



International
Labour
Organization

THE GOOD PRACTICES OF **LABOUR INSPECTION** IN BRAZIL:

LABOUR INSPECTION IN BRAZIL: FOR THE PROMOTION OF

Decent Work



Secretariat of
Labour Inspection

Ministry of
Labour and Employment

ILO Office
in Brazil

Labour Administration
and Inspection Programme

THE GOOD PRACTICES OF LABOUR INSPECTION IN BRAZIL:

Labour Inspection in Brazil:
for the Promotion of Decent Work

Publications of the International Labour Office enjoy copyright under Protocol 2 of the Universal Copyright Convention. Nevertheless, short excerpts from them may be reproduced without authorization, on condition that the source is indicated. For rights of reproduction or translation, application should be made to ILO Publications (Rights and Permissions), International Labour Office, CH-1211 Geneva 22, Switzerland, or by email: pubdroit@ilo.org. The International Labour Office welcomes such applications.

Libraries, institutions and other users registered with reproduction rights organizations may make copies in accordance with the licences issued to them for this purpose. Visit www.ifro.org to find the reproduction rights organization in your country.

The good practices of labour inspection in Brazil : labour inspection in Brazil : for the promotion of decent work / International Labour Office ; ILO Office in Brazil. - Brasilia: ILO, 2010

1 v.

ISBN: 9789221244035;9789221244042 (web pdf)

International Labour Office; ILO Office in Brazil

labour inspection / labour administration / civil service / decent work / social dialogue / trade union federation / Brazil

04.03.5

Also available in Portuguese: *As boas práticas da inspeção do trabalho no Brasil* : a inspeção do trabalho no Brasil : pela promoção do trabalho decente [ISBN: 9789228244038;9789228244045 (web pdf)], Brasilia, 2010; and in Spanish: *Las buenas prácticas de la inspección del trabajo en Brasil* : la inspección del trabajo en Brasil : por la promoción del trabajo decente [ISBN: 9789223244033;9789223244040 (web pdf)], Brasilia, 2010.

ILO Cataloguing in Publication Data

Cover Photo: National Coordination of Labour Inspection in Ports and Waterways / Secretariat of Labour Inspection / Ministry of Labour and Employment

The designations employed in ILO publications, which are in conformity with United Nations practice, and the presentation of material therein do not imply the expression of any opinion whatsoever on the part of the International Labour Office concerning the legal status of any country, area or territory or of its authorities, or concerning the delimitation of its frontiers.

The responsibility for opinions expressed in signed articles, studies and other contributions rests solely with their authors, and publication does not constitute an endorsement by the International Labour Office of the opinions expressed in them.

Reference to names of firms and commercial products and processes does not imply their endorsement by the International Labour Office, and any failure to mention a particular firm, commercial product or process is not a sign of disapproval.

ILO publications and electronic products can be obtained through major booksellers or ILO local offices in many countries, or direct from ILO Publications, International Labour Office, CH-1211 Geneva 22, Switzerland. Catalogues or lists of new publications are available free of charge from the above address, or by email: pubvente@ilo.org

Visit our web site: www.ilo.org/publns

ACKNOWLEDGEMENTS

This publication was produced under the framework of technical cooperation undertaken between the International Labour Organisation (ILO) and the Secretariat of Labour Inspection (SIT) by means of the “Strengthening Labour Inspection Services” Project (INT/09/62/NOR). The following people have contributed to the production of this publication:

International Labour Organization (ILO)

Laís Abramo

Director of the ILO Office in Brazil

Maria Luz Vega

Senior Labour Administration/Inspection Specialist, ILO Labour Administration and Inspection Programme (LAB/ADMIN)

Andrea Rivero de Araújo

National Coordination of the Strengthening Labour Inspection Services Project

Laura do Vale

Assistant of the of the Strengthening Labour Inspection Services Project

Secretariat of Labour Inspection / Ministry of Labour and Employment (SIT/MTE)

Ruth Vilela

Secretary of Labour Inspection of the Ministry of Labour and Employment

Leonardo Soares

Director of the Department of Labour Inspection (DEFIT/SIT/MTE)

Rinaldo Marinho Costa Lima

General Coordinator of Inspection and Projects (DSST/SIT/MTE)

Luciano Maduro

Advisor to the Secretary of Labour Inspection (SIT/MTE)

Rodrigo Vieira Vaz

Labour Inspector (DSST/SIT/MTE)

Coordination and editing

Andrea Rivero de Araújo

Consultancy and Translation

José Pedro Fonseca

Graphic Design Project

Júlio César Américo Leitão

FISCALIZAÇÃO FEDERAL

O PORTADOR TEM LIVRE ACESSO A TODAS AS DEPENDÊNCIAS DOS ESTABELECIMENTOS PÚBLICOS OU PRIVADOS, OU LOCAIS ONDE SE EXERÇAM ATIVIDADES SUJEITAS À INSPEÇÃO DO TRABALHO. AS AUTORIDADES POLICIAIS, QUANDO SOLICITADAS, DEVERÃO PRESTAR-LHE A ASSISTÊNCIA DE QUE NECESSITAR PARA O FIEL CUMPRIMENTO DE SUAS ATRIBUIÇÕES LEGAIS (ART. 630, §§ 3º E 8º, DA CLT; DECRETO - LEI Nº 5.452, DE 1/5/43).

(ART. 630, § 5º, DA CLT)

MINISTÉRIO DO TRABALHO E EMPREGO SISTEMA FEDERAL DE INSPEÇÃO DO TRABALHO

NOTIFICAÇÃO PARA APRESENTAÇÃO DE DOCUMENTOS - NAD Nº _____

EMPREGADOR:
ENDEREÇO:
CNPJ/CPF: _____

CNAE: _____

CEP: _____

Notifico o Empregador acima qualificado para apresentar, às _____ horas do dia _____, os documentos abaixo relacionados, nos termos do disposto nos §§ 3º e 4º do Artigo 630 da Consolidação das Leis do Trabalho:

Os documentos deverão ser apresentados à _____

O não cumprimento desta notificação no dia e hora supracitados importará em _____, com carta de autuação na forma da lei.

1. Livro de Inspeção do Trabalho;
2. Livro ou jogo completo de Fichas de Registro de Empregados (atualizados);
3. CNPJ, Contrato Social e última alteração (original e cópia);
4. Relação dos empregados em atividade com nome, data de admissão, PIS, função e salário;
5. Destacar os menores indicando data de nascimento;
6. Convenção e/ou acordo coletivo vigente;
7. Quadro de Horário de Trabalho.



TERMO DE REGISTRO DE INSPEÇÃO

Data: 22 / 2 / 10 Hora do Início: _____ Término: _____

Nome do Agente da Inspeção do Trabalho: _____

Matrícula: _____ Cargo ou função: _____

Documentos exigidos: _____

- 1 - Livro ou Fichas de Registro de Empregados
- 2 - Comprovante da Contribuição Sindical (Patronal) - Ano
- 3 - Comprovante da Contribuição Sindical (Empregados) - Ano
- 4 - Relação dos Empregados que recolheram a Contribuição Sindical
- 5 - Relação de Empregados (Lei de 2/3) - Ano
- 6 - Cadastro Permanente de Admissões e Dispensas
- 7 - Relação de Empregados Menores - Ano
- 8 - Acordo para Prorrogação da Duração do Trabalho
- 9 - Acordo para Compensação da Duração do Trabalho
- 10 - Escala de revezamento
- 11 - Ficha ou Papeleta de Horário de Serviço Externo
- 12 - Recibo de Férias - Ano
- 13 - Folhas de Pagamento - Mês
- 14 - Atestados Médicos de Admissão dos Empregados
- 15 - Convênio da Aprendizagem com o SENAI ou SENAC

Mary Ann J...
Fiscal - Fiscal
CPF 032.234.123

PREFACE

The existence of an efficient labour inspection system, capable of facing the challenges of an increasingly complex and changing society and productive system is a central element for the promotion of decent work. A properly functioning inspection system is vital for guaranteeing the effective enforcement of labour legislation and the protection of workers. Labour inspection increases the effectiveness of labour and employment policies, contributing to social inclusion through work and, consequently, broadening citizenship. Labour inspectors are agents of the State who work with the concrete and quotidian reality of labour relations and conditions, directly contributing to the promotion of decent work for all.

The creation and strengthening of labour inspection as a fundamental instrument for guaranteeing labour rights has been a constant concern for the International Labour Organisation (ILO) since its inception in 1919. In 1947, the ILO adopted Convention No. 81 concerning Labour Inspection and, in 1969, Convention No. 129 concerning Labour Inspection in Agriculture. In 2008, with the Declaration on Social Justice for a Fair Globalization, these conventions became a priority and were acknowledged as some of the most significant International Labour Standards from a governance point of view. This process culminated in 2009 with the launching of the Labour Administration and Inspection Programme (LAB/ADMIN).

The Decent Work Hemispheric Agenda (DWHA) and the Brazilian Decent Work National Agenda (ANTD), both launched in 2006, as well as the National Plan for Employment and Decent Work (2010), and the state-level agendas for decent work (in the states of Bahia and Mato Grosso), acknowledge that the role of labour inspection is essential to improve labour conditions and relations.

The Brazilian Federal Government, through the Ministry of Labour and Employment (MTE) and the Secretariat of Labour Inspection (SIT), acknowledge the crucial role of labour inspection services and, throughout the years, has worked to constantly strengthen it, adapting its services to new realities and providing solutions to new challenges with vigour and determination.

The ILO acknowledges that Brazil is well-suited to share its good practices with other inspection services. A good practice is every experience that, in its totality or in part, is proven to work with a positive impact. The good practices of labour inspectors' interventions reflect not only the enforcement of the law, but also practices, often creative and innovative, capable of providing legal and technical solutions that also work as positive incentives for companies to comply with the law.

In this context, with the objective of contributing to the production and diffusion of acquired knowledge concerning labour inspection, the ILO and the SIT established a partnership within the technical cooperation project "Strengthening of Labour Inspection Services," sponsored by the Norwegian Government, to systematise some good labour inspection practices in Brazil that can be replicated due to their proven relevance, impact, and sustainability.

This partnership is embodied in the collection "The Good Practices of Labour Inspection in Brazil," comprised of four publications on the labour inspection system in Brazil and the Brazilian labour inspection experiences in the following areas: eradication of child labour; combating forced labour; and the maritime sector.

The areas selected for this systematisation reflect some of the intervention priorities for both the MTE and the ILO, and contribute to making themes that have recently and constantly been in the country's political agenda be understood with a approach centered on labour inspection. Many of the measures adopted are creative and unique and reflect the evolutionary and modernisation process of labour inspection in Brazil. This series also provides an opportunity to reflect on the advances, lessons learned, and necessary improvements for inspection activities and, in a direct and practical manner, contributes to broaden the knowledge base about the issue already existent in the country.

Based on these good practices, some common points can be identified, indicating some characteristics that could be replicated and adapted to other realities:

1. One fundamental aspect for improving inspection procedures is being able to count on **reliable databases**, suitable for an effective “intelligence” system for identifying which enterprises are to be inspected, as well as for collecting and systematising information on completed inspections. The importance of relying on these sources of information stands out in all the good practices analysed. This is the case of the Federal System of Labour Inspection (SFIT), the Information System on Child Labor Hotspots (SITI), and the Slave Labour Monitoring System (SISACTE).
2. The **adaptation** of the Special Group of Mobile Inspection model used in combating forced labor to the maritime sector, with the creation of the National Mobile Group for the harmonisation of procedures in different Brazilian states, shows how certain tools or processes can be successful in other inspection areas, when implemented with the necessary modifications.
3. The **coordination with other government entities** and the State can significantly boost inspection results, especially in countries where resources are scarce and the number of inspectors may not be ideal. This is the case of the experiences in combating child labour, combating forced labour, and fishery inspection, just to cite a few examples.
4. On the other hand, an **inspection coordinated with social partners**, especially worker and employer organizations, augments the efforts to improve work conditions and business competitiveness. The experience of the Naval Industry Tripartite Commission and the National Commission for the Eradication of Child Labour (which also includes civil society organisations) are platforms where these issues are exemplified.

We hope that these publications will be useful not only in disseminating the Brazilian experience, but will also contribute significantly to the strengthening and modernisation of inspection services and

the exchange of labour inspection experiences that Brazil has been developing with other Latin American countries and other regions of the world. We also hope it will stimulate reflection, within and outside Brazil, on how to implement innovative responses to the current challenges of the world of work.

Laís Wendel Abramo

Director of the
International Labour Office in Brazil

Ruth Beatriz Vasconcelos Vilela

Secretary of Labour Inspection
Ministry of Labour and Employment

List of Abbreviations

ARTE	Regional Labour and Employment Agency (<i>Agência Regional do Trabalho e Emprego</i>)
CAGED	General Registry of Admitted and Laid-Off Workers (<i>Cadastro Geral de Admitidos e Demitidos</i>)
CPMR	Fining and Appeals Process Control (<i>Controle de Processos de Multas e Recursos</i>)
CLT	Consolidation of Labour Laws (<i>Consolidação das Leis do Trabalho</i>)
CNT	National Tripartite Commission (<i>Comissão Nacional Tripartite</i>)
CONATRAE	National Commission for the Eradication of Slave Labour (<i>Comissão Nacional para a Erradicação do Trabalho Escravo</i>)
CONAETI	National Commission for the Eradication of Child Labour (<i>Comissão Nacional para Erradicação do Trabalho Infantil</i>)
CTPP	Permanent Tripartite Parity Commission (<i>Comissão Tripartite Paritária e Permanente</i>)
DEFIT	Department of Labour Inspection /SIT/MTE (<i>Departamento de Fiscalização de Trabalho</i>)
DSST	Department of Occupational Safety and Health (<i>Departamento de Segurança e Saúde no Trabalho</i>)
ENAFIT	National Conference of Labour Inspectors (<i>Encontro Nacional de Auditores-Fiscais do Trabalho</i>)
FGTS	Employee's Severance Guarantee Fund (<i>Fundo de Garantia do Tempo de Serviço</i>)
GMAPP	Group for Monitoring and Overseeing Projects and Programmes (<i>Grupo de Monitoramento e Acompanhamento de Projetos e Programas</i>)
GRTE	Regional Labour and Employment Management Office (<i>Gerência Regional de Trabalho e Emprego</i>)
IBGE	Brazilian Institute of Geography and Statistics (<i>Instituto Brasileiro de Geografia e Estatística</i>)
ILO	International Labour Organization
IPEA	Institute of Applied Economic Research (<i>Instituto de Pesquisa Econômica Aplicada</i>)
LOA	Annual Budgetary Law (<i>Lei Orçamentária Anual</i>)
MPT	Labour Prosecutions Office (<i>Ministério Público do Trabalho</i>)
MTE	Ministry of Labour and Employment (<i>Ministério do Trabalho e Emprego</i>)
NAD	Notification for the presentation of documents (<i>Notificação para Apresentação de Documentos</i>)
NR	Regulatory Norms (<i>Normas Regulamentadoras</i>)
OS	Service Order (<i>Ordem de Serviço</i>)
OSH	Occupational Safety and Health
PAT	Worker's Meal Program (<i>Programa de Alimentação do Trabalhador</i>)
PPA	Multi-Year Plan (<i>Plano Plurianual</i>)
PNAD	National Sample Survey of Households (<i>Pesquisa Nacional por Amostragem de Domicílios</i>)
RAIS	Annual Social Information Report (<i>Relação Anual de Informações Sociais</i>)
RIT	Labour Inspection Regulation (<i>Regulamento de Inspeção do Trabalho</i>)
SFIT	Federal System of Labour Inspection (<i>Sistema Federal de Inspeção do Trabalho</i>)
SINAIT	National Union of Labour Inspectors (<i>Sindicato Nacional dos Auditores-Fiscais do Trabalho</i>)
SIT	Secretariat of Labour Inspection (<i>Secretaria de Inspeção do Trabalho</i>)
SRTE	Regional Superintendency of Labour and Employment (<i>Superintendência Regional do Trabalho e Emprego</i>)
TAP	Project Initiation Form (<i>Termo de Abertura de Projeto</i>)



TABLE OF CONTENTS

Acknowledgements	3
Preface.....	5
List of Abbreviations	9
1. Introduction.....	13
2. Context.....	14
2.1. The Background of Labour Inspection in the World and in Brazil.....	14
2.2. The Legal Framework of Brazilian Labour Inspection.....	17
2.2.1. <i>International Labour Standards</i>	17
2.2.2. <i>National Legislation</i>	18
2.3. Organizational Structure of Labour Inspection in Brazil.....	19
2.3.1 <i>Labour Inspection Central Coordination</i>	19
2.3.2. <i>Labour Inspection at the Regional Level</i>	20
3. The Labour Inspection Career.....	21
3.1. <i>The first steps within the career</i>	21
3.2. <i>The duties of the labour inspector</i>	22
4. The Inspection Strategy.....	23
4.1. <i>The New Methodology</i>	23
4.2. <i>Planning Inspection Activities</i>	24
4.3. <i>The four phases of Inspection Projects</i>	27
4.4. <i>Project execution through inspection action</i>	28
4.5. <i>The Federal Labour Inspection System (SFIT)</i>	31
4.6. <i>Occupational Safety and Health</i>	33
5. Social Dialogue and coordination with other actors.....	35
6. The National Union of Labour Inspectors (SINAIT).....	37
7. Brazilian Labour Inspection in an International Context.....	41
7.1. <i>Bilateral Cooperation</i>	41
7.2. <i>Multilateral Cooperation</i>	41
8. Sources and additional information.....	44
<i>Publications</i>	44
<i>Internet websites</i>	45
<i>Interviews</i>	45
9. References.....	45
10. Annex: Example of a Project Initiation Form.....	47



Photo: Strengthening Labour Inspection Services Project / ILO

Labour Inspection in Brazil: for the Promotion of Decent Work

1. Introduction

The economically active population in Brazil has been growing significantly in the last years – from 89 million in 2003 to 101 million in 2009.¹ During this same period, the number of commercial establishments has increased in 50% and more than 12.5 million new jobs with work permits were created (formal jobs).² Despite these advances, the country still faces serious problems in the world of work. Of the 92 million workers inserted in the labour market in 2009, about 50% were informal and did not enjoy many of their constitutional labour rights, making their work an uncertain and risky activity. Some of the informal employers do not pay taxes, significantly shrinking the country's tax base. Finally, despite improvements in combating forced labour and child labour, these are still persistent in the country.

In this scenario of formal sector employment growth, on one hand, and the persistence of labour irregularities, on the other, labour inspection has a central role in improving labour conditions and ensuring decent work in Brazil. In a country full of contrasts, labour inspection seeks to solve perennial problems and at the same time deal with the constant changes in the world of work. Today, the Brazilian labour inspection is renowned for its quality and technical capacity.

The objective of this document is to describe how labour inspection works in Brazil – its principles, structures and procedures – and to record its recent evolution, which includes changes in its remuneration structure, in its organisational methods and procedures, highlighting the creation of a new methodology of labour inspection.³ This document also serves to bear witness to the daily efforts of many labour inspectors, women and men, who strive to consolidate social rights and citizenship in Brazil.

¹ National Sample Survey of Households (PNAD – Brazilian Institute of Geography and Statistics (IBGE) – www.ibge.gov.br

² Annual Report of Social Information (RAIS), www.mte.gov.br

³ This text is partly based on the book **Labour Inspection in Brazil: for Decent Work**, published by the Ministry of Labour in 2005, with support from the ILO.

2. Context

2.1. THE BACKGROUND OF LABOUR INSPECTION IN THE WORLD AND IN BRAZIL

For more than 150 years, independent labour inspection, run by the state, is the main mechanism utilised to oversee labour relations and to promote the compliance with labour protection legislation. The first labour laws were created during the Industrial Revolution and since 1890 were expanded, when some European countries determined that these laws should be enforced by qualified agents without ties to workers or employers.

In 1919, the ILO was founded with the objective to promote, globally, the rights at work and the creation of impartial conditions for competitiveness in the economy. In its constitution it is explicitly stated that States are obliged to organize services to guarantee the upholding of laws and regulations regarding the protection of workers. With Recommendation no. 5 on Labour Inspection (Health Services) (1919) and Recommendation no. 20 on Labour Inspection (1923), the basic principles of modern labour inspection were created. The first recommendation discusses the need for member-states to implement systems that guarantee an effective factory inspection, with a focus on protecting the health of workers, and the second one deals with the organization and functioning of these systems.

With the adoption in 1947 of Convention no. 81 concerning Labour Inspection in Industry and Commerce, this service, until then incipient, became obligatory for the countries who decided to ratify it. Considered to be the document that defines the modern principles of labour inspection, the Convention reiterates the objective of Recommendation no. 20, and states that the purpose of labour inspection is to monitor the enforcement norms relative to work conditions and to the protection of workers, as well as to advise employers and workers on how to comply with labour norms and how to report abusive conditions not described in the current legislation. In 2010, of the 183 member-states of the ILO, 141 had ratified the Convention.

Box 1: Precepts of Convention no. 81 concerning Labour Inspection in Industry and Commerce (1947)

Convention No. 81 establishes:

- Labour inspection as a **public function**, a responsibility of the federal government and organised as a system, within the framework of government systems, to manage labour and social policy as well as monitoring the enforcement of laws and norms.
- Labour inspection should be linked to and supervised by a **central authority**.
- The importance of **fostering cooperation between employers and workers** in the elaboration of worker protection legislation and its application in the work environment.
- The **cooperation with other institutions** such as research institutes, universities, and social services as well as seeking collaboration of experts, doctors, engineers, and others.
- The emphasis on **prevention**.

In 2008, the ILO Declaration on Social Justice for a Fair Globalization was unanimously adopted by all member-states and employer and worker representatives attending the 97th Session of the International Labour Conference. The Declaration stipulates that, among other provisions, four international labour standards considered to be essential tools for good governance – among them Convention no. 81 and Convention no. 129 concerning Labour Inspection in Agriculture (1969) – should be identified, updated and promoted.⁴

Labour inspection can be classified according to two models: the specialist model and the generalist model. In the specialist model, only one area of labour inspection is dealt with, normally occupational safety and health, while remaining issues are dealt with by tripartite commissions. In the generalist model, the labour inspectors deal with labour issues in a more holistic way during their inspection visits. More specifically, inspections according to this model include the two main pillars of labour inspection, labour relations and occupational safety and health.⁵

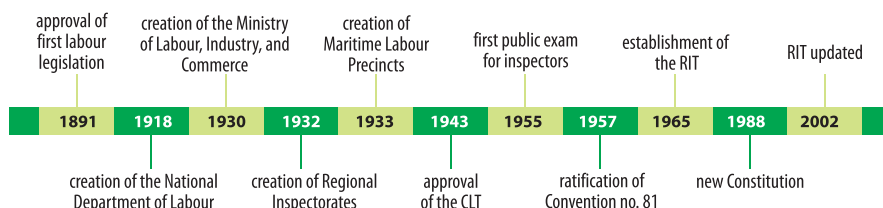
⁴ The other two are the Convention no. 122 concerning Employment Policy (1964) and Convention no. 144 concerning Tripartite Consultations to Promote the Implementation of International Labour Standards (1976).

⁵ Vega, 21.30.

In Brazil, labour inspection originated in the end of the 19th century, and at the time was related mainly with inspecting child and teenage labour in industrial establishments in Rio de Janeiro. The effective establishment of labour inspection, however, did not occur until the middle of the 20th century. Important landmarks of this evolution were: the creation of the Ministry of Labour, Industry and Commerce in 1930, and in the following year, the incorporation of the National Department of Labour (originally created in 1918) into the Ministry; the creation of the Regional Inspectorates in 1932; the Maritime Labour Precincts in 1933; and the ratification of Convention no. 81 in 1957 and its promulgation the following year. As a result, the Brazilian government created the Labour Inspection Regulation (RIT) in 1965 (and updated it in 2002), a document based on the principles and directives established by the Convention.

Another fundamental landmark was the professionalization of the labour inspector career⁶. Until the 1950s, federal labour inspection was conducted by politically-appointed individuals who had links to the state government. In 1951-54 the government made the first attempts to organize a professional corps of labour inspectors. The first public examination took place shortly thereafter, in 1955, which was a significant landmark in the technical-professional consolidation of labour inspection in the country. By making higher education and approval in the examination a requirement, labour inspection became independent from political interventions.

Figure 1: Landmarks of Labour Inspection in Brazil



⁶ In Brazil, labour inspectors are referred to as “labour fiscal auditors” (*auditores-fiscais do trabalho*).

Initially reactive and focused on labour relations, the Brazilian labour inspection has significantly evolved and today adopts a systemic view of the world of work. The inspection model utilised in Brazil is the generalist model, meaning that labour relations and occupational safety and health inspections are integrated.

2.2. THE LEGAL FRAMEWORK OF BRAZILIAN LABOUR INSPECTION

2.2.1. International Labour Standards

International labour standards are enacted as national law after being ratified by the National Congress and then having a decree issued by the executive branch mandating its application.

In addition to **Convention no. 81** (described above), two other conventions ratified by Brazil are key tools for labour inspection:⁷

- **Convention no. 155 concerning Occupational Safety and Health and the Working Environment (1981)**, which stipulates that all signatory countries promote the constant improvement of occupational safety and health (OSH) through the creation of national OSH policies in collaboration with representatives of employers' and workers' groups. These policies should include monitoring mechanisms as well as inspection systems.
- **Convention no. 178 concerning the Inspection of Seafarers' Working and Living Conditions (1996)**, ratified in 2007, states that signatory countries should maintain an inspection system that monitors the working conditions of seafarers, including a minimum frequency for inspection of ships and the obligation to inspect foreign ships docked in their territories.

In 2006, the ILO adopted **Convention no. 187 concerning the Promotional Framework for Occupational Safety and Health**, which updates and deepens the organization's recommendations for OSH. It recommends, among other provisions, the creation of formal tripartite commissions and the promotion of an accident prevention culture. The convention has not yet been ratified by Brazil, but in 2008 the MTE, in collaboration with the Ministry of Health and the Ministry of Social Security, created the OSH Tripartite Commission (see section 5. Social Dialogue and Coordination

⁷ Another important convention not yet ratified by Brazil is Convention no. 129 concerning Labour Inspection in Agriculture (1969), which stipulates the creation of an inspection system for rural labour.

with Other Actors), whose function is to propose measures for its implementation.

2.2.2. National Legislation

- **1988 Constitution.** The constitution states that it is the Federal Government's responsibility to organize, maintain, and carry out labour inspections.
- **Consolidation of Labour Laws (CLT).** Instituted by Decree no. 5.452, on 1 May 1943, the CLT unifies labour legislation in Brazil, regulating individual and collective labour relations.
- **Labour Inspection Regulation (RIT)** of 1965, updated by Decree no. 4.552 of 2002. Its purpose is to assure the enforcement of labour legislation in the country. More specifically, it describes the labour inspection's organizational structure and the obligations and prerogatives of labour inspectors.

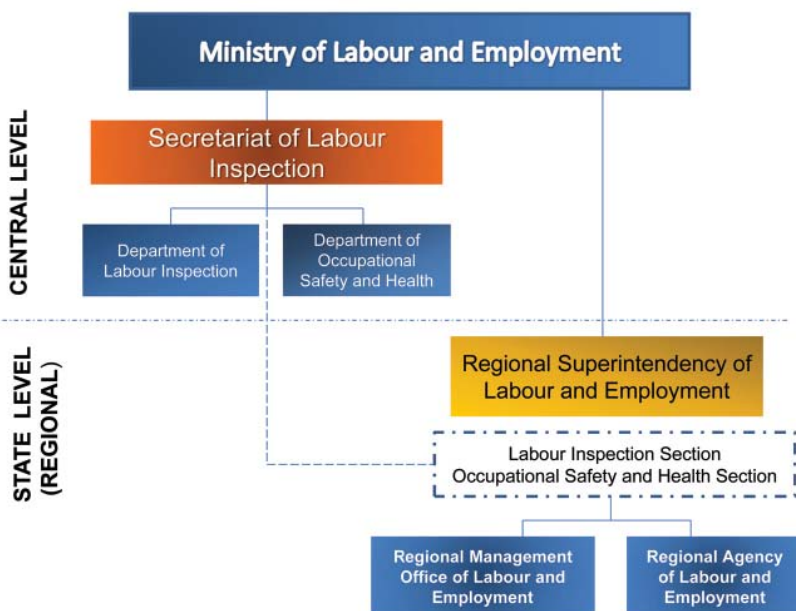
In addition to the framework above, inspection is also based on the following legal tools:

- **Regulatory Norms (NR).** NRs lay out procedures aimed at reducing the risk of accidents, diseases, and other potential harm in certain economic activities or in the manipulation of substances and machinery operation that involve high risks to the health and integrity of the worker (for example, operating cranes and manipulating benzene). All public or private enterprises employing workers registered by the CLT are obliged to follow all OSH norms. There are currently 33 Regulatory Norms, covering issues ranging from programmes to reduce environmental risk (NR 09) and outdoor work (NR 21), to OSH in specific sectors such as construction (NR 18) and waterways (NR 30). These norms are created by the Permanent Tripartite Parity Commission (CTPP) (see section 5. Social Dialogue and Coordination with other actors), composed of representatives of government, employers, and workers.
- **Normative Instructions (IN).** Published by the Secretariat of Labour Inspection (SIT), Normative Instructions establish the operational procedures necessary to enforce new labour legislation, decrees, and regulations and also specify particular situations. The Normative Instruction no. 76 of 15 May 2009, for example, lays out the procedures for rural labour inspection and includes a Declaratory Certificate for worker transportation. IN 77 describes the procedure for removing a child or teenager under the legal age (16 years old, with the exception of apprenticeships which may start at 14 years old) from work and their inclusion in the social protection network.

2.3 ORGANIZATIONAL STRUCTURE OF LABOUR INSPECTION IN BRAZIL

According to the precepts established by Convention no. 81, the Constitution determines that the Federal Government has the responsibility to organize, maintain, and execute a labour inspection service, guaranteeing the protection of workers' rights. The labour inspection system in Brazil is supervised by a central authority, the Ministry of Labour and Employment (MTE), through its Secretariat of Labour Inspection (SIT). The MTE also is physically present in all states of the country, through its Superintendencies, Management Offices, and Regional Agencies. The central and regional structures of the inspection system are described below.

Figure 2: Brazilian Labour Inspection Organizational Chart



2.3.1 Labour Inspection Central Coordination

Within the Ministry of Labour and Employment (MTE), the Secretariat of Labour Inspection (SIT) is the division directly responsible for labour inspection. The SIT has the mandate to design planning directives and provide guidance for the inspection activities carried out by the Ministry's decentralized organs. It is also responsible for monitoring the implementations of these activities, for promoting research, and

for analysing proposals to modify any legislation that involves the world of work.

The SIT is divided into two departments: the Department of Labour Inspection (DEFIT) and the Department of Occupational Safety and Health (DSST). The DEFIT, among other responsibilities, formulates and assists in the creation of inspection guidelines, plans and coordinates inspection visits, and creates proposals to improve the technical capacity of inspectors. The DSST has the same attributions, with a focus on OSH, which includes inspecting the enforcement of Regulatory Norms. Furthermore, the DSST also coordinates the formulation process of these norms, which takes place within the Permanent Tripartite Parity Commission (CTPP).

2.3.2. Labour Inspection at the Regional Level

The MTE's regional affiliates are: the Regional Superintendencies of Labour and Employment (SRTE), the Regional Management Offices of Labour and Employment (GRTE), and the Regional Agencies of Labour and Employment (ARTE).

The SRTEs are located in all 26 states and the Federal District. They are operational units of the MTE, and through them the Ministry carries out administrative and labour policy. They are part of the government's direct management structure, and are classified as state organs of the MTE, directly subordinated to it. Besides its activities related to labour management, which consist of conflict mediation and inspection of labour relations, SRTEs also provide employment services, such as issuing work permits (employment record cards), providing information on labour legislation, and disbursement of unemployment benefits. The SRTEs are also engaged in child labour and slave labour eradication programmes. Within the SRTEs inspectors can be assigned to two divisions: the Labour Inspection Section and the Occupational Safety and Health Section. The SRTEs also have a specific division for fines and appeals that deals with the administrative side of the infractions, such as judging employers' appeals.

The Superintendencies can be further divided into subunits, the Regional Management Offices and Agencies. The number of these subunits is defined by a specific normative instrument, which imposes restrictions to its creation. Hierarchically subordinated to the SRTE, the Management Office supports the Superintendencies by also providing services to workers. There are currently 116 Management Offices in the country. The Regional Agencies provide information

and services to the citizenry, such as unemployment benefits and issuance of work permits. There are currently 480 Agencies in Brazil, located in every state. Beside inspection visits, the inspectors also work in the SRTE, GRTE, and ARTE's "front desk", providing information about labour rights to the public as well as receiving complaints about illegal labour practices.

3. The Labour Inspection Career

3.1. THE FIRST STEPS WITHIN THE CAREER

Since the 1950s, the labour inspector is a federal public servant, technically subordinated to the MTE and administratively subordinated to the Superintendency in which he/she is allotted.⁸ To become a labour inspector, the candidate must have a university degree. Until 1999, only degrees in law, medicine, and engineering were accepted. Nowadays, in accordance with the generalist model of inspection, any university degree is allowed. After being approved in a public examination, the new inspectors follow the stages below:

First Stage – the first contact with labour inspection: after being nominated, the inspectors are posted in SRTEs and their respective management offices where they will go through an initial process of adaptation for a period of two weeks. During this time, he or she will learn about the organizational structure, regimental norms, basic conduct and make personal contacts.

Box 2: Training Course for Labour Inspectors

Some of the themes addressed in the 2010 course:

1. Labour Inspection Regulation (RIT)
2. Legislation and Regulatory Norms
3. The New Planning Methodology
4. Infraction Reports/ interdiction
5. Rural / slave / child labour
6. Employee's Severance Guarantee Fund (FGTS)
7. Apprenticeship
8. Disabled workers
9. Information systems

Second Stage – the training course: After the initial immersion, the inspectors participate in a one-month training course in the School

⁸ The current career structure of labour inspectors was established by the Law 10.593 of 6 December 2002, which was modified by the Law 10.910 of 15 July 2004.

of Financial Administration (ESAF), where the government trains its personnel. The SIT and the General Council of Human Resources of the MTE design the course's curriculum.

Third Stage – the practical training: After completing the training course, the inspectors return to their respective SRTEs and start their practical training. During this stage, the new inspectors participate in inspection visits under the tutelage of more experienced inspectors. The duration of this stage varies according to the project portfolio of each SRTE. The reason for this flexibility is the fact that the inspector-in-training has to participate in all the projects being implemented by his/her SRTE and the number and type of project varies considerably from region to region.

3.2. THE DUTIES OF THE LABOUR INSPECTOR

Among the duties of the labour inspectors, the main ones within the urban, rural, ports and waterway sectors are described below:

- 1) Verify the enforcement of legal and regulatory ordinances, including those related to occupational safety and health, labour relations, and in particular:
 - a) proper recordkeeping in the Employment and Social Security Record Card (work permit) to reduce the levels of informality;
 - b) monitoring the employers' contributions to the Employee's Severance Guarantee Fund (FGTS) , in order to maximize collection and combat fraud;

Box 3: Employee's Severance Guarantee Fund (FGTS)

The FGTS is a deposit of 8% of a worker's salary made by the employer and collected by the federal government. The worker can withdraw the FGTS when he/she terminates a labour contract, when he/she retires, and also in case he/she contracts a serious disease (cancer, AIDS) or is in its terminal stages, and if he/she finds himself/herself a victim of a public calamity recognized by the government or if he/she wants to use the FGTS to buy a house. Freelancers and temporary workers do not have the right to this benefit.

- c) the upholding of agreements, conventions, and treaties ratified by Brazil.

- 2) **Guide, inform, and advise** workers and employers subject to labour inspection;
- 3) **Inspect** work sites, functioning of machinery, the utilisation of equipments, and infra-structure; **Evaluate** potential risks of occupational hazards and work accidents and determine the necessary preventive measures;
- 4) **Evaluate** potential risks of occupational hazards and work accidents and determine the necessary preventive measures;
- 5) **Notify** natural persons or legal entities subject to inspection of their obligations and of any need to correct irregularities, as well as the adoption of measures that decrease the risks to the safety and health of workers;
- 6) **Analyze and investigate** the causes of work accidents and occupational diseases;
- 7) **Formulate** infraction notices to employers who are not fulfilling their legal obligations or failing to make FGTS deposits.

4. The Inspection Strategy

Brazil, with its vast territory and complex labour market, demands a strategic and sophisticated labour inspection. In the last few years, the SIT made changes in various areas of inspection with the purpose of bringing it closer to this ideal. These efforts range from a large-scale reform in the planning process and execution organization to the modernization of SIT's information systems. This section describes these changes, and how labour inspection is implemented today.

4.1. THE NEW METHODOLOGY

Historically, labour inspection in Brazil was predominately reactive. A considerable part of the inspection activities were based on complaints made by workers, unions, and other entities. The implementation was also developed by means of random inspections in locations within the inspector's jurisdiction, in a "door-to-door" modality.

This inspection model was sustained by the wage system of the labour inspectors. Until 2008, the salary of the inspector had a fixed component and another variable one that depended on individual performance – a quantitative increase in inspections generated an increase in the monthly salary. In 24 December 2008, the executive enacted Law

11.890 that modified the payment structure of many federal careers, including that of labour inspectors. From that moment on, bonuses for individual or collective productivity were eliminated. The modification of the remuneration pattern allowed for an inspection less based in the attainment of numeric goals and more focused in a sustainable and qualitative transformation of a situation of the labour legislation infringement.

Therefore, this normative modification permitted SIT to explore a new form of undertaking inspections inspired in the good practices that had been identified throughout the country. With this objective in mind, it established a working group composed of inspectors from various regions and assigned it the task of creating a new methodology. After consulting the head inspectors of all SRTEs, the group identified the following principles, which later inspired the new methodology:

1. Valuing the quality of inspections;
2. Teamwork;
3. Predominance of inspections based on projects;
4. Participatory planning (decentralization);
5. Dissemination of good practices and exchange of experiences among the inspectors;

The new methodology was first applied in April 2010 and its main characteristics are described below.

4.2. PLANNING INSPECTION ACTIVITIES⁹

According to the new methodology, inspection planning is based on three sources: the Multi-Year Plan (PPA), the SIT, and the SRTEs' local labour market diagnosis and intervention capacity.

The PPA is a planning instrument formulated by the federal government that sets the government's objectives, actions, and projects for a 4-year period. This document defines what themes will be mandatory priorities for labour inspection and also estimates the quantitative targets for each theme, which will be defined more precisely in each annual budgetary law, along with the amount to be disbursed. In the 2008-2011 PPA, for example, the themes concerning labour inspection were: (i) enforcement of labour obligations and collection of the FGTS, (ii) inclusion of handicapped workers and (iii) apprentices into the labour

⁹ The main source for this chapter was the Project Management Manual.

market, (iv) rural labour inspection, (v) occupational safety and health, and (vi) eradication of child and (vii) slave labour.¹⁰

After the targets and obligatory themes are established, the SIT defines the directives in the following manner:

1. Based on the PPA and on the assessment of problematic areas nation-wide, the SIT defines which themes will be made into **obligatory projects** for all SRTes;
2. The SIT can also advise the SRTes to create **regional obligatory projects**, which will be executed only by the SRTes located in regions where the selected activity is strategically important or is especially problematic, and;
3. **Allocate national targets to each Superintendency**, according to criteria such as the number of inspectors available, the economically active population, and the number of registered enterprises in their respective regions.

Box 4: Inspection Projects

National Obligatory Projects

In all SRTes

1. Child labour
2. Disabled workers
3. Apprentices
4. Accident analysis
5. Employee's Severance Guarantee Fund (FGTS)
6. Rural labour
7. Fines and debits
8. Other demands (non-urgent complaints)

Regional Obligatory Projects

Of strategic importance in some states

1. Slave labour
2. Ports and waterways
3. Slaughterhouses
4. Infrastructure
5. Administrative resources

S RTE Projects

The SRTes can design their own projects based on the diagnosis of their region's necessities.

¹⁰ The physical targets listed in the PPA are estimates. They are more precisely defined after the approval of the Budgetary Directives Law (LDO), which serves as a guide for the formulation of the national budget, and the Annual Budgetary Law, which determines the government's budget and expenses.

With the New Methodology, the SRTEs have gained more freedom to define their projects and respective targets. By utilizing a **diagnosis process**, the SRTEs identify the themes and economic activities where a large number of irregularities have been detected, and these will be later prioritized in the planning. In case for example, that the SRTE believes it will be able to register more workers within its local commerce project, it can allocate a portion of the “registered workers” target to this area.

Box 5: Diagnosis

The first step in designing a project is preparing the diagnosis. The SRTE identifies the problems in the labour market and also the SRTE’s own capacity to resolve them. The following factors are taken into account when preparing the assessment:

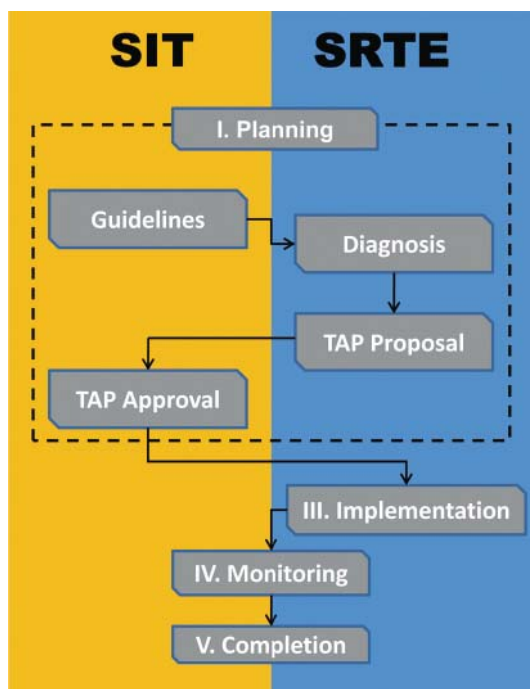
1. Inspector availability;
2. Completed projects, possible demands resulting from the projects, and identifying good practices;
3. External demands from the judiciary, unions, “front desk”, Labour Prosecutions Office;
4. Internal demands from inspectors and SRTEs’ thematic groups;
5. Financial resources;
6. Identification of problems/irregularities in the labour market based on statistical analysis of the labour market (sources included the IBGE, PNAD, RAIS, CAGED, SFIT).

It is important to note that the PPA’s targets are only the minimum required – if a SRTE has the resources and capacity, it can establish targets that exceed the minimum demanded by the federal government. Starting in 2012, the duration of the projects will be adjusted to fit in with the PPA lasting for four years. Planned inspections, as mentioned before, are prioritized. Nonetheless, **complaints** still have an important role in the organization of the activities, since any complaint that involves serious risks to the safety and health of workers or involves delays in salary payments should be investigated immediately, even if the economic activity in question is not included in the planning. Projects may also include **orientation** and **prevention** strategies aimed at the employers, such as for example having information seminars, awareness raising campaigns, and participation in labour forums.

4.3. THE FOUR PHASES OF INSPECTION PROJECTS

The process of planning, implementation, monitoring, and finalizing projects involves both the SIT and the SRTE, as illustrated by figure 3.

Figure 3: Basic Flowchart for Project Conception and Execution



I. Planning – After analyzing the SIT’s guidelines, concluding the regional assessment, and identifying which areas require intervention, the SRTEs present a pre-project through the Project Initiation Document (TAP, see annex 1 for a sample). In this document, the SRTE defines the scope, objectives and numerical targets of the project, participating inspectors, inspection timeline, as well as the indicators utilized to measure its performance. The TAP is then sent to the SIT, which evaluates the document and verifies, for example, if the proposed targets are compatible with the national targets. The SIT can approve the project or send it back to the SRTE in case it requires adjustments.¹¹

¹¹ Other agencies provide support for project planning: the Labour Prosecutions Office and the Commissions of Collaboration with Labour Inspection (described in Section 5).

II. Implementation – The project's execution includes the issuance of service orders and the carrying out of the inspection visit as well as any ancillary actions – such as technical meetings. Each project is headed by a coordinator who is responsible for its execution and monitoring. This phase of the project is described in detail in section 4.4.

III. Monitoring and Control – The objective of this phase is to compare the project's execution with its original planning and, if necessary, apply corrective measures. The monitoring is done by consulting the Federal System of Labour Inspection (SFIT), which stores monthly, trimestral, annual, and quadriannual reports. The annual and quadriannual reports also contain a qualitative analysis of the project's implementation. The Normative Instruction (IN) no. 86 of 11 August 2010 describes how to monitor and control the inspectors' individual performance, project execution, and the institutional performance of the decentralized units of the Federal System of Labour Inspection (SFIT). The annex to IN 88 describes the monitoring tools utilised in this process.¹²

Box 6: Group for Monitoring and Overseeing Projects and Programmes (GMAPP)

Within the SIT, the monitoring of the STREs, projects, and teams is done by the GMAPP. This group, composed of specialists in the PPA's thematic areas, can propose modifications and corrections in project planning and execution, as well as undertake audits.

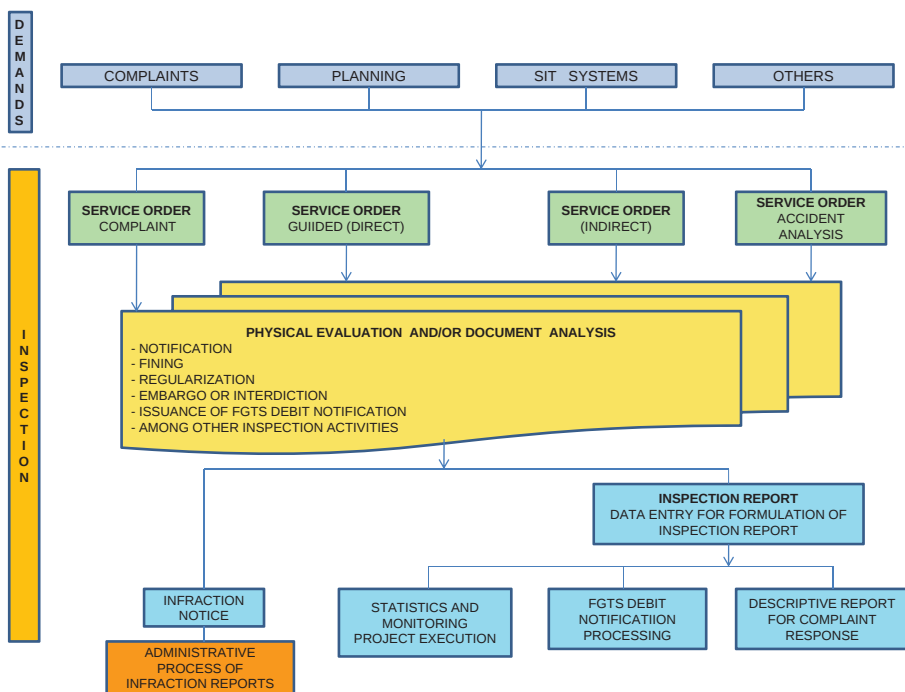
IV. Completion – The projects' implementation is evaluated based on the attainment of targets and if the labour irregularities it addressed were resolved. The evaluation of each inspector is based on individual performance and their personal contribution to the completion of the projects' objectives.

4.4. PROJECT EXECUTION THROUGH INSPECTION ACTION

The implementation of inspection projects is done through different interventions or inspection activities. The procedures that must be followed in an inspection are described below.

¹² http://www.mte.gov.br/legislacao/instrucoes_normativas/2010/in_20100811_86.pdf

Figure 4: Inspection Flow Chart



The inspector can execute an inspection action in different ways: prompted by a complaint, directly (if the inspection visit has been previously planned), indirectly (only documents are analyzed, no inspection visit is done), and analysing of work-related accidents (more details in section 4.5., item III). The following procedures apply to the **guided inspection (direct)**, which involves inspection visits.

- 1) Service Order (OS):** The inspection action is initiated after the local management issues a service order for an inspector to visit a site. The orders may be included in a project's timeline or be issued after a complaint. In both cases, the orders provide a focus for the visits. An order issued after a complaint related to FGTS contribution demands that the inspector verifies payrolls and deposit receipts, among other documents. The inspector, however, is not limited to the items listed in the OS; in case he/she finds some other irregularities during the visit, he/she has to take the necessary measures to correct them.

2) Physical verification: consists of interviewing workers in the workplace and evaluating the work environment.

3) Notification:

i. Notification for the presentation of documents (NAD): the inspector notifies the establishment that it must present documents that prove it is in accordance with the labour legislation. The deadline can vary from 2 to 8 days; and/or

ii. Notification for the obligatory fulfilment of occupational safety and health norms: in case an inspector finds an irregularity relating to compliance with safety and health norms, he or she will instruct the employer on how to correct the situation.

4) Document verification: the inspector examines – on site or at a MTE unit – the documentation provided by the employer and records the visit in the inspection book, which is kept by the establishment.

5) Fining: after an irregularity is found, the inspector issues an infraction notice checks if the employer's FGTS/Social Contributions are in order. The funds generated by certain fines are deposited in the Worker's Support Fund (FAT), which finances the unemployment benefits program, the salary bonus¹³, and employment and income creation programs.

Box 7: The Inspection Guidebook

The guidebook "Elements for the issuance of Infraction Notices" is the tool utilized by inspectors that reflects the current labour legislation (CLT, laws, NRs) and contains guidelines that correspond to an infraction notice that can be issued by an inspector. The guidebook is a living document and is constantly being updated.

¹³ All employees who receive less than the quantity of two minimum wages monthly has the right to receive the amount of one minimum wage per year from employers who contribute to the Social Integration Programme (PIS) or the Public Servant Asset Creation Programme (PASEP).

- 6) Interdiction and embargo:** If a grave and imminent risk to the health of the workers is found, the inspector should propose to his/her regional superintendent the closure of the commercial establishment, sector, machinery or equipment, or the embargo of the construction site.
- 7) Conclusion:** After concluding the inspection, the inspector uploads his findings to the SFIT, thereby creating a database on inspected enterprises. In the case of some inspections involving slave or child labour, and fraudulent cooperatives, the reports are forwarded to the relevant partner (Labour Prosecutions Office, among others).

4.5. THE FEDERAL LABOUR INSPECTION SYSTEM (SFIT)

Brazilian labour inspection considers the use of information technology a strategic means to enhance its results. Since 1996, labour inspection is intensively utilising the SFIT – a system that operates a computerised database, which collects information from all inspections undertaken throughout the country. The SFIT is currently being updated and it is estimated that by the end of 2010 all of the data will be transferred to the SFIT-Web, a web-like browser platform with a better visualization and simpler interface.

The SFIT compiles all labour inspection data and is organised into modules.¹⁴ Some of the more relevant modules are:

- 1) Enterprise Control Module:** utilised to provide planning support to an inspection action that is being developed. It is based on the same enterprise registry used by the Annual Social Information Report (RAIS).¹⁵ The information contained in the Inspection Reports (RIs) is also uploaded to the registry. This module allows: (i) the inspection managers and heads to make parametric searches in order to identify the enterprises or economic activities that should be inspected, according to planning and previously defined criteria; and (ii) obtaining quantitative information about the companies, beyond data such as name and location.

¹⁴ The other modules are: Infraction Notice, Inspector Control, Administrative Service Order, Special Reports, Managerial Information, Tables.

¹⁵ The module is updated every August with the previous year's RAIS data.

II) Planning Module: this module – which will be available when the SFIT-Web is launched – compiles all the information related to project planning. It contains the compulsory quantitative targets for each SRTE, the directives for project formulation, guidelines for diagnosis and proposals, and project corrections and adjustments. The partial and final results of each project are uploaded to this module by the SRTEs and monitored by SIT.

III) Service Order Module (OS): starts the process of inspection. Enterprises that show signs of potential irregularities are identified and a Service Order to inspect them is issued. The OS is utilised in the following inspection modalities:

- 1) *Inspection by complaint:* prompted by complaints that involve immediate risks to the safety, health, pay, or benefits of workers and should be immediately investigated;
- 2) *Guided inspection:* included in the SIT/SRTE's planning and supported, whenever possible, by the participation of Trade Union Councils and other agencies or institutions;
- 3) *Indirect inspection:* part of a special inspection programme that requires only documentation analysis, which is done by consulting the System of Notifications for the Presentation of Documents (NAD) in the decentralized units.
- 4) *Inspection for the analysis of work-related accidents:* used to identify the causes of accidents, prepare analysis reports, and monitor any corrective measures.

In case there is a grave and flagrant violation of the legal dispositions or a grave risk to the safety and health of the worker, an OS is not necessary in order to initiate an inspection visit and the relevant inspection manager should be immediately communicated.

IV) Inspection Report Module (RI): utilised to register all the stages of inspection within a particular enterprise and includes quantitative results of each category, such as registry, salary, working hours, rest, FGTS, etc.

Box 8: Other information support systems

- **Fiscal DW (DataWarehouse)** – SIT's System of Managerial Information which compiles the information available on SFIT. Soon other databases relevant to labour inspection will be included, among them the RAIS, CAGED, and CPMR. By consolidating all these databases in one system, the process of creating managerial reports and researching will become more agile and efficient.
- **SisFGTS** – this system allows for the cross-checking of information from CAGED, RAIS, and SEFIP (Enterprise System of FGTS Deposits and Social Security Information), making it a vital tool to verify FGTS deposits and detect inconsistencies in RAIS data provided by enterprises.
- **SITI** – The Information System on Child Labour Hotspots is the first online information system on child labour open to the public. The information on inspection visits that find child labour sites are uploaded, mapping problematic counties and sectors and allowing for the monitoring of the dynamics of child labour.
- **SISACTE** – In partnership with the ILO, the SIT launched in 2006 the Slave Labour Oversight System in order to register forced labour in a standardized and accessible manner. This system records information on complaints received by the SIT, data from inspection visits, and the more significant data from the Inspection Reports.

4.6. OCCUPATIONAL SAFETY AND HEALTH

Occupational safety and health, within the realm of labour inspection, has as its main objective protecting the health of workers through the adoption, by employers, of measures to improve the work environment, processes, and organization of labour. It involves creating norms and monitoring its enforcement, with the hopes of progressively and constantly making sustainable improvements in an important number of enterprises and workplaces.

Occupational safety and health, is inserted in the legislation as a collective right and its dispositions are contained in a dynamic regulatory system: the Regulatory Norms. Article 200 of the Consolidation of Labour Laws (CLT) attributes to the Ministry of Labour and Employment (MTE) the responsibility to issue norms on OSH. The process of creation and revision of regulations concerning occupational safety and health is done through the Permanent Tripartite Parity Commission (CTPP). This activity is coordinated by

SIT's Department of Occupational Safety and Health (DSST), which is also responsible for supervising inspection activities related to safety and health.

Box 9: Creation of a Regulatory Norm

The procedures for creating a NR are described in Ordinance no. 1127 of 2003:

1. The SIT receives internal (from inspectors) or external (MPT, unions, etc.) demands and based on them it defines the norm to be created or revised.
2. A Technical Group (GT), composed of inspectors and researchers from FUNDACENTRO – an OSH research center linked to the MTE – formulates a basic draft. This group may also adopt a tripartite model.
3. The draft is published in the *Diário Oficial* – the government's official newspaper – and remains available for public consultations for 60 days.
4. After 60 days, a Tripartite Working Group (GTT) is created to analyse any proposed modifications and write the text's final version. In case the norm deals with an issue that already has its own National Tripartite Commission (CNT), this commission is in charge of formulating the final text. The existing CNTs, in case they deem necessary, can create a sub-commission to analyse the norm's specific issues.
5. The draft approved by the GTT or the CNT must be submitted to the CTPP for final approval and publishing in the *Diário Oficial*.

In some cases, depending on the demands of the national commission or unions, a Regional Tripartite Commission is created to oversee the implementation of the norm in a specific region and provide support for the CNT.

The planning of safety and health inspection activities is integrated to the programming of themes related to the legislation. During the planning stage, the economic activities that have the highest levels of work-related accidents and diseases are prioritized.

The safety and health inspections use a specific type of notification, which consists of giving a deadline for an employer to comply with the existing norms. In addition, Brazilian legislation grants the inspectors the authority to embargo or interdict activities where workers are exposed to serious and imminent risk to their health or physical integrity.

The DSST also manages the Worker's Meal Program (PAT), a voluntary program that encourages employers to provide nutritionally balanced meals to its workers in exchange for tax deductions. More than 13 million workers receive the PAT benefits. The programme's evaluation and monitoring are done by the PAT Tripartite Commission (CTPAT).

In this manner, labour inspection contributes to an employment creation culture with adequate safety and health conditions, which is beneficial to employers, workers, and the government.

5. Social Dialogue and coordination with other actors¹⁶

In accordance with Convention no. 81, which encourages labour inspection services to work alongside other government organs and social partners, the SIT is involved in various partnerships with other public agencies, union groups, and civil society organisations, with the intent to make labour inspection more efficient, comprehensive, and inclusive. The principle of the tripartite model consists of a negotiation involving the three fundamental parties to any issue related to labour relations (government, workers, and employers). The tripartite practice is recognized as an efficient methodology to generate social commitment from all participants and increase the effectiveness of legislation. Social dialogue, the tripartite model, and participatory processes are a fundamental part of the work of labour inspection in Brazil. Examples of these fora for social participation are listed below.

Permanent Tripartite Parity Commission – CTPP

The CTPP, created in 1996 and based on the tripartite model recommended by the ILO, is a forum for dialogue and negotiation for the three fundamental actors in the world of work – government, workers, and employers. The CTPP is responsible for the elaboration, revision, and updating of the regulatory norms (NRs). The Commission can also propose and support studies or research on accident prevention. The Commission members include the MTE, the Ministry of Health, the Ministry of Social Security; organisations representing

¹⁶ This section is based on information found in the SIT's Management Report (not published).

commerce, industry, agriculture, transportation, and financial sectors; and representatives appointed by the main labour unions.

Commission for the Collaboration with Labour Inspection– CCIT

Instituted by Ordinance no. 216, of 22 April 2005, these commissions were created to work alongside the SRTes as a medium for inspectors to consult with worker representatives. The objective of the commissions is to strengthen the participation of union groups in the SRTes' processes of discussion, elaboration, and monitoring of the annual planning of labour inspection, especially the identification of situations of non-compliance with labour legislation.

National Commission for the Eradication of Child Labour – CONAETI

The commission, created in 2002 to comply with ILO Conventions no. 138 and no. 182¹⁷, is coordinated by the SIT and includes all governmental agencies involved with the issue, workers, civil society representatives, and international organisations. One of the main objectives of CONAETI is the elaboration, implementation, and evaluation of the National Plan for Prevention and Eradication of Child Labour and Protection of Adolescent Workers.

Occupational Safety and Health Tripartite Commission

Created by the Inter-ministerial Ordinance no. 152 of 13 May 2008, the commission's main objective is to revise and broaden the proposal of the National Occupational Safety and Health Plan (PNSST). It follows the tripartite model, with a membership including representatives from the government – from the Ministry of Labour, Social Security, and Health – workers, and employers.

The commission also works on improving the national system of occupational safety and health by defining the roles and mechanisms for permanent exchange between its components and by elaborating a National Occupational Safety and Health Programme, defining its strategies and action plans for its implementation, monitoring, evaluation, and periodic revision, done within the Ministries of Labour, Health, and Social Security.

In February 2010, the Commission approved and sent the basic proposal for the national OSH policy to the *Casa Civil* (Chief of Staff Office) for evaluation.

¹⁷ ILO Conventions no. 138 concerns Minimum Age for Admission to Employment (1973) and Convention no. 182 concerns the Prohibition and Immediate Action for the Elimination of the Worst Forms of Child Labour (1999),

Naval Industry Tripartite Commission

The expansion of the Brazilian naval construction and repair sector in the last seven years led to a more prominent presence of the MTE, through labour inspection, in the examination of the legality of hiring practices and occupational safety and health conditions in work environments. The creation of the Naval Industry Tripartite Commission in January 2008 is a central part of the effort to deepen the dialogue between the government, employers, and workers in order to improve the work conditions in the naval sector.¹⁸

The Commission formulates directives for the promotion of occupational safety and health and for hiring practices. It also proposes to the MTE any measures it deems necessary to improve labour relations and work conditions, and it also collaborates with the SIT in the formulation of good practices guidelines.

6. The National Union of Labour Inspectors (SINAIT)

With the promulgation of the 1988 Constitution, which allowed the unionizing of federal public servants, the labour inspectors created the National Union of Labour Inspectors (SINAIT).¹⁹

The union headquarters is located in Brasilia and has affiliates in several states. The main objective of the union is to defend the rights and interests of their labour inspector members, particularly issues of salary, work conditions, and training. The SINAIT also seeks the constant improvement of labour inspection and exchanges with other unions.

The organizational structure is composed by the following organs:

- 1. General Assembly** – includes all members, elects officials of the Executive Board and the Fiscal Council, approves changes in the statute, approves budget proposals, among other functions;
- 2. Executive Board** – in charge of executing the decisions made by the other organs, of managing the union, and representing its members in collective disputes, among other functions. It is

¹⁸ The Commission was created by the MTE Ordinance no. 64 of 30 January 2008.

¹⁹ The unionization process began before 1988 with the establishment of the first regional associations.

composed by the President and 12 Vice-Presidents, each one managing a specific sector;²⁰

- 3. Fiscal Council** – the financial department of the SINAIT; analyses the budget; approves unplanned disbursements, acquisitions and sales of real estate.
- 4. Council of Union Delegates** – composed by the presidents of state associations/unions. This Council monitors and discusses the decisions made by the Board, among other functions.

Once a year, SINAIT organizes the National Conference of Labour Inspectors (ENAFIT). During the conference there are presentations, courses, and debates about labour inspection. The issues discussed range from technical training to union politics. The ENAFIT also serves as a meeting place for inspectors from different parts of Brazil to meet and share their inspection experiences.

²⁰ The sectors are: union politics, administration, assets and financial disbursements, planning, communication, culture and technical-professional improvement, technical standardization and legal issues, retired inspectors and assistance activities, public relations, security and occupational health and safety, labour inspection, and international affairs.

Box 10: SINAIT contributing to improve labour inspection in Brazil

SINAIT is constantly trying to improve and ensure the quality of the labour inspector career. Listed below are two activities that exemplify this contribution.

- a) Number of inspectors:** One of SINAIT's main concerns is the current number of working inspectors, which the organization regards as insufficient, especially considering the high number of retirements and the fact that incoming inspectors are not enough to compensate for this loss. In order to buttress their demand for more inspectors with statistical data, the SINAIT signed a cooperation agreement with the Institute of Applied Economic Research (IPEA), for the development of a study that will indicate what is the appropriate number of inspectors for Brazil, thereby providing information for the MTE.
- b) Continuous training:** The creation of a training center for inspectors, where besides receiving basic training, they can also continue their education, is extremely important for SINAIT. The union believes that there is a need to build an inspector "identity" during his or her basic training, considering the variety of professionals that join the ranks. The other objective of the center is the construction of professional knowledge – building a body of knowledge typical of a career, which goes beyond formal education.

Ibero-American Confederation of Labour Inspectors (CIIT)

In 1992, the CIIT was founded by SINAIT representatives along with labour inspector unions from Uruguay, Peru, Spain, and Paraguay. The CIIT's objective is to improve the work conditions for its members. The confederation headquarters was established in Brasília in 2009, along with the Andean countries' office in Lima, Peru, and the Mercosul office in Montevideo, Uruguay. The ENAFIT serves as a platform for the Ibero-American Labour Inspection Exchange, where representatives from the member-states of the Confederation meet to discuss their experiences and relevant issues.



7. Brazilian Labour Inspection in an International Context

Brazilian labour inspection presently participates in technical cooperation activities, thematic meetings, and international conferences. The evolution of labour inspection in the country and the results it has achieved is reflected in the growing demand to share Brazilian experiences with other developing countries – the so-called South-South cooperation. Listed below are organizations that facilitate these exchanges and also some examples of Brazilian contributions in the international arena.

7.1. BILATERAL COOPERATION

Brazilian Cooperation Agency (ABC)

The ABC is an agency of the Ministry of Foreign Relations and its function is to negotiate, coordinate, and implement all international technical cooperation agreements. The ABC deals directly with a country that offers/requests assistance or participates in multilateral projects mediated by international organisations, providing financial or logistical support for actions in which Brazil is a provider or receptor of assistance. Some of the bilateral cooperation programmes Brazil is currently participating in include general partnerships (involving all areas of inspection) with Cuba and Bolivia and a partnership with Germany in the area of disabled workers.

7.2. MULTILATERAL COOPERATION

International Labour Organization

With South-South cooperation Brazil has gone from only being a receiver of technical assistance to also being a platform for sharing successful experience with other developing countries. For example, in terms of child labour, in 1992, when the International Programme for the Elimination Child Labour (IPEC) initiated its activities in Brazil, the country was a receiver of assistance. Today, the Brazilian policies and programmes for the eradication of child labour are internationally renowned, making Brazil a reference in this issue-area.²¹

²¹ de Oliveira, 11.

The cooperation between Brazil and the ILO, especially in the South-South realm, has been significantly evolving starting when Brazil signed an agreement with the organization in 29 July 1987, on Technical Cooperation with other Countries of Latin America and Africa. In 2003, Brazil signed a Memorandum of Understanding for the Establishment of a Technical Cooperation Programme for the Promotion of a Decent Work Agenda. In 2006 the Brazilian government through ABC, began to finance a project to combat child labour in Angola and Mozambique, becoming the first developing country to contribute financially to ILO's child labour elimination programme.²² In December 2007, Brazil signed a Memorandum of Understanding with the ILO to fight child labour through greater cooperation between developing countries and also UN agencies. This partnership was consolidated with the Complementary Agreement on Technical Cooperation with Latin American and African countries for the implementation of the ILO/Brazil Partnership Programme for the Promotion of South-South cooperation, signed in June 2009. In the framework of this Complementary Agreement, partnership programmes are being developed in the following areas: the promotion of social security, the elimination of child labour, the eradication of forced labour and the promotion of green jobs, and the strengthening of labour union organizations of lusophone African countries.²³

These and other agreements have led to various international initiatives, by Brazil and the ILO, to eradicate child labour which range from exchange visits to technical cooperation projects. These projects have been carried out in countries like Angola, Mozambique, Haiti, and more recently Ecuador, Bolivia, Paraguay, and East Timor.

Historically, Brazilian labour inspection has been a key partner of the ILO in the implementation of technical cooperation projects, especially those dealing with child labour and forced labour. Brazil's recent institutional evolution makes it a fundamental player in South-South cooperation in order to share its experiences. In fact, the new South-South cooperation projects in these areas have a labour inspection strengthening component and the SIT/ILO partnership is essential for the success of these initiatives.

²² de Oliveira, 10

²³ de Araújo, 8.

Ibero-American Labour Inspection Network

Recently, in 2009, another forum for cooperation was created with support from the ILO, the Ibero-American Labour Inspection Network, founded by Argentina, Brazil, Uruguay, Chile, Portugal, and Spain. In the same year, Costa Rica, the Dominican Republic, El Salvador, Guatemala, Nicaragua and Panama expressed a desire to participate in the network and were accepted as members, followed more recently by Paraguay. The network's objective is to intensify collaboration through the creation of a structure to share information on organization, inspection policies, statistics, good practices, and common challenges.

Mercosul – Social-Labour Commission

The MTE, through the SIT, participates in the strengthening of the social-labour dimension of Mercosul by being part of the thematic subgroup of the bloc. In the last five years, the member-states debated and approved recommendations, resolutions, and agreements that seek to harmonize rules and procedures related to labour inspection, and to contribute to its strengthening. Besides participating actively in the designing and approval of norms, the SIT and the inspection organs of the other bloc members undertake joint inspections to exchange experiences.

Inter-American Network for Labour Administration (RIAL) of the Organization of American States (OAS)

The RIAL works as a cooperation mediator, verifying which areas in target countries are the most problematic and identifying what other countries can provide assistance in these specific areas. Through RIAL, Brazil has been providing technical assistance in the area of maritime and port labour to Argentina, Panama, and Nicaragua. In 2010 Brazil signed a cooperation agreement with Colombia.

8. Sources and additional information

PUBLICATIONS

de Araujo, Andrea and Anita Amorim. **“Strengthening Partners and Expanding Cooperation within the ILO”**. *South-South in Action*. Spring 2010. www.ssc.undp.org.

Inspeção do Trabalho no Brasil: Pelo Trabalho Digno (Labour Inspection in Brazil: For Decent Work). SIT / MTE. Brasília, 2005.

Maduro, Luciano. **“Processos Jurídicos de Decisão em Políticas Públicas: o Caso da Normatização em Segurança e Saúde no Trabalho” (Judicial Decision Processes in Public Policies: the Case of Standardization in Occupational Safety and Health)**. Article presented in the *XIII Latin-American Development Center (CLAD) on State Reform and Public Administration*. Buenos Aires, 2008.

Manual de Gestão de Projetos de Inspeção do Trabalho (Labour Inspection Project Management Manual). (not published) SIT / MTE. Brasília. 2010.

Nota Técnica no. 227 (Technical Note no. 227). SIT, Brasília. 2008.

de Oliveira, Pedro. **“Sustainability of South-South Cooperation – Initiatives Within UN Agencies: The Case of Combating Child Labour in the ILO”**. *South-South in Action*. Spring 2010. www.ssc.undp.org.

Pires, R. R. C. (2009a). **“Burocracia, discricionariedade e democracia: alternativas para o dilema entre controle do poder administrativo e capacidade de implementação” (Bureaucracy, discretionary power, and democracy: alternatives for the dilemma between control of administrative power and implementation capacity)**. *Cadernos Gestão Pública e Cidadania, Escola de Administração de Empresas de São Paulo da Fundação Getúlio Vargas*, 14(54), 147-187.

Ruiz, Maria Luiz Vega. **“Labour Relations Aspects of Labour Inspections”**. In Jeanne Mager Stellman (ed.), *Encyclopedia of Occupational Safety and Health*. International Labour Office. Geneva, 1998.

Uso e Construção de Indicadores no PPA (Usage and Construction of PPA Indicators). Secretariat of Planning and Strategic Investment / Ministry of Planning. Brasília, 2007.

INTERNET WEBSITES

ILO. **www.ilo.org**

Database of International Labour Standards - **ILOLEX. www.ilo.org/ilolex**

Ministry of Labour and Employment. **www.mte.org.br**

National Union of Labour Inspectors - **SINAIT. www.sinait.org.br**

INTERVIEWS

- **Fernando Donato Vasconcelos** – Labour Inspector / SIT / MTE
- **Junia Barreto** – Director of the Department of Occupational Safety and health - DSST / SIT / MTE
- **Luciano Maduro** – Specialist in Public Policy and Public Administration / MTE
- **Rinaldo Marinho Costa Lima** – General-Coordinator of Project Monitoring / DSST / SIT / MTE
- **Rodrigo Vieira Vaz** – Labour Inspector / SIT / MTE
- **Rosângela Rassy** – President of SINAIT
- **Sérgio Paixão Pardo** – International Affairs Coordinator / MTE
- **Tania Mara Coelho** – General-Coordinator of Labour Inspection – DEFIT / SIT / MTE

9. References

Secretariat of Labour Inspection / Ministry of Labour and Employment

Esplanada dos Ministérios Bl. F
Anexo - Ala B - 1º Andar
Brasília – DF / Brasil - 70059-900
Tel: + 55 (61) 6617-6638
www.mte.gov.br

ILO Brazil

Setor de Embaixadas Norte, Lote 35
Brasília - DF / Brasil - 70800-400
e-mail: brasilia@oitbrasil.org.br
Tel.: +55.61.2106-4600
Fax: +55.61.3322-4352
www.oitbrasil.org.br



10. Annex

Example of a Project Initiation Form (TAP)

 Secretaria de Inspeção do Trabalho		Project Initiation Form Superintendency: _____ Federative Unit _____			
Project Name:					
Project coordinator:				CIF:	
Objectives, General Vision, and Justifications					
Objectives:					
General Vision:					
Justifications:					
Specific Objectives					
1.					
2.					
3.					
4.					
5.					
6.					
Numerical Targets					
Specific Objective	Numerical Target Description	2010 target	2011 target	Verifying Agency	
1.				SFIT/SITI/CPMR	
2.				SFIT/SITI/CPMR	
3.				SFIT/SITI/CPMR	
4.				SFIT/SITI/CPMR	
5.				SFIT/SITI/CPMR	
6.				SFIT/SITI/CPMR	

[illegible]



International
Labour
Organization

Secretariat of
Labour Inspection
Ministry of Labour
and Employment

