages can serve as automatic stabilizers by guarding against wage deflation and excessive declines in aggregate demand. The role of the government in setting a national minimum wage has become increasingly important during the financial crisis in protecting workers because unions have less bargaining power during periods of high unemployment. Some countries have increased existing minimum wages, on average, 5 to 15 per cent, resulting in an upward trend of low wages. However, in some countries, this nominal increase represents in fact a decline in real terms.<sup>28</sup>

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<sup>28</sup> For example in Hungary, the minimum wage increase of 2.3 per cent represents a 1.4 per cent decline in real terms.

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In a few countries, notably Algeria, Brazil and the Netherlands, the national minimum wage is linked to the payment of state benefits, such as pensions, maternity benefits, unemployment benefits, disability benefits and other payments, which reduces the flexibility of countries to change their minimum wage because it negatively impacts their state budget. The Brazilian government, which had resisted increasing minimum wage in the 1980s and 1990s because of the adverse impact upon their public deficit through the increased payment of benefits and pensions, has chosen to increase its minimum wage, illustrating the government's recognition of the importance of a national minimum wage policy as one mechanism<sup>29</sup> to combat low-pay, poverty and inequality associated with the financial crisis.

### *Increased protection for temporary agency workers*

Many governments have been paying increased attention to these workers, who were the first victims of the economic meltdown. Their rights, including access to collective bargaining, social security programmes and to training, and employment conditions are being improved to match those of workers in regular employment.

Temporary agency workers were among the first victims of layoffs because they allowed firms to swiftly reduce their payrolls while shielding their core workforces. Many national administrations have reviewed their policies on temporary workers and have either tightened regulation of atypical work and increased temporary workers' protection; or on the contrary, have relaxed regulation to create more flexibility in the use of temporary work and other forms of atypical contracts.

Temporary workers agencies' compliance with existing legislation is a major problem and can be attributed to: ambiguous legal provisions, such as the definition of equal treatment, lack of reliable information and statistical data on agencies and agency workers, insufficient work of licensing authorities, lack of controlling powers, division of control among various institutions,<sup>30</sup> lack of coordination between inspection and other authorities, and weak staffing. Another problem is the lack of protection provided by trade unions - agency workers are most often non-unionized and often excluded from coverage by collective agreements.

Many labour ministries<sup>31</sup> have enacted measures to protect the rights of temporary workers, granting them access to social safety programmes. For example, in Bolivia, subcontract workers will have the same rights as a company's employees. In Bulgaria, a draft bill specifies equal treatment rights for temporary agency workers, including the right to take collective action.

Other governments, such as Azerbaijan and Austria, are taking actions to improve working terms for temporary agency workers. Azerbaijan has enacted a measure in which workers who have been under contract for five continuous years with an employer, will automatically become a permanent employee. In Austria, the Social Affairs Minister is preparing legislation to extend the maximum duration of a temporary contract from 18 months to 24 months. Additionally, in Austria, the Federal Ministry of Labour is funding training and retraining courses for temporary agency workers who have been made redundant.

The shift in the role of temporary work will certainly be one of long-term consequences of the crisis on employment relations, as it is widely believed that an upturn in demand for temporary workers will be among the first signs of economic recovery.

## **Main Findings on the Role of Ministries of Labour and their Mandate**

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<sup>29</sup> Complimentary mechanisms include targeted income policies.

<sup>30</sup> Such as Public Employment Services, Labour Inspections, tax offices, trades register authorities and police.

<sup>31</sup> I.e. Bolivia, Bulgaria, Canada, Japan, South Africa.

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The purpose of this part is to highlight some specific issues related to labour administration's role.

These considerations might be useful in discussions dealing with portfolio delimitation between various government departments.

*Summary:*

1. The Ministry of Labour has a specific role to play among the government departments; its mandate is protective and regulatory and as such it contributes to economic stability and growth;
2. A fully-fledged labour ministry is responsible for key policy areas, as defined by the ILO Labour Administration Convention No. 150: employment, labour standards, industrial relations, information and research;
3. There is a strong link between job-related training and employment policy; job-related training is usually one of the tools used by public employment services;
4. Social protection, especially unemployment insurance, should be closely coordinated with employment policies in order to create a mutually supportive relationship and a desirable balance between rights and obligations of jobseekers;
5. Promotion of industrial relations is an essential part of labour ministry's assignments; the ministry is a guarantor of social peace and promotes autonomous collective bargaining by providing legal framework and specialized services to organized employers and workers;

*1. The Ministry of labour has a specific role to play among the government departments*

Labour ministries are integral to what is known as "labour administration"; as such, they have a specific role among the government departments, which is particularly evident during the current period of economic recession.

In most countries, labour ministries were created in late nineteenth or early twentieth century with the specific responsibility to regulate labour conditions and protect workers, who were weaker in employment relationships. Further developments of labour legislation and social protection, first as a result of the Great Depression and later on as part of the post-WWII growth and the "welfare state" concept, the scope of protection provided and amount of public finances under the purview of labour ministries considerably increased, making labour ministries a key player of economic development. As a result of this shifting competency, many considered ministries of labour as part of macro-economic machinery, whose primary goal should be to contribute to economic growth, resulting in the neglect of its original protective mandate. This concept of shifting priorities has also impacted the administration of labour and social matters, especially during the last 20 years, during which the question of welfare states was revisited. Traditional labour ministries' role changed to the extent that some of them even changed their structure and – in some cases – lost their identity by merging with other government departments.<sup>32</sup>

These developments are highly questionable for several reasons. Amalgamating functions of labour ministries with those responsible for economic affairs hides their specific role and prevents them from fulfilling their original mandate because the two departments have conflicting priorities. For example, while ministries of economy systematically argue in favour of wage moderation, labour ministries should keep in mind the purchasing power of the population. While finance ministries push for austerity measures, including reduction of social protection systems, labour ministries' role is to provide efficient social security coverage. While ministries of economy or finance tend to push forward reforms, the role

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<sup>32</sup> See: *The Changing Role of Labour Ministries: Influencing Labour, Employment and Social Policy*, Jason Heyes, ILO, 2004.

of the labour ministry is to guarantee that other stakeholders, and especially social partners, are fully consulted when preparing labour market or social policy reforms.

Though government actions should be coordinated for effectiveness, the role of each department should be respected as each department serves a specific function and it is the only way in which economic efficiency and social solidarity can be reconciled. Moreover, the blurring of ministries' roles can have damaging effects on social dialogue at the national level. Representative national employers' and workers' organization prefer to have a single partner to deal with their core interests, which lay in the field of employment conditions and labour market's regulation. This specific relationship is also strengthened by the fact that labour ministries are supposed to provide social partners with a whole series of specific services, such as data needed for collective bargaining or assistance in the field of dispute resolution.

The specific role of labour ministries became even more evident during the last year, when economic downturn revealed inadequacy of many social protection systems and labour market regulatory frameworks. Reduction of the welfare state meant many countries weakened their "automatic stabilisers", which were embedded in social protection systems, and sometimes also weakened the administrative capacity of labour ministries to implement their policies and enforce the law. Efforts by administrations all over the world to reinforce public employment services to cope with increased numbers of job-seekers in times of crisis, have been insufficient as they only compensating for recent cuts in public administration staff and funds.

This discussion could also have an impact on understanding and practical use of the concept of "flexicurity", which was a leading idea in European labour market for the last two decades. The flexicurity concept, based on a "golden triangle" of flexible hiring and firing rules, generous income security and active labour market programmes failed to produce expected results in most countries, as the flexibility was not well balanced by protective measures and workers concerned were not sufficiently supported by efficiently working public employment services.

*2. A fully-fledged labour ministry is responsible of key areas of labour policy, as defined in the ILO Labour Administration Convention, 1978 (No. 150)*

Historical, cultural, social and economic realities prevent the development of a single model that government ministries or departments responsible for labour policy should adopt. However, the responsible ministry should have a coordinated policy approach that addresses all the functions of labour administrations, as defined by ILO Convention No. 150.

The effectiveness of systems of labour administrations is contingent upon a well organized framework, in which separate units are responsible for each functional area of labour administration to ensure policy cohesion. The box below illustrates the typical departments of a Ministry or Department of Labour that follows Convention No. 150.

Table B: Labour Administration's Main Competencies under ILO Convention No. 150

<p><b>EMPLOYMENT</b> National employment policy Unemployment Insurance schemes Vocational guidance Vocational training programmes Employment services</p>	<p><b>LABOUR STANDARDS</b> Working conditions Wages Terms of employment Labour inspection Occupational Health and Safety Working environment Social security</p>
<p><b>INDUSTRIAL RELATIONS</b> Services to employers</p>	<p><b>INFORMATION AND RESEARCH</b> Data Collection</p>

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Services to workers Collective bargaining Settlement of labour disputes	Studies Forecast analyses Information Dissemination
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### 3. *There is a strong link between job-related training and employment policy agenda*

In most countries, education and vocational training are responsibilities shared by ministries of education, labour and also other technical departments. However, job-related and more short-term training is most often a portfolio of labour ministries because they are best placed to match training supply with market needs. Vocational training is, therefore, systematically considered as part of employment policy, which is the responsibility of the labour ministries.

The relationship between the agenda of labour ministries and vocational guidance and training are very evident from the Article 1 of Convention No. 142, which states:

“Each Member shall adopt and develop comprehensive and coordinated policies and programmes of vocational guidance and vocational training, **closely linked with employment, in particular through employment services.**”

This statement of the Convention gives a clear instruction that employment services should be the implementing agencies of vocational training and vocational guidance.

The Convention also states that these programmes should take due account of **employment needs, opportunities and problems**, both national and regional, thus reinforcing once again the link of vocational training to the employment agenda.

While neither the ILO Conventions nor Recommendations require member States to adopt concrete administrative arrangements, they give many indications on links between employment and vocational training. For example, ILO Recommendation on Human Resources Development, 1975, states that “programme of vocational guidance and vocational training should be coordinated with policies and major programmes of social and economic development such as employment promotion”. The same Recommendation also asks the member States to pay special attention to “giving unemployed and underemployed persons all the necessary information and guidance on possibilities of finding employment or improving their employment situation and on means for achieving this purpose; an activity clearly in the competence of public employment services. The clear link with the world of labour is also apparent also from requirements for trainers: “person giving vocational guidance should be familiarised with the world of work generally and more particularly with the conditions of work and functions of persons engaged in a broad range of occupations at all levels of skill”.

The close link between training and retraining and public employment services is underlined by the provision of Recommendation on Employment Service, 1948, which says that “The employment service should assist the competent authorities in establishing and developing the programmes of training and retraining courses (including apprenticeship, supplementary training and upgrading courses), selecting persons for such courses and placing in employment persons who have completed them”.

Vocational training can play an important role in labour administration, as it can be a means through which a country advances its national employment policy. Examples of countries where vocational training and employment policy are integrated and rationales for their integration are provided in Table 2. The table also illustrates the importance of connecting the goals of skills development to broader goals for growth, employment and development strategies. It requires governments, working with social partners, to build policy coherence to link employment and skills development to the local labour market needs, and adapt to technological changes, and to investment, trade and macroeconomic policies that generates future employment growth. The coordination of these policies places a high premium on strong social dialogue, effective coordination among ministries, and successful communication between employers and training providers. South Africa’s redevelopment of public employment services provides the ideal opportunity to harmonize vocational training and employment services.

Table C: The Relationship of National Ministries of Labour, Vocational Training and Employment Services

Countries where Vocational Training is an important function of the Ministry of Labour or Employment and those that follow ILO Recommendation No. 158, which calls for the coordination of Vocational Training and Employment Services

Country	Vocational Training	Synergy between Training and Employment Services
United States of America Department of Labour (DoL)	<p>The DoL is heavily invested in bridging the divide between the demands of employers and the skills of workers. It has sponsored several initiatives that are designed to address these issues. In particular, it has shifted its focus to responding to a demand-driven workforce system, in which workforce supports, such as training, education, grant-making initiatives and skill-building programmes respond directly to employers' demands.</p> <p>To assist with this new demand-driven focus, the DoL formed the Business Relations Group within the Employment and Training Administration. The new Group will be responsible for conducting research and outreach programmes with employers in high-growth industries. The direct linkage with employers should make the workforce system more responsive to employers' expectations for workers' skills.</p>	<p>The Business Relations group of the U.S. DoL launched demand driven training programmes that clearly illustrates the link between the DoL and the skill needs of the U.S. economy. The vocational training system is strongly linked to employment services.</p>
Japan Ministry of Health, Labour and Welfare	<p>The Human Resources Development Bureau within the Ministry of Health, Labour and Welfare in Japan is responsible for conducting training programmes, strengthening public vocational training programmes, establishing vocational ability evaluation systems and promoting trade skills.</p>	<p>The Human Resources Division in the Ministry of Labour implements policies regarding changes in the industrial systems due to technical advances, changes in economic and social trends, such as the diversification in working styles and attitudes, and changes in the current employment situation. The Division also aims to secure employment opportunities by promoting human resources development undertaken by workers themselves, supporting training programs conducted by employers, strengthening public vocational training programs, establishing vocational ability evaluation systems and promoting trade skills.</p>
Germany Ministry of Labour and Social Affairs	<p>The Federal Ministry of Labour and Social Affairs (Bundesministerium für Arbeit und Soziales, BMAS) was established by the Organisational Decree of 22 November 2005, which combined competencies from the former Ministries of Economics, Labour, Health and Social Security to form a more centralized Ministry. BMAS is responsible for employment policy, immigration policy regarding foreign workers, the</p>	<p>Vocational training and employment services are strongly linked in Germany as the Federal Employment Agency is responsible for vocational training and employment policy. The relationship is further exemplified by the Ministry's special programme, under which employers can claim up to 192 Euros and social security contributions for every young person they accept for employment or training.</p>

	administration of unemployment benefits, subsistence and supplementary benefits for job seekers, employment law, social security and vocational training.	BMAS also administers the European Social Fund (ESF) in Germany, which is a fund to support and supplement member states' activities in developing the employment and human resource market in various policy areas, which includes the vocational integration of young people, the promotion of apprenticeship programmes and preparatory training, which is the teaching and improvement of basic skills.
Argentina Ministry of Labour, Employment and Social Security	Within the Ministry of Labour, Employment and Social Security, there is an Employment and Vocational Training Management Unit that is responsible for using employment and training programmes to promote employment skills and human resources.	As vocational training programmes are within the purview of employment policy, VET and employment services work closely to achieve common goals. The National System of Education is based on social dialogue, which allows training institutions to develop targeted programmes that provide workers with the skills that employers need.
Portugal Ministry of Labour and Social Solidarity (MTSS)	<p>The State Secretary for Employment and Vocational Training in MTSS is responsible for defining and implementing policies relating to employment, vocational training, labour and the European Social Fund. The State Secretary for Social Security, which is also under MTSS, is responsible for the administration of Social Security benefits.</p> <p>The Labour Code, passed in 2003, stipulates that employers must ensure that at least 10 per cent of workers with permanent contracts partake in training each year, and that workers are entitled to 35 hours of Vocational Education and Training each year.</p>	In Portugal, the social partners have a consultative role in the vocational training system.
India Ministry of Labour and Employment (Directorate General of Employment and Training, DGE&T)	The DGE&T, in the Ministry of Labour and Employment in India is responsible for establishing the national policies, standards, norms and guidelines for vocational training, and for coordinating employment services.	According to the National Employment Service Manual, the objectives of the Vocational Guidance Programme are to serve the overall objectives of the National Employment Service, thereby illustrating the synergetic relationship between the two programmes.
Malaysia Ministry of Human Resources (formerly, Ministry of Labour)	The Ministry is responsible for vocational training and managing the Skill Development Fund (SDF). The Fund was created in 2001 to increase workers' accessibility to vocational education and training by providing financial assistance to trainees and to enhance the participation rates of private sector workers. Another fund, the Human Resource Development Fund (HRDF), was established in 2003 to encourage private sector employers to train, retrain or improve the skills of employees in line with current business needs. These funds are funded by employers and the Skills Testing Department.	The Department of Skills Development, formerly known as The National Vocational Training Council, an agency under the Ministry of Human Resources, is responsible for co-ordinating skills training and career development, in line with the implementation of the National Skills Development Act, 652 (2006)

Close links between employment and training are reflected not only at the national level, but also at the supranational level, for example in policies of the European Union. The European Employment Strategy, launched at the Luxembourg Summit in 1997 and aiming at coordination and benchmarking of employment policies of EU member states, considers employability (to be achieved mainly through better training) as its first pillar.

4. Social protection, especially protection in case of unemployment, should be closely coordinated with employment policies

The manner in which responsibilities regarding employment, labour and social protection policies are distributed among government departments varies considerably between countries. Responsibility for social security, for example, is entrusted to the ministry responsible for labour and employment issues in some countries but delegated to a separate ministry in others. As shown in the table below, in a majority of the OECD member states, employment and social security affairs are under the purview of a single ministry.

Table D: Labour Ministries and Competencies regarding social policy in OECD Countries

<b>Ministry of Labour and Social Affairs</b>	<b>Separation of Labour and Social Policies</b>	<b>Decentralized Organization of Labour Policies</b>
Austria	Australia	Canada
Belgium	Denmark	Ireland
Czech Republic	Finland	Switzerland
Germany	France	United Kingdom
Greece	Luxembourg	United States of America
Hungary	New Zealand	
Iceland	Norway	
Japan	Sweden	
Korea		
Mexico		
Netherlands		
Poland		
Portugal		
Slovak Republic		
Spain		
Turkey		

For example, in the Czech Republic, responsibilities for labour, employment and social protection are under the purview of the Ministry of Labour and Social Affairs (MOLSA); the Ministry of Health deals only with health care issues. In Poland, these responsibilities are concentrated in one Ministry. The Polish Ministry of Labour and Social Policy is composed of two divisions: labour and social security. The Labour Division is responsible for issues relating to employment and unemployment, industrial relations, working conditions, wages and benefits, industrial disputes, unions and employer organizations. The social security division covers issues relating to social insurance and resources, pension funds and social assistance.

In many countries, an increased emphasis on active labour market measures and associated attempts to develop a closer link between welfare and employment policies have encouraged a merging of ministries of labour and social affairs. In Japan, for example, the Ministry of Health, Labour and Welfare is responsible for labour policies, employment and social protection, including medical care

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and pensions. The ministry was formed in 2001 as a result of a merger involving the Japanese Ministry of Labour and the Ministry of Welfare. These two ministries tended to disagree about key social issues but the merger has apparently facilitated the development of a more coherent approach towards social and labour issues.

In New Zealand, the Employment Service and Benefits Agency have been brought together under a Minister of Social Services, Work and Income. This development coincided with an attempt by the Government to make entitlements to unemployment benefit more dependent on the willingness of the unemployed to engage in community work or training.

Similarly, the UK Government in 2001 created a Department of Work and Pensions (DWP), which took over responsibility for social security and employment policy. This development followed the introduction of “New Deal” programmes for the unemployed, which link benefit entitlements to the willingness of unemployed individuals to take up one of a limited set of options, including training and subsidized employment.

A final example is provided by Germany, which – after an experiment with merging the economic and labour ministries – returned to the original arrangement. For many years, responsibility for social security and employment rested with the Federal Ministry of Labour and Social Affairs. However, in 2002 a new Federal Ministry of Economics and Labour (BMWA) was created. The new Ministry was responsible for labour law and employment, as well as the policy areas which were previously delegated to the Ministry of Economics. Responsibility for social security (e.g. pensions) was transferred to a new Ministry of Health and Social Security. However, responsibility for unemployment benefit was retained by the Ministry for Economics and Labour. The overriding concern of the new Ministry was to lay the foundations for economic prosperity in Germany spread broadly throughout the population. However, in 2005 returned to the original concept and existence of a specific, fully-fledged ministry of labour and social affairs was renewed.

In some cases, employment and social security agendas are administered by the same local body, which deals with both job matching and unemployment benefits. Most recently, a merger of Public Employment Services and unemployment insurance administration was implemented in France by the creation of “Pôle Emploi.”

## 5. Promotion of industrial relations is an essential part of a labour ministry's assignments

In order to ensure effective operation of the system of labour administration, the ILO Labour Administration Convention No. 150 requires that employers and workers and their organizations participate actively alongside with public authorities in the design and implementation of national labour policy.

This participation by the social partners takes three forms:

- Consultation of employers and workers by the public authorities, which takes place within a body established in law of all involved with a mandate to put forward views of social partners (Consultative Body).
- Negotiation of bipartite or tripartite agreements within the established structures (such as NEDLAC) or ad hoc (Negotiating Body).
- Participation of social partners in management of certain labour administration activities, such as unemployment insurance or vocational training (Management Body).

As labour ministries deal with issues that are most relevant to organized employers and workers, they are also usually considered as their natural partners and the main guarantor and promoter of healthy

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industrial relations. Therefore, social dialogue bodies established under the above schemes are also usually under the purview of the ministry of labour.

However, as the competency of established national tripartite bodies often goes beyond the scope of narrowly defined labour and social issues and, as required by the ILO Recommendation No. 113, deals with “plans of economic and social development”, also the composition of these organizations require participation of other government departments, such as finance, economic development, industry, education, etc, these secretariats are sometimes placed within the Prime Minister’s Office or they are established as independent organizations.

For example, according to an ILO study<sup>33</sup> analyzing the 12 new EU Member States and Turkey, six secretariats of national tripartite bodies are placed directly at the labour ministry, five are under the Prime Minister’s Office, one is autonomous and one is under the state planning office. Within the same group of countries, five national councils are chaired by the a rotating president, three by the Prime-minister or his deputy, three by labour minister, one by government official appointed by the Government and one by the external expert.

However, regardless of the formal arrangement, labour ministries are usually the main driving force and the main guarantor of social dialogue in the country and are strongly linked with the national tripartite body. Even in cases where the secretariat is placed within the Prime Minister’s Office, its employees are, in fact, detached employees of the Ministry of Labour.

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<sup>33</sup> Social Dialogue at National Level in the EU Accession Countries, Ludek Rychly and Rainer Plitzer, ILO, 2003.

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## Annex II

### A “Model” Local Employment Office in Portugal

Organisation for Economic Cooperation and Development (OECD) Proceedings. (July, 2000) “Labour Market Policies and the Public Employment Service” *Prague Conference: 97-110*

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#### 1. The institutional framework

It seems best to first outline the overall framework within which we work by describing the Portuguese Public Employment Service, the Institute for Employment and Vocational Training (*Instituto do Emprego e Formação Profissional*, IEFP). The IEFP is a public body with legal personality and administrative and financial autonomy. It operates under legal supervision of the Ministry of Labour and Solidarity and is basically responsible for implementing the employment and vocational training policies defined and approved by the government.

The IEFP is responsible for:

- Promoting as broad knowledge of employment-related problems as possible and diffusing it, in order to contribute to the definition and adoption of an overall employment policy and a national programme to progressively improve the employment situation, by using productive resources in a way that is integrated with growth and socio-economic development as a whole.
- Promoting the organization of the employment market as an essential element in activity programmes, with the aim of achieving full employment (in which jobs are freely chosen in accordance with people’s preferences and qualifications) as a factor in upgrading the cultural and technical/professional status of Portugal’s human resources.
- Promoting the information and guidance, training and vocational rehabilitation and placement of workers (especially young people leaving the teaching system and other disadvantaged social groups), the analysis of jobs and the geographical and professional mobility of the labour force.
- Promoting improved productivity on the part of all businesses by conducting, either on its own or in collaboration with other Portuguese or foreign entities, appropriate vocational training activities.
- Technical and financial support for initiatives that lead to the creation of new jobs or the retaining of current ones in existing or future productive units.
- Taking part in the co-ordination of technical co-operation activities with other Portuguese and international organisations and foreign countries, in the employment, vocational training and rehabilitation fields.
- In general terms, collaborating in the design, definition and assessment of the overall Portuguese employment policy of which it is the executive body.

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The central governing bodies of IEFP are its Board of Directors and Supervisory Committee, in which the Executive Committee and representatives of the social partners participate. In order to fulfil its functions, the IEFP has:

- *Central services*, which are responsible for designing and standardizing procedures and disseminating skills at national level.
- *Regional offices* (North, Centre, Lisbon and the Tagus Valley, the Alentejo and the Algarve), which are responsible for co-ordinating, promoting and integrating the operational activities of the local services.
- A network of *local public services*, which operate under the authority of the regional offices and are made up of:
  - *Job Centres*, which are responsible for: matching the offer and demand for jobs and vocational training; collecting and disseminating information about the current situation of and prospects for local labour markets and carrying out such analyses as may be necessary; encouraging local authorities and other public bodies, as well as employers' associations, trade unions and other institutions involved in local development, to include issues related to employment, training and the social reintegration of the more disadvantaged social groups into their activities and strategies; collaborating in the identification of local needs for training and vocational integration actions, proposing their implementation and guaranteeing the necessary monitoring and support; providing vocational information and guidance services, particularly to the priority target groups; stimulating and collaborating in the implementation of vocational training and job creation programmes; encouraging innovative initiatives that result in the integration of specific groups of jobseekers; ensuring a integrated and personalized handling of users, both individuals and employers, providing them with technical and administrative assistance suited to their special needs.
  - *Vocational Training Centres*, which are responsible for programming, preparing, implementing, supporting and evaluating initial and continuing vocational training actions, and for ensuring implementation of the defined vocational certification system at local level, thereby helping to upgrade human resources and stimulate the development of the regions to which they belong.
  - *Business Creation Support Centres*, which have been set up in the most disadvantaged regions and in those that have been most severely affected by unemployment. They provide technical conditions and infrastructures favouring the development of "business incubators", which are designed to promote the creation and consolidation and independence of new businesses (and consequently the creation of new jobs). These local services are also responsible for: promoting information initiatives and meetings between entrepreneurs; carrying out market studies, studies on business opportunities and diagnoses of training needs, all in co-ordination with the rest of the IEFP's local services (particularly Job Centres and Vocational Training Centres), as well as with other bodies that are involved in local development; promoting training initiatives in the area of drawing up of business plans, as well as in the areas of organization, management and improvement of businesses' human resources; technical support and information concerning access to public subsidies available to businesses.

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- *Vocational Rehabilitation Centres*, which are responsible for promoting vocational assessment/guidance, training and socio-professional rehabilitation activities for disabled persons, through a set of programmes, measures and strategies in conformity with IEFP's general guidelines.

This network is complemented by the *Jointly Managed Vocational Training Centres* and *Vocational Rehabilitation Centres*, which are created under the terms of agreements between the IEFP and some of the social partners (employers' associations, trade union associations and professional associations) and other non-profit institutions that contribute to local development and the provision of locally-based social services. These centres are public bodies with administrative and financial autonomy, whose management and supervisory bodies are chaired by IEFP representatives.

The Job Centres play a key role at local level, inasmuch as they are the longest-standing decentralized employment services and the ones that are closest to their users. We currently have Job Centres spread across the whole of Portugal, each of which works to adapt to its specific local needs and characteristics. We now present the environment and operations of a particular Job Centre, the Loulé Job Centre.

## **2. The characteristics of the geographic intervention area**

The Loulé Job Centre is located in the southern region of Portugal (the Algarve) and serves two local authority areas (Albufeira and Loulé), which together cover a total area of 906 km<sup>2</sup>. The resident population, which is around 71,000 and includes around 30,000 in the working population, is concentrated along a narrow coastal strip in which the sea and tourist activities are the main attraction.

The increasingly "tertiary" nature of the local economy, which has largely resulted from the growing importance of tourism, is undoubtedly the determining factor in the dynamics of the local labour market. The retail trade and the restaurant and hotel businesses alone employ around 60 per cent of the working population. Financial and real estate activities (11 per cent) follow and, finally, the construction (8 per cent) and manufacturing (6 per cent) industries. While on the one hand this tertiary trend benefits the region, on the other it causes a high degree of instability in the local economy. It has made it very vulnerable to swings in demand that depend on outside agents and decision-making centres, as well as seasons of the year. This seasonality is reflected in the fluctuations in unemployment over the course of the year (Figure 1): at the end of December 1999, 1,877 unemployed persons were registered with the Job Centre, while at the end of April 2000 their numbers had fallen to just 635. November, December and January are usually months with a high rate of registered unemployment, whereas in the summer period it is difficult to fill the large number of vacancies notified to the Job Centre. In April 2000, only 278 jobseekers were registered with the Job Centre, yet 441 vacancies were notified.

Of the unemployed persons registered at the end of April with the Job Centre, only 12.3 per cent were long-term unemployed (registered for more than a year). The breakdown of the registered unemployed persons by age group at this time (Figure 2) illustrates the relative youth of the unemployed, compared to the national average. In the area served by the Job Centre, unemployed persons aged less than 35 make up more than 45 per cent of the total register, whereas the national average is below 40 per cent. However, this structure merely reflects the youth of the resident population in these two local authority areas.

Also, just as throughout the whole country, unemployment is particularly prevalent among women, who constitute more than 60 per cent of the registered unemployed.

Figure A: The seasonality of unemployment in 1999

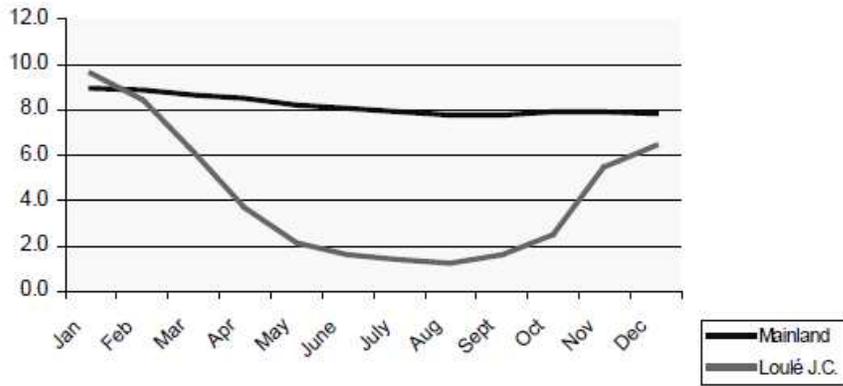


Figure B. Registered unemployment by age group in April 2000

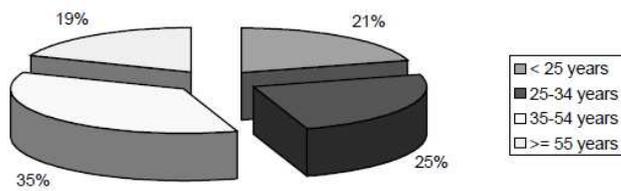


Figure C. Organisational structure of Loulé Job Centre

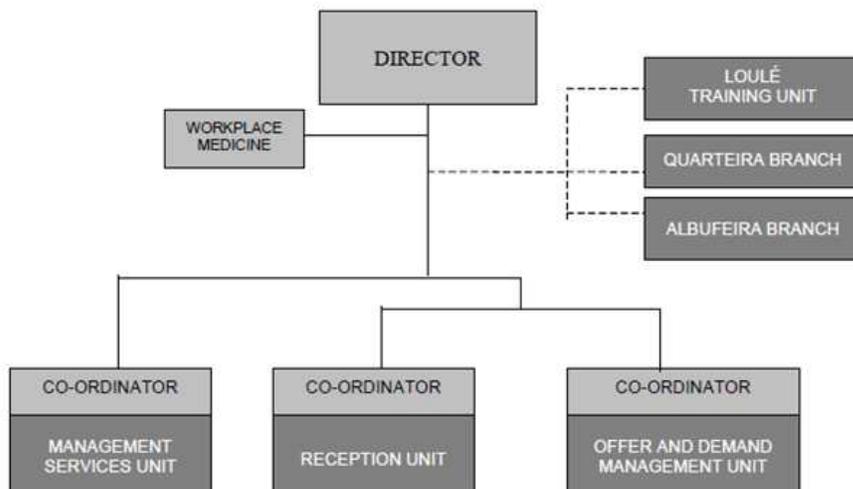
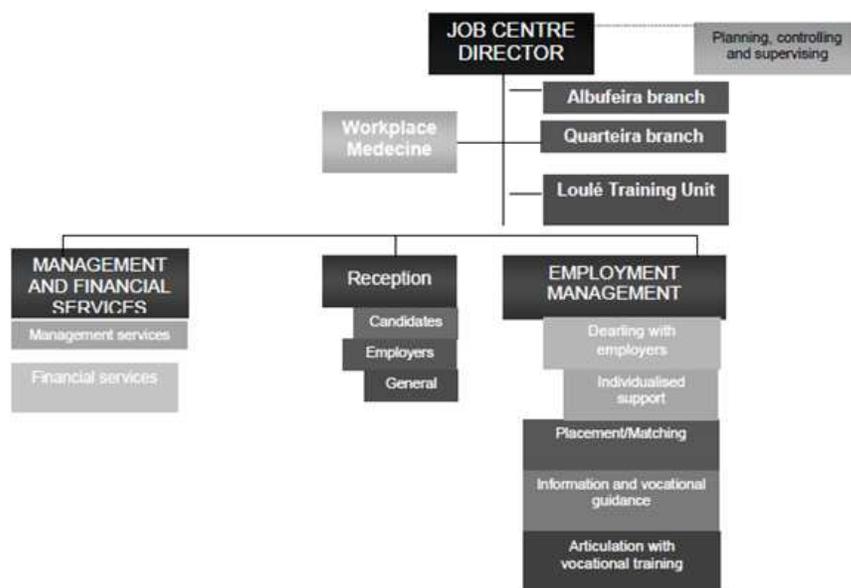


Figure D. Operational structure of Loulé Job Centre



### 3. The Job Centre's organizational and operational structure

The Loulé Job Centre's organizational structure includes:

- The director
- The management services unit
- The reception unit
- The offer and demand management unit (matching)
- Workplace medicine

Figures 3 and 4 present the Loulé Job Centre's organizational and operational structures.

#### 3.1. Support units of the Job Centre

##### 3.1.1 Employment sub-branches

"Employment sub-branches" are remote reception centres, in locations remote from the Job Centre that have a sizeable labour force, open to the public at limited times during the week, with the aim of bringing the Job Centre closer to its users. There are two sub-branches, one in Albufeira (a city around 30 km from Loulé) and another in Quarteira (a city around 15 km from Loulé).

##### 3.1.2. The Loulé training unit

The Loulé training unit is a body managed by the Job Centre, which offers vocational training, particularly within a framework of employment/training programmes, job and enterprise creation and sandwich courses (apprenticeships).

Both the sub-branches and the training unit are equipped with computers that are linked to the Loulé Job Centre in a local network, and *via* the Job Centre to IEFP's national computer network. They also have their own telephone, fax and photocopier.

### 4. Human resources

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The Centre is manned by a total of 22 people including the director, all of who are part of its normal allocation of staff. The technical team is basically made up of two types of officers: specialists and administrative officers. The team includes:

- 1 director
- 2 senior officers
- 2 vocational information and guidance counsellors
- 9 employment officers (2 of whom are unit co-ordinators)
- 6 administrative officers (1 of whom is a unit co-ordinator)
- 1 receptionist
- 1 driver

IEFP's central services and regional offices (in this case, the regional office of Algarve), in co-ordination with the local office, are responsible for the recruitment of Job Centre staff.

Before they take up their duties, new members of staff undergo theoretical and practical training which lasts for an average of between six and twelve months. Every year short-term training, as suggested by either the local, regional or central services, is also provided. This is delivered to several categories of staff, particularly the specialists, and is designed to update their knowledge and training in connection with the launching of new measures or programmes.

## **5. Operation**

### **5.1. Methodological principles**

The Job Centre's actions are currently based on a model with the following characteristics:

- We centre our work on the needs and potential of the young people and adults registered with us and on determining solutions which lead to or facilitate their integration or reintegration into working life.
- Our intervention methods are preventive, so as to avoid and minimise situations involving long-term unemployment.
- We are familiar with qualitative and quantitative trends in labour market and the file of registered applicants.
- Our interventions are both individualised and integrated in nature.

This integrated intervention methodology is aimed at young people and adult unemployed, as well as the Job Centre's other target groups. It implies the construction and development of Individual Employment Plans (IEPs), which the individuals concerned and the Job Centre's departments undertake to put into practise, and which are formalized by the signature of a follow-up agreement.

The implementation of this intervention model implies:

- The development of an organizational and operational model for the Centre that is based on interaction and mutual complementarity between the staff who are allocated to it.
- The existence of integration teams.
- Optimizing active employment policies by: organizing or stimulating notification and collection of job offers; supporting entry to self-employment; working together with training institutions to develop training solutions that are adapted to the needs of applicants and the labour market as a whole; developing guidance procedures that improve employability skills; and establishing partnerships with other institutions in such a way as to increase the number of solutions.

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The Centre possesses various integration teams, each of which is composed of an employment officer and a vocational guidance counsellor. The integration teams are responsible for ensuring the implementation of the technical procedures involved in the supervision and integration methods used within the ambit of the National Plan for Employment.

Jobseekers who suffer from shortcomings in terms of their employability, such that they cannot be placed directly in the labour market, can take part in Level I guidance: for example, collective information sessions or an individual interview in which their Individual Employment Plan (IEP) is drawn up. Jobseekers whose IEP requires a more in-depth guidance process are offered other types of intervention, which are implemented in accordance with each individual's personal situation and the objectives being sought. They may, in particular, be offered one or more of the following: assessment of personal and occupational skills, collective guidance sessions, or diagnosis by a psychologist (Level II guidance). If the candidate needs to strengthen their "inner capacities" to improve their employability, a Level III intervention is offered: promotion of self-esteem and development of personal and social skills.

The Job Centre follows a number of guidelines:

- a) In its role as regulator of the functioning of the labour market, the Job Centre must at all times have a good knowledge of this market and update the available data, with the aim of matching demand to the supply of jobs and/or vocational training and minimizing the imbalances between them.
- b) Management by objectives, which implies both careful planning and, at times, the introduction of the necessary modifications.
- c) Constant interaction with our environment, which means direct contact with businesses, associations, public services (especially the Regional Social Security Centre), local authorities and other bodies.
- d) Greater closeness to our users – which has led to the creation of the two sub-branches. These serve as extensions of the Job Centre and are designed to reduce the distance that users have to travel.
- e) Availability (adaptation of our own action plans and the flow of information from and to regional and central services) to respond to the ever more demanding environment and constant "pressures", on both the offer and the demand sides, which the Centre handles by pursuing the PES's basic activity – placement – and complementary tools available to it. In this respect it is fair to say that *being available* to everyone all the time, while taking individual circumstances into account, is the most difficult of all our tasks.
- f) Speed in the reception and handling users' requests, without prejudice to the implementation of the proper technical procedures, to ensure the effectiveness of our actions.
- g) Resolving each individual case, handling it as well as possible within the framework of IEFP's global intervention and bearing in mind the need to respect decisions that can only be made by the parties concerned.
- h) Keeping all members of the team constantly informed (continuing training).
- i) Frequent monitoring of all the Centre's activities, via the use of several indicators (*tableau de bord* and follow-up using computer applications), meetings (extended, or restricted and thematic), and direct daily monitoring by the specialist teams.

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Internal organization is flexible and based on teamwork. It is adapted to the changes that may occur in the operation of the labour market in the Centre's intervention area (for example, in order to provide a better response to seasonal fluctuations).

The Centre's activities are conducted along three essential lines: internal work, institutional work which notably co-ordinates with all the other entities in our geographic area, and fieldwork.

## **5.2. Reception**

Users of the Centre, persons and employers – both spontaneous and controlled flows – are received by an employment officer (EO) at the “reception desk”. So it is at the reception desk that users have their first contact with the Job Centre.

- a) At the reception desk an employment officer conducts an initial selection, and passes on people who are seeking jobs, vocational training or other types of intervention, but they also get their personal details and enters them into the computer system. It is also the Reception desk which provides information of a general nature and can resolve issues of a less complex nature – which may not be any the less demanding from a technical point of view, however. Reception is responsible for passing users on to other units (placement, information and vocational guidance, employment/vocational training programmes, creation of self-employment, etc.), with which it must co-ordinate its work. Sometimes when there is a large number of users another EO has to help in the reception function.
- b) The intervention of the EO and of the person at reception is essential for the good operation and effectiveness of many of the services provided in the Centre's other operational areas. This is why the reception desk is staffed by highly qualified and experienced personnel. However, the intervention at this initial stage is brief, after which users are asked to wait for a personal interview with another EO.
- c) The organizations (employers representatives and others) that use the Centre are also welcomed at the reception desk (in these cases the intervention of the reception staff is very brief), but are immediately passed on to “employers reception”, a separate room (but next door) where they are received by an EO or co-ordinator who, where appropriate, is able to immediately offer information on the profiles of registered jobseekers who might suit the vacant position in question, or provide other information, such as the details of hiring incentives. The differentiated treatment that is offered to employers in a specific space of their own makes the recruitment process easier for employers, who often decide to interview the applicants submitted to them in the Centre itself, following an intervention by the EO. This simplifies the procedures involved in introducing employers to prospective staff and makes monitoring of the outcome easier.
- d) Users who are registered with the Centre as job or training applicants are issued with a *post-paid response card*, which they can use at any time to inform the Job Centre when they change their address, get a job on their own or cancel their registration, without incurring expense or inconvenience. Although it is not the only method we use to update and control our demand file, this procedure is used by the vast majority of registered applicants and enables us to rapidly update their files.
- e) All our users are also issued with a card bearing their registration number and the date on which they visited the Centre. It is designed to make it easier to consult the computer system (database) on future occasions.
- f) Unemployed workers who come to the reception desk to find out how to apply for unemployment benefits are informed that they have to register and be available to accept employment and vocational training. Then, if there are suitable vacancies, placement is carried out as described in Section 5.3.3 below. In any case, at the end of the registration interview the

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EO gives applicants who wish to claim unemployment benefits a *declaration of registration* (issued by the computer system) *which confirms that they are available and able to work* and informs them how and where (the Regional Social Security Centre or its local offices) to initiate the process and submit the claim.

- g) Reception is normally responsible for checking the regular attendance of the registered workers who are receiving unemployment benefits. This check is not a mere administrative formality. Inasmuch as it is carried out by an EO, its aim is always the ending of the unemployment situation of the benefit recipient. Moreover, the direct contact with the EO – albeit necessarily brief in these circumstances – is very important for this purpose. For example, during the check the EO often consults the vacancy list or proceeds to another active employment measure – something which is not always easy to do when the applicant is not physically present.
- h) The EO on the reception desk, with the assistance of their co-ordinator, is responsible for updating the information available in the self-service section – such as, for example, the vacancies posted in semi-open form which allow users to carry out a prior selection, thereby facilitating the Centre’s work but also a greater involvement and commitment on the part of the unemployed person.

All EOs are allocated in turn to the reception desk (rotation system).

### **5.3. *Managing job offers and jobseekers***

#### **5.3.1. *Jobseekers***

- a) Flow handling

As already mentioned, after selection, guidance and entry of the user’s personal details, jobseekers are invited to an interview with an EO in a separate room, and the requests for work recorded in the jobseeker’s file.

This is where the EO records information about the applicant’s qualifications, interests, CV, etc., and directly enters them into the computer via the terminal (registration of jobseekers). On the same computer system they check possible placements in a suitable job notified by potential employers. For this they confirm, by telephoning the employer, whether the job is still available. If it is, he proceeds to the referral procedure, through a letter card given to the candidates at the end of the interview. This referral procedure (flow matching) is carried out without prejudice to the work of the EO who is actually responsible for the matching function (see Section 5.3.3).

The EO may, in addition, propose other alternatives, such as participation in a specific employment or training programme or vocational training. If the latter is chosen, the EO directs the person to the Vocational Guidance Counsellor (VGC), in line with the principles of teamwork intervention already presented. The integration team then engages in a specific intervention, collaborating closely with the closest Vocational Training Centre (VTC) or other approved organization, in order to redirect the applicant to the desired vocational training initiative. All EOs, including the unit co-ordinators, take turns at flow handling, on the basis of a weekly rotation regime.

- b) File management

The EO in charge of matching workers with jobs only exceptionally receives or interviews the daily flow of users. However, they do receive and interview employers who come to the Job Centre to inform them of their recruitment needs. The EOs allocated to matching usually stay there for three or four months at a time, to allow them to not only acquire a good knowledge of the flow of job offers and their follow-up, but also to facilitate establishing, without a loss of continuity, good relationships with employers. Whenever possible, two or more EOs are simultaneously responsible for this function, so as

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to allow staff rotation without any loss of familiarity with the recruitment dossiers, since both EOs are not replaced at the same time. In this way the EOs always have a good knowledge of both the jobseeker and vacancy files – something which enables the Job Centre to determine interventions which are best suited to each specific group and each individual person.

All officers in the Centre must have access to up to date job offer and jobseeker files, not only in order to ensure an efficient matching of demand and supply, but also because it is indispensable to the successful implementation of other measures and programmes provided for in the annual activity plan.

For the Job Centre to successfully carry out its basic function of job broking, the information available in its computer system must be totally reliable and up to date.

For its jobseeker register, the Centre takes special care to update and check the validity of the applications for work in the database. One of the most effective methods for checking the validity of these applications for work, used by the Job Centre, is to summon applicants for available job offers. Those who do not show up, or who have found a job themselves or given up their application, are eliminated from the active file.

However, with a periodicity that is established at either central or local level, the computer system that manages job offers and demands regularly and automatically sends out a *postal control* to all applicants on the active file, selected using chosen parameters. This control system informs those who are registered that the Centre is working to get them the job they want. Jobseekers must return the prepaid postcard, sent with the *postal control*, and confirm whether they are still interested in getting a job offer. The computer system produces lists of the names of the registered persons who have been checked on a given date. Comparing the answers received by mail with these lists, the EOs put the results into the database, thus contributing to updating the jobseeker's file.

### 5.3.2. Job offers

In its role as regulator of the functioning of the labour market, the Job Centre establishes and maintains contacts with the greatest possible number of employers in the geographic area under its responsibility. The officers maintain regular contact with employers, either through visits to them, or by organizing meetings with them at the Job Centre. These contacts give the officers a good knowledge of how the labour market functions and its needs.

These contacts also allow the Job Centre to disseminate much of the information about IEFP's measures and programmes to potential beneficiaries and, simultaneously, collect and record job offers and to get to know the vocational training needs. The volume of job offers that the Job Centre has recently been receiving fully justifies the existence of a separate room where, each day, one or more EOs work take in job offers and follow them up. These EOs manage the jobseeker and vacancy files, using codes to search the computer system for the applicants with the profile specified by the employer.

Inasmuch as they are easier and faster than other methods, the Centre receives the vast majority of job offers by telephone or fax.

Before recording a job offer on their computer terminal, the EO always collects information about the job, in particular, the qualifications required and the terms offered. At this stage, the EO talks with the employer, usually by telephone or in person, and provides them with a set of information that knows from experience (whether or not there are any applicants from the profession concerned registered at the moment, their levels of qualification, etc.), as well as the date when they would expect to present registered applicants. Frequently, thanks to the computer system which manages job offers and demands (SIGAE), the EO is able to immediately provide this information to the employer, which helps in pre-selecting applicants and calling them to interview invitations – tasks which the EO carries out through the same computer system.

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### 5.3.3. Job matching

Once the candidates have received and recorded a job offer, the EO prepares the pre-selection codes on the computer system, and after checking and confirming the conditions that in their specialist opinion will make it possible to achieve a successful match, they immediately send out calls to interview (at the Job Centre or one of the sub-branches). All these invitations are produced by the system's printers and sent on to the administrative area, which posts them.

Often, depending on the characteristics and operational requirements of the local labour market, the EO in charge of matching issues invitations by telephone, which allows them to present the candidates to the employer more rapidly.

As noted above, the Job Centre records all job offers on the computer system at the time when they are received and the details are established. Then the Job Centre does the necessary to ensure that invitations to the applicants who will be referred to the employer concerned are issued the same day.

When a job offer cannot be filled with the applicants registered at the Job Centre, the computer system itself ensures its dissemination to other Job Centres, thus initiating the geographic job offer/jobseeker matching procedure.

The EO in charge of matching is responsible for checking both the calls to interview and the outcome of the hiring interviews. These procedures, which are normally carried out either by telephone or through the referral reply cards handed over by the applicant during the job interview, or even by visiting the employers concerned, form part of the job offer verification system. They also make it possible to check the validity of the job offer and, when relevant, renegotiate the terms being proposed by the employer.

Depending on the outcomes – which as we have just mentioned, are obtained when the referral reply cards are returned, by telephoning or by direct contact (visits to employers), the EO records the data on the computer system (SIGAE) – thus updating the offer and demand files – and issues the documents for changing the situation of applicants who have been receiving unemployment benefits.

## 6. Employment/training measures and programmes

Because not all the job applicants who register with the Centre are able to enter the labour market, IEFPP possesses a wide range of specific measures and programmes designed to improve their professional qualifications and increase the employability of different jobseekers. These measures and programmes – in particular enterprise training, training/employment programmes, hiring support programmes and self-employment programmes – are part of the set of tools which the Centre uses to help registered applicants solve their employment problems. The measures and programmes are implemented by the Centre's various specialist teams, which are normally composed of a unit coordinator or an employment officer, a senior specialist and a vocational guidance counsellor.

As in the rest of Europe, one of the mechanisms for fighting exclusion is the right to a guaranteed minimum income (*Rendimiento Mínimo Garantido*, RMG). As a social protection measure to which every citizen is entitled, the RMG was created with the aim of providing families and other persons who qualify with a level of income that is considered indispensable for their needs. However, it is seen not as an end by itself, but rather as a means to reintegrate its beneficiaries socially and into the labour market. This is done by establishing a different relationship with work, characterized by a dimension of social integration, discussed with both applicants and a whole set of local public and private institutional partners.

In applying the RMG, specialist teams made up of EOs and a vocational guidance counsellor engage in and develop a teamwork relationship with a variety of local partners. The aim is to organize and achieve the integration or reintegration into working life of all RMG beneficiaries whose integration plans, which are plans for integrated interventions in various factors causing social exclusion discussed in advance with the persons concerned, may involve the vocational training and employment fields (in this

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case leading to an Individual Employment Plan). This type of work and the interactions that arise out of it result in a better knowledge of the environment, which makes the Job Centre's interventions more effective.

Various IEFP programmes involve organizing and implementing vocational training activities. The Job Centre develops and manages some of them. Among the most important are the Apprenticeship Programme, which is for young people between the ages of 16 and 21, the Training/Employment Programme and others, for example management training for potential creators of their own business. As for other measures and programmes, the specialist teams based on an employment officer, a counsellor and sometimes a senior specialist in management are responsible for carrying out the vocational training initiatives, with help and supervision from staff in IEFP's regional offices.

## **7. Managing, controlling and supervising the Job Centre's activities**

Within the scope of the responsibilities that are allocated to it, the Job Centre carries out its work in compliance with the terms of its annual Activity Plan and Budget.

The Centre's director is responsible for drawing up a proposal for the Activity Plan. This is a task that requires care and a good knowledge of the Centre's environment, the area's needs in terms of vocational training and employment and the operation of the local/regional labour market. This implies carrying out as objective a diagnosis of the local situation and structure of employment as possible, so as to apply the guidelines set out in the National Plan for Employment on a local scale.

To this end, through visits and other contacts with employers and other organisations in the geographic area covered by the Job Centre by the technical teams, various indicators are collected which are then taken into consideration in planning the activities of the Centre. The director's participation in meetings and other contacts with employers and workers' associations and local authorities allows them to collect sophisticated indicators useful for determining a good proportion of the vocational training to be put into place, either directly by the Job Centre itself or as proposals to the Vocational Training Centres.

The preparation of the plan and budget is started half way through each calendar year. This process includes a series of meetings which involve a greater or lesser number of participants, including the director, the divisional co-ordinators and other officers. The end products are the Activity Plan and Budget for the following year which the director then submits to the regional office for approval.

All the various Activity Plans and Budgets submitted to the regional office by the different units in the region makes up the Regional Activity Plan and Budget. At national level, IEFP's Activity Plan and Budget is approved by its board of directors.

At local level the director checks the implementation of the Activity Plan and Budget on a weekly basis via meetings with the different officers and the heads of the specialist teams. Changes and adjustments to the Plan can be made, as required, provided they are properly justified to higher authority.

The management of the Centre has methods for assessing the teams and individual officers, as well as drawing up guidelines for achieving the proposed objectives. Staff training is also evaluated, with a view to continuing training.

## Annex III

### ILO Overview WAPES Members' Survey 2006

	Population	GDP/capita in US\$	Total number of PES staff	Number of administrative PES staff	Number of PES staff in contact with jobseekers and employers	Number of PES offices	Annual budget of PES (without unemployment or social insurance benefit payments) in US\$	Administrative & management budget in US\$	Placement & active labour market policies budget in US\$
	Source: see (1)								
Argentina	39,921,833	\$13,700	900			155	\$53,000,000	\$3,000,000	\$50,000,000
Australia	20,264,082	\$31,600	10,000			1,092	\$1,936,229,045	\$324,144,603	\$1,612,084,442
Austria	8,192,880	\$32,500	4,348	1,124	3,224	109	\$1,768,950,795	\$243,676,789	\$1,525,274,007
Belgium FOREM	10,379,067	\$31,100	2,074	458	900	11	\$1,147,918,931		
Belgium ORBEM							\$290,420,916	\$49,538,384	\$240,882,532
Belgium VDAB			4,396	1,861	2,535	134	\$1,045,936,200	\$667,871,100	\$378,065,100
Benin	7,862,944	\$1,100	71	49	12	7	\$1,841,233	\$537,312	\$1,303,921
Bolivia	8,989,046	\$2,900	13			5			
Brazil	188,078,227	\$8,300	8,722			1,169	\$1,578,934,909	\$27,688,190	\$1,551,246,719
Bulgaria	7,385,367	\$9,600	2,825	147	2,099	119	\$147,823,441	\$16,486,107	\$131,337,334
Burkina Faso ANPE	13,902,972	\$1,200	225	94	128	18	\$2,254,110	\$1,603,240	\$650,870
Burkina Faso PNAR-TD			17	10	7	13	\$230,949	\$60,247	\$170,702
Cameroon	17,340,702	\$2,300	264	184	80	8	\$9,889,630	\$6,013,804	\$3,875,826
Canada	33,098,932	\$33,900	13,240			494	\$1,088,214,000		\$251,080,006
Centr. Afr. Rep.	4,303,356	\$1,100	50	23	27	4	\$790,380	\$526,920	\$263,460
Chad	9,944,201	\$1,400	64	25	29		\$924,359	\$825,120	\$99,239
Chile	16,134,219	\$11,900	504	441	63	14	\$113,877,548	\$10,445,259	\$103,432,289
China	1,313,973,713	\$6,800	72,448			24,167			
Croatia	4,494,749	\$12,400	1,185	463	723	117	\$56,828,322	\$28,848,870	\$27,979,452
Cyprus	784,301	\$21,600	110	29	81	7	\$5,995,865	\$5,269,200	\$726,665
Czech Republic	10,235,455	\$20,000	5,007	703	4,202	78	\$630,064,590	\$136,340,550	\$493,724,040
Denmark	5,450,661	\$34,800	6,400	2,400	4,000	96	\$4,149,495,000	\$856,245,000	\$3,293,250,000

El Salvador	6,822,378	\$4,700								
Estonia	1,324,333	\$17,500	289	50	239	16	\$10,456,314	\$3,951,847	\$6,504,466	
Finland	5,231,372	\$31,000	3,700			135	\$871,167,374	\$190,503,974	\$680,663,400	
France	60,876,136	\$29,600	27,118	4,635	21,749	1,002	\$3,349,893,900	\$1,911,402,300	\$1,438,491,600	
Germany	82,422,299	\$30,100	74,099	10,680	63,419	189	\$23,166,213,517	\$5,282,137,014	\$17,884,076,503	
Honduras	7,326,496	\$2,900	16		16	3	\$191,980	\$121,560	\$70,420	
Hungary	9,981,334	\$16,300	3,500	1,220	2,280	191	\$395,190,000	\$105,384,000	\$289,806,000	
Ireland	4,062,235	\$41,100	530	212	274	70	\$86,941,800	\$44,788,200	\$42,153,600	
Japan	127,463,611	\$31,600	12,158	1,700	10,500	591	\$1,618,966,000	\$1,157,858,000	\$461,108,000	
Kenya	34,707,817	\$1,100	88			25	\$322,235	\$222,791	\$99,444	
Latvia	2,274,735	\$13,700	679			53	\$54,624,835	\$6,678,745	\$47,946,090	
Macedonia	2,050,554	\$7,800	505	194	311	31	\$18,571,295	\$5,248,123	\$13,323,172	
Mauritius	1,240,827	\$12,800	141	83	58	14	\$714,300	\$714,300		
Mexico	107,449,525	\$10,000	2,701	1,329	1,372	148	\$71,704,215	\$10,632,469	\$61,071,746	
Montenegro	630,548	\$3,800	342	57	285	22	\$31,261,039	\$11,056,481	\$20,204,558	
Morocco	33,241,259	\$4,100	350	90	260	27	\$18,442,200	\$10,538,400	\$7,903,800	
Netherlands	16,491,461	\$30,300	4,176	696	3,480	134	\$483,449,100	\$483,449,100	/	
New Zealand	4,028,000	\$25,300	4,262	1,164	3,098	154	\$376,124,000	\$158,316,000	\$217,808,000	
Nicaragua	5,570,129	\$2,900	15	4	11	2				
Norway	4,610,820	\$42,800				607	\$2,282,770,000	\$1,246,741,000	\$1,036,028,000	
Panama	3,191,319	\$7,400	41	16	28	12	\$266,942	\$230,942	\$36,000	
Portugal	10,605,870	\$19,000	3,839	1,038	1,700	159	\$1,138,785,807	\$326,459,977	\$812,325,831	
Russia	142,893,540	\$11,000		41,700		2,214	\$540,093,000	\$437,343,600	\$102,749,400	
Serbia	9,396,411	\$4,400	1,807	656	1,151	33	\$35,481,358	\$23,926,096	\$11,555,262	
Spain	40,397,842	\$25,600	7,996			828	\$26,833,058,000	\$18,022,201,000	\$8,810,857,000	
Sweden	9,016,596	\$29,800	11,206	2,179	8,715	347	\$3,840,425,928	\$651,758,334	\$3,188,667,594	
Switzerland	7,523,934	\$32,200	2,620	820	1,800	124	\$1,053,840,000	\$487,401,000	\$566,439,000	
Tunisia	10,175,014	\$8,200				84				
Turkey	70,413,958	\$8,400	2,437			104	\$28,328,368	\$14,738,068	\$13,590,300	
Ukraine	46,710,816	\$7,000	15,000			28				
United Kingdom	60,609,153	\$30,100	70,407							
Uruguay	3,431,932	\$9,900	34		8	5	\$104,000	\$104,000		
Total	2,652,908,961		382,919	76,534	138,864	35,169	\$80,337,007,730	\$32,973,028,015	\$45,378,925,790	
(number of countries)	51	51	49	35	36	50	47	45	43	

	Main Business Areas of Services Given By PES							Labour Market Programme Administration											
	Labour Exchange	Computerised Job Bank/ Job matching	Labour Exchange on the Internet	Job Search Assistance	Unemployment Insurance	Active Programs for employers	Vocational Training	Self Employment Programs	Programs for women	Youth Programs	Programs for Older Workers	Programs for the Disabled	Programs for the long-term unemployed	Programs for Immigrants	Programs for people with higher education	Programs for mobility workers	Cooperation with social services authorities	Providing Technical Assistance	Receiving Technical Assistance
Argentina	x	x		x	x	x	x	x	x	x	x	x	x		x		x		x
Australia	x	x	x	x	x	x	n.a.		x	x	x	x	x	x		x	x		
Austria	x	x	x	x	x	x	x	x	x	x	x	x	x	x	x	x	x		
Belgium FOREM	x	x	x	x		x	x	x	x	x		x	x	x		x	x	x	
Belgium ORBEM	x	x	x	x		x				x						x	x	x	
Belgium VDAB	x	x	x	x		x	x	x	x	x	x	x	x	x	x	x	x	x	
Benin	x	x		x		x	x	x		x			x						x
Bolivia	x	x		x		x											x		
Brazil	x	x		x		x	x			x		x	x				x		
Bulgaria	x	x	x	x		x		x	x	x	x	x				x	x		x
Burkina Faso ANPE	x	x		x		x	x	x	x	x	x	x	x	x	x	x	x		x
Burkina Faso PNAR-TD	x					x	x	x	x				x						
Cameroon	x	x	x	x		x	x	x	x	x		x		x	x		x	x	x
Canada	x	x	x	x	x	x		x	x	x	x	x	x	x	x	x	x		
Centr. Afr. Rep.	x	x				x	x	x		x			x				x		x
Chad	x	x	x	x		x		x		x							x		
Chile	x	x				x	x	x		x			x				x	x	x
China	x	x		x	x	x	x	x	x	x	x	x	x	x	x	x	x		
Croatia	x	x	x	x	x	x	x		x	x	x	x	x	x	x	x	x		x
Cyprus	x	x	x	x		x			x	x	x				x	x	x		
Czech Republic	x	x	x	x	x	x	x	x	x	x	x	x	x		x	x	x		
Denmark	x	x	x	x		x		x	x	x	x	x	x	x	x	x	x		
El Salvador	x	x	x	x		x	x	x		x	x	x		x		x	x		x

Estonia	x	x		x	x	x						x	x				x		
Finland	x	x	x	x		x	x	x	x	x	x	x	x	x	x	x	x		
France	x	x	x	x		x		x	x	x	x	x	x	x	x	x	x	x	
Germany	x	x	x	x	x	x		x	x	x	x	x	x	x		x	x	x	
Honduras	x	x		x			x		x	x		x					x		x
Hungary	x	x	x	x	x	x	x	x		x	x	x	x		x	x	x		
Ireland	x	x	x	x		x	x		x	x	x	x	x		x	x	x		
Japan	x	x	x	x	x	x			x	x	x	x	x	x	x		x	x	
Kenya	x			x		x		x	x	x	x	x	x	x	x				x
Latvia	x	x		x		x	x		x	x	x	x	x	x	x	x			x
Macedonia	x	x	x	x	x	x	n.a.	x	x	x	x	x	x	x	x	x	x		
Mauritius	x	x	x	x		x		x	x	x	x	x	x		x				
Mexico	x	x		x	x	x	x	x		x	x	x		x		x	n.a.		
Montenegro	x	x	x	x	x	x	x	x	x	x	x	x	x	x	x	x	x		
Morocco	x	x	x			x		x		x			x	x	x		x		x
Netherlands	x	x	x	x		x									x		x		
New Zealand	x	x	x	x	x	x		x	x	x	x	x	x	x	x	x	x		
Nicaragua	x	x		x						x		x							x
Norway	x	x	x	x	x	x	x	x	x	x	x	x	x	x	x	x	x	x	
Panama	x	x	x	x		x	n.a.		x	x	x	x	x	n.a.	x		x		x
Portugal	x	x	x	x		x	x	x		x		x		x	x	x	x		
Russia	x	x	x	x	x	x	x	x	x	x	x	x	x	x	x	x	x		x
Serbia	x	x		x	x	x	x	x	x	x	x	x	x		x	x	x		x
Spain	x	x		x	x	x	x	x	x	x	x	x	x	x	n.a.	x	n.a.	x	
Sweden	x	x	x	x		x	x	x	x	x	x	x	x	x	x	x	x		
Switzerland	x	x	x	x	x	x		x	x	x	x		x		x	x	x		
Tunisia	x	x	x	x		x		x		x		x	x	x	x	x			x
Turkey	x	x	x	x	x	x	x	x	x	x	x	x	x	x	x	x	x		x
Ukraine	x	x	x	x	x	x	n.a.	x	x	x	x	x	x	x	x	n.a.	x	n.a.	n.a.
United Kingdom	x	x	x	x	x	x				x	x	x	x				x	n.a.	n.a.
Uruguay	x	x	x	x		x											x		x
Total Y	54	52	37	50	23	52	29	38	36	49	36	42	42	30	34	33	45	10	20
Total N	0	2	17	4	31	2	21	16	18	5	18	12	12	23	19	20	7	42	32
No response	0	0	0	0	0	0	4	0	0	0	0	0	0	1	1	1	2	2	2
Positive responses	100	96	69	93	43	96	54	70	67	91	67	78	78	56	63	61	83	19	37
Rank of most positive	1	2	10	4	17	2	16	9	11	5	11	7	7	15	13	14	6	19	18

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## Annex IV

### SWOT Analysis on the South African Labour Administration System

<p><b>STRENGTHS</b></p> <ul style="list-style-type: none"><li>• Political will and support for the repositioning process.</li><li>• Engagement of senior management in the Project.</li><li>• Dedicated Project management team</li><li>• Existing knowledge, especially in parastatals (e.g. UIF, PSA).</li><li>• Good handling of industrial relations by NEDLAC and CCMA.</li><li>• Well managed UIF; accumulated funds.</li><li>• Developed provincial and local structures.</li><li>• Support of social partners for an efficient labour administration system.</li><li>• Knowledge and experience gained from past attempts in the reform process of the DoL.</li></ul>	<p><b>WEAKNESSES</b></p> <ul style="list-style-type: none"><li>• Inappropriate structure of the Head Office.</li><li>• Lack of timely research and analysis of labour market and on the compliance of legislation to effect policy changes.</li><li>• Weak capacity of the Labour Centres to provide fully-fledged and individualized services to jobseekers and employers.</li><li>• Lack of coordination collaboration mechanisms and information sharing between different service providers.</li><li>• Inexistence of a national-wide database of vacancies, accessible to the population by internet.</li><li>• Lack of international exposure and benchmarking with developed economies.</li><li>• Very low level of ratification of relevant ILO Conventions.</li><li>• Lack of autonomy and of organizational structure and partnership with social partners and other stakeholders of IES to deliver effective services to clients.</li><li>• Lack of in-house training.</li></ul>
<p><b>OPPORTUNITIES</b></p> <ul style="list-style-type: none"><li>• Willingness to adopt new policies to deal with the economic depression.</li><li>• Replicate management models and know-how of successful parastatals.</li><li>• Use the UIF funds for innovative social protection/employment policies.</li><li>• Ability to contribute to outcome of Medium Term Strategic Framework (MTSF).</li><li>• Use of the current national focus on labour market/labour administration in the wake of the economic downturn to reposition DoL.</li><li>• Use of the ILO TCP to train labour inspectors and to improve inspection policies and structures.</li></ul>	<p><b>THREATS</b></p> <ul style="list-style-type: none"><li>• Resistance to the change, both at the national and provincial level.</li><li>• Lack of support by the DoL staff to the restructuring, if the process is not transparently and well managed.</li><li>• Weakening of the DoL, if further portfolios are lost.</li><li>• Lack of regional support for reform.</li><li>• Growing interest among other agencies to manage labour institutions held by DoL.</li><li>• Consequences of possible non-compliance with ambitious objectives of MTSF (e.g. halving unemployment by 2014).</li></ul>

## Annex V

### ILO Conventions ratified by South Africa

Convention	Ratification date	Status
C2 Unemployment Convention, 1919	20:02:1924	Ratified
C4 Night Work (Women) Convention, 1919	01:11:1921	denounced on 20:10:1935
C19 Equality of Treatment (Accident Compensation) Convention, 1925	30:03:1926	Ratified
C26 Minimum Wage-Fixing Machinery Convention, 1928	28:12:1932	Ratified
C27 Marking of Weight (Packages Transported by Vessels) Convention, 1929	21:02:1933	Conditional ratification
C29 Forced Labour Convention, 1930	05:03:1997	Ratified
C41 Night Work (Women) Convention (Revised), 1934	28:05:1935	denounced on 02:03:1950
C42 Workmen's Compensation (Occupational Diseases) Convention (Revised), 1934	26:02:1952	Ratified
C45 Underground Work (Women) Convention, 1935	25:06:1936	Ratified
C63 Convention concerning Statistics of Wages and Hours of Work, 1938	08:08:1939	Ratified
C80 Final Articles Revision Convention, 1946	19:06:1947	Ratified
C87 Freedom of Association and Protection of the Right to Organise Convention, 1948	19:02:1996	Ratified
C89 Night Work (Women) Convention (Revised), 1948	02:03:1950	Ratified
C98 Right to Organise and Collective Bargaining Convention, 1949	19:02:1996	Ratified
C100 Equal Remuneration Convention, 1951	30:03:2000	Ratified
C105 Abolition of Forced Labour Convention, 1957	05:03:1997	Ratified
C111 Discrimination (Employment and Occupation) Convention, 1958	05:03:1997	Ratified
C116 Final Articles Revision Convention, 1961	09:08:1963	Ratified
C138 Minimum Age Convention, 1973	30:03:2000	Ratified
C144 Tripartite Consultation (International Labour Standards) Convention, 1976	18:02:2003	Ratified
C155 Occupational Safety and Health Convention, 1981	18:02:2003	Ratified
C176 Safety and Health in Mines Convention, 1995	09:06:2000	Ratified
C182 Worst Forms of Child Labour Convention, 1999	07:06:2000	Ratified

Ratified : 20    Conditional ratification 1    Declared applicable : 0    Denounced : 2