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Labour administration and labour inspection

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Executive summary

At its 308th Session in June 2010, the Governing Body decided to place an item on labour administration and labour inspection on the agenda of the 100th Session (2011) of the International Labour Conference for general discussion.

The purpose of this report is to provide an overview of the current challenges and future perspectives facing labour administration and inspection systems and to identify key areas of action both for national labour administration and inspection systems and for the ILO. Given the broad range of institutions and activities that fall under the umbrella of labour administration and labour inspection, this report focuses on a select number of areas.

First, while labour administration activities such as standard setting, employment policy, social protection and social dialogue are considered regularly in the ILO through recurrent discussions or global reports, cross-cutting institutional and governance issues are rarely addressed. Second, although employment services, training institutions or social insurance bodies, for example, are commonly discussed, labour ministries themselves, which are at the heart of labour administration in most countries, have been largely ignored. Third, since labour law compliance is a key condition for effective labour policies, labour inspection must be considered as a fundamental pillar of labour administration.

International labour standards

Labour administration and inspection are firmly grounded in international labour standards. The Labour Administration Convention, 1978 (No. 150), and Recommendation, 1978 (No. 158), contain a set of general provisions defining the role, functions and organization of national systems of labour administration. The Labour Inspection Convention and Recommendation, 1947 (No. 81), along with the Labour Inspection (Agriculture) Convention (No. 129), and Recommendation, 1969 (No. 133), establish the basis for developing a labour inspection system that is flexible enough to take account of different national circumstances.

The report discusses the main characteristics of these and other key instruments and sets out their prospects for further ratification, particularly in the light of the promotional activities adopted by the Governing Body in November 2009 for those standards considered most significant from the viewpoint of governance, including Conventions Nos 81 and 129.

Challenges and perspectives

New operating conditions

The report discusses how the context in which labour administration operates has changed fundamentally over the last few decades, prompting public administrations to review their organization, role and operating models. In the field of labour administration, these changes have had contradictory effects. Some national labour administrations found stronger justification for their existence and further strengthening. In other cases, however, labour administrations have been weakened and seem to have lost their influence and raison d'être, requiring a re-evaluation of their relevance and role.

Moreover, the economic crisis introduced an external impetus for redefining the role and working methods of labour administration. The increase in the responsibilities of labour ministries and their agencies since the summer of 2008 has highlighted the institutional and governance challenges that national labour administration systems were already facing, and will continue to face in the years ahead. In this new challenging environment, the report points to the need for labour administrations to adopt a strategy of change, driven by the fundamental principles of good governance, participation, transparency, equity, inclusiveness, effectiveness, accountability and the rule of law.

Policy-making capacity of ministries of labour

In most countries, the design and implementation of labour policy are shared among various ministries and other public bodies. Recent decades have seen many government reorganizations, policy transfers and redistributions of portfolios, with labour ministries sometimes losing traditional responsibilities to other ministries. This tendency continues today.

The report considers that the future of labour ministries and their specific voice in policy matters depend on their capacity to maintain meaningful partnerships with employers' and workers' organizations and to remain the main channel and proponent of social dialogue within government. Another way to maintain labour ministries at the centre of larger economic debates is to strengthen their coordinating role over the elements of national labour policy. However, while many governments have adopted national policies on public health, education or industrial development, examples of involvement of labour ministries in the development of such policies are rare.

The performance of labour administration

In many countries, institutional capacity has been weakened through staff reductions and limited financial resources as a result of earlier structural adjustment policies and fiscal measures. While many labour administrations continue to feel the aftershocks of these adjustment policies, the report finds that experiences have not been uniform for all affected countries. Some countries have in fact overcome these negative effects and shown a renewed commitment to the relevance of labour administration and inspection as a foundation of good governance and economic development.

While the lack of funding is a key problem, the focus should also be on better use of existing resources and better overall labour administration governance. The report shows that there is room for improvement by addressing inadequate governance

structures, poor human resources management, insufficient research, data collection and analysis, or even inadequate use of information and communication technologies (ICTs).

Member States are working to improve labour administration efficiency, including in public employment services, for example through the introduction of modern management methods to address the shortcomings of the traditional "bureaucratic" model. These reforms emphasize accountability by measuring the performance of public institutions.

Another trend highlighted by the report is the decentralization and devolution of labour administration services to local government. This tendency is explained by the search for efficiency, additional savings and improvement in service delivery. It should not, however, undermine the capacity of the central authority to maintain a coordination role, as set out in Convention No. 150.

To cope with increased demands and changes in the labour market, the report notes that labour administrations must consider ways of working more closely with the private sector. Public–private partnerships can yield several benefits, such as improved delivery and access to high-quality expertise and new technology. But they also require regular monitoring and strict evaluation of their effectiveness and cost.

Modernizing labour administration: The case of public employment services

Public employment services (PES) are a unique example of how one of the earliest and most traditional components of labour administration keeps adapting to changing environments and how it has reorganized its functions. The report reviews some of the important PES transformations in terms of institutional structures and capacities, as well as management and delivery methods.

The main purpose of these new arrangements in industrialized countries has been to achieve better coherence between active and passive labour market policies and to delegate more responsibility to local institutional levels. The report notes that in developing countries, efforts have focused on building modern PES and addressing capacity gaps.

In an effort to respond to changing labour market conditions, many PES undertook a restructuring of their operations, taking advantage of new technologies, empirical evidence and policy perspectives in order to enhance performance. Despite national variations, the report points out how many of these transformations share common features, mostly related to a shift towards performance management.

Justifying public expenditure is not the only reason why performance measurement will continue to be a focus of PES. The report explains that the increased outsourcing of PES services provides another argument for accurate performance measurement and strict accountability. Frameworks for regulating the contractual relationship between government and providers diverge significantly between countries, and there is no ideal model. However, the report describes the various advantages and disadvantages of the use of private service providers in PES, concluding that the ILO is well placed to help its member States understand the benefits and pitfalls of outsourcing PES.

New technologies available to labour administration and labour inspection

Over the past quarter century, the widespread adoption of the personal computer, along with the growth of networking, the Internet and mobile communication, has had an enormous impact on how governments, including labour administrations and inspectorates, manage and deliver services.

The report notes that each of these technologies can help bring policy-makers closer to the public and facilitate transparent policy-making. New technology also holds the promise of accelerating the provision of services while offering more on-demand and remote access to users. ICT can also improve the internal management systems of labour administration bodies in the areas of programming and budgeting, as well as human resources management. To some extent, information technology can even compensate for the closure, downsizing or relocation of some field services. Importantly, ICT can facilitate the management and sharing of knowledge and information, particularly between the central authority and decentralized offices.

In developing countries, the use of ICT suited to a country's level of technological development can substantially enhance communication between service providers and clients (for example, through mobile phones). The report points out, however, that the adoption of new technologies in labour administration remains highly uneven between countries and can itself create other challenges, such as the need for additional staff training, the costs associated with upkeep and renewal of software and equipment, and security concerns related to private or confidential information.

Labour inspection at a crossroads

Labour inspection is an essential part of the labour administration system, carrying out the fundamental function of labour law enforcement and effective compliance. The lack of central coordination in some countries, however, contributes to difficulties in promoting labour law compliance. The report considers that coordination of the different inspection bodies within the labour administration system could improve effective action at all levels and serve as a first step in building a modern inspectorate.

Ultimately, the enforcement function falls under the government's responsibility. The report shows, however, that the past decades have seen increased growth in the area of corporate social responsibility initiatives. There is a risk that these private initiatives could undermine the public inspection function by creating a dependence on private monitoring that weakens the capacity of national inspectorates to carry out their mandate.

Employers' and workers' organizations can make significant contributions towards improving compliance at the workplace, particularly through advocacy and awareness raising among their members. They can also contribute as strategic partners in shaping the priorities and activities of the labour inspectorates through sound cooperation.

Collaboration with other authorities, including the police, social security services or tax agencies, plays an important part in improving the effectiveness of labour inspectorates. The report points out that several agreements and protocols have been signed in Europe in particular, as well as joint or combined inspection among different administrative bodies, and that this is fast becoming a way to make better use of limited resources.

Traditional challenges for labour inspection

In November 2006, a Governing Body paper [1] on strategies and practices in labour inspection identified the main challenges facing labour inspectorates. Most of these challenges are widespread and recurrent. The present report suggests that a global approach should be taken to look for effective proposals built on best practices that could lead to corrective action.

Labour inspection institutions, particularly those in developing countries, face numerous and unique challenges towards building and maintaining effective labour inspection systems. These poor conditions can contribute to ethical problems that threaten the integrity and independence of staff and undermine the public protection function of labour inspectorates.

Labour law enforcement is a particular challenge in the informal economy. Certain areas of work, for example domestic work, present difficulties for labour inspectors, such as those related to the right to privacy in households. Inspectors also face the challenge of ensuring labour law compliance in workplaces that are intentionally hidden from view and difficult to detect (for example in the agricultural and construction sectors).

The report further notes that safety and health at work and risk prevention are perennial and evolving problems that should be addressed through general and sustainable approaches in accordance with the safety and health principles laid down in the ILO Occupational Safety and Health Convention, 1981 (No. 155), and the Promotional Framework for Occupational Safety and Health Convention, 2006 (No. 187).

Regulating and preventing child labour and forced labour are priority concerns in many countries, particularly where inspectors' activities do not cover the unregulated informal economy. Moreover, the increased participation of women in the labour market has led to greater awareness of the need to address and eliminate sex discrimination in working conditions, particularly in remuneration, as well as discrimination on other grounds (such as race, national extraction or HIV/AIDS status). The report describes innovative approaches and labour inspection strategies combining traditional methods with new technologies in collaboration with public bodies and the social partners.

New challenges for labour inspection in a changing world

The transformations that have taken place in the world of work, as a result of legislative reform or changes in business and employment practices, have forced inspectors to adapt in order to remain relevant and effective. New technologies are creating new categories of jobs, making monitoring of working conditions increasingly difficult when relying on traditional inspection methods. New inspection skills and strategies for prevention are needed in response to the increasing complexity of industrial processes, OSH problems, new illnesses and physical and mental stress.

The report notes that new forms of employment, outsourcing and complex supply chains have made the daily tasks of inspectors more difficult, requiring global approaches, improved data collection and campaigns involving the social partners, the

[1] ILO: *Strategies and practice for labour inspection*, Governing Body, 297th Session, Geneva, Nov. 2006, GB.297/ESP/3.

media and special inspectors. During the global economic crisis, enterprises and governments adopted a variety of strategies to modify working conditions. As a result, several countries have included the supervision of wage payments and working time arrangements as a priority in their national inspection plans.

With priorities shifting towards an environmentally sustainable economy, the report shows that new programmes and approaches are being developed by labour inspectorates in areas such as green jobs and environmental monitoring.

The fight against undeclared work has become a key concern since the 1990s and is even more relevant today in view of the effects of the economic crisis. Governments are pursuing measures to overcome this phenomenon, including some examples of effective labour inspection campaigns in specific sectors. Several countries have strengthened the applicable sanctions. Elsewhere, the existence of undeclared work has led to the creation of administrative structures designed to combat it. Several countries have held promotional campaigns to regularize undeclared workers instead of relying on inspections carried out by labour inspectorates. The report concludes that these approaches show the potential for alternative legalization programmes to complement increased enforcement measures.

Improving administrative and legal means of action

Planning, programming and reporting are fundamental to achieving a coherent and objective basis for labour inspection that responds to prevailing working conditions and identifies geographic areas or sectors where targeted action is required. The report points out, however, that administrative records in most inspectorates are collected at the national level without applying any standard criteria. Moreover, sex-disaggregated data are seldom available. Improved planning and programming require a significant improvement in the qualifications of inspectors, based on a well-designed training strategy. The involvement of the social partners at the macro level could also encourage more targeted action.

The report points out that sanctions are only one means of action available to inspectors to promote or, in this case, enforce compliance. Penalties and remedies are complementary to the overall purposes of promoting compliance when they are properly tailored to fit a country's regulatory and economic conditions. It is vital for inspectorates to establish appropriate penalties and procedures for imposing and enforcing fines, as well as timely judicial proceedings that follow the principles of due process. However, it is generally perceived that deterrence measures alone are not enough. Rather, a good mix of prevention and sanctions should be employed. Self-assessments and assessments carried out prior to monitoring activities, as well as monitoring measures, can also help to create a culture of compliance.

ILO strategy on labour administration and labour inspection

The subject of labour administration and labour inspection has enjoyed an increasingly high profile in recent years, both nationally and internationally. The report recalls that this is due to the increased relevance of the development and implementation of national labour policies to meet the challenges and opportunities of globalization and, more recently, in response to the impact of the global economic crisis.

The ILO has long recognized the importance of labour administration and inspection as key pillars of good governance. The 2008 ILO Declaration on Social Justice for a Fair Globalization reaffirmed the need to strengthen the ILO's capacity to assist its Members' efforts to reach the ILO's objectives by making labour law and institutions effective and strengthening labour inspection systems. The report notes that the creation of the ILO's Labour Administration and Inspection Programme (LAB/ADMIN) in April 2009 was the result of this renewed vision for improving national systems of labour administration and inspection.

LAB/ADMIN leads the ILO's work on technical support and advisory services in labour administration and inspection, mobilizing relevant expertise across the Office and working through networks across technical sectors and regions to enhance assistance to constituents. The report describes how the Programme's design and implementation of technical assistance is based on systematic needs assessments of country institutions and services supported by national action plans.

There is a continued need to improve ILO technical products and assistance in labour administration and inspection based on independently evaluated good results and practices. The report notes that the ILO should also work to fill research gaps, which, with the notable exception of public employment services, have escaped the interest of researchers.

Lastly, the report highlights a number of global alliances and networks that make a contribution to the exchange of experiences and best practices between national labour administration and inspection systems. The ILO has played and will continue to play a central role in strengthening these platforms of cooperation by promoting international initiatives and effective coordination mechanisms.

Introduction

Background

1. Addressing the need for sound labour administration and inspection systems has been an ILO priority since its inception. The importance of strong and efficient labour institutions in the context of economic and social development is recognized in the Constitution of the ILO, the Declaration of Philadelphia and the ILO Declaration on Social Justice for a Fair Globalization (the 2008 Declaration) and has been further developed by numerous ILO Conventions, Recommendations and other instruments.

2. The value of an effective and efficient labour administration and inspection system is embedded in the Decent Work Agenda (DWA). Indeed, the objectives of the DWA, as recognized by the 2008 Declaration, are "inseparable, interrelated and mutually supportive". [1] The Agenda's four strategic objectives must be underpinned by a holistic and integrated approach to organizing labour ministries.

3. The global financial and economic crisis highlighted the need for sound labour administration and inspection systems. In tackling the consequences of the crisis, the Global Jobs Pact adopted by the International Labour Conference (ILC) in 2009 points to strengthening capacities for labour administration and inspection as "an important element in inclusive action on worker protection, social security, labour market policies and social dialogue" and highlights this as a key area of importance in responding to the crisis and promoting economic and social development. [2] In addition, at the 2010 session of the Conference, the Committee for the Recurrent Discussion on Employment mentioned the need to strengthen the capacities of labour inspection services in its conclusions. [3]

4. Within this context, the Governing Body of the International Labour Office decided at its June 2010 session to place on the agenda of the 100th Session (2011) of the Conference, for general discussion, an item on labour administration and labour inspection. It further invited the Office to prepare a document setting out the orientation of the discussion and the questions to be covered.

[1] ILO Declaration on Social Justice for a Fair Globalization, International Labour Conference, 97th Session, Geneva, 2008, Section I(B). Section I(A)(iii) of the Declaration recognizes the importance of promoting social dialogue and tripartism as the most appropriate methods for making labour law and institutions effective, including in respect of the building of effective labour inspection systems.

[2] ILO: *Recovering from the crisis: A Global Jobs Pact*, International Labour Conference, 98th Session, Geneva, 2009, paras 17 and 26.

[3] ILO: Conclusions concerning the recurrent discussion on employment, para. 44, in *Provisional Record* No. 18, International Labour Conference, 99th Session, Geneva, 2010, p. 67.

5. The document prepared by the Office [4] was discussed in the Committee on Employment and Social Policy (ESP Committee) of the Governing Body in November 2010, and comments were submitted on the contents and structure of the present report. The Committee highlighted the need to focus on a good practice report aimed at enriching the Conference discussion on the needs of constituents and prospects for ILO technical assistance on labour administration and inspection.

Purpose and content of the report

6. The purpose of this report is to provide an overview of recent developments, current challenges and future perspectives for labour administration and inspection systems and to identify key areas of action for governments, the social partners and the ILO.

7. Given the broad range of institutions and activities that fall within labour administration and inspection, [5] the report examines a number of selected areas. After providing an overview of the international labour standards concerning labour administration and labour inspection, the report looks at institutional developments in national labour administration systems, with a focus on ministries of labour. Various institutional components of labour administration have been discussed in connection with other ILC agenda items. However, the cross-cutting role of labour ministries as the pivotal policy-maker in labour administration systems has not been taken up by the ILC since the adoption of Convention No. 150 in 1978.

8. The report also focuses on two major labour administration challenges that are found in both developing and developed countries:

(a) the capacity of ministries of labour to develop and coordinate policy; and

(b) labour administration performance through its adaptation to changing conditions and modernization of management, including the use of new technologies.

9. Next, the report looks at the role of labour inspection, one of the key functions and organizational pillars of labour administration. First, it examines the coordinating role of the central inspection authority and the development of collaboration within and outside the labour inspection system. It goes on to highlight the traditional and new challenges facing labour inspection in areas such as safety and health, environmental and psychosocial risks, vulnerable groups, the employment relationship, the effects of the recent economic crisis, undeclared work and cross-border inspections. The report then addresses the administrative and legal means of action available to labour inspectors that can help to improve labour law compliance.

10. Lastly, the report briefly discusses ILO technical assistance in labour administration and labour inspection.

[4] ILO: *Labour administration and inspection: Challenges and perspectives*, Governing Body, 309th Session, Geneva, Nov. 2010, GB.309/ESP/3.

[5] As defined by the Labour Administration Convention, 1978 (No. 150) (Article 1), the Labour Inspection Convention, 1947 (No. 81) (Article 3), and the Labour Inspection (Agriculture) Convention, 1969 (No. 129) (Article 6).

Chapter 1

International labour standards concerning labour administration and labour inspection

Labour administration

11. Labour administration relates to virtually all of the ILO's standards to the extent that these require government action, often, though not exclusively, by ministries of labour and/or other labour administration institutions.

12. The general framework for labour administration is provided by Convention No. 150, [1] which, together with Recommendation No. 158, defines the role, functions and organization of national systems of labour administration. Both instruments are up to date and relevant to today's socio-economic conditions, as well as being applicable to all ILO member States, irrespective of their level of development or the sophistication of their labour administration systems.

13. Convention No. 150 provides for a coordinated and effective labour administration system that ensures appropriate cooperation with employers and workers regarding activities covered in more detail by other ILO instruments. The particularity of the Convention is that it establishes standards regarding the overall system of labour administration, encompassing the various bodies that deal with matters relating to labour policy, including its international aspects, the provision of services and advice to employers and workers.

14. Convention No. 150 defines the term "labour administration" as public administration activities in the field of national labour policy. It further defines "system of labour administration" to mean all public administration bodies responsible for and/or engaged in labour administration (Article 1). A 1973 Meeting of Experts on labour administration expanded on these terms, stating that the "concept of labour administration should be interpreted in the broadest sense" and that it "should cover all

[1] Convention No. 150 has been ratified by 70 member States (30 ratifications have been registered since the last ILO General Survey on labour administration carried out in 1997, including by countries in Africa (10), Europe and Central Asia (9), Latin America and the Caribbean (7), Arab States (2), and Asia and the Pacific (2)) According to the General Survey of 1997, there are a number of reasons why member States have not ratified Convention No. 150. These include concerns about the compatibility of national legislation with the scope of the Convention under Article 7, which provides that when national conditions so require, member States shall promote the extension, by gradual stages if necessary, of the functions of the system of labour administration to categories of workers who are not, in law, employed persons. Another stated reason for non-ratification is that certain member States consider that they lack the necessary resources, in terms of staff and budget, to meet the requirements for an efficient labour administration system under Article 10 of the Convention. ILO: *Labour administration*, Report III (Part 1B), International Labour Conference, 85th Session, Geneva, 1997 (General Survey, 1997).

activities undertaken by public administration bodies to assist governments in the elaboration, implementation, control and evaluation of labour policy". The Experts went on to say that labour administration "should cover the whole system of ministerial departments and public agencies which have been set up by national laws and regulations to deal with labour matters, and the institutional framework for the coordination of their respective activities and for consultation with and participation by employers and workers and their respective organizations in the formulation and development of labour policy". [2]

15. Convention No. 150 identifies certain functions that systems of labour administration must carry out regarding labour protection, employment, industrial relations and services for the social partners. [3] In carrying out these functions, the competent bodies shall participate in the stages of preparation, administration, coordination, checking and review of national labour policy (Article 6, paragraph 1). Recommendation No. 158 lays down more detailed provisions in the areas of labour standards, labour relations, employment and research in labour matters, which could be taken into account by member States in formulating policy.

16. The ILO Committee of Experts on the Application of Conventions and Recommendations notes, however, that the list of functions enumerated in the Convention is not exhaustive. In addition to those indicated above, the General Survey of 1997 identifies other principal labour administration functions, which are widely practised in many member States. These cover areas such as occupational safety and health, social security, minimum wage fixing machinery and human resource development. [4]

17. The principle of tripartism is also enshrined in the Convention. Accordingly, the various functions of labour administration should be carried out in a spirit of consultation, cooperation and negotiation with the social partners. The recent economic crisis also argues strongly for the need for labour administrations to collaborate through tripartite dialogue in developing labour policy responses through a transparent and participatory process.

Labour inspection

18. Labour inspection is one of the core functions of a system of labour administration and has been the subject of international standard setting since the ILO was founded, with references in the Treaty of Versailles and the ILO Constitution. [5] In addition to

[2] Cited in ILO: General Survey, 1997, op. cit., para. 41.

[3] ibid., paras 44 and 45.

[4] ibid., Ch. II. In the same General Survey, the Committee of Experts noted that certain aspects of national labour policy had become increasingly important, such as the protection of children at work, the promotion of equality of opportunity and treatment in employment, training and upgrading of skills for and in the workplace in general, as well as for women and other less favoured social groups and categories, in particular young people, people with disabilities, and rural and urban self-employed persons (ibid., para. 45).

[5] Part XIII of the Treaty of Versailles establishing the ILO provides that "[each] State should make provision for a system of inspection in which women should take part, in order to ensure the enforcement of the laws and regulations for the protection of the employed". Treaty of Versailles, Part XIII, Article 427, Ninth. Under article 10(2)(b) of the Constitution of the International Labour Organization, the functions of the Office include helping governments improve their administrative practices and systems of labour inspection: "Subject to such directions as the Governing Body may give, the Office shall ... accord to governments at their request all appropriate assistance within its power in connection with the framing of laws and regulations on the basis of the decisions of the Conference and the improvement of administrative practices and systems of inspection."

these constitutive documents, the ILO has adopted numerous instruments over the years dealing with the structure and functioning of the system of labour inspection, either exclusively [6] or as an important element for prevention and labour law compliance. [7]

19. The Labour Inspection Convention, 1947 (No. 81), along with the Labour Inspection (Agriculture) Convention, 1969 (No. 129), and their accompanying Recommendations, establish the basis for a labour inspection system. Conventions Nos 81 and 129 have been designated as priority ILO Conventions, which means that member States are encouraged to ratify them because of their importance in the functioning of the international labour standards system. Most recently, the 2008 Declaration puts special emphasis on the ILO instruments regarded as "most significant from the viewpoint of governance covering tripartism, employment policy and labour inspection". [8] These instruments are now referred to as the governance Conventions, and include Conventions Nos 81 and 129. The emphasis on achieving widespread ratification and effective implementation of these governance Conventions led the ILO Governing Body in November 2009 to approve a plan of action for a promotional campaign. [9] In the context of the recent economic crisis, the ILO Global Jobs Pact also recognized the relevance of instruments related to labour administration and inspection for building a sustainable recovery. [10]

20. The large number of ratifications of Convention No. 81 [11] confirms the broad commitment by ILO member States to maintaining a national system of labour inspection and reinforces the important role played by labour inspectors as guarantors of labour law compliance and worker protection. A number of member States that have not ratified the Convention are making promising progress in this direction. [12] Still others are considering ratifying Convention No. 81 but have first requested technical assistance from the Office. [13]

21. The Protocol of 1995 to the Labour Inspection Convention, 1947 (No. 81), extends the application of the Convention to non-commercial workplaces, covering all categories

[6] Labour Inspection (Health Services) Recommendation, 1919 (No. 5) (withdrawn); Labour Inspection Recommendation, 1923 (No. 20); Labour Inspection Convention, 1947 (No. 81); Protocol of 1995 to the Labour Inspection Convention, 1947 (P. 81); Labour Inspection (Agriculture) Convention, 1969 (No. 129); Labour Inspection (Seafarers) Convention, 1996 (No. 178).

[7] In all, 56 Conventions, one Protocol and 49 Recommendations contain at least one reference to labour inspection (excluding shelved and withdrawn instruments).

[8] The Labour Inspection Convention, 1947 (No. 81); the Employment Policy Convention, 1964 (No. 122); the Labour Inspection (Agriculture) Convention, 1969 (No. 129); and the Tripartite Consultation (International Labour Standards) Convention, 1976 (No. 144).

[9] ILO: *Ratification and promotion of fundamental and governance ILO Conventions*, Governing Body, 306th Session, Geneva, Nov. 2009, GB.306/LILS/6, appendix.

[10] ILO: *Recovering from the crisis: A Global Jobs Pact*, op. cit., section 14(2).

[11] Out of 183 member States, 141 have ratified Convention No. 81, with five ratifications registered since the last General Survey on the subject in 2006 (Fiji, Iceland, Slovakia, Tajikistan and Trinidad and Tobago).

[12] At the November 2010 session of the Governing Body, the Office reported to the Committee on Legal Issues and International Labour Standards (LILS Committee) that several countries were actively considering ratification of Convention No. 81, including Canada, Czech Republic, South Africa and United States (see ILO: *Ratification and promotion of fundamental and governance ILO Conventions*, op. cit., para. 25).

[13] In China and the Philippines, the ILO has recently conducted labour inspection needs assessments, which should contribute towards this process. Thailand is also considering ratifying Convention No. 81 and is looking to the Office for technical assistance. See GB.306/LILS/6, op. cit., paras 44–48.

of workplaces that are not considered industrial or commercial. [14] The non-commercial services sector is estimated to account for a significant proportion of today's labour force (between 10 and 50 per cent, depending on the country). [15] To date, however, only 11 out of the 141 countries bound by Convention No. 81 have ratified the Protocol, [16] with only one ratification registered since 2000. [17]

22. In comparison to the widespread ratification of Convention No. 81, far fewer ratifications have been registered for Convention No. 129, which addresses labour inspection in agriculture. [18] This despite the fact that in many countries the agricultural sector accounts for a large portion of the labour force. The Committee of Experts emphasized the need to develop labour inspection activities in this sector, with a special emphasis on protecting young workers and tackling child labour. [19] Despite some reservations, [20] a number of countries have taken positive steps towards ratifying Convention No. 129. Some member States have announced or envisage consultations with the social partners or the authorities with a view to ratification. Others have expressed their readiness to reconsider the Convention subject to receiving technical

[14] Article 1(2) of the Protocol. The Protocol does not elaborate on this definition, but the preliminary report prepared by the Office for the 82nd Session of the Conference identifies a number of occupations that might be envisaged by the Protocol, such as: public administration; the armed services; emergency and rescue services; education services; transport, telecommunication and postal services; public utilities; cultural and recreational services; religious institutions and charities (cited in ILO: *Labour inspection*, Report III (Part IB), International Labour Conference, 95th Session, Geneva, 2006 (General Survey, 2006), para. 34).

[15] ibid., para. 37.

[16] Azerbaijan, Cyprus, Finland, Guyana, Ireland, Luxembourg, Republic of Moldova, Norway, Russian Federation, Sweden and United Republic of Tanzania.

[17] The General Survey of 2006 noted a number of reasons given by governments preventing ratification of the 1995 Protocol. Some cited the difficulty of identifying the activities, enterprises and services covered by the instrument, or the fact that their labour inspection services already covered all economic sectors, making ratification of the Protocol unnecessary. Others favoured a single labour inspection Convention applicable to all branches of activity rather than several instruments covering different sectors. Still others indicated that ILO technical assistance would be necessary before ratification could be considered. Obstacles to ratification included the fact that inspection of local and provincial government employees was carried out by the provincial and not the federal labour inspectorate, or the absence of a provision in the Protocol allowing the exclusion of religious communities and church organizations, or of nuclear plants and offshore enterprises. The human and financial resource constraints facing many labour inspectorates were also cited as preventing ratification, particularly among developing countries (General Survey, 2006, op. cit., Ch. X).

[18] A total of 50 member States have ratified Convention No. 129, six since the 2006 General Survey (Albania, Fiji, Iceland, Luxembourg, Saint Vincent and the Grenadines and Slovakia). Other ILO instruments related to labour inspection in agriculture include the Plantations Convention, 1958 (No. 110), along with its Protocol (P. 110) and Recommendation (No. 110), in addition to the Safety and Health in Agriculture Convention, 2001 (No. 184), and Recommendation (No. 192). In particular, Convention No. 110, which includes detailed provisions on labour inspection, has only been ratified by ten member States.

[19] See, for example, ILO: *International labour standards: A global approach*, 75th anniversary of the Committee of Experts on the Application of Conventions and Recommendations (Geneva, 2001).

[20] Governments cited administrative, technical or economic obstacles as reasons for non-ratification of Convention No. 129. These included incompatibility between national law and the provisions of the Convention, such as the fact that the Labour Code excludes agricultural activities or workers from its coverage. Others indicated that their system of labour inspection was not sufficiently developed to meet the requirements set out in the Convention. Several countries pointed to the difficulty in setting up an inspection system specifically for the agricultural sector or the fact that they had a national inspection system that already covered all areas of economic activity. Others stated that the Convention was unsuited to the national characteristics of agricultural activity (e.g. the informal nature of the sector or the structure of land ownership), or that the lack of human and fiscal resources available to the labour inspection system prevented ratification. See General Survey, 2006, op. cit., Ch. X. See also GB.306/LILS/6, op. cit., paras 49–60.

assistance, to tripartite consultations, or to the results of an assessment on the conformity of national legislation with the Convention. [21]

23. One specific technical area that has been a recurrent focus of international labour standard setting is occupational safety and health (OSH). The Occupational Safety and Health Convention, 1981 (No. 155), is central to ILO action in the area of OSH, and many of its provisions are complemented and expanded by an array of other ILO instruments. [22] Labour administrations have a special responsibility in developing and enforcing OSH legislation and promoting compliance, particularly through their labour inspection systems. In over half of the countries covered by the 2009 General Survey, [23] labour ministries had an important, if not central, role in formulating and implementing OSH policy. Convention No. 155, which has been ratified by 56 member States, specifies that the enforcement of OSH laws and regulations shall be secured by an adequate and appropriate system of inspection, which, according to the Health Protection and Medical Care (Seafarers) Convention, 1987 (No. 164), should be guided by the provisions of Conventions Nos 81 and 129. Convention No. 155 also emphasizes the importance of a national policy and integrated systems approach towards OSH, which is reaffirmed in the Promotional Framework for Occupational Safety and Health Convention, 2006 (No. 187). To date, Convention No. 187 has been ratified by 16 member States. In this context, mention should also be made of the recently adopted HIV and AIDS Recommendation, 2010 (No. 200), which refers to the role that labour administration services, including the labour inspectorate, should play in implementing the instrument's guidelines. [24]

24. The protective and enforcement functions of labour ministries and inspectorates face particular challenges owing to the increased mobility of workers in a global economy and the multiplicity of working arrangements, which may disguise an employment relationship to the detriment of worker protection. The recent ILO Employment Relationship Recommendation, 2006 (No. 198), recognizes these challenges, calling on the competent authorities to adopt measures to ensure respect for and implementation of laws and regulations concerning the employment relationship, for example through labour inspection services and their collaboration with the social security administration and the tax authorities (Paragraph 15).

[21] See GB.309/LILS/6, op. cit., paras 27–33.

[22] A significant body of international instruments has been developed by the ILO over the past 90 years to assist constituents in strengthening their capacities to prevent and manage workplace hazards and risks. For a complete list, see http://www.ilo.org/safework/normative/conventions/lang--en/index.htm. See also ILO: *Plan of action to achieve widespread ratification and effective implementation of the occupational safety and health instruments (Convention No. 155, its 2002 Protocol and Convention No. 187)*, Governing Body, 307th Session, Geneva, Mar. 2010, GB.307/10/2(Rev.).

[23] ILO: *Occupational safety and health*, Report III (Part 1B), International Labour Conference, 98th Session, Geneva, 2009 (General Survey, 2009).

[24] Para. 44. While OSH is a key HIV/AIDS issue, there are other matters that labour administration and inspection systems should address, including developing national policies and programmes on HIV/AIDS and the world of work, combating discrimination and promoting equality of opportunity and treatment.

Chapter 2

Labour administration

Concepts and terminology

25. As noted above, Convention No. 150 and Recommendation No. 158 provide guidelines on the role, functions and organization of labour administration. These two ILO instruments represent the only recognized international conceptual framework for labour administration.

26. Convention No. 150 makes a distinction between policy-making and institutional frameworks. While "labour administration" means public administration activities in the field of national labour policy, the term "system of labour administration" covers all public administration bodies responsible for, and/or engaged in, labour administration (Article 1).

27. Convention No. 150 does not attempt to define the concept of "national labour policy". For the purpose of this report, and in line with the broad interpretation given to labour administration by the Committee of Experts, [1] the term "national labour policy" is to be understood in its widest sense, that is covering all labour-related matters corresponding to the ILO's mandate. [2]

Origins and development

28. Understanding the origins of labour administration can help to better identify its current challenges and future prospects.

29. Labour administration as a field of governance dates back to the second half of the nineteenth century. Labour ministries, labour inspectorates and other components of labour administration were established to deal with what came to be known as the "Social Question" or *"question ouvrière"* in Europe or the "Labour Problem" in the United States. [3] The original role of labour administration was protective and regulatory. It was aimed at regulating labour markets through systematic and continuous government intervention designed to improve working conditions and safeguard the balance between the interests of employers and workers. Maintaining social peace and

[1] ILO: General Survey, 1997, op. cit., para. 41.

[2] However, it should be noted that the term "labour policy" is often used by national labour administrations in a narrower sense, referring only to protective labour legislation.

[3] This was described by President Theodore Roosevelt in a speech to the United States Congress as "the most vital problem with which this country, and for that matter the whole civilized world, has to deal". President's Message to the Senate and House of Representatives, 3 December 1901.

avoiding major social conflicts [4] was the key motivation of governments, which gradually developed labour institutions, from tiny labour inspectorates and labour offices to fully-fledged ministries of labour. [5]

30. While labour administration has adapted to changing conditions and new requirements, it has also evolved in response to economic and social difficulties. [6] The most striking development in the post-war history of labour administrations has been their involvement in national development policies. Their increasing engagement in employment policy and social protection saw labour ministries move from their original narrow protective, enforcement and sanction-oriented function to one in which they took on a greater role in national economic development. [7] Labour administration was thus transformed into a major instrument of government, in terms of the formulation and execution of labour policies in line with national development objectives, while still maintaining its protective orientation.

Labour administration and the ILO

31. Since its inception, the ILO and labour administration systems have been closely linked, as labour ministries are the main interlocutors and partners of the Organization on the government side. [8] This special relationship is anchored in the ILO Constitution. [9]

32. The ILO has a long-standing commitment to strengthening ministries of labour and has had an impact on the development of labour administration institutions throughout the world, especially through the adoption of international instruments [10] and various forms of technical assistance.

33. This commitment was reaffirmed by the 2008 Declaration. The Declaration emphasizes the need to strengthen the ILO's capacity to assist member States in achieving the ILO's objectives in the context of globalization. More specifically, it stresses the need to promote social dialogue and tripartism as a means for "making

[4] This role was attributed to many labour ministries on their creation. In the United States, for example, section 8 of Public Law 426-62: An Act to create a Department of Labor, 4 March 1913, provides that: "the Secretary of Labor shall have power to act as mediator and to appoint commissioners of conciliation in labor disputes whenever in his judgment the interests of industrial peace may require it to be done".

[5] For further information on the history of labour administration, see M. Wallin: "Labour administration: Origins and development", in *International Labour Review* (1969, Vol. 100, No. 1).

[6] J. Heyes and L. Rychly (eds): *Labour administrations in a changing world: Challenges and opportunities* (Geneva, ILO, forthcoming).

[7] In many cases, this was accompanied by a substantial increase in their budgets, as the development of employment services, labour market programmes, unemployment insurance and other forms of social protection involves greater expenditure than the regulatory function.

[8] Data from 2010 clearly show the preponderance of labour ministries in member States' delegations to the International Labour Conference. Of the 166 countries that attended the 99th Session of the ILC, 164 sent a delegate, and in 124 cases a minister, from the ministry of labour or a functional equivalent such as the ministry of employment, social security, social affairs, manpower, welfare or human resources. Source: ILO: *Final list of delegations*, International Labour Conference, 99th Session, Geneva, 2010.

[9] ILO Conventions and Recommendations are directly adopted at the ILC, with governments represented mostly by the "technical" ministry (ministry of labour or the equivalent), which, in accordance with article 11 of the Constitution of the ILO, may also communicate directly with the Director-General.

[10] For example, a resolution of 1928 invited governments to set up an adequate and specialized department capable of preparing and securing the application of all labour laws and regulations, particularly with regard to inspection services, relations with the International Labour Office, advisory bodies, the settlement of industrial disputes, and the compilation and publication of statistics, reports and all other documents on labour matters (resolution concerning the creation by States Members of services entrusted with labour questions).

labour law and institutions effective, including in respect of the recognition of the employment relationship, the promotion of good industrial relations, and the building of effective inspection systems". [11]

34. The ILO's commitment to capacity development for constituents, including ministries of labour and labour administration systems, [12] has recently led to technical assistance and technical cooperation activities coordinated through its Labour Administration and Inspection Programme (LAB/ADMIN), launched in April 2009. This cooperation covers practically all areas of labour policy, including assistance in the elaboration of laws and policies and institutional capacity development.

35. A specific form of assistance requested by governments focuses mainly on the institutional aspects of labour ministries and their agencies. This consists of assessments or audits of their labour administration and labour inspection systems. [13] These assessments are based on a functional analysis of existing labour administration and labour inspection mechanisms. The findings and recommendations, grounded in ILO principles and taking into account comparative international practice, are presented to governments in the form of ILO technical memoranda (see box 2.1).

Box 2.1
Assessment of labour administration and labour inspection in South Africa, 2009–10

The assessment of the South African labour administration and labour inspection system was requested by the Department of Labour (DoL) in 2009 in support of a departmental reform programme. The overall aim of the assessment was to assist South Africa in improving the effectiveness and efficiency of its labour administration system and labour inspection services and to draw up a series of recommendations for the implementation of such improvements.

The resulting ILO technical memorandum addressed the following issues:

- structure of the Head Office and Provincial Offices
- administration of public employment services
- reorganization and strengthening of the labour inspection system
- ratification of ILO Conventions, especially Convention No. 81
- innovative labour policies in times of crisis
- ILO technical assistance

Based on the technical memorandum, the DoL implemented a series of changes to its internal structures, including the creation of an Inspection and Enforcement Services unit. It is also taking steps towards ratifying ILO Convention No. 81.

[11] Part I(A)(iii).

[12] Constitution of the International Labour Organisation, article 10(2)(b): the Office shall "accord to governments at their request all appropriate assistance within its power in connection with the framing of laws and regulations on the basis of the decisions of the Conference and the improvement of administrative practices and systems of inspection".

[13] Since 2006, the ILO has carried out 44 audits on labour administration and inspection at the request of the Governments of Albania, Angola, Armenia, Belize, Burkina Faso, Central African Republic, Chad, China, Côte d'Ivoire, Djibouti, El Salvador, Ethiopia, Guatemala, Guinea, Haiti, Honduras, India, Jamaica, Jordan, Kazakhstan, Kenya, Lebanon, Liberia, Mali, Mauritania, Mauritius, Republic of Moldova, Montenegro, Nepal, Nicaragua, Oman, Peru, Philippines, Rwanda, Saint Lucia, Senegal, South Africa, Syrian Arab Republic, United Republic of Tanzania, The former Yugoslav Republic of Macedonia, Togo, Trinidad and Tobago, United Arab Emirates and Yemen.

The recommendations on strengthening the labour inspection system were implemented through a series of joint activities funded by a Norwegian technical cooperation project focusing mainly on training managerial staff, building a corps of labour inspection trainers and introducing strategic changes to the labour administration system.

Source: ILO: Memorandum to the Department of Labour, South Africa, 2010.

National labour administration systems

36. The configuration of labour administration systems and their institutions varies according to national circumstances. There are, however, some similarities that can be identified:

- While labour ministries are usually at the heart of national systems of labour administration, some related portfolios are often the responsibility of other ministries, such as the ministry of social affairs or social development, manpower, education, migration, home affairs, finance, health or youth.
- Core labour and employment portfolios are often dealt with by a single ministry. [14] Most labour ministries include an industrial relations function, for instance, but there are cases in which the employment portfolio is associated with ministries of economy or finance. [15]
- Labour and employment agendas are often combined with social affairs. This is the case in more than half of the member States of the Organisation for Economic Co-operation and Development (OECD). In developing countries, social protection is often divided among ministries with responsibility for different social security schemes, managed by separate agencies, [16] and frequently supervised by the ministry of finance. [17]
- Responsibility for vocational training is commonly split between ministries of labour – responsible for job-related and short-term training – and ministries of education, which are in charge of vocational education. [18] More specialized training in areas such as health, agriculture, transport or public services may be under the purview of the relevant ministry. [19]

[14] For example, in Costa Rica, Czech Republic, Kenya, Lithuania and South Africa.

[15] For example, in Finland, Hungary and Switzerland.

[16] See ILO: *Social security: A new consensus* (Geneva, 2001).

[17] In Senegal, the Ministry of Finance supervises the main social security schemes and is represented on their boards of governors together with the labour ministry. Similarly, ministries of finance supervise agencies responsible for contributory schemes in the Bahamas, Barbados, Guyana and Trinidad and Tobago. In Malaysia, the Ministry of Finance supervises the Employees Provident Fund, while the Social Security Organisation is under the Ministry of Human Resources.

[18] For example, vocational training is under the Department of Higher Education and Training in South Africa and under the Ministry of Public Education and the National Vocational Training Institute in Costa Rica. In Cambodia, by contrast, it is under the Ministry of Labour and Vocational Training. In Guyana, the Council for Technical and Vocational Education and Training is under the Ministry of Education, whereas the Board of Industrial Training is with the Ministry of Labour, Human Services and Social Security.

[19] V. Gasskov (ed.): *Vocational education and training institutions: A management handbook and CD-ROM* (Geneva, ILO, 2006), p. 25.

- In some cases, labour ministries have a general responsibility for the public service [20] or for labour migration, especially in countries with a significant proportion of migrant workers. [21]
- Delivery of services is increasingly delegated to parastatal bodies. [22] However, these "agencies" may have very different degrees of autonomy in terms of management, funding and service delivery.
- Policy implementation, and sometimes policy-making responsibility, is typically the function of local (state, regional or provincial) governments, especially in countries with federal or quasi-federal structures. [23]
- There is a growing tendency to outsource the delivery of labour administration services not only to public but also to private providers (both non-profit and for-profit organizations), through various contractual arrangements.

37. While the formulation of labour policy is the responsibility of the State, implementation is often delegated to specialized public agencies. This can be seen as a long-term trend in the areas of public services and labour administration. [24] Labour-related agencies such as public employment services (PES), vocational training institutions and funds, OSH bodies and mediation, conciliation and arbitration councils have a long tradition and, if properly regulated, supervised and coordinated by the labour ministry, can contribute to more efficient and higher quality services.

38. Questions do arise, however, as to whether these agencies are in fact replacing the role of labour ministries, especially in cases where the ministry is weak. This may occur particularly when new policies are adopted and labour ministries choose to use existing agencies to perform tasks that go beyond their original mandate, for example when an existing provident fund or unemployment insurance company is asked to administer larger social security systems, or when OSH issues are delegated to agencies without ensuring that the ministry continues its policy-making role. Another risk associated with the proliferation of agencies is the weakening of technical capacities within the labour ministry, owing to the departure of qualified staff to those very agencies.

39. Convention No. 150 does not specify any particular structure for labour administration systems, but requires that its functions and responsibilities be "properly coordinated" (Article 4). This requirement cannot be interpreted only in purely institutional terms, as integration of policy functions in one body does not in itself guarantee policy coherence. In this regard, ILO labour administration audits regularly

[20] For example, in many African countries, but also in Belgium, France, Slovakia and, more recently, Ecuador.

[21] For example, in Dominica, Egypt, Indonesia, Luxembourg and Spain.

[22] For example, dealing with job placement, vocational training, OSH, mediation and arbitration or the administration of various social protection schemes.

[23] In a number of countries, these services are often delivered by one office (labour centre or similar institution) combining different labour-related functions such as labour inspection, job brokering, payment of unemployment or other benefits or referrals to vocational training programmes. While sharing premises and other utilities can save costs, combining services with widely divergent mandates (such as job placement and labour inspection) in one "labour office" may generate confusion among the public and even deter employers from advertising job vacancies.

[24] Already in 1973, this trend was identified by the ILO Meeting of Experts on Labour Administration: "A widespread concern with the effective management of particular labour administration programmes, with the active participation of employers' and workers' representatives, is leading in a number of countries to the establishment of specialised parastatal agencies for this purpose, with a certain administrative autonomy." ILO: *Role, functions and institutional development of labour administration*, Working Paper for a Meeting of Experts on Labour Administration, Geneva, 15–26 Oct. 1973, para. 38.

identify cases of strong "departmentalization" even within a single ministry, where units with interconnected tasks do not consult each other or share information and resources (human and material), simply because they implement different laws or lack appropriate governance mechanisms.

40. Proper coordination within labour administration systems remains a challenge especially in federal States, where policy-making and implementation are often decentralized and where the law attributes one set of functions to the federal level and another to the state level.

41. Efficient coordination is more difficult to achieve when decentralization is driven by political considerations rather than pragmatic governance. Reforms should take into account the level of responsibility for policy-making and the extent to which decentralization is still compatible with the existence of a single labour market.

42. In countries where both federal and local governments have responsibility for labour matters, there is often a federal labour administration system, and dedicated labour administration systems in each state or provincial government (see box 2.2). In this situation, there is an even greater need for coordination between the different levels of labour administration.

Box 2.2
Coordination of labour policies in India and Pakistan

In India, nationally enacted laws apply at the state level. State legislatures can pass rules for the implementation of such laws and enact their own legislation on a range of labour matters. This can result in some states having higher levels of protection than others, and hence a different balance between laws that operate in the interest of fairness and equity for workers, on the one hand, and competitiveness and efficiency for employers, on the other. Accordingly, the different labour administration systems at state level and the nature of the interventions they support can have an impact beyond the immediate area of labour protection and may, for example, play a role in investment decisions relating to the location of business enterprises.

In Pakistan, the provincial governments have their own Departments of Labour and Manpower. These departments operate under national policies and laws, within the overall responsibility of the Ministry of Labour and Manpower, but have a high degree of autonomy in the implementation of national policies and laws. This autonomy is further reinforced by the legal powers of the provincial governments to pass laws relating to labour matters, sometimes superseding national legislation, and sometimes in contradiction of it.

Source: R. Heron: Challenges and perspectives of labour administration (Geneva, ILO, forthcoming).

43. In other countries, the labour administration system is decentralized in an operational sense, and labour policy formulation and the preparation of laws and regulations are the sole responsibility of a central government. In this regard, while policy matters and related preparation of labour laws are centralized, the implementation of policies and laws, including labour inspection activities, employment services, and the resolution of disputes, are the responsibility of various local labour administrations. [25]

44. Many OECD countries have recently decentralized various aspects of labour market policy in an attempt to improve the targeting of benefits and the rights and

[25] In the Philippines, for example, labour administration operates through 16 regional offices of labour and employment. In Jordan, the Ministry of Labour is the focal point of the labour administration system, but operational matters are decentralized to the field offices located in each governorate and in Amman. In Belize, labour administration operates through ten regional labour offices.

responsibilities attached to them [26] and to better tailor service delivery to local labour markets and policies. In particular, this decentralization applies to active labour market policies, whereas benefit systems remain mostly centrally regulated and administered.

45. These decentralization efforts present a mixed picture. On the one hand, there are undeniable benefits in having local government partners contribute to the adaptation of labour market programmes to suit local needs. They may also help in achieving consensus and cooperation and, in the case of passive policies, in better targeting benefits and the rights and responsibilities attached to them. On the other hand, if the disparity between policies becomes excessive, they may foster inequality and thus attract criticism.

46. In addition, the success of decentralization in labour administration, as in other areas of public administration, largely depends on the capacity of local authorities to bear new responsibilities and must be accompanied by capacity development, in terms of both staff and material equipment for local offices.

Organization of labour ministries

47. The structure and internal organization of a labour ministry is itself a reflection of a ministry's mandate and policy implementation model.

48. There are three main models, which are not mutually exclusive and are often combined within a single country. These are: direct management (where most activities are under the remit of the labour ministry and its departments); indirect management (management through decentralized departments); and delegated management (recourse to existing or newly created independent bodies under the remit of the labour

49. Whatever the choice of models and/or their combination, ministries of labour usually consist of units that can be grouped into three main categories: technical departments; management support services; and general administrative services. An example of a typical organizational structure is given in box 2.3.

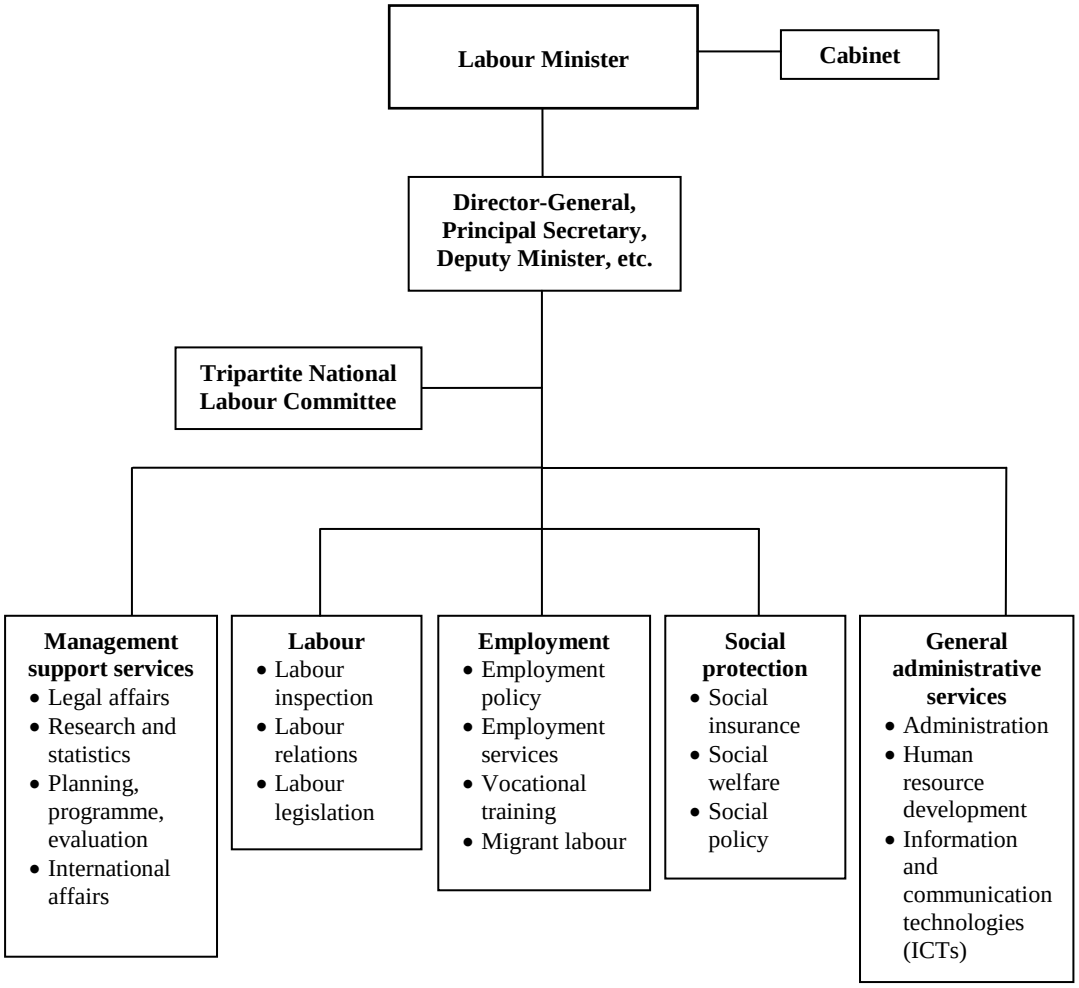
50. Administrative support services are responsible for managing a labour ministry's human, material and financial resources. [27] Their place within the ministerial structure is fairly straightforward. The structure of management support and technical units, on the other hand, can vary considerably from one ministry to another.

51. Management support services play a critical role in the proper functioning of a labour ministry and usually include overall planning, programming and evaluation, legal advice, legal drafting, international relations, research and statistics. They have a direct impact on the labour ministry's capacity to draft legislative texts, influence legislative programmes in other ministries and contribute inputs to national foreign policy (including policies vis-à-vis the ILO). They are also crucial in supporting the work of the technical units by providing statistics, studies and other evidence necessary for effective policy-making. Above all, they have a central role in the formulation of ministry policies, plans and programmes.

[26] H. Immervoll: *Minimum-income benefits in OECD countries: Policy design, effectiveness and challenges*, Social, Employment and Migration Working Paper No. 100 (Paris, OECD, 2010).

[27] General administrative services usually cover areas such as budgeting, accounts control, internal auditing, human resources management, procurement, transport, building maintenance, security, library, documentation and publications.

Box 2.3
Example of a labour ministry organizational structure



52. These services require well-educated and experienced staff, whose knowledge extends beyond the labour sphere. Management support services serve the entire ministry, not only individual technical departments, and are best concentrated in larger centralized units. Thus, in most countries support services are not placed under the heads of technical units, but rather directly under the ministry's senior management (the director-general, deputy minister, principal secretary or an equivalent official).

53. The technical units in most ministries correspond to functional areas such as labour relations, labour legislation, employment, social security, labour inspection and working conditions. Their function is to oversee the administration and implementation of labour policies and legislation, draft new policies and legislative texts and advise and report on their application. They are often also responsible for analysing statistical data and narrative reports from the field, developing and maintaining national databases, preparing annual reports and consulting directly with employers' and workers' organizations.

54. One specific function of labour ministries is to support national interprofessional or sectoral social dialogue, promote collective bargaining and mediate between the parties in the event of industrial disputes. Ministries usually have specific industrial relations

departments to provide assistance in collective bargaining, mediation, etc. As discussed later in this report, in some countries the ministry also provides a wide range of technical and administrative services to a variety of social dialogue bodies.

55. As mentioned above, the original role of labour ministries was to protect workers, and therefore for many years they prioritized the regulation of working conditions (the protective component). In recent decades, the employment component (developing employment and passive and/or active labour market policies) has grown in terms of institutional capacity, share of funds and overall importance. [28] The same has occurred with regard to social security. Today, in many countries, the three components – labour, employment and social security – are combined in a single ministry, the ministry of labour.

Institutional capacity of labour administration

Persisting gaps

56. No labour administration can fulfil its objectives satisfactorily and achieve sufficient impact without appropriate material and financial resources and suitably qualified and trained staff which enjoys a status guaranteeing its independence from external influences. [29] This is often not the case, as may be seen from a variety of sources, including ILO studies and audits. While most labour ministries would argue that their capacities and resources are disproportionately small in relation to the objectives to be achieved, the lack of institutional capacity is especially acute in developing countries.

57. The budget profiles of ministries of labour are not directly comparable because budgets of individual ministries typically correspond to a specific mandate, which varies from one country to the next. In addition, a government's total expenditure on labour matters might be spread over numerous ministries and agencies. [30] As the Committee of Experts regretted in its General Survey of 1997, information provided to the ILO by countries that have ratified Convention No. 150 concerning the application of Article 10 is often imprecise and rarely accompanied by figures on staff and budget. [31]

58. It appears from anecdotal evidence that, while in some countries the labour ministry's budget represents an important proportion of state budgets and has even increased in recent years, [32] in others, these ministries' budgets are among the smallest when compared to those of other government ministries. The gaps are particularly

[28] See, for example, J. Freyssinet: *Négocier l´emploi: 50 ans de négociations interprofessionnelles sur l'emploi et la formation* (Paris, Éditions Liaisons, 2010).

[29] Convention No. 150, Art.10.

[30] There is no corresponding category in the international Classification of the Functions of Government (COFOG).

[31] ILO: General Survey, 1997, op. cit., para. 161.

[32] Recent increases in labour ministry budget allocations have been reported, for example, in Papua New Guinea and Vanuatu. In Costa Rica, the ministry budget increased from 38.5 billion colones in 2005 to 246.7 billion colones in 2010, mainly as a result of the increase in transfers to different social assistance institutions and programmes, and more specifically of the adoption in 2009 of Act No. 8783 amending Act No. 5662 on social development and family allowances and other legislation. In El Salvador, the budget increased in real terms by 61 per cent between 2005 and 2009.

striking if one contrasts labour ministry budgets in developing countries with those in industrialized countries. [33]

59. It is a matter of concern that technical cooperation reports, expert findings and regional meetings repeatedly describe the labour administration capacity in some countries or regions as being at similar levels to the situation decades ago, when attention was focused on the low political status and meagre resources of labour ministries. [34] The introduction of structural adjustment policies in the 1990s, especially in Africa [35] but also in Asia and Latin America, [36] was accompanied by severe cuts in public expenditures [37] and, in some cases, had a serious impact on the capacity of national labour administrations to provide even basic services. The repercussions of these cuts have already been described in the 1997 General Survey but, sadly, they can still be felt today in the labour administration systems of many countries, notwithstanding efforts by many governments to counter these effects and frequent criticism by the social partners.

Insufficient human resources

60. The efficiency of policy-making and the quality and quantity of services provided largely depend on the capacity of labour administration staff.

61. According to various ILO sources, many labour administration systems, especially in developing countries, are woefully understaffed despite substantial efforts made recently by a number of countries. Moreover, there are wide discrepancies between the regions. For example, while the number of employees of PES in Europe might number in the tens of thousands, in an African country with a comparable population the number of staff may not amount to more than a few hundred, and is often much less. [38] In many cases, this severe understaffing is the result of structural adjustment policies enacted in the 1990s, which included widespread public sector lay-offs. As described later in the report, similar disparities exist in labour inspection services.

[33] The budget of the German Federal Ministry of Labour and Social Affairs, for example, is the biggest single budget of any German ministry (€143.2 billion in 2010, equivalent to approximately 40 per cent of the state budget). Out of that total, €59 billion has been allocated to labour market policy measures (including €23.9 billion for basic income support for unemployed people and €11 billion for active labour market programmes). By contrast, in some African countries, budgetary allocations of ministries of labour are less than 1 per cent of the state budget (e.g. 0.76 per cent in Benin (2005) and 0.13 per cent in Togo (2010)). In Central America, budgetary allocations represent 0.15 per cent in Nicaragua (2010) and 0.11 per cent in the Dominican Republic (2010), for example.

[34] ILO: *Role, functions and institutional development of labour administration*, op. cit., paras 408–412.

[35] M. Oumarou: *Réformes de l'administration publique des pays membres de l'UEMOA: impacts et perspectives*, Working Document No. 2, LAB/ADMIN (Geneva, ILO, 2009).

[36] ILO: *Human resource development in the public service in the context of structural adjustment and transition*, Report for discussion at the Joint Meeting on Human Resource Development in the Public Service in the Context of Structural Adjustment and Transition, Geneva, 14–18 December 1998.

[37] Between 1987 and 1996, the World Bank worked in no fewer than 68 developing countries and transition economies on staffing reform programmes that affected the institutional capacity of public administrations. United Nations: *Unlocking the human potential for public sector performance: World Public Sector Report 2005* (New York, 2005).

[38] For example, while the number of PES staff in 2008 stood at 96,000 in Germany and 70,000 in the United Kingdom, South Africa had a total of 480 PES officers and Kenya 38.

Box 2.4
ILO audit of human resources in the Sri Lanka Department of Labour

This ILO audit covered all department staff, collecting information based on a questionnaire and supplemented by interviews and consultations with key personnel. The main findings of the audit were as follows:

- The Department has access to a comprehensive and up-to-date computerized database on all staff as a basis for human resource planning.
- The possibilities for redeployment of existing staff are evident.
- There is a clear need to improve staff training.
- A computer training centre has been established and training for officers provided at all levels, although there is a clear need for further staff training.
- Special-purpose English language training courses have been planned and implemented.
- Ministry staff gained valuable experience in planning and conducting a human resource audit.

Source: R. Heron: Challenges and perspectives of labour administration (Geneva, ILO, forthcoming).

62. Most labour administration employees are civil servants, despite the tendency in both developed and developing countries to increase the number of contract and temporary workers. [39] The recruitment and selection of labour administration officials, as well as their terms and conditions of employment, are mostly regulated by civil service statutes. It is widely acknowledged that long and stable civil service careers contribute to the professionalization of labour inspectors, employment officers and other labour specialists. Even so, the conditions of service offered by labour administration institutions are generally not attractive to qualified workers, and especially highly trained technical specialists, even in many industrialized countries.

63. Many labour administrations also suffer from high turnover, as retention of young and highly qualified staff is difficult. The primary reason is poor and uncompetitive salaries, [40] a situation that is commonly reported to ILO officials in different regions. Moreover, in many countries, there is no system of career planning, and there are few career incentives where promotions are not objectively based on merit or seniority. Poor or non-existent career paths, together with restrictions on new hiring, have led to labour administrations that are staffed by a frustrated and ageing workforce.

64. Frequent political changes in many countries can also contribute to instability among labour ministry management. Some countries regard staff stability as having beneficial consequences for policy development and either have adopted legislation drawing a clear dividing line between political and administrative appointments of senior civil servants [41] or do not allow political appointments at all. [42] In other countries,

[39] For example, in El Salvador, 353 out of 677 employees of the Ministry of Labour and Social Welfare were contract workers in 2009. In Honduras, there were 114 contract workers and 511 permanent workers in the Secretariat of Labour and Social Security (information provided by the governments of El Salvador and Honduras).

[40] As regards salaries, labour ministries often cannot compete not only with the private sector, but also with other ministries, such as ministries of finance, or with public agencies.

[41] For example, in India, where all ministries are headed by cabinet ministers, who are supported by departmental secretaries. The federal and state labour ministries are assisted and advised by the labour secretary, who is not a political appointee.

[42] For example, in Denmark and the United Kingdom, there are no politically driven appointments apart from political advisers outside the normal hierarchy.

however, senior managers change when the government changes. This has a potentially adverse effect on policy coherence and continuity. [43]

65. In general, labour administrations provide training to their own employees, at least in the form of induction training (see box 2.5). However, national training strategies for labour administration officials are often lacking. As a result, training is frequently provided on an ad hoc basis and, in some cases, depends on the availability of donor funding. The resulting lack of a consistent national approach has negative implications for the capacity development of labour administration staff.

Box 2.5
A new training programme in the German Federal Ministry of Labour and Social Affairs

The Federal Ministry of Labour and Social Affairs in Germany is in the process of implementing a new ministry-specific training programme. The programme is in part a response to a new development in the Federal Careers Ordinance, specifying that each ministry should design its own "HRD concept". Every staff member will be entitled to 12 days of further training per year. The Ministry has developed a curriculum of compulsory units, to be completed within five years of appointment, and a suite of options. The rationale for the development of the programme is to increase training opportunities for experienced members of staff and address the low participation rate in training among officials aged over 50. The Ministry also hopes to make training specifically available for women and disabled and part-time employees and increase the training opportunities available to the middle and lower ranks within the civil service.

Source: J. Heyes: Labour ministries and labour administration in transition: Recent developments and future prospects (Geneva, ILO, forthcoming).

66. Labour administrations would benefit from the introduction of a comprehensive training programme encompassing induction, refresher and upgrading training activities, as well as access to training resources in both electronic and printed formats. While there is a considerable amount of existing training materials on labour administration, they often do not reach those who might benefit from them.

67. The creation of training units within the labour administration system, together with trainer training for selected officers, has the potential to systematize capacity development activities. Such units could become focal points both for group training activities and for generating and adapting materials for self-study using computer technology. In some labour administrations, there is a commitment to training activities designed to promote more professional and positive behaviour. [44]

68. Overall, there are important differences between countries, with some labour administrations benefiting from the existence of centralized civil service training

[43] See A. Matheson et al.: *Study on the political involvement in senior staffing and on delineation of responsibilities between ministers and senior civil servants*, Working Paper on Public Governance No. 6 (Paris, OECD, 2007).

[44] In Jordan, for example, the manual on labour inspection includes a code of conduct for labour inspectors to reinforce professional conduct and positive attitudes.

institutions [45] and/or their own training institutes, [46] while others rely on cooperation with outside training bodies or universities. [47]

Material equipment and data management

69. Lack of appropriate material equipment is still a problem, primarily but not exclusively in developing countries. It affects not only the capacity of labour administrations to carry out their work, such as inspection visits, training programmes or job placement, but also their policy-making ability. For example, information collected manually by employment officers or labour inspectors or data from collective agreements is difficult to gather, analyse, and use for policy-making. Even if the information exists in electronic format, it is not easily shared with other units and with management in the absence of a common information network. Similarly, labour administrations often do not share information or do not have access to databases kept by other public bodies. [48] In some cases this may be due to a technical and/or a political problem. However, the absence of a reliable, up-to-date and comprehensive database covering all aspects of labour, working conditions and industrial relations is a common difficulty facing many labour administrations. [49]

70. Consequently, labour administrations suffer from a lack of relevant, reliable and complete information for decision-making. This problem needs to be addressed by taking stock of the information generated throughout the labour administration system and its value, identifying information gaps and developing an information system driven by the needs of users rather than those of the provider. Effective coordination of administrative records can considerably improve the availability of information and data at almost no cost. The improved collection, analysis and distribution of information represent a priority area for capacity development in many labour administration systems, particularly where there is a move towards performance management approaches.

71. A serious problem reported in many cases is the lack of cars and other means of transport for labour officials, as well as poor transportation management, including insufficient reimbursement of transportation expenses. The lack of telephones and limited Internet access impede efficient communication and coordination between ministries and field offices, as well as between field offices and their clients. In many cases, buildings and other labour administration premises are inadequate and difficult to access, especially for people with disabilities, the elderly and even people without

[45] For example, in countries with a French administrative tradition and several countries in Latin America.

[46] For example, Armenia, France, India, Jordan, Mexico and Tunisia. In Sri Lanka, the National Institute of Labour Studies (under the Ministry of Labour Relations and Manpower) was inaugurated in 2008. Its role is to engage in activities such as workers' education programmes, workshops, seminars and conferences, as well as publication and information activity of relevance to employment.

[47] Universities and other outside training bodies sometimes provide specific courses and curricula focusing on labour administration. In Trinidad and Tobago, for example, the Cipriani College of Labour and Co-operative Studies offers a wide range of courses in areas such as labour studies, OSH and environmental management and human resources management, as part-time or full-time courses leading to occupational certificates, diplomas or a Bachelor of Arts degree. The Bachelor of Arts degree, for instance, helps meet the need for academic training at the bachelor's degree level for professionals and practitioners in the fields of industrial relations, labour and manpower economics and human resources management employed in business associations, trade unions and the public service.

[48] For example, labour ministries often do not have access to workplace registers kept by tax authorities, or registers of insurance contributors kept by social security institutions.

[49] See, for example, C.S. Venkata Ratnam et al.: *Labour administration in selected Asian countries* (Bangkok, ILO Regional Office for Asia and the Pacific, 2008). This is also borne out by various ILO labour administration and labour inspection audits.

private means of transport. Sometimes these offices do not meet basic standards as to working conditions, posing risks for worker health and safety and negatively affecting productivity. In other cases, there is not even a reception or advisory service. However, some countries have made substantial efforts to improve the physical infrastructure and material equipment of their labour administrations (see box 2.6).

Box 2.6
Strengthening labour administration and inspection in Algeria

In recent years, Algeria has worked to strengthen and modernize its system of labour administration, enabling the Minister of Labour, Employment and Social Security to exercise real influence on the country's socio-economic policies. This position of influence within the Government and administration is the result of high-level political support for labour affairs, as well as the role and position of workers' and employers' organizations.

The programme of modernization includes a plan of action for employment adopted in 2008, coupled with an investment of 286 billion dinars to help create 3 million jobs between 2010 and 2014. The modernization effort also focuses on the country's labour inspection system through the reorganization and strengthening of labour inspection institutions, recruitment of additional inspectors and expansion of inspectors' powers. Between 2000 and 2009, the budget for labour inspection increased by 120 per cent, providing inspectors with an attractive professional salary and better equipment to carry out their work, and even expanding the physical presence of inspectorates across the country. As a result, there is now one vehicle for every six inspectors (up from one for every 15), enabling inspectors to devote three days a week to inspection visits. This has led to an increase in visits from 82,000 in 2006 to 126,000 in 2009. Over the same period, the number of computers for every inspector has risen from one in 50 to one computer for every labour inspector.

Source: ILO: Labour administration needs assessment mission, 20–25 March 2010.

Critical mass needed to make an impact

72. If these deficiencies call for better governance everywhere, practical solutions may differ according to local conditions. In many developing countries, improving the quality of governance can hardly be achieved without a quantitative increase in staff and funding, especially where labour administrations have been weakened by severe staff cuts, as well as civil conflicts and wars.

73. In order to have an impact and to justify their existence, labour administrations must achieve a certain critical mass in terms of funding and staffing. For example, even if labour inspectorates or PES are reasonably well organized and managed, they will not have the necessary nationwide impact unless they are able to reach a certain proportion of enterprises or help a certain proportion of jobseekers. [50]

74. The disconnect between high ambitions, often expressed in legal and political documents, and the modest reality creates frustration and can undermine society's trust and confidence in the value of these services. A vicious circle is thus created where the labour ministry cannot manage more funds as it cannot justify them through concrete outcomes. A more efficient utilization of existing resources, both human and material, is of course part of the solution. In some cases, however, the vicious circle can only be

[50] For example, the average ratio of employment counsellors to jobseekers in sub-Saharan Africa is one to over 4,000, while in Latin America it is 1:350 and in Europe 1:150. When it comes to financing and equipment, the ratios are even worse. World Association of Public Employment Services (WAPES): *Africa Region Activity Report 2008 and Activity Plan 2009* (Nuremberg, 3 Dec. 2008).

broken by a substantial increase in funds supporting clearly defined, realistic and evidence-based policy objectives.

75. Resource allocation is usually the responsibility of national governments, [51] but labour administrations, led by ministries of labour, need to do more to convince politicians and budget officials of the valuable contribution of labour administration to the country's economy. This requires labour administrations to demonstrate their impact on economic development, including through the prevention or early resolution of labour disputes, their contribution to increased labour productivity or a decrease in the number of occupational accidents, and through needs-related vocational training and skills development programmes and efficient job placement. In short, stressing their development orientation is a starting point towards convincing those responsible for resource allocation of the key role of labour administration.

New operating conditions

The economic, social and political environment

76. The role and structures of labour administrations are determined by the political, social and economic environment in which they operate. That environment has changed considerably over the decades, and is still changing as a result of the financial and economic crisis.

77. The effects of economic and social developments have been amply described in numerous ILO documents and there is no need to repeat their conclusions here. The economic and social challenges faced by labour administrations include: high and persistent unemployment; increased global competition; and a workforce that is diversified, multicultural, more educated and mobile. In many countries, the workforce profile is changing, with an increasing proportion of working women, declining youth labour force participation and an ageing population. Moreover, many countries are facing increased income and wage inequality and persistent gender gaps. In some countries, there is also a high prevalence of HIV/AIDS, tuberculosis and malaria in the working population. [52] Furthermore, there has been a proliferation of forms of employment relationship and a growing proportion of workers in the informal economy.

78. These last two elements underline the urgency for labour administrations to extend their services to workers who do not have a formal employment contract but who have the right to protection, as envisaged in ILO Convention No. 150 [53] and discussed further in the section on labour inspection in this report. In this regard, the ILO Employment Relationship Recommendation, 2006 (No. 198), offers guidance for national labour administrations.

79. Democratic reforms in many parts of the world have extended the scope of the market economy, prompting labour administrations to adapt accordingly. In addition, globalization, especially in the form of regional integration and its direct effects on the world of work (such as free movement of labour and standardization of labour

[51] In some cases, funding is provided by local governments. This is the case, for example, of social assistance, employment services (Belgium), unemployment benefits (United States, outside crisis periods) or vocational training (Switzerland).

[52] ILO: *Changing patterns in the world of work*, Report I(C), Report of the Director-General, International Labour Conference, 95th Session, Geneva, 2006.

[53] Article 7 of ILO Convention No. 150 gives labour administrations a mandate to extend services beyond the formal economy and engage in activities for the benefit of all working people.

legislation), has created the need to harmonize some aspects of labour regulation and to improve horizontal cooperation among national labour administrations. [54]

Impact of the recent economic crisis

80. From the standpoint of labour administration, the global economic crisis represents a major challenge and an historic opportunity. Labour administrations were expected not only to mitigate the social consequences of the crisis, but also to adapt labour policies to build more robust regulatory mechanisms for the future. The crisis has thus been an opportunity to both modernize service delivery mechanisms and strengthen the role of labour ministries in macroeconomic policy-making.

81. The effects of the crisis on employment and living standards in many parts of the world have highlighted the importance of ministries of labour and other components of national labour administration systems. [55] In addition, recognition by the G20 of the ILO's leading role in dealing with the "job crisis" [56] provides an opportunity for labour administrations and ministries of labour to play a more active role within government structures. [57]

82. As a result of the crisis, and because of increased unemployment, labour administration institutions required additional resources. [58] Most countries took the crisis as an opportunity to expand and adjust existing social programmes, as well as introduce new ones (see box 2.7). [59] Labour market policies have featured prominently in many national recovery programmes, [60] leading some governments to increase the capacity of labour administration institutions, especially PES, which are expected to provide efficient services to increasing numbers of jobseekers. Staffing in PES grew in most OECD member States, [61] as well as in some developing countries. [62] In countries such as

[54] For example, in order to become a Member State of the European Union, candidate countries are required to address numerous issues related to labour policy and to adapt their labour administrations accordingly.

[55] For example, the Namibian Minister of Labour and Social Welfare, in his Motivation Statement of 19 May 2010, described the effects of the economic crisis in terms of intolerably high unemployment, sub-living wages and erosion of conditions of employment, stating that "in these circumstances, the role of the Ministry of Labour and Social Welfare has never been more crucial to the social and economic development of our nation".

[56] On 2 April 2009, at the London Summit on Growth, Stability and Jobs, the G20 Leaders adopted a Global Plan for Recovery and Reform. In para. 26, the G20 Leaders committed to supporting family-friendly labour markets and called upon the ILO, working with other relevant organizations, to assess the actions taken and those required for the future. More recently in Seoul, Republic of Korea (November 2010), the G20 Leaders called upon the ILO to continue to work on job growth recovery measures. The plan will be further developed under the French presidency of the G20 in 2011.

[57] See R. Torres: "Incomplete crisis responses: Socio-economic costs and policy implications", in *International Labour Review* (2010, Vol. 149, No. 2).

[58] For example, expenditures on PES and active labour market programmes (ALMPs) in the Czech Republic in 2009 were three times higher than provided for in the labour ministry´s budget (15 billion Czech koruny, compared to a budgeted 5 billion koruny). The principal cause was the increased expenditure on unemployment benefits. Additional resources for ALMPs were provided by EU funds.

[59] ILO: *Protecting people, promoting jobs: From crisis response to recovery and sustainable growth*, Communication to G20 Leaders by the ILO Director-General, Pittsburgh Summit, 24–25 September 2009 (Geneva, 2009).

[60] On average, advanced economies spent 3.9 per cent of their gross domestic product (GDP) on recovery programmes, while developing and emerging economies spent 7.3 per cent of their GDP. In terms of the composition of spending, there was less emphasis on labour market and social spending among developing and emerging economies, where only one tenth of the overall stimulus was devoted to these initiatives. By contrast, advanced economies allocated one fifth of their stimulus to labour market and social measures.

[61] According to OECD figures, staff levels increased by 10 per cent or more in Germany, Hungary, Japan, Mexico, Poland and Turkey (OECD: *OECD Employment Outlook 2010: Moving beyond the jobs crisis* (Paris,

Australia and Switzerland, where funding is determined on a caseload basis, income for PES increased automatically. In some countries, the crisis required the adoption of new programmes and institutions to deal with increasing unemployment. [63]

Box 2.7
Introduction of an unemployment benefit scheme in the Bahamas

In April 2009, the Government of the Bahamas created an unemployment benefit programme establishing a new pillar in the country's social security system (National Insurance (Amendment) Act, 2009). The programme was put in place at a time of mass lay-offs, as unemployment was soaring into the double-digit range, and is one element of the country's response to the global economic and financial crisis. After an interim phase of 14 months, the programme moved into its permanent phase.

The implementation of the programme involved both the Department of Labour in the Ministry of Labour and Social Development and the National Insurance Board (NIB), which is under the supervision of the Ministry of Finance. The Department of Labour Employment Exchange was responsible for registering unemployed workers and issuing an unemployment card. The Director of Labour, or his representative, saw the unemployed person at least every four weeks, assisted in the job search, gave instructions and directions on all job-searching activities (such as availability, willingness, interviews and training) and issued the necessary documents. The NIB administered contributions and payment of unemployment benefits in close collaboration with the Department of Labour.

During the interim phase, large numbers of unemployment benefit claimants (some 20,000 people) had to be accommodated in a short period of time. Initially, claims for the payment of unemployment benefits could be made at special centres throughout the country, including employment exchange offices, NIB local offices or other local government offices. At the height of demand, some 15–20 additional temporary staff were recruited to deal with the workload. Following the interim phase, several of these persons were retained by the NIB on a permanent basis. Thanks to the one-stop centres, the payment of unemployment benefits was carried out within four days of entitlement (similar to other short-term benefits administered by the NIB).

Source: ILO Subregional Office for the Caribbean, Port-of-Spain.

83. There are different opinions about the impact of the crisis on underlying policy trends. Nonetheless, the crisis contributed to a review of some of the assumptions that have informed economic policy over the past 30 years, prompting a reconsideration of these approaches, particularly as they relate to international financial institutions. [64] For example, the International Monetary Fund (IMF) recognized that the strength and quality of labour market institutions can make a substantial contribution to international efforts to generate sustainable growth and development, and that social protection policies play a major role in cushioning populations from economic shocks and in improving social

2010), p. 52). In France, 1,840 new job placement counsellors were recruited in 2009, plus an additional 500 call centre employees. In Germany, the Government recruited 1,000 new placement officers in 2008 and an additional 5,000 in 2009. Spain's PES hired 2,145 staff for their employment offices and 1,500 employees to assist with job searches. The Netherlands introduced mobility centres, which encourage the transfer of workers between businesses.

[62] For example, in Argentina, Bahamas, Cambodia, Cameroon, Costa Rica, Dominican Republic, El Salvador, Guyana, Honduras and Malaysia.

[63] See ILO: *The financial and economic crisis: A Decent Work response*, Governing Body, 304th Session, Geneva, Mar. 2009, GB.304/ESP/2; and ILO: *Tackling the global jobs crisis: Recovery through decent work policies*, Report I(A), Report of the Director-General, International Labour Conference, 98th Session, Geneva, 2009.

[64] R. Torres: *Incomplete crisis responses*, op. cit.

cohesion. [65] In particular, the positive role of unemployment benefits as an automatic stabilizer has been underscored. [66]

84. Within this context, various innovative labour policies have been developed and applied on a large scale, especially those designed to safeguard existing jobs or to better protect vulnerable categories of workers. These include extending the provision of vocational training, strengthening job search assistance, work sharing and various public employment programmes. During the recent economic crisis, considerable attention was given to government-subsidized work-sharing schemes, which significantly helped enterprises to adjust working hours to fluctuating demand, thereby reducing the need for redundancies (box 2.8).

Box 2.8
Government-subsidized work-sharing schemes

In the context of the current global economic recession, many labour administrations, through their PES, introduced or extended programmes under which governments partially subsidized wage costs for businesses through work-sharing schemes. The idea of work sharing is to spread a reduced amount of work over the same number of workers in order to avoid lay-offs or as a measure to create jobs.

The concept of work sharing originated during the Great Depression, and is reflected in the spirit of the Forty-Hour Week Convention, 1935 (No. 47). The Convention, adopted at the height of the Depression, established the principle of the 40-hour week and advocated in its preamble "that a continuous effort should be made to reduce hours of work in all forms of employment to such extent as is possible".

The reduction of working hours under work sharing is often, though not always, coupled with wage reductions proportional to the reduction in hours. However, this loss of income can be replaced through government wage subsidies. These subsidies are often provided through partial unemployment benefits, although they may also come from general government revenues.

Work sharing is much more than "pay cuts". It is a measure designed to share the burden of a difficult economic situation – not only among workers, but between workers, employers and governments as well. Properly designed and implemented, work-sharing policies can contribute to supporting aggregate demand by preventing wage deflation, and reduce future hiring costs and the loss of human capital until the labour market recovers.

Sources: J.C. Messenger: *Work sharing: A strategy to preserve jobs during the global jobs crisis*, TRAVAIL Policy Brief No. 1, June 2009 (Geneva, ILO); IMF: "The human costs of recessions", in ILO–IMF: *The challenges of growth, employment and social cohesion*, Discussion document, Joint ILO–IMF Conference in Cooperation with the Office of the Prime Minister of Norway, Oslo, 13 September 2010.

85. Different forms of national-level social dialogue, most often with ministries of labour playing an active role, have helped maintain social peace by seeking consensual solutions to mitigate the impact of the crisis. Collective bargaining, especially where it had been developed and systematically promoted before the crisis started, contributed to finding alternative solutions to redundancies in many companies. [67]

86. Given that labour policy measures were only some of the components within larger recovery packages, the leading role in the coordination of anti-crisis policies remained

[65] ILO–IMF: *The challenges of growth, employment and social cohesion*, Discussion document, Joint ILO–IMF Conference in Cooperation with the Office of the Prime Minister of Norway, Oslo, 13 Sep. 2010.

[66] O. Blanchard, G. Dell'Ariccia and P. Mauro: *Rethinking macroeconomic policy*, IMF Staff Position Note (12 Feb. 2010). See also S. Cazes, S. Verick and C. Heuer: *Labour market policies in times of crisis*, Employment Working Paper No. 35 (Geneva, ILO, 2009).

[67] L. Rychly: *Social dialogue in times of crisis: Finding better solutions*, DIALOGUE Working Paper No. 1 (Geneva, ILO, 2009).

with ministries of economy or finance in most countries. Nonetheless, labour ministries played a key role when it came to informing government policies, implementing job-creation and job-protection measures, enlarging social protection, strengthening and adapting the delivery of labour administration services and consulting employers' and workers' organizations on proposed measures through social dialogue.

87. While governments managed to avert economic collapse by introducing unprecedented emergency measures at the start of the crisis, these interventions have cast a long shadow in terms of weakened public finances. The crisis has raised the prospect of long-term difficulties related to slower economic growth, reducing government revenue and squeezing public spending. This scenario has the further effect of amplifying already challenging demographic conditions in most industrialized countries (ageing populations and increasing dependency ratios). The adoption of austerity measures to deal with this fiscal imbalance may affect labour administration funding. The effects would be felt in two ways: (a) cuts to social protection and employment creation and other programmes run by the labour administration; and (b) a reduction in operational costs in terms of staff and salaries. [68] The staff cuts could result in increased workloads at a time when there is greater demand for labour administration services, [69] thereby worsening the working conditions of labour administration officials and jeopardizing the efficiency and quality of services provided. [70]

88. Overall, the crisis has highlighted the need to adapt. It is important for labour administrations to learn from the recent crisis and to adjust policies and institutional capacities in order to be better prepared to mitigate the effects of possible future economic shocks. To that end, the ILO has produced a set of balanced policy guidelines, including the Global Jobs Pact (June 2009), urging governments to place job-centred policies and decent work opportunities at the very core of crisis responses. In addition, the Social Protection Floor Initiative (April 2009), co-led by the ILO and the World Health Organization (WHO), advocates investing in a combination of social justice and economic development as a way to better address life's risks. [71]

[68] It seems that the impact of the crisis on public administration has been especially severe in Europe and the United States. In Europe, eight countries reduced public administration staff by a total of 172,000 in the year ending June 2010, while in the United States, total public administration employment fell below pre-recession levels for the first time in July 2010, with local governments cutting staff by 143,000 in the third quarter of 2010 alone. Since 2008, public administration employees in some European countries have seen their wages reduced, mostly as part of fiscal consolidation packages coordinated with international institutions or in preparation for bond auctions. See ILO: *The sectoral dimension of the ILO's work: Update of sectoral aspects regarding the global economic downturn: Public administration*, Governing Body, 309th Session, Geneva, Nov. 2010, GB.309/STM/1/1.

[69] The economic crisis had already placed greater demands on many labour administrations, especially agencies dealing with jobseekers. According to the OECD, the average staff caseload increased in many PES in member States such as Turkey, the United Kingdom (by some 50 per cent), the Czech Republic, New Zealand and Mexico (*OECD Employment Outlook 2010*, op. cit.). Similarly, in France, the caseload of PES officials has grown substantially since 2008. While the plan for French job centres was to assign 60 jobseekers per counsellor, in some regions the ratio has been as high as 180:1 (P. Marini: *Rapport général fait au nom de la commission des finances sur le projet de loi de finances pour 2010, Annexe No. 32, Travail et Emploi* (Paris, Sénat, 2009)).

[70] For example, a 20 per cent reduction in public expenditures in 2009 was reported to have almost paralysed the PES in the Republic of Moldova.

[71] The Initiative approach emphasizes the need to implement comprehensive, coherent and coordinated social protection and employment policies to guarantee services and social transfers across the life cycle, paying particular attention to vulnerable groups.

Policy-making capacity of labour ministries

Specific role of labour ministries

89. Labour ministries have a specific role to play in fostering a combination of social and economic development for balanced and sustainable growth. In addition to their "sectoral" or "line" function in developing specific labour policy measures, they have a "horizontal function" stemming from their relationship with the world of work as guardians of social peace. Indeed, their role in promoting sound labour relations is essential, and gives them a unique position.

90. To fulfil this role, labour ministries should have the capacity to elaborate, adopt, implement and evaluate their own policies, but also to advocate for an employment-centred policy framework as part of any government's broader policy objectives.

91. However, their real influence on policy-making and place in the hierarchy of government departments cannot be taken for granted. The overall picture, as described in various ILO and other sources, is mixed: many labour ministries are already influential and visible, and others have managed to raise their profile as well as their budgetary allocations. In many countries, however, labour ministries have seen their influence decline and do not have the sufficient capacity to carry out their functions properly.

92. Government priorities, including the emphasis on labour policies, determine whether the labour ministry occupies a prominent place among government departments and the extent to which it can influence broader economic policies. Reform projects, the adoption of new labour laws, the revision of pension schemes, or the restructuring of labour administration bodies may focus attention, albeit temporarily, on labour matters and the responsible institutions. Another decisive factor is the political power wielded by the minister of labour (his/her seniority in the government or position within a political party). In countries with coalition governments, the distribution of ministerial responsibilities across coalition members can also be important. These considerations, however fundamental, go beyond the scope of this report.

93. In the following sections, the report addresses three institutional features which directly affect the policy-making role of labour ministries: mandate; strategic and coordinating function; and cooperation with workers' and employers' organizations.

Evolving mandate

94. The mandate of labour ministries is often based on constitutional and other laws and defines their functions as compared to other government departments.

95. Many labour ministries have recently experienced important changes in these mandates. As highlighted above, labour ministries are at the heart of the labour administration system. Nonetheless, they usually share some of the labour-related responsibilities with other government departments or are multi-portfolio ministries. This means that, on top of the traditional labour and employment mandate, labour ministries are often in charge of other portfolios, sometimes only vaguely related to labour matters. These arrangements may be dictated by pragmatic considerations. [72] However, the combination of portfolios often has a direct impact on how policies are formulated and implemented. For example, the respective roles of ministries of labour,

[72] For example, the combination of portfolios may be related to a country's small size. In Vanuatu, labour matters are the responsibility of the Ministry of Internal Affairs, together with portfolios covering police, immigration, provincial affairs, elections, prison services and disaster management. In Saint Kitts and Nevis, the Ministry of Foreign Affairs, National Security, Labour, Immigration and Social Security is in charge of labour affairs.

the interior or foreign affairs in the area of migration might determine whether labour market, security or foreign policy aspects prevail in the delivery of work permits. The division of responsibilities for vocational training between a labour ministry and a ministry of education might have an impact on the orientation of training programmes and their link with the needs of the labour market. [73] Similarly, the combination of "social affairs" with the "employment" agenda may influence the balance between protection needs and job creation imperatives. [74] The combination of labour matters and employment aspects provides obvious advantages in balancing employment conditions and labour market needs, for example when formulating income policies.

96. In theory, coordination may be easier if different labour-related policies reside in a single ministry. Experience suggests, however, that institutional integration does not always result in better coordination. Even within the same ministry, strong dividing lines between departments may result in a lack of policy coherence unless the different units all pursue clearly defined common objectives under the direction of sound leadership.

97. Recently, some governments have experimented with merging their labour ministry (or its employment component) with the ministry of economy or finance. [75] This measure has usually been justified on the grounds that economic growth is the main precondition for job creation and that it is therefore necessary to achieve a synergy between economic and employment policies. Opinions diverge on the effectiveness of this arrangement. It may result in the creation of a more powerful and influential ministry of economy and employment, but it may also lead to the marginalization of pro-labour policies. [76] Such mergers may, in the short term, help to address certain tensions between economic and "spending" ministries and accelerate the implementation of labour market reforms. In the long run, however, they may considerably weaken the chances for labour administrations to raise arguments at government level about the modalities of employment policy programmes, regulation of the labour market, the quality of jobs created or the link between income policies and employment creation (for example, the effects of the minimum wage). Opinions also diverge in regard to several recent mergers with a bearing on the industrial relations agenda, [77] which has been

[73] How responsibility is divided between the two ministries will influence whether the focus is on apprenticeships and continuing vocational training for employed persons, or on training for unemployed persons to help them to obtain jobs.

[74] For example, in Japan, the Ministry of Health, Labour and Welfare was formed in 2001 following a merger between the Ministry of Labour and the Ministry of Welfare. The merger has facilitated the development of a more coherent approach to social and labour issues. The United Kingdom Government in 2001 created a Department for Work and Pensions, which took over responsibility for social security and employment policy.

[75] For example, in Germany (2002–05), France (2007–10), Finland (2008), Hungary (2010) and Switzerland (1999). On the other hand, in the Republic of Moldova, labour matters were shifted from the Ministry of Economy to the newly created Ministry of Labour, Social Protection and Family in 2009.

[76] In 1995, when the United Kingdom Department for Employment was merged with the Department for Education and responsibility for industrial relations was transferred to the Department of Trade and Industry (now the Department for Business, Innovation and Skills), this raised objections from the Trades Union Congress, on the grounds that the department that was supposed to defend the unemployed, the vulnerable and those liable to exploitation would not be represented at the Cabinet table (cited in R. Aldrich, D. Crook and D. Watson: *Education and employment: The DfEE and its place in history* (London, Institute of Education, University of London, 2000).

[77] For example, the United Kingdom Department for Employment, created in 1916, was disbanded in 1995 and responsibility for industrial relations was transferred to the Department of Trade and Industry, basically responsible for competitiveness issues. Similarly, in Ireland, since 2010 industrial relations have been under the purview of the Department of Enterprise, Trade and Innovation. For further details, see J. Heyes: *The changing role of labour ministries: Influencing labour, employment and social policy* (Geneva, ILO, 2004).

traditionally associated with labour matters and is considered to be one of the main functions of a national system of labour administration. [78]

Box 2.9
Recent restructuring of the German Federal Ministry of Labour and Social Affairs

The Federal Ministry of Labour and Social Affairs was established in 1949. Between 2002 and 2005 policy responsibilities were temporarily located within the new Federal Ministry of Economics and Labour (BMWA). The Ministry was assigned responsibility for labour law and employment, as well as the policy areas for which the Ministry of Economics had previously been responsible. Social security (for example, pensions) was transferred to a new Ministry of Health and Social Security, while unemployment benefits remained within the remit of the Ministry of Economics and Labour. The BMWA was established shortly before the then Chancellor Gerhard Schröder announced his intention to pursue liberal economic reforms in line with the country's Agenda 2010 and the recommendations of the Hartz Commission. These reforms included increases in workers' social security contributions, greater emphasis on active employment policies, a relaxation of constraints relating to the employment of temporary agency workers and changes to the system of unemployment benefits. In 2005, the economic and labour ministries were separated and the newly reconstituted Federal Ministry of Labour and Social Affairs regained responsibility for social security.

Source: J. Heyes: Labour ministries and labour administration in transition, op. cit.

98. In most countries, the ministry of finance exerts an important influence over the formulation and implementation of policy, including labour policy. This influence reflects the fact that finance ministries typically determine departmental budgets. [79] In many countries, budgets available for ALMPs result from negotiations between labour and finance ministries. Typically, the greater the financial implications of these policies, the more influential the finance ministry tends to become. In some countries, such as Denmark in the 1990s, ministries of finance play an important role in discussions on labour market reforms. However, concerns are sometimes raised about the finance ministry's ability to analyse and properly interpret labour market phenomena. [80]

99. Because labour ministries have an economic as well as a protective role to play, their relationship with other "economic" ministries is logical. However, in view of the labour ministry's everyday contact with the world of work through field offices, labour inspections and job centres and their interaction with employers' and workers' representatives, they have a unique perspective and a voice that needs to be heard.

Strategic and coordinating function

100. The generic functions of ministries in the policy-making process usually include priority setting, policy and legislative planning and drafting, conducting inter-ministerial consultations, preparing submissions to the government, assisting parliamentary process

[78] See the ILO Labour Administration Recommendation, 1978 (No. 158), Paras 7–10, and General Survey, 1997, op. cit., Ch. II (Part IV).

[79] For example, in Ireland, it is necessary to obtain the opinion of the Department of Finance on new proposals before they can be submitted to the Government. In the United Kingdom, the Chancellor of the Exchequer's influence over departmental goals is formalized through Comprehensive Spending Reviews, through which departmental budgets are set, and Public Service Agreements, which comprise a series of goals agreed by departments and the Treasury. In Germany, any proposed legislation must be submitted to resource negotiation involving all ministries.

[80] J. Heyes: *The changing role of labour ministries*, op. cit.

and passage, and implementation, monitoring and evaluation. [81] Good policy-making in the field of labour administration has two elements: the existence of a long-term vision or strategy and the capacity to coordinate.

101. Events such as mining disasters, large-scale redundancies or nationwide strikes attract media attention and give a glimpse of the daily interventions of labour administration institutions. The administration of labour, however, is much more than day-to-day work. Labour policies must be implemented within a framework of medium- to long-term perspectives. In reality, social systems in individual countries and even regions are usually fairly stable over time, [82] as they are not only embedded in local traditions and institutions, but also determined by relatively stable factors such as a country's economic structure, the composition of the labour force, the strength of the social partners, industrial relations systems and demographic developments.

102. Labour administration institutions must be built to last. [83] They must meet the need for both flexibility [84] and responsiveness, which are especially important in periods of economic and social crisis, [85] with long-term strategic thinking cutting across different policy areas and ministerial responsibilities. These strategies should look beyond the horizon of political cycles, engaging in larger societal consultations, not only across the political spectrum, but also with labour administrations' natural partners: workers' and employers' organizations.

103. The field of labour policy is multidisciplinary and multifaceted. The world of work concerns practically all citizens, including those preparing to enter the workforce and those who have already retired. Labour policy involves rights, but also obligations and sanctions. There are multiple ramifications between labour and other disciplines, including technical disciplines. An ideally functioning labour system thus requires a basic balance between the different actors, but also coordination between its key components: labour legislation, employment policy, social protection and labour relations. In order to be at the centre of economic debates, labour ministries must better exercise or strengthen their role of coordinating all the elements of national labour policy, in accordance with ILO Convention No. 150.

104. However, labour ministries may find it difficult to fulfil their coordinating role in highly dislocated labour administration systems. As noted by the Committee of Experts in their General Survey of 1997, problems can arise with so many players involved in decision-making, policy coordination and action at the national level. This necessarily

[81] See OECD: *The role of ministries in the policy system: Policy development, monitoring and evaluation*, Sigma Paper No. 39 (Paris, 2007).

[82] See G. Esping-Andersen: *The three worlds of welfare capitalism* (Cambridge, Polity Press, 1990).

[83] Many existing institutions in the field of social security were created during the Great Depression of the 1930s and remained relatively unchanged for decades (for example, the US Social Security Administration).

[84] Under Convention No. 150, a ratifying State may delegate or entrust certain activities of labour administration to non-governmental organizations (NGOs), particularly employers' and workers' organizations, or their representatives. This reflects the flexibility built into the Convention to maintain the continued relevance of labour administration systems despite inevitable macroeconomic and social policy changes.

[85] For example, in every major recession since the 1950s, the United States Congress has enacted a temporary programme providing additional weeks of federally funded unemployment insurance benefit until the economy recovered and job prospects improved. See US Congress Joint Economic Committee: *Extending the federal unemployment insurance benefits program* (Nov. 2010).

raises the question as to how the labour administration machinery should be designed so that all of its parts work together as a coherent whole. [86]

105. This coordination should be supported by an appropriate institutional framework. This could be accomplished through national economic and social councils or similar bodies, [87] planning commissions or advisory boards, on which the labour ministry is or should be represented. However, such institutions would mean little if they did not pursue a comprehensive policy agenda.

106. Surprisingly, while many governments have adopted national policies on public health, national education or industrial development, labour ministries have rarely been charged with preparing and submitting documents to governments on a comprehensive national labour policy. The ILO has recently taken an initiative to promote the adoption of such comprehensive policies under the government departments responsible for labour affairs, thus giving labour ministries a coordinating and leadership role in national development plans. National labour policies can act as vehicles for enhancing the role of labour administrations, both in developing and in developed countries (see box 2.10).

Box 2.10
Burkina Faso: Development of the national labour policy

Burkina Faso's Ministry of Labour and Social Security recently submitted a draft national labour policy and an operational action plan to the Government. These documents help consolidate and clarify the country's labour policy, setting out concrete steps towards achieving its objectives. They also ensure that the Ministry's poverty reduction strategy (PRS) is aligned with the provisions of Convention No. 150. A programmatic budget and an expenditures framework were introduced in the Ministry's resource allocation process in order to make the state budget an effective tool for labour policy implementation. An essential part of this new policy approach will be the alignment of sectoral labour policies.

Cooperation with workers' and employers' organizations

107. In accordance with Article 5 of Convention No. 150, the participation of workers and employers and their organizations in relation to national labour policy must be secured through consultation, cooperation and negotiation, to the extent compatible with national conditions, at the national, regional and local levels. This Article makes it clear that such arrangements are not at the discretion of the public authorities. There are many ways, appropriate to national conditions, in which this participation is implemented in practice.

[86] At the national level, there is a need to coordinate inputs from various ministries and agencies to ensure that proposed labour and employment policies are compatible with the policies of other departments and agencies. For example, labour policies intended to provide increased protection for enterprises and workers in the informal economy need to dovetail with the policies of agencies responsible for small enterprise development, regional development, vocational training, women's affairs, youth and agriculture, among others.

[87] In Ireland, for example, mechanisms to improve coordination have been developed. The country's Cabinet Committee on Economic Renewal is chaired by the Taoiseach (Prime Minister) and includes representatives of key departments such as the Department of Social Protection, the Department of Finance, the Department of Enterprise, Trade and Innovation and the Department of Education and Skills. A Senior Officials Group on economic renewal advises the Cabinet Committee. A Senior Officials Group on labour market issues also provides the Committee with proposals and papers. In addition, an Upskilling Coordination Group, chaired by the Department of Education and Skills and including education providers and training services, has been set up to improve coordination in relation to education and training.

108. Tripartite cooperation provides opportunities for workers and employers to be heard and to participate in policy formulation in areas such as the drafting of labour laws, operational aspects of labour inspection, dispute prevention and resolution, employment services and OSH.

109. Social dialogue reaches beyond the strict scope of labour matters through economic and social councils and similar bodies, which include the participation of other government ministries such as those dealing with finance, economic development, industry, agriculture or education. However, labour ministries are in fact the most obvious channel for tripartite consultation.

110. In many countries, labour ministries are responsible for administering the secretariats of national tripartite bodies. Some of these bodies were established as advisory mechanisms to the minister of labour, [88] in some cases even operating as sectoral wage boards and advising the minister on minimum wages and conditions of employment in the various economic sectors. [89] Very often, labour ministries and their technical departments are the main providers of documents for these tripartite meetings. In other countries, although the relationship between the ministry of labour and the social partners is less institutionalized, it is nevertheless important. [90]

111. Labour ministries are also involved in promoting dialogue between employers and workers, which goes beyond establishing enabling legislative frameworks. Their role is to provide an objective basis for collective bargaining between the parties by supplying the social partners with data and official forecasts on prices, wages, employment and labour productivity. In some countries, ministry officials also facilitate the bargaining process by chairing sectoral bargaining committees. Labour ministries can also further workplace cooperation through the promotion of bodies at the enterprise level, including the creation of works councils, safety and health committees, joint consultative bodies, welfare committees, and other bodies designed to encourage dialogue within the enterprise. In many parts of the world, labour ministries also assist in the resolution of industrial disputes by providing conciliation, mediation and/or arbitration services, either directly or through specialized agencies. [91]

112. Labour administration offers a wide range of services to both workers and employers. At the same time, close cooperation with the social partners enables labour ministries to provide feedback to the government on how labour market and social

[88] For example, the Consultative Labour Council in the Dominican Republic, established by Executive Decree in 1999, or the Labour Advisory Board in Zanzibar, United Republic of Tanzania, established in 2005 by Zanzibar's Employment Act.

[89] For example, sectoral wage boards in the United Republic of Tanzania, governed by the Labour Institutions Act (2004).

[90] In Belgium, the National Labour Council (NLC) and the Central Council of Economy (CCE) are independent bodies created by statute that recruit their own staff and organize their activities with funding from the state budget. However, a representative of the Federal Public Service Employment, Labour and Social Dialogue (the equivalent of the labour ministry) takes part in the meetings of the NLC to ensure liaison between the NLC and the ministry and to exercise regulatory and budgetary control.

[91] In many countries, such as Ireland, Kenya, South Africa, United Republic of Tanzania, United Kingdom and United States, agencies with strong institutional links to the ministry of labour were created to provide advice to the social partners in the event of industrial disputes, as well as conciliation, mediation or arbitration services as part of pre-court procedures. Cambodia's Labour Law provides for the establishment of an Arbitration Council to resolve collective labour disputes in cases where these cannot be settled by conciliation. The Arbitration Council is an independent and impartial tripartite body comprising at least 15 members. The Ministry of Labour and Vocational Training is responsible for the functioning of the secretariat of the Arbitration Council.

conditions are changing, so that it can adapt accordingly and take corrective action if necessary.

113. The social partners have traditionally been involved, in a management or a consultative capacity, in the administration of agencies under the purview of ministries of labour. For example, this can be seen in various social security institutions, especially in the case of social insurance, financed wholly or predominantly by workers' and employers' contributions, or in unemployment insurance schemes. [92] The social partners participate in the running of PES in a good number of countries, either on management boards, as in Austria and Germany, or in an advisory capacity, as in the Czech Republic and Turkey. They are also often represented on the governing boards and similar management bodies of vocational training institutions [93] as well as on conciliation, mediation and arbitration bodies.

114. The privileged relationship between labour ministries and the social partners, in terms of both involvement in policy-making and institutional links, is a specific facet of labour administration. Strengthening this relationship is a key objective of labour administration strategies as a means of increasing its policy-making capacity, status and influence.

The performance of labour administration

Modernization

115. In the past decade, faced with deteriorating economic conditions and tightening of national budgets, many governments introduced a variety of measures to increase public sector efficiency and performance. These included strengthening administrative controls while building on traditional civil service values and ethics. At the same time, some countries sought to modernize public institutions using private sector management methods. [94]

116. These methods, in whole or in part, have been adopted by many public administrations around the world, but primarily in industrialized countries. In the field of labour administration, only limited analysis has been carried out on the impact of these methods in terms of increased efficiency, better policy-making and improved service quality. While some success is evident, problems related to the undesired effects of private sector management models have also emerged. As discussed later in this report, PES appeared most suitable for testing quasi-market methods. Social security is another area of labour administration in which performance measurement and other modern management methods have been introduced. [95]

117. The emphasis on cost cutting and innovation drives the need for change in both the private and public spheres. While societal expectations regarding the role of government

[92] See ILO: *Social security: A new consensus*, op. cit. (Geneva, 2001).

[93] See V. Gasskov (ed.): *Vocational education and training institutions*, op. cit.

[94] Applying private sector methods in the public sector was integrated in the concept of "New Public Management". See, for example, J. Steward and K. Walsh: "Change in the management of public services", in *Public Administration* (1992, Vol. 70, No. 4, Dec.); and C. Hood: "A public management for all seasons?", in *Public Administration* (1991, Vol. 69, No. 1, Mar.). See also OECD: *Public administration after "New Public Management"* (Paris, 2010).

[95] See, for example, International Social Security Association (ISSA): *Measuring performance in social security institutions: Outcome-oriented management*, Report of the International Conference, Taormina, 29–30 March 2001.

may have changed over time, they have not diminished. [96] Governments are under continued pressure to deliver better services and increase transparency. Managers of public bodies, including labour administration institutions, have assumed new responsibilities, while their scope of action and tools remain rooted in traditional practices and priorities. [97] At the same time, changes in public sector management often give rise to controversy. The adoption of private sector methods calls into question the compatibility of private management methods with the public interest. This is of particular concern for labour administration institutions, which are charged with upholding social justice.

Performance management

118. Improving the performance of public administration has been a recent focus for many governments. In the case of labour administration, this objective has acquired a new urgency, given the current economic crisis and the increased demand for its services in many countries. Performance management is designed to give officials, and especially managers, incentives to make decisions and allocate resources to produce better outcomes.

119. Establishing long-term objectives is a first step towards improving an organization's strategic and results-based orientation. [98] More concrete outcomes and outputs [99] complement these objectives and are often tied to a budgetary cycle. [100] Ministry of labour action plans may focus on objectives linked to their mandate, as well as the improvement of organizational efficiency and the fulfilment of the government´s overall strategy. [101]

120. Performance contracts are now widely used in public institutions to tie the achievements of an organization and its staff to collective and individual goals. [102] In labour administration institutions, they have emerged as a tool for management by objective. While performance contracts are sometimes limited to senior management, in

[96] OECD: *Public sector modernisation: The way forward*, Policy Brief (Paris, Nov. 2005).

[97] O. Huerta Melchor: *Managing change in OECD governments: An introductory framework*, OECD Working Paper on Public Governance No. 12 (Paris, OECD, June 2008).

[98] In Fiji, the Ministry of Labour, Industrial Relations and Employment states that its vision "captures the desire of all workers to be accorded the fundamental social justice principles and rights at work consistent with ILO Conventions". Its mission statement establishes ten strategic goals, including stable employment relations, safe and healthy workplaces, equal opportunity and job creation (Ministry website, at http://www.labour.gov.fj). Similar statements appear in many agencies attached to the ministry of labour. For example, the vision of the Philippine Social Security System is to "develop and promote a viable, universal and equitable social security protection scheme through world class service" (M.C.C. Ciriaco: "Measuring results and performance appraisal system", in ISSA: *Measuring performance in social security institutions*, op. cit.)

[99] "Outputs" are the results of government activities (i.e. goods and services), while "outcomes" refers to the impact of these outputs.

[100] The Ministry of Labour and Social Security of Swaziland had a plan for 2010 that is subdivided into six major goals and outcomes, which are further developed into concrete outputs/results and implemented through a list of time-bound activities. In Costa Rica, in 2009, the Ministry of Labour and Social Security implemented an Institutional Strategic Plan (ISP), establishing objectives, outcomes and indicators, coordinated through a central programming office.

[101] For example, in the United Arab Emirates, the Ministry of Labour's strategy shifted from being an exclusive service provider to being a policy-maker, along with adopting e-government as a foundation for enhancing organizational efficiency in the areas of human resources, organizational structure, corporate culture and labour regulations.

[102] A.C.L. Davies: *Accountability: A public law analysis of government by contract* (New York, Oxford University Press, 2001).

many countries such arrangements apply across all staff categories (for example, in Belgium, Brazil, Canada, the Netherlands, South Africa and the United Kingdom), including labour officers (Lesotho), employment advisers and labour inspectors (Kenya). Research has highlighted some of the dangers related to performance contracts, including the difficulty of establishing correct and measurable outputs and outcomes, the tendency to focus on easily obtainable objectives, and the manipulation of results. [103] Nonetheless, an OECD study concludes that the potential problems related to performance contracts do not mean that performance measurement or performance management should be abandoned. Rather, they point to the need for caution and pragmatism. [104]

121. For performance management schemes to be effective, they must be supported by quality systems of evaluation. In several countries, performance evaluation is embedded in the administrative culture. Such practices are often part of internal operating procedures and are on occasion carried out by external assessors, as is the case in Canada (Quebec), for example. Evaluations are used for a variety of purposes, including the identification of areas for reducing operating costs and improving management practices, as in the United Kingdom. They are also commonly used to appraise staff performance, whether with a view to career development or as a basis for incentives and enhanced productivity (see box 2.11). [105] While it has an important monitoring function, the value of performance evaluation lies in the objective assessments that give an accurate and actionable picture and avoid subjectivity.

Box 2.11
Performance management systems in two labour relations agencies in the United Kingdom and the United States

The performance management systems (PMS) of the Advisory, Conciliation and Arbitration Service (ACAS) in the United Kingdom and the Federal Mediation and Conciliation Service (FMCS) in the United States differ in many ways, but together they offer a valuable set of lessons, including the following:

- There must be close linkages between the PMS and the organization's wider strategic objectives.
- The type of PMS adopted must be "fit for purpose", reflecting the organization's business focus, while addressing individual personal development.
- An effective PMS is only part – albeit a critical part – of the manager–employee engagement process.
- The successful introduction and operation of any PMS depends on extensive and meaningful communication and consultation with the workforce.
- A sense of ownership by all those involved is essential, as is the perceived commitment of top management. Champions for the PMS are required at both management and grass-roots levels.

Every PMS has a finite lifespan. Changes in the external business environment or operational focus, or budgetary pressures will inevitably require modification or comprehensive restructuring of the current PMS. The key is to anticipate the need to change and plan accordingly.

[103] See A. Ketelaar, N. Manning and E. Turkisch: *Performance-based arrangements for senior civil servants, OECD and other country experiences*, Working Paper on Public Governance No. 5 (Paris, OECD, 2007).

[104] ibid.

[105] A.G. Sylva: "A case study of the experience of the Gambia Social Security and Housing Finance Corporation with the system of performance contract and memorandum of understanding", in ISSA: *Measuring performance in social security institutions*, op. cit.

Neither organization has introduced a performance-related pay (PRP) system linked to the PMS. Instead, FMCS administers a civil service-wide reward system, which features a number of ad hoc performance awards for individuals and/or groups.

Source: K. Hall: Managing individual performance: The ACAS and FMCS case studies (Geneva, ILO, forthcoming).

Performance-related pay

122. Traditionally, the pay of government employees has been based on seniority and regulated by centrally established and incremental salary scales, with promotions as the main performance incentive.

123. Efforts to strengthen performance management presuppose greater managerial flexibility in rewarding the achievement of collective or individual objectives. PRP has been seen as an instrument to improve individual motivation and accountability and retain highly talented staff. In contrast, PRP has also been used as a means to contain wage costs, or to compensate civil servants for the loss of job security on the introduction of fixed-term contracts. Gradually, PRP policies have spread from senior management to other categories of staff. [106] Yet, as noted by recent OECD studies, the percentage of base pay linked to performance remained generally modest for non-managerial workers (5–10 per cent), while it was higher for managers (around 20 per cent). [107]

124. It should be noted that in many countries even the traditional seniority-based systems allowed for compensation of good performance through bonuses. In France, for example, even before the adoption of the Organic Law on finance laws (LOLF) in August 2001, a budgetary reform introducing major changes in public finances (section 35 of Act No. 46-2294 of 19 October 1946 concerning the status of civil servants) allowed the payment of performance bonuses *(prime de rendement)*. [108] Similarly, the civil service reward system in the United States provides for the payment of performance awards. In the United Kingdom, under Cabinet Office guidelines all government service bargaining units are expected to introduce PRP in their reward packages.

125. There is limited evidence on the impact of PRP systems in labour administrations as such. However, extensive literature exists on PRP in public administration in general, especially in countries at the forefront of public administration reforms. [109] These studies suggest positive, albeit temporary, effects on productivity. They point to the difficulties in making these systems work, mainly because of issues relating to monitoring and measuring the performance of individual staff based on objective and quantitative indicators. In addition, the costs associated with adopting and running these schemes are often high and underestimated. Some studies recognize a positive impact on goal setting and increased service quality, but also report that staff find that PRP has not increased their motivation, but is instead "divisive, undermines morale, causes jealousies and

[106] For example, in Canada, Ireland, Italy and Norway, PRP is applied at management level, while in other countries, it only applies to selected ministries.

[107] OECD: *Paying for performance: Policies for government employees*, Policy Brief (Paris, May 2005).

[108] V. Forest: *Nouvelle fonction publique et l'individualisation des rémunérations en France* (Geneva, ILO, forthcoming).

[109] Canada (1964), Denmark (1987), New Zealand (1988), Spain (1984), United Kingdom (1985) and United States (1978).

inhibits workplace cooperation". [110] The same studies note that some managers believe that performance pay reduces cooperation between staff and management. Some authors underline the risk of subjectivity and even arbitrariness, which can have negative impacts on the legitimacy of public institutions in the eyes of the staff and the public. [111]

126. An OECD study has concluded that the significance and impact of PRP should not be overestimated. The success of PRP relies more on the quality of the performance measurement process than on the level of payment. Most importantly, the OECD suggests that PRP requires a mature and trust-based civil service culture and recommends coordination with staff and unions when implementing PRP schemes. [112]

127. The concepts of performance management and PRP were developed and implemented in industrialized countries with well-established public administrations. Some of these practices quickly spread to transitional and developing countries, following the recent trend of governments to turn to private consulting companies and to apply private sector management methods. However, there appears to be consensus among researchers that a certain number of preconditions must exist for these reforms to be successful, in terms of good governance in general, but also in terms of the capacity of management to handle the performance evaluation processes and the presence of a relationship of trust between management and employees.

128. The existence of a public sector with transparent and strictly observed rules is the essential precondition for introducing PRP and other private sector management methods. Some argue that in countries with poorly developed systems of public administration, more benefit can be gained from reforming "old-fashioned" administrative controls and improving employment conditions, career prospects and the professional development of public servants, than from adopting performance-based methods. The OECD is also critical of attempts by certain transitional countries to use PRP methods to determine a large portion of base salaries.

129. Further research and case studies are needed to assess the positive impact of PRP in labour administration management, both in labour ministries and in their agencies. Special attention should be given to the preconditions for the introduction of this type of remuneration, as well as its impact on labour relations in the civil service.

Working with the public and private sectors

130. As labour policy and its administration require a cross-sectoral approach, collaboration among government bodies and public authorities (public–public partnerships) are necessary in virtually all areas of labour administration. Such collaboration can take place, for example, between labour ministries and other ministries or departments in the design of job-creation programmes; between labour ministries and statistical offices in gathering reliable labour market statistics; [113] between the general labour inspectorate and specialized inspectorates (where they exist) in coordinating their inspection activities or sharing databases; between the labour inspectorates and judicial

[110] D. Marsden and S. French: *What a performance: Performance related pay in the public services* (London School of Economics and Political Science, 1998). See also F. Cardona: "Performance related pay in the public service", OECD–SIGMA Presentation to the Second Conference of the Institute of Public Administration and European Integration, October 2002.

[111] F. Cardona: "Performance related pay in the public service", op. cit.

[112] OECD: *Paying for performance*, op. cit.

[113] Reports from developing countries often state that statistics on employment and unemployment are lacking or out of date.

bodies in prosecuting employers for labour law violations; between labour ministries and local governments in the area of public works or social protection; [114] or between labour ministries, ministries of internal affairs and ministries of foreign affairs in regulation concerning migrant workers.

131. These interactions can be narrow or broad, depending on the number of partners, and can benefit from the "pooling or sharing of ... resources ... by two or more stakeholders to solve a set of problems which neither can solve individually". [115] While such synergy between two public bodies is desirable, in practice it is not easy to build a formal cooperative relationship in the public sector, where laws, regulations and hierarchical relationships tend to prevail over informal cooperative relations. [116]

132. A typical area in which cooperation is needed between labour administration and external public and private bodies is in research and statistics. In the current budgetary context, emphasis is being placed on the need to demonstrate the effectiveness of policy programmes and interventions. There is a focus on "evidence-based" policy-making grounded in reliable, clear and comprehensive research. While many ministries have their own research units and similar bodies, [117] partnerships with outside organizations, universities, statistical offices and research institutes – both public and private – may be necessary to follow this approach (see box 2.12).

Box 2.12
Partnership between the Korea Labour Institute and labour administration

Founded in 1988, the Korea Labour Institute (KLI) has emerged over the past two decades as one of the leading think tanks in the Republic of Korea. It employs some 100 staff drawing on a wide range of expertise, including economists, sociologists, econometricians, management scientists and ergonomic scientists.

KLI has facilitated the introduction of new labour market institutions and improved the capacity of labour administration policy-making. Since its establishment, KLI has carried out numerous research projects on labour issues in the country. Its research covers a wide range of issues, such as labour market and employment policy, human resource development and management, industrial relations, labour law and regulations and workers' welfare.

[114] For example, Canada has introduced a new type of federal–provincial partnership agreement that was first signed between Canada and Ontario in November 2005, simultaneously with the Canada–Ontario Labour Market Development Agreements (LMDA). The partnership agreement was created to fill a major gap by making programmes available to the uninsured unemployed (women immigrants, young people) since regular active programmes under the LMDAs are primarily focused on providing services to persons on unemployment insurance. H. Mosley: "The trade-off between flexibility and accountability in labour market policy", in S. Giguère and F. Froy (eds): *Flexible policy for more and better jobs* (Paris, OECD, 2009).

[115] B. Gray: *Collaborating: Finding common ground for multiparty problems* (San Francisco, Jossey-Bass Publishers, 1989).

[116] See for example, the study on partnership between the United Kingdom Department for Work and Pensions and Department of Health in the provision of medical rehabilitation: K. Greasley, P.J. Watson and S. Patel: "The formation of public–public partnerships: A case study examination of collaboration on a 'back to work' initiative", in *International Journal of Public Sector Management* (2008, Vol. 21, No. 3).

[117] In many countries, such as Costa Rica, the Dominican Republic and some African countries, labour market observatories within the labour ministries carry out research on labour market structures, characteristics and trends, developing proposals for employment policies and programmes.

KLI has also contributed to the development of tripartism. By conducting independent and professional research, KLI provides relevant data, information and policy suggestions on controversial labour issues with the social partners. Based on KLI's in-depth and impartial research, representatives of government, employers and workers have an objective basis for social dialogue and building consensus in the negotiation of national labour policies, which helps enhance the credibility and legitimacy of government policy as well as increasing the transparency of the policy-making process.

Source: G. Casale, A. Sivananthiran and C.S. Venkata Ratnam (eds): *Re-engineering labour administration to promote decent work* (Geneva, ILO, 2006).

133. Labour administration, defined by Convention No. 150 as public administration activities in the field of national labour policy, is essentially the government's responsibility. However, this does not preclude the possibility of carrying out certain labour administration functions in collaboration with the private sector (public–private partnerships).

134. Labour administration has always been a purchaser of goods and services from the private sector through the use of commercial contracts, but the outsourcing of core labour administration functions has traditionally been limited to a few technical areas. For example, in many countries, vocational training is delivered by enterprises and other private sector providers. Traditionally, labour administrations also use private consulting services to prepare studies, provide staff training or design computerized information systems. This is often done through specific-purpose contractual arrangements.

135. More recently, there has also been a tendency to turn to the private sector for matters traditionally considered as core labour administration functions, such as labour relations (private conciliators or arbitrators), employment (private providers of placement services and training institutions), social services and social care (see box 2.13).

Box 2.13
Improving social services contracting in New York City

New York City provides social services that are important for the well-being of its residents and constitute a major share of the city's budget. Although some services are delivered directly by city government departments and public employees, the more common means of administering and providing these services is through non-profit organizations that contract with the city. In the 2010 fiscal year, more than 7,000 human services contracts were awarded by the city, totalling more than US$3.7 billion.

Achieving a more effective and efficient relationship between the city and its service providers is an important goal for the municipal administration. Recently, both the city and organizations representing non-profit service providers have devoted considerable effort to making improvements to the contracting process, namely through performance measurement. This enables officials to monitor and measure the quality of services delivered and ensure the accountability of private contractors in their contractual performance. To do so, systems were installed that accurately and quickly report the services delivered and allow government to pay promptly for these services while maintaining tight control over the management of public funds.

Sources: J. Krauskopf, B. Chen and J. Casey: The role of contracting in government–nonprofit relations: New York City initiatives, provider capacity and constraints, and recent national developments, draft for presentation at the 32nd Annual APPAM Research Conference, Boston, 4–6 November 2010; J. Krauskopf: "Performance measurement in human services contracts", in New York Nonprofit Press (2008, Vol. 7, Issue 2, Feb.).

136. Developing contractual relationships with the private sector has several advantages, such as access to high-quality expertise or new technology, substitution of private

resources for constrained public budgets, better and quicker services to clients or specialized management capacity for large and complex projects. [118]

137. Public–private partnerships also pose new challenges to labour administrations, as they require new management and operational skills, including the preparation, negotiation and monitoring of contracts, setting the price for services, drafting projects, preparing terms of reference, handling the tendering process and project evaluation.

138. When outsourcing services to the private sector, labour administrations must be able to monitor and evaluate the outputs and outcomes of these services and take appropriate decisions, since the ultimate responsibility remains with the State. For governments, outsourcing should not be a default approach to service delivery, but should be used only if the government can guarantee individual rights and legal entitlements, maintain its policy-making role and properly oversee the performance of private providers and the quality of service delivery.

Some lessons learned from modernization efforts

139. There are some essential lessons that can be drawn from recent labour administration reforms, as examined in ILO studies, labour administration and inspection audits, United Nations and OECD papers and other relevant sources.

140. As societies keep changing, labour administration continues to adapt. As highlighted by the ILO in 2006, the world of work is changing profoundly [119] and labour administrations must react with new policies, new services and new ways of enforcing existing laws, even beyond the formal economy.

141. While changes in administrative structures and the reallocation of resources are necessary, there are many reasons why these changes should not be undertaken lightly, as established organizations provide the stability and continuity necessary both to ensure policy coherence and to allow officials to build up the required capacity, knowledge and relationships for addressing complex public policy issues.

142. Contrary to the "self-proclaimed universal relevance" [120] of new public management (NPM) prescriptions, there is no single generic way to reform public administration. The existence of rule-based government is the main precondition for market-type reforms. [121] The outcomes of NPM-inspired reforms are in fact mixed, and it should not be forgotten that these types of reform entail considerable transaction costs. [122]

143. To achieve successful modernization and management change, governments should consult the social partners. In the world of work, it is vital to balance divergent points of view if sustainable and legitimate solutions are to be found. Labour administrations should take advantage of the social partners' experience and regular opportunities for social dialogue.

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[118] R. Heron: *Labour administration: A modern, developmental approach* (Bangkok, ILO, 2007).

[119] ILO: *Changing patterns in the world of work*, op. cit.

[120] E. Sol and M. Westerveld: *Contractualism in employment services: A new form of welfare state governance* (The Hague, Kluwer Law International, 2005).

[121] A. Schick: "Why most developing countries should not try New Zealand reforms", in *The World Bank Research Observer* (1998, Vol. 13, No. 1, Feb.).

[122] See, for example, L. Bordogna: *Moral hazard, transaction costs and the reform of public service employment relations*, DIALOGUE Paper No. 19 (Geneva, ILO, 2008).

144. The role of the ILO should be to help labour administrations to learn from one another's successes and failures, taking into account national and regional differences that might influence the choice of reform methods.

Modernizing labour administration: The case of PES

New environment and new challenges

145. PES represent a unique example of how one of the earliest and most traditional components of labour administration systems keeps adapting to a changing environment and how, over the decades, it has reorganized its functions. Moreover, thanks to numerous international and regional mechanisms for information sharing, mutual learning and benchmarking, [123] innovative practices developed in one country or region can quickly spread.

146. Since the reappearance of large-scale unemployment in the mid-1970s, PES have become one of the main government instruments used to tackle labour market problems and have consequently been under pressure to make their services more efficient. With the shift in public spending from passive to active labour market policies, encouraged by many governments in the 1990s, [124] PES were given a more prominent role, not only in the delivery of placement services, but also in developing and testing programmes to address specific groups of unemployed, such as long-term unemployed or young workers. With fiscal restrictions, [125] PES had to proceed more systematically, evaluating existing programmes and considering their replacement with more cost-effective ones. The recent economic crisis has also tested the efficiency of PES in many countries under the scrutiny of the media and the general public.

147. To cope with these demands, the administration of employment services underwent important transformations in terms of institutional structures and capacities, as well as management and delivery methods. This section of the report will briefly review these, illustrating them with country examples.

148. The above remarks apply mostly to industrialized and some middle-income countries; PES in developing countries have not progressed significantly. [126] As pointed out earlier in this report, many developing countries are struggling with a lack of technical capacity to deliver effective employment services, compounded by insufficient political interest and support. As a result, the labour force is not registered or serviced, and PES are not used and do not have the confidence of employers and workers. Consequently, governments cannot benefit from the potential of PES to contribute to the development and formalization of their economies. This potential is widely acknowledged. The ILO could address this issue in cooperation with other players in this field, such as WAPES and the OECD.

[123] For example, the ILO, OECD, the World Association of Public Employment Services (WAPES) and the European Network of Heads of Public Employment Services.

[124] See, for example, OECD: *OECD Employment Outlook 1993*, Ch. 2: "Active labour market policies: Assessing macroeconomic and microeconomic effects" (Paris, 1993).

[125] For example, following the Stability and Growth Pact and Economic and Monetary Union in Europe in the 1990s.

[126] ILO: *ILO support for the role of public employment services in the labour market*, Governing Body, 306th Session, Geneva, Nov. 2009, GB.306/ESP/3/2.

Institutional changes

149. Institutional PES arrangements have recently changed in numerous countries. In industrialized countries, the main purpose of these new arrangements has been to achieve better coherence between active and passive labour market policies and to delegate more responsibility to local institutional levels. In developing countries, efforts have focused on building modern PES and addressing capacity gaps. In some of them, new legislation has been adopted and new institutions created for this purpose.

150. To increase coherence between ALMPs and income support measures and to provide jobseekers and other beneficiaries with "one-stop shops" where services and information are more easily accessible, placement services have been integrated with the national unemployment benefit administration in several countries, following the example of reforms in New Zealand in 1998 and the United Kingdom in 2002 (see box 2.14). [127]

Box 2.14
Change management – Jobcentre Plus in the United Kingdom

Jobcentre Plus is the United Kingdom's public employment service. Formed in 2002, it integrated the former Benefits Agency and Employment Service after undergoing significant structural and organizational transformation. Some of the key lessons learned from its successful change management in a challenging environment are as follows:

Stakeholder engagement

- Early identification and engagement with key stakeholders, ensuring senior "buy-in" from the beginning; maintenance of an appropriate governance framework and collaborative engagement.

Managing delivery

- A dedicated senior programme management team focused on successfully guiding change initiatives from concept to reality.

Managing key risks, issues and decisions

- Development of a centrally managed risk assessment process linked to a specific programme plan to ensure that risk management was an inherent feature of daily programme control.

Leadership and organization

- Appointment of an effective senior programme manager supported by a capable core team.

Communications

- Identification of the audience and clear articulation of the rationale for change, outlining progress and forthcoming challenges.

Preparing the business for change

- Preparation of detailed planning and implementation guidance to support the successful deployment of change into operations.

Preparing staff for change

- Early involvement of staff, combining learning activities with the roll-out of change to maximize use of staff time and minimize negative impact on delivery of business objectives.

[127] In Norway, New Zealand and the United Kingdom, placement services have been integrated with the administration of disability and lone parent benefits. In Finland and the Netherlands, they have been partly devolved to the local level, where placement services can be integrated with the management of social assistance benefits.

Working in partnership with suppliers/partners

- Collaboration with suppliers/partners to ensure clarity and common understanding of requirements.
- Early identification of areas where in-house skills did not meet requirements and contracting with private providers for appropriate support.
- Maintenance of close financial control reinforced by formal commercial and financial reviews.

Source: S. Davidson: Jobcentre Plus – Transforming services for the future (Jobcentre Plus, Oct. 2010).

151. In France, the PES was reorganized under the General Review of Public Policies launched in July 2007. This resulted in the creation of a new public institution, "*Pôle emploi*," in 2008, [128] which saw the merger of the National Employment Agency (ANPE) and the employment agencies for industry and commerce (Assedic). [129]

152. Efforts to achieve a closer link between employment policy and social security have also spurred recent reforms in Ireland, which were part of the overhaul of the entire labour administration system. [130] Until March 2010, responsibility for employment policy and unemployment benefits resided with two separate departments: with the Department of Enterprise, Trade and Employment (now the Department of Enterprise, Trade and Innovation) in charge of labour and employment policy, as well as vocational training; and the Department of Social and Family Affairs responsible for welfare (now the Department of Social Protection). The delivery of employment services and the administration of benefits remain separate for the time being, the former falling within the remit of the PES, the Training and Employment Authority (FÁS), while the latter is the responsibility of the local social welfare offices. FÁS remains in charge of apprenticeships, competency development and training for unemployed workers. [131]

[128] Act No. 2008-126 of 13 February 2008 on reform of the organization of the PES.

[129] The objective of this merger was to overcome institutional separation between the activities of job placement (ANPE) and the payment and management of unemployment benefits (Assedic). At the national level, employment services are under the General Delegation for Employment and Vocational Training (DGEFP), which since 2007, has been under the authority of the Ministry of Economy, Finance and Industry, but which is also supposed to cooperate with the Ministry of Labour, Employment and Health, as well as with the Ministry of Immigration, Integration, National Identity and Codevelopment (Ministry of the Interior, Overseas France, Local Authorities and Immigration). At the local level, PES comprise the "*Pôle emploi*", the Regional Departments of Enterprise, Competition, Consumption, Labour and Employment (DIRECTE) and the National Association for Vocational Training of Adults (AFPA).

[130] On 1 March 2010, the labour administration system was reorganized as follows:

(i) The Department of Enterprise Trade and Employment was re-titled the Department of Enterprise, Trade and Innovation (DETI). DETI retained responsibility for labour relations and employment protection.

(ii) Responsibility for the skills agenda was reallocated from DETI to the Department of Education and Skills (previously the Department of Education and Science). This resulted in the first ever merger of responsibility for vocational training and continuing education. The hope is that this will result in efficiencies and synergies that will improve service delivery. It is also thought that the reforms will enable a more effectively integrated approach to education and training activities designed to address labour market developments and future skills needs.

(iii) Responsibility for "labour activation" is in the process of being reallocated to the Department of Social Protection (formerly the Department of Family and Social Affairs), which is responsible for social benefits.

(iv) A fourth ministry – the Department of Community, Equality and Gaeltacht affairs – is responsible for labour market interventions delivered via community groups. The programmes focus on groups such as people with disabilities and "travellers" and have a back-to-work orientation.

[131] Responsibility for FÁS has been transferred from DETI to the Department of Education and Skills. However, the plan is for FÁS "labour market activation" activities to be further transferred to the Department of Social

153. In Germany, the history of the PES (the Federal Employment Agency or *Bundesagentur für Arbeit* – BA) goes back to 1927. The PES structures retained their main features for decades (including the systematic inclusion of the social partners in its governance). The most significant restructuring took place in the early 2000s in the context of the "Hartz Commission" reforms, which were intended to turn the BA into a modern service provider, while merging unemployment assistance with social assistance. As part of these institutional reforms, efforts were made to improve staff/client ratios by shifting more personnel to placement and counselling services. In addition, budget lines within the Ministry were largely replaced by a system of negotiated agreements setting performance targets.

154. The Austrian PES (*Arbeitsmarktservice* – AMS) was for decades a state-run structure fully integrated in the labour ministry. It was overhauled in 1994, when the AMS was separated from the ministry and relaunched as a public service enterprise, created under the Public Employment Service Act (AMSG). With the creation of the AMS, the entire governance structure of the Austrian PES changed and a culture of social partnership was established. At the national level, the AMS is headed by a two-member Board of Directors, selected by the Administrative Board and confirmed in office by the Federal Ministry of Labour, Social Affairs and Consumer Protection. The tripartite Administrative Board is the central decision-making body with real policy-making power. It translates the Minister's guidelines into operational targets, distributes the budget, and approves or dismisses the Board of Directors and all subnational managers.

155. The Danish system has undergone fundamental changes in recent years. Until 2009, the PES (*Arbejdsformidlingen* – AF) constituted the Government's delivery agency for labour market policy. Under the system put in place in 1994, labour market governance was strongly decentralized, with policy responsibility assigned to 14 regional PES offices. Since 2001, all of these structures have been changed in a phased process. As from August 2009, the municipalities have taken on full economic responsibility for all the unemployed (including their benefits), albeit with a refund from the State. The Danish Government has thus effectively "municipalized" the Danish labour market governance system, reducing the role of the PES to a monitoring agency at the regional level.

156. Fundamental restructuring was carried out in the Republic of Korea, where the new employment service network of Employment Security Centres (ESCs) was created in response to the 1998 financial crisis. This reform integrated all three core PES functions into a one-stop service (job brokerage, administration of unemployment benefits and referral to ALMPs). Municipalities and local governments continue to provide independent employment services through their Job Information Centres, with financial support from the Ministry of Employment and Labour. [132]

Protection. The Department of Education and Skills will retain responsibility for FÁS education and training activities. Benefit support and job-search functions will eventually be merged into a "one-stop shop".

[132] D. Grubb, J. Lee and P. Tergeist: *Addressing labour market duality in Korea*, OECD Social, Employment and Migration Working Paper No. 61 (Paris, OECD, 2007).

Box 2.15
Improving the employment service of the Hong Kong Special Administrative Region, China

Measures implemented to improve the PES of the Hong Kong Special Administrative Region (SAR), China, include the following (the year in which they were launched is indicated in brackets):

- computerization of all job centres, including the establishment of a unified computer network (1997); the Telephone Employment Service Centre (1998); the Interactive Employment Service (IES) website (1999); and the Employment Information and Promotion Programme (1998) to strengthen rapport with employers and actively canvass vacancies;
- setting up hyperlinks from the IES to other employment websites and allowing private employment agencies to post their job vacancies on the IES (2000);
- integrating job centres with the Labour Relations Division Offices to provide one-stop services to jobseekers (1998);
- launching the Youth Work Experience and Training Scheme (2002); the Employment Programme for the Middle-aged (2003); the Special Incentive Allowance Scheme for Local Domestic Helpers (2003); and a one-year pilot Youth Self-employment Support Scheme (2004);
- launching the Work Trial Scheme, improving the Youth Pre-employment Training Programme and relaxing the scheme rules for the Special Incentive Allowance Scheme for Local Domestic Helpers (2005);
- setting up two new job centres in remote areas of the Hong Kong SAR (2006).

Source: G. Casale, A. Sivananthiran and C.S. Venkata Ratnam: *Re-engineering labour administration*, op. cit.

157. In Cambodia, the National Employment Agency (NEA) was established in 2009 to ensure the efficient and effective functioning of employment services and facilitate the collection and dissemination of labour market information. Established as a Special Operating Agency under the National Training Board, it is responsible for managing job centres and conducting a series of capacity development initiatives for its staff. The regional job centres provide an effective mechanism in Cambodia for the delivery of labour market services, in particular labour market information in local areas, job search and placement services, counselling and guidance to jobseekers and the provision of labour market programmes such as training and retraining for employment.

Managing performance of PES

158. Since the 1990s, management of many PES, especially in OECD countries, has undergone substantial changes as policy-makers have sought to improve the effectiveness of labour market measures. In an effort to respond to changing labour market conditions, many PES undertook a restructuring of their operations, taking advantage of new technologies, empirical evidence and policy perspectives, thereby enhancing performance. [133]

159. Despite national variations, this "sea change" [134] in PES management exhibited some common features (see box 2.16), mostly related to the decentralization of various aspects of labour market policies: [135] a shift towards performance management, quality management and improved case management, the introduction of quasi-markets and

[133] D. Lippoldt and M. Brodsky: "Public provision of employment services in selected OECD countries: The job brokerage function", in D.E. Balducchi, R.W. Eberts and C.J. O'Leary (eds): *Labor exchange policy in the United States* (Kalamazoo, W.E. Upjohn Institute, 2004).

[134] ibid.

[135] OECD: *Managing decentralisation: A new role for labour market policy* (Paris, 2003).

strengthened collaboration or mergers between benefit agencies, employment services and training providers. [136]

Box 2.16
Main changes in PES management in OECD countries

Key developments over the 1990s in the PES of selected member States of the OECD included the following:

- changes in the institutional structure, emphasizing decentralization and networking among service providers;
- delivery of job brokerage services through private employment providers and increasing competitive contracting of services by the PES;
- service delivery improvements emphasizing customer service orientation;
- re-employment strategies with a focus on job search and activation measures, while targeting disadvantaged jobseekers;
- introduction of new technologies through delivery of information over the Internet, self-service and management information systems.

Source: D. Lippoldt and M. Brodsky: "Public provision of employment services in selected OECD countries: The job brokerage function", in D. E. Balducchi, R. W. Eberts and C. J. O'Leary (eds): *Labor exchange policy in the United States* (Kalamazoo, W.E. Upjohn Institute, 2004).

160. Several industrialized countries introduced PMS in the 1990s. [137] These systems are based on different types of performance indicators, intended to show the relationship between the resources allocated to a programme (inputs), immediate results (outputs) and ultimate impact (outcomes) (see box 2.17).

Box 2.17
Common indicators in PES performance measurement systems

Input measures	Output measures	Process quality measures	Intermediate outcome measures	Final outcome measures
❑ Staff time ❑ Spending on staff ❑ Spending on programmes ❑ Office numbers ❑ Spending on compliance and processing	❑ Vacancy registration ❑ Interviews completed ❑ Referrals to training or other support ❑ Penetration measures ❑ Individual plan completion ❑ Placement into work trials ❑ Sanctions	❑ Assessment of interviews or plans ❑ Customer satisfaction surveys ❑ Employer satisfaction survey	❑ General off-flow measures ❑ Specific off-flow measures ❑ Penetration measures ❑ Benefit duration measures ❑ Vacancy outcome measures ❑ Hybrid measures	❑ Employment rate ❑ Unemployment rate ❑ Inactivity ❑ Productivity ❑ Long-term wages/ employment history of beneficiaries

Source: A. Nunn, T. Bickerstaffe, B. Mitchell: *International review of performance management systems in Public Employment Services*, Department for Work and Pensions Research Report No. 616 (Her Majesty's Stationery Office, 2009), table 7.1.

[136] J.T. Weishaupt: *A silent revolution? The discovery of management ideas and the reinvention of European public employment services*, paper presented at the joint IMPALLA–ESPANET Conference "The European Social Model in a Global Perspective", Luxembourg, March 2009.

[137] Austria, Belgium, Finland, France, Italy, Netherlands, Sweden and United Kingdom.

161. The use of output indicators varies across countries. Some are fairly common, for example referrals to various programmes (training, external provision or other support), interviews with beneficiaries, vacancy registration or individual plan completion. Others, such as placement in work trials (for example, Estonia, Slovenia and United States) or penalties, are rare. Sometimes indicators are accompanied by more detailed data relating to speed of service delivery (Sweden), the quality of vacancies in terms of skill level (Austria) or their duration or focus on specific groups of beneficiaries (France, Ireland and Norway). These "volume" indicators are useful in evaluating the extent of activities and workload. They cannot, however, provide a complete picture of the quality of services provided. To achieve this, some countries also use process quality measures and customer feedback (Netherlands, Sweden and United States).

162. To measure the impact of PES on social conditions, outcome indicators are tracked. These indicators refer to the overall rate of employment and unemployment, the employment rate for particular groups of workers, or even broader economic indicators related to labour market performance. However, it seems that for managerial purposes, intermediate outcome indicators are more widely used. These focus on the numbers of people who move from unemployment registers into some form of employment status (off-flow measures). These off-flow numbers are sometimes accompanied by more specific qualitative information on types of new contracts (Lithuania) and may specify interventions – activation measures, training or other support (Austria, Belgium, Denmark and Hungary) or indicate the duration of employment, establishing thresholds (Australia, France and New Zealand).

163. Another widely used outcome indicator is benefit duration (Denmark, Estonia, France, Lithuania and Sweden). In Switzerland, for example, rapid re-employment is given a high level of importance in assessing performance (see box 2.18).

Box 2.18
Weighted performance indicators used by PES in Switzerland

Employment service performance is regularly monitored by means of four indicators, which are assigned different weights:

- speed of reintegration of the unemployed into the labour market (weight: 50 per cent);
- prevention of long-term unemployment (weight: 20 per cent);
- prevention of benefit exhaustion (weight: 20 per cent);
- prevention of repeated registration for benefit (weight: 10 per cent).

These indicators are used to rank PES offices, which is expected to exert peer pressure on them to continuously improve performance.

Source: N. Duell, P. Tergeist, U. Bazant and S. Cimper: *Activation policies in Switzerland*, OECD Social, Employment and Migration Working Paper No. 112 (Paris, OECD, 2010), para. 16.

164. The implementation of PMS obviously depends on the management arrangements in individual countries, as well as on the overall quality of governance. In fact, "the governance structure for employment services is a major determinant of success" of these systems, [138] as it should be able to track programme outcomes, prevent artificial manipulation of outcome measures ("gaming") and discrimination against disadvantaged clients ("creaming" and "parking") and protect individual entitlement to benefits.

[138] OECD: *OECD Employment Outlook 2005*, Ch. 5, "Public employment services: Managing performance" (Paris, 2005).

165. In both industrialized and transitional economies, PES use the traditional management by objectives system (MBO). This allows a certain degree of operational freedom for lower levels of administration. However, these systems work differently depending on whether they are implemented in highly centralized PES structures (as in Japan or the United Kingdom) which apply top-down management techniques and sophisticated systems of guidelines and checks, or in decentralized structures, in which performance targets are set locally or are negotiated with ministries or agencies.

166. In countries with federal systems, such as Austria, local PES offices have not only a delivery function, but also a limited policy-making role (see box 2.19).

Box 2.19
PES target setting in a federal State: The case of Austria

At the national level, the Minister of Labour, Social Affairs and Consumer Protection formulates the Government's broad goals and employment policy objectives. The Board of Directors and the tripartite Administrative Board of the PES (AMS) then translate these broad guidelines into specific annual operational targets. The Administrative Board is also consulted before the Minister announces his broad goals for the Austrian labour market, although the Minister is not obliged to do so.

While the national headquarters develop strategic goals for Austria as a whole, the restructuring of the PES in 1994 gave more responsibilities and more room for manoeuvre to the regional PES offices. At the *Land* level, the *Land* office managers not only transpose national targets, but formulate their own regional objectives; collaborate with *Land* governments, municipal authorities, or any other stakeholder; plan and distribute the budget to the local PES offices of their region; direct, support and monitor the local PES offices; and select instruments and programmes that deal with specific issues relevant to the *Land*'s economy.

At the district level, local PES offices deliver labour market services to their customers. These offices define the principles for implementation of policy at the local level, but are expected to fulfil the targets set by the federal and *Land* authorities. The *Land* office managers run daily operations, and – when necessary – consult the six-member tripartite advisory committees *(Regionalbeiräte)*. While the social partners' policy influence is less extensive at the local level, they do have some veto powers, for instance concerning the recruitment of workers from non-EU countries.

Source: J.T. Weishaupt: Managing public employment services: Trends and experiences with recent governance reforms (Geneva, ILO, forthcoming).

167. Over the years, traditional MBO systems have become sophisticated, including measures providing strategic and comprehensive evaluation of PES functions.

168. In some countries, performance is analysed and interpreted using a "balanced scorecard". [139] In the Netherlands, for example, the balanced scorecard combines all performance indicators and is used to rank local employment offices. A balanced scorecard combining multiple objectives, comparing inputs and outcomes and containing performance indicators and managerial rewards is also used in countries such as Norway and Sweden. A similar method, in the form of a "value-driving scorecard", is applied in Finland, where performance and accountability reforms were implemented in 2004. [140] In other countries such as Canada, Czech Republic, Denmark, Estonia and Ireland, narrative performance reports incorporate quantitative and qualitative information. In

[139] The balanced scorecard contains a mixture of financial and non-financial indicators, each compared to a target value within a single concise report.

[140] I. Nio: *Measuring effectiveness and operational efficiency of the Finnish PES*, Blue Paper 04 (Vienna, Synthesis Forschung, 2006).

Australia, a star rating system is used to evaluate the performance and overall quality of external service providers.

169. Justification for public spending is not the only reason why performance measurement will continue to be a focus of PES in the future. Another reason for accurate performance measurement and strict accountability is the increasing involvement of additional actors in PES operations, as outlined below.

Outsourcing the delivery of services

170. Perhaps the most significant change in the functioning of PES has been the outsourcing of core PES activities and the creation of a "quasi-market" for placement and other services by splitting PES between the public authority (regulator and purchaser) and the provider (public or private). [141]

171. This section of the report does not discuss the regulation of private employment agencies, as addressed by ILO Convention No. 181, but focuses only on the contractual relationship between PES and private or public service providers for job placement.

172. This method is still limited to a number of countries, with Australia and the Netherlands and some other OECD countries at the forefront. Nonetheless, the tendency is spreading to transition economies, especially in Asia (Lao People's Democratic Republic, Malaysia, Pakistan, Sri Lanka and Thailand).

173. The most frequently quoted motives for introducing quasi-markets in employment services are competition, alleged efficiency and service quality benefits, a more service-oriented approach and client choice. The use of private providers is also supposed to expand service capacity in the short term (in response to the current jobs crisis, for example) without increasing the number of regular PES staff. However, the far-reaching reforms of public systems in Australia and the Netherlands were also designed to save costs and were prompted by dissatisfaction with the performance of public systems.

174. Significant differences exist between the extent to which countries use private providers, the organization of these schemes, and the contracting and monitoring systems.

175. In countries such as Austria and Germany, private providers are used to fill "niche functions". Their role remains marginal, as evidenced by their market share. However, their scope is expanding, with the use of private sector providers being encouraged.

176. In Switzerland, the decision to involve private placement services in the implementation of federal legislation on employment services is made by the cantonal employment offices. ALMPs are typically implemented by private, but sometimes also by public non-profit organizations. Private providers tend to specialize in specific measures, and they are usually commissioned by the cantonal employment offices, but also conclude service contracts with the disability insurance and municipal welfare offices. [142]

177. In Australia, since the mid 1990s employment services have been delivered mainly through contracts with private and non-profit community providers, with the Department of Employment and Workplace Relations acting as the only purchaser. Although the Australian Government has contracted out most of its employment services, it is

[141] This development is to be distinguished from the functioning of private employment agencies, addressed by the ILO Private Employment Agencies Convention, 1997 (No. 181).

[142] N. Duell et al.: *Activation policies in Switzerland*, op. cit.

important to note that the first point of service for jobseekers in Australia is the government agency (Centrelink). The services are provided by many agencies, as opposed to a single provider, and the performance of all the providers is monitored and evaluated based on established indicators. [143]

178. Other countries, such as Denmark, France, the Netherlands and the United Kingdom, have outsourced services for the long-term unemployed, although the PES continues to offer assistance to short-term unemployed.

179. In the United Kingdom, while the PES (Jobcentre Plus – JCP) has a long tradition of involving a variety of local stakeholders and NGOs in the implementation of labour market programmes, such private actors, including local businesses, were most prevalent in 15 Employment Zones, programmes first set up in areas of economic hardship in 2000. Since the adoption of the Flexible New Deal (FND) [144] in 2008, JCP is responsible for jobseekers during their first 12 months of unemployment. After this period, a person claiming a Jobseeker's Allowance is referred to a third sector or private contractor. Over the same period, the contracting system was also overhauled. As a result, contracts are now awarded to large professional placement agencies at the regional level. [145]

180. In Germany, PES tenders and contracts are organized at the regional level, and employment service consortia (ARGE) are not subject to the performance management and contracting guidelines of the Federal Employment Agency. [146]

181. Frameworks for regulating the contractual relationship between government and providers diverge significantly from one country to another. As stated by the OECD, a "practices in other countries cannot simply be transferred into a different economic and labour market setting, and a different institutional structure with its own past history. An ideal format for market competition – one which has demonstrated its value in a wider group of countries – does not exist". [147]

182. In this context, recent research reveals some advantages and disadvantages. [148] For example, in the United Kingdom, where activities of private providers were until recently limited to territorial areas designated as Employment Zones, evaluations reported relatively favourable short-term placement outcomes as compared with areas managed by JCP. In Germany, the first results of the evaluation of Agenda 2010, published in 2006, show that outcomes concerning new contractual arrangements fell below expectations, but also that the reforms had not been operating long enough to draw definitive conclusions about their effectiveness. [149] In Australia, where employment services have been provided mainly through private and non-profit community providers since 1998, early evaluations found that the impact of key services

[143] In 2009, out of 115 job service providers in Australia, three were government entities, 71 not-for-profit and 41 for-profit private companies.

[144] A key element of the FND is a partnership approach with public, private and third sector organizations working together to maximize innovation, leading to more and better outcomes.

[145] In order to avoid monopolies, the contracting rules stipulate that there should be at least two prime contractors in most regions.

[146] P. Tergeist and D. Grubb: *Activation strategies and the performance of employment services in Germany, the Netherlands and the United Kingdom*, OECD Social, Employment and Migration Working Paper No. 42 (Paris, OECD, 2006).

[147] L. Struyven: *Design choices in market competition for employment services for the long-term unemployed*, OECD Social, Employment and Migration Working Paper No. 21 (Paris, OECD, 2004), para. 20.

[148] P. Tergeist and D. Grubb: *Activation strategies and the performance of employment services*, op. cit.

[149] ibid.

on employment outcomes was small, although possibly no worse than under previous public systems. [150]

183. A recent study on Sweden concluded that the unemployed who used private placement agencies had a more personal interaction and were more satisfied with their caseworkers than those at the PES. [151] However, the study did not find any overall difference between private and public agencies in terms of the likelihood of obtaining employment. A comparative study on quasi-markets in Australia, Denmark and the Netherlands concluded that there is still little knowledge on the outcomes and effects of shifting to quasi-markets in employment policy. [152] The authors also contend that outsourcing of such a traditional government service is not just a technical-administrative exercise, but may have important consequences for the content of policy as well.

184. The experiences of private employment service providers in countries such as Australia or the Netherlands deserve further attention from both researchers and policy-makers. The Australian Job Network system has achieved good results during the past decade. However, the Australian example also shows that successful outsourcing requires a certain number of preconditions in terms of quality assurance, specifically the existence of a proper system for measuring the relative placement performance of different providers, which takes into account the variation in client profiles and is not biased by "creaming".

185. The ILO is well placed to help its member States understand the benefits and pitfalls of outsourcing PES by engaging in a systematic exchange of information and comparative experience, and by providing objective expertise on the role of independent oversight, especially since those with responsibility for policy formulation and implementation have a clear interest in the "success" of contracting out. [153]

[150] See OECD: *Innovations in labour market policies: The Australian way* (Paris, 2001). See also A.M. Dockery and T. Stromback: "Devolving public employment services: Preliminary assessment of the Australian experiment", in *International Labour Review* (2001, Vol. 140, No. 4).

[151] H. Bennmarker, E. Grönqvist and B. Öckert: *Effects of outsourcing employment services: Evidence from a randomized experiment*, Working Paper 2009:23 (Uppsala, Institute for Labour Market Policy Evaluation, 2009).

[152] T. Bredgaard and F. Larsen: "Quasi-markets in employment policy: Do they deliver on promises?", in *Social Policy and Society* (2008, Vol. 7, No. 3); idem: "Implementing public employment policy: What happens when non-public agencies take over?", in *International Journal of Sociology and Social Policy* (2007, Vol. 27, No. 7/8).

[153] D. Finn: *Contracting out welfare to work in the USA: Delivery lessons*, Research Report No. 466 (London, Department for Work and Pensions, 2007).

Chapter 3

New technologies available to labour administration and labour inspection

186. Over the past 30 years, the widespread introduction of computers in the workplace and the growth of the Internet and mobile communications have had a transformative impact on how governments, including labour administrations and inspectorates, manage and deliver services. Terms such as "e-government" (electronic government) and, increasingly, "m-government" (mobile government) are now commonly used to refer to the application of information and communication technology (ICT) to improve the efficiency and effectiveness of public sector management and services while increasing transparency and providing greater opportunities for citizen participation in democratic governance. [1]

187. E-government technologies can strengthen systems of labour administration and inspection institutions in a number of ways. [2] The Internet in particular can bring policy-makers closer to the public, thereby raising awareness, disseminating information more rapidly and facilitating more transparent and consultative policy-making. [3] Added to this, tailored software can improve the collection and analysis of labour market and inspection data, [4] strengthening the objective basis for policy development, programming and evaluation. New technologies also have a potential for accelerating and customizing service delivery to constituents while offering more on-demand and remote access to users. In the area of PES, centralized call centres can facilitate communication between jobseekers and employment officers while reducing administrative costs. [5] The same can

[1] See A. Pavlichev and G. Garson (eds): *Digital government: Principles and best practices* (Hershey, Pennsylvania, Idea Group Publishing, 2004).

[2] See J. Fellows: *The role of new technologies in the management and delivery of labour administration and inspection services* (Geneva, ILO, forthcoming).

[3] The ILO carried out research in 2010 analysing the content of national labour ministry and inspectorate websites in 50 countries from all regions. The results showed that while the adoption of dedicated web pages for labour administration institutions was widespread, the depth of content and usability varied dramatically. Most offered at least basic information on labour laws, along with relevant publications. Websites in Africa and the Arab States were commonly difficult to access and generally lagged behind other regions in their offerings of statistical data, online public employment services and inspectorate services. Most regions apart from Africa also had online information tailored to the needs and concerns of workers and employers. The unpublished results of the study are available on file with LAB/ADMIN.

[4] The ILO project "Verification of the implementation of the White Paper recommendations in Central America and the Dominican Republic" is supporting the improvement of registries in Costa Rica (updating labour inspection case registries) and in Honduras (organizing the court's labour cases and improving judicial procedures).

[5] In Chile, Colombia, Malaysia, Oman and the United Kingdom, for example, citizens can even send text messages to receive job vacancy alerts. Call centres can also be used to inform workers about their rights, as in the United Kingdom, where a "Pay and Work Rights Helpline" was launched in May 2009 to assist vulnerable workers.

be said for online job banks, which provide the convenience of all-hours accessibility from anywhere. In addition, in the area of social security, the speed, accuracy and accountability that are essential for administering contributions and benefits are greatly improved by modern computing systems.

Box 3.1
Labour information network in France (SITERE)

SITERE is an internal computer network created in 2000 by the French Ministry of Labour. The three main functions of this network are to assist with inspections, provide documentary resources and enable the exchange of information. Today, its Intranet site contains some 3,000 documents prepared by the central and local authorities, and has proven to be a useful tool in the daily work of labour inspectors.

The heart and main interface of the system, *CAP SITERE*, allows inspectors to register all the information related to internal meetings, as well as data gathered from inspection visits. Inspectors can monitor the inspection record of a given enterprise, draw up inspection action plans and produce statistical tables of inspection actions, which are used to prepare annual reports. The site provides other practical applications for its users. *Rédac* enables inspectors to upload documents into the system to record their inspection actions. *Madeira* allows individuals to search for and share information on dangerous or illegal machinery. *RHRC* is an application that ensures that cases brought for termination of employment are more effectively monitored by the central administration.

Source: Ministry of Labour, Labour Relations, Family, Solidarity and Urban Affairs, France: *L'inspection du travail en France en 2008* [Labour inspection in France in 2008], report prepared under Articles 20 and 21 of ILO Convention No. 81.

188. Even with all the potential benefits, setting up and maintaining an ICT system can be a costly investment in terms of both equipment and technical staff. Governments must also consider the need to periodically update or replace obsolete equipment and software. Over the long term, these investments should deliver significant productivity gains, reduce internal and external communication costs and provide more accurate resource allocation and monitoring. The use of ICT further extends the geographic coverage of labour administration services without the need to build, maintain and staff regional labour offices.

189. ICT can be used to improve internal management systems of labour administration institutions, whether by managing office-wide programming and budgeting processes, streamlining human resources management or maintaining consistent service standards between centralized and decentralized units. For instance, automated workflow procedures enable more timely and transparent financial and managerial actions. In the area of human resources, ICT not only improves record keeping but also opens the way to innovative training approaches, including distance learning or self-guided professional development. In Belgium, for example, the Federal Public Service Employment, Labour and Social Dialogue (FPS Employment) is developing a computer-based network for research on discrimination at work that will be used in particular to train labour inspectors on detecting and dealing with such cases. ICT can also facilitate telework arrangements, allowing staff to better balance work and family responsibilities without compromising productivity.

190. Information technology is a powerful tool for improving coordination between labour administration institutions. Local area networks and Intranet platforms can also help share information among labour officials, as well as between relevant public bodies such as labour inspectorates, tax authorities or social security administrations (for example, shared access to workplace registries). In Spain, for instance, officials are

considering legislation that will provide a legal basis for a unified and integrated information system between labour inspection and social security institutions. The social networking capabilities of these tools can also be harnessed to encourage collaborative virtual workspaces while building an interactive online community that fosters greater professional interaction and can even enhance the sense of institutional identity and community.

191. The adoption of new technologies in labour administration and inspection remains extremely uneven between countries at different levels of economic development. In developing countries, the challenge of introducing new technologies in labour administration and inspection working methods is often exacerbated by inadequate financial resources and underdeveloped ICT infrastructure, together with the lack of technical expertise and low adult literacy levels. [6] In some cases, an honest assessment of the technological capacities in these countries suggests that there is more to be gained by implementing basic and inexpensive administrative reforms rather than making ambitious investments in ICT. [7] New technology can give the easy illusion of modernity and efficiency, whereas technology is still just a tool that is only useful to institutions able to maximize its benefits.

192. Even so, there are examples of modest and cost-effective ways to helpfully implement ICTs that are adapted to a country's level of technological development. For instance, mobile phones, which are gaining widespread use in emerging economies and the developing world, [8] can substantially improve communication between service providers and clients, as well as between labour administration managers and staff who may be working remotely in the field. In Kenya, the National Social Security Fund is considering adopting cell phones as a means of registering and communicating regularly with workers in small and micro-enterprises. [9] Experience from Lesotho also suggests that mobile phones can be used to deliver social protection safely, ensuring efficient distribution to recipients and reducing the risk of corruption and theft. [10]

[6] V. Ndou: "E-government for developing countries: Opportunities and challenges", in *Electronic Journal of Information Systems in Developing Countries* (2004, Vol. 18), at www.ejisdc.org.

[7] For example, ILO audits have shown that simple improvements in physical document filing systems (for example, using filing cabinets instead of piling paper documents on the floor) would be an inexpensive way to improve the organization and accessibility of important records.

[8] Mobile technology has already been adopted by governments in countries such as Bangladesh, Kenya, Nigeria, the Philippines and Uganda to deliver a range of services in the areas of agriculture, health, education and sanitation. See J. Fellows: *The role of new technologies*, op. cit.

[9] ILO: Kenya labour administration and inspection audit, 2010.

[10] See K. Vincent and N. Freeland: "'Upwardly mobile': The potential to deliver social protection by cellphone – Lessons from Lesotho", in J.S. Pettersson (ed.): *Proceedings of the First International Conference on M4D Mobile Communication Technology for Development*, 11–12 December 2008, Karlstad University, Sweden (Karlstad University, 2008).

Box 3.2
ICT and labour administration in India

In the Indian State of Maharashtra, the Labour Department is partnering with an Indian IT services firm and local banks to create a novel labour management system (LMS). This web-based system is designed to improve several services for employers and workers, including more efficient license applications and renewals. It is also expected to bring greater transparency and security to the payment of workers' wages in both the formal and informal economies through the creation of 20 million "no frills" bank accounts with no fees and free use of automated teller machine (ATM) cards.

The LMS was also designed to streamline the state's labour machinery by consolidating information gathered from labour inspections and generating automatic alerts to help monitor labour law compliance. The LMS portal will include a compilation of all state labour laws, allowing workers to seek advice and lodge complaints online with the Labour Department. It is hoped that the introduction of the system will also help improve interdepartmental information sharing and coordination, while enabling more manageable and systematic analysis of the labour market in Maharashtra.

The system is being piloted in Thane District for four months in early 2011, with the intention of rolling it out across the entire state over a period of two-and-a-half years.

Source: K. Gupta (Principal Secretary, Labour Department, Government of Maharashtra): "Bringing labour laws to all workers", presentation to the ILO, 1 Feb. 2011.

193. In response to the financial and economic crisis, governments have developed new e-government tools, scaled up existing initiatives and refocused or improved their overall e-government efforts. [11] In the area of labour administration, PES were at the forefront in disseminating information online about unemployment benefit extensions and other special programmes for workers, in addition to meeting increased demands for matching workers with job vacancies through web-based and other electronic platforms.

Box 3.3
Web portal on enterprise restructuring in Belgium

During the crisis, the Belgian Federal Public Service Employment, Labour and Social Dialogue (FPS Employment) created a website focused on enterprise restructuring.

Launched in August 2009, it is a public source for information on business closures, collective dismissals, bankruptcies and business transfers, as well as protective measures against dismissal for certain workers. Before its creation, much of this information existed across several independent government websites. The site was designed through the joint efforts of numerous government agencies at the federal and regional levels, under the leadership of FPS Employment. It serves as a one-stop portal through which people can link to the desired information on the relevant government websites. In its first three months of operation, the site was visited nearly 90,000 times.

Source: SPF Emploi, Travail et Concertation sociale (Belgium): *Rapport annuel*: *le Service public fédéral Emploi, Travail et Concertation sociale en 2009* [FPS Employment Annual Report]; see also www.restructurations.be.

194. Labour inspectorates are increasingly using the Internet in proactive and innovative ways to carry out their work. For example, countries such as Fiji, France, Poland, Romania, Ukraine, United Kingdom and Viet Nam provide web-based technical information and advice on the content of occupational safety and health legislation, along with the most effective means of compliance. [12] In Spain, labour inspectors even

[11] United Nations: *United Nations E-Government Survey 2010: Leveraging e-government at a time of financial and economic crisis* (New York, 2010).

[12] ILO: General Survey, 2006, op. cit., para. 95.

use Google maps to compare plantation property lines against the number of registered workers to help detect the use of undeclared labour during the harvest season. The Bulgarian and Portuguese labour inspectorates have introduced websites as part of their special efforts to fight undeclared work, documenting and publishing the identities of violators online. [13]

Box 3.4
Information System on Child Labour Hotspots (SITI) in Brazil

SITI is a public online platform dedicated to combating child labour, hosted by the Brazilian Ministry of Labour and Employment. It enables inspectors to map and share information on the incidence of child labour by region through a regularly updated catalogue of detected cases. Inspectors can use the platform to carry out geographic searches of confirmed cases, allowing more targeted planning of activities. It also facilitates the instant exchange of regional information across the country while gathering crucial data on the incidence of child labour. In addition to being a useful tool in the fight against child labour, SITI increases the transparency of inspection activities and the visibility of labour inspectors, raising public awareness of the problem of child labour.

SITI is also linked to the Federal System of Labour Inspection (SFIT). This computerized information management system is used to register labour inspector activities covering all thematic and geographic areas in order to assist internal management, including the evaluation of labour inspector performance. Unlike SITI, the SFIT platform is not accessible to the public.

Source: http://sistemasiti.mte.gov.br.

195. Labour administration and inspection services are increasingly collaborating across borders in this age of widespread labour migration, regional economic integration and the tendency towards the free movement of labour. [14] This collaboration can take the form of joint labour inspections in border area undertakings, the management of guest worker programmes or joint strategies to combat human trafficking for the purpose of forced labour. Collaboration may also include designing or linking ICT systems to gather and share information and monitor labour developments across borders. In particular, these systems can be used to keep records of workers and employers operating across borders, and to help with the effective application and enforcement of transnational sanctions.

[13] ILO: *Labour inspection in Europe: Undeclared work, migration, trafficking*, LAB/ADMIN Working Document No. 7 (Geneva, 2010).

[14] The European Union represents the most integrated and regulated labour market. Other regional groupings have protocols for the free movement of workers, for example the Economic Community of West African States (ECOWAS), the East African Community (EAC) and the Southern African Development Community (SADC).

Box 3.5
Convergence of Inspectorates Building a European Level Enforcement System (CIBELES)

CIBELES is a regional computer network being developed under the leadership of the Spanish Labour and Social Security Inspectorate and funded by the European Commission. Scheduled for completion in 2011, it is aimed at building a system at the EU level to exchange information, verify compliance with document requirements and regulations, improve the enforcement and recovery of sanctions and, generally, strengthen cooperation and mutual assistance between national labour inspectorates. It was designed to address a number of persistent challenges, such as the growth and diversity of transnational services and the need for more uniform and effective application of labour law within the EU. CIBELES will consolidate previous informal networking arrangements in the region by building a secure, user-friendly and rapid online interface. The other countries involved include Austria, Belgium, France, Germany, Hungary, Italy, Malta and Portugal.

Source: R. Aragón Bombín: "Proyecto CIBELES: Los retos de la Inspección de Trabajo ante un mundo globalizado" [The CIBELES Project: The challenges of labour inspection in a globalized world] in *Seguridad y Medio Ambiente*, Especial Prevención 2010 (Fundación MAPFRE), at www.mapfre.com/fundacion/html/revistas/seguridad/nEspecial2010/capitulo4.4.html.

196. While there are many proven benefits of the use of ICT for labour administrations and inspectorates, governments should remain vigilant about the security of their networks and the privacy of user information. There will always be a risk that open networks are vulnerable to technical failure and unauthorized access, or that personal data could be lost, stolen or misused. Ensuring citizen privacy and security is a persistent and particular challenge that countries must face in this age of e-government. In order to make sure data and information are kept confidential and safe, governments should establish laws, regulations and policies setting out privacy and security standards, specifically tackling issues such as data storage and data sharing, and build privacy and security controls into their technological systems. [15]

[15] J. Fellows: *The role of new technologies*, op. cit.

Chapter 4

Labour inspection

197. Labour inspection is an essential part of the labour administration system, exercising the fundamental function of labour law enforcement and effective compliance. It ensures fairness in the workplace and helps promote economic development. [1]

198. In essence, the institution of labour inspection has a twofold nature. On the one hand, it supervises the enforcement of legal provisions, [2] particularly with regard to workers' rights. This is not restricted to working and employment conditions and OSH. Labour inspectors enforce legal provisions dealing with social services, migrant workers, vocational training, social security and other matters. [3] On the other hand, labour inspection provides information and advice, as well as training. This dual nature means that labour inspection systems play a key role in the world of work and should be able to effectively remedy a wide range of labour problems. They are a tool for fairness in the workplace and good governance, and are particularly important when there is turmoil in the labour market, as in times of economic crisis.

The central authority and its coordination role

199. Recognition of labour inspection as one of the main functions of a labour administration system is crucial. Coordination and cooperation within the system and with other national and government agencies and public or private institutions engaged in similar activities can help to improve the overall effectiveness of a country's labour inspection services. Pursuant to the provisions of ILO Conventions Nos 81 and 129, labour inspection should function and be organized as a system within the public administration, in order to fulfil its objectives under these two instruments. [4] A systemic approach to labour inspection requires consistency and coordination within the labour administration system and in particular among different inspection services (such as social security or tax inspection), as well as cooperation between the stakeholders, either public or private, that are directly or indirectly responsible for the enforcement of labour

[1] For a comparative overview of labour law enforcement and compliance, see G. Casale and A. Perulli: *Compliance with labour legislation: Its efficacy and efficiency*, LAB/ADMIN Working Document No. 6 (Geneva, ILO, 2010).

[2] The workplace visit provides a unique opportunity to supervise compliance and improve labour relations with immediate effect. See also Paragraph 2 of the Labour Inspection Recommendation, 1947 (No. 81), which calls on member States to make arrangements for reviewing plans for new establishments or new production processes, and Article 17 of the Labour Inspection (Agriculture) Convention, 1969 (No. 129), which provides for the preventive control of new plant, materials or substances and new methods of handling or processing products.

[3] Some of these competencies are described in Paragraph 2 of the Labour Inspection (Agriculture) Recommendation, 1969 (No. 133). Further examples can be found through the "labour inspection country profiles" link on the LAB/ADMIN website, at www.ilo.org/labadmin.

[4] ILO: General Survey, 2006, op. cit., para. 138.

standards. Also implicit in this approach is close collaboration among agencies or institutions such as tax authorities, the police force or the justice system. Lastly, consultation with the social partners is also an integral part of the proper functioning of a labour inspection system. [5]

200. As mentioned in relation to the labour administration system, the designation of a central labour authority is the means of ensuring effective coordination within the whole system. Experience shows that placing the inspection system under a central authority facilitates the establishment and implementation of policies with a view to ensuring uniform, nationwide compliance. It enables rational use of available resources, in particular by limiting unnecessary duplication of work and decision-making processes. It should, however, be pointed out that reference to a central authority should not in any way be taken to imply centralization or the placing of labour inspection under the direct and exclusive control of a central national authority. [6] In fact, in accordance with Article 4 of Convention No. 81, a measure of flexibility should be applied. For example, labour inspection shall be placed under the supervision and control of a central authority only in so far as is compatible with the administrative practice of the member State (Article 4(1)); in the case of a federal State, the term "central authority" may mean either a federal authority or a central authority of a federated unit (Article 4(2)).

201. The tendency to create a labour inspection system with a central authority which aims to ensure coherence and consistency in the application of national legislation throughout the national territory is evident in several countries. In some countries, while provincial structures have been set up, these are clearly under the supervision of a central authority (for example, Cambodia [7] and Lao People's Democratic Republic). [8] Similar developments have also occurred in EU Member States. In France, Decrees Nos 2008-1503 and 2008-1510 of 30 December 2008 concerning the merging of the labour inspection services assigned the role of the central authority to the General Directorate for Labour for matters relating to inspection in all sectors, while the other ministries involved in inspection, such as the Ministry of Agriculture and Fisheries and the Ministry of Environment, Energy, Sustainable Development and Land Management, were given technical responsibility for preparing and adapting legislation and regulations. In Italy, the two institutions responsible for programming and coordinating labour inspection activities are the Ministry of Labour and Social Policy and the General Directorate for Inspection Activities (DGAI). The DGAI was established by the labour inspection reforms of 2004, [9] with a view to increasing the overall role of coordination of the Ministry of Labour at the central level.

202. The DGAI supervises and coordinates labour inspection activities in accordance with directives issued by the Ministry of Labour itself in order to ensure consistency in

[5] Article 5 of Convention No. 81, Articles 12 and 13 of Convention No. 129, and Article 6 of Convention No. 150.

[6] The original Labour Inspection Recommendation, 1923 (No. 20), did contain a provision to this effect.

[7] Anukret on the organization and functioning of the Ministry of Social Affairs, Labour, Vocational Training and Youth Rehabilitation (87/ANKr.BK.), 4 October 1999. Article 25 provides for provincial/city and district/khan offices responsible for the performance and coordination of ministerial activities.

[8] Articles 68 and 69 of the Labour Law (as amended, 27 December 2006) establish the rights and duties of the labour and social welfare divisions of each province, city, district and municipality.

[9] Legislative Decree No. 124 of 23 April 2004 on the rationalization of the functions of social security and labour inspection. In 2008, the Ministry of Labour issued a new directive on inspection and surveillance in the field of labour and social security. See M. Fasani: *Labour inspection in Italy*, LAB/ADMIN Working Document No. 10 (Geneva, ILO, 2011).

inspection activities and the conduct of the various administrative supervisory bodies. The labour inspection reform also introduced the Central Commission for the Coordination of Supervisory Activities, which advises the Minister of Labour on organizational adjustments to improve the effectiveness of labour inspection, including the use of a database to collect information on inspection visits.

Box 4.1
Labour inspection and the Spanish autonomous communities

Spain is composed of 17 autonomous communities, most of which have control over labour-related matters. The system of labour inspection is based on the principle of inter-institutional collaboration between the State and the autonomous communities. This collaboration takes place through two bodies: the Sectoral Conference on Employment and Labour Affairs comprising the general administration of the State and those of the autonomous communities; and the territorial commissions on labour and social security inspection in each autonomous community. In addition, the Statutes of Autonomy of certain communities provide for the transfer of officials to them, and this is currently taking place. To this end, coordination mechanisms have been introduced, including the establishment of agencies bringing together labour inspection staff from the general administration of the State and those of the autonomous communities.

203. In Latin America, several countries have reformed their labour inspection systems with a view to achieving better compliance with national legislation. For example, in 2007, the Peruvian Ministry of Labour and Employment Promotion issued a series of guidelines to ensure a degree of flexibility when applying regulations at the provincial level. These guidelines provide clarification on the areas of administrative competence between the central authority and the local inspectorates. Such a determination depends on the location of the production unit and on the authority issuing the inspection order. [10]

204. In some countries with a federal system, there may be an overlapping of competencies between federal, provincial and state levels. In such cases, the remit of inspectors at the central level is limited to matters falling under the federal purview (Argentina [11] and Mexico). [12] In Argentina, a regional cooperation agreement has been signed which provides for the coordination of the overall inspection system by the Ministry of Labour and Social Security. In this context, the central authority ensures that agreements are in place and actions taken in coordination with the provinces and with the autonomous city of Buenos Aires. In Mexico, the federal Government has concluded coordination agreements with each of the states concerning labour inspection in order to harmonize inspection procedures and strategies specifically related to safety and health, training and skills, child labour and the collection of information on fines for non-compliance. [13]

205. Another group of countries is exemplified by the United Kingdom, where the Health and Safety Executive (HSE) is the enforcing authority for health and safety regulations, along with certain local authorities (elected bodies that are ultimately accountable to their electorates) and the Office of Rail Regulation (the independent

[10] Information provided by the Government.

[11] In Argentina, the national authority acts in a supervisory capacity as the central authority, its ordinary inspection duties restricted to Buenos Aires city (Decree No. 772/96 of 15 July 1996, assigning nationwide supervisory and central authority duties to the Ministry of Labour and Social Security).

[12] Federal Labour Act of 1970, as amended up to 17 January 2006, section 527.

[13] V. Jatobá: *Labour inspection within a modernized labour administration*, IACL–ILO Working Paper No. 148 (Lima, ILO, 2002).

safety and economic regulator for the United Kingdom's railway system). Responsibility for enforcing health and safety legislation in certain premises may be transferred from the HSE to local authorities by agreement. Within this system, the Health and Safety Executive/Local Authority Enforcement Liaison Committee (HELA) has been established to provide liaison between the HSE and local authorities and ensure that health and safety regulations are enforced in a consistent manner. HELA also serves as the national forum for discussion and exchange of information on enforcement of OSH legislation.

Collaboration among labour inspectorates

206. Labour inspection systems may be "general" or "specialized". The former are responsible for monitoring conditions of work and employment, environment, labour relations and, in some cases, vocational training, migration and social security. [14] In the latter system, the various responsibilities are assigned to different inspection services with specific technical expertise. These services are usually monitored and supervised by one or more central units. Between the two broad categories, there are systems based on interdisciplinary teams: within a local labour inspection service, a single labour inspector has the skills to provide a multifunctional service. [15]

207. Although an ideal labour inspection system does not exist, any system strives for proper coordination mechanisms in order to achieve effectiveness and efficiency. [16]

208. Departments responsible for inspection may be self-sufficient, incorporating the full range of areas of specialization, or they may operate through two or three administrative entities. In countries as diverse as Bulgaria, Hungary, Indonesia, the Philippines and Viet Nam, [17] the coordination structure takes the form of an "integrated inspection concept" involving joint planning and actions towards a common goal shared by the various units responsible for labour-related inspections.

209. There are also other arrangements such as those in Belgium, where coordination takes place between three different inspectorates (social legislation, welfare and social security), together with the regional employment services in selected areas of shared competency (for example, undeclared work) with a view to sharing information and data on a systematic basis.

[14] As regards social security, this is the case in France, Portugal and Spain. In certain countries, the labour inspectorate is responsible for monitoring payment of social security contributions (although in Spain, this does not apply to affiliation or registration). This is also the case in Bosnia and Herzegovina, Republic of Moldova, Montenegro and The former Yugoslav Republic of Macedonia. In other European countries, such as Austria and Germany, this is expressly excluded from labour inspection work.

[15] For example, in Austria, Denmark, Norway and Sweden.

[16] As pointed out by the Committee of Experts in its 2006 General Survey on labour inspection, "In all cases, it is important that the competent authority take steps to encourage cooperation between these different departments. Exchanging information on inspection methods and the results obtained can prevent much time wasting. Rationalizing and pooling certain material and logistical resources could, in many developing countries, alleviate the chronic inadequacy of resources available to inspection services. Furthermore, from the employer's point of view, a degree of coordination between inspection services in order to plan and coordinate inspections would have the beneficial effect of reducing the need for a large number of separate inspections at short intervals." ILO: General Survey, 2006, op. cit., para. 152.

[17] Information provided by governments. In Viet Nam, a coordinated system has been set up under the Ministry of Labour, Invalids and Social Affairs, pursuant to Decree No. 1118 of September 2003. CEACR: Individual observation concerning Convention No. 81, 2005.

Box 4.2
El Salvador: Building a coordinated inspection process

In June 2008, at the request of the Government of El Salvador, the ILO carried out an assessment of the country's labour inspection system. This led to a thorough overhaul of the structure of the Salvadoran inspectorate, which was divided between two authorities without any real coordination between them. Work is under way on several laws and administrative reforms. Most recently, the new law on risk prevention introduced a mechanism of coordination among technical units for sharing competencies and carrying out integrated inspections.

Sources: ILO: El Salvador labour inspection audit, 2009; Legislative Decree No. 254 of 21 January 2010 enacting the General Act on risk prevention in the workplace.

210. In Africa, efforts are being made to streamline coordination mechanisms among the various specialized labour inspection systems. This is the case in South Africa, where internal ministerial rules are encouraging better planning and programming of labour inspection activities. In Lesotho, joint inspections are conducted by the staff of the Ministry of Labour and Employment, the Ministry of Industry, Trade and Cooperatives and Marketing, and the Ministry of Home Affairs and Public Safety, and Parliamentary Affairs, with a view to supervising conditions of work and employment in foreign enterprises. [18]

211. In some Latin American countries (for example, Argentina, Brazil, [19] Paraguay and Uruguay), groups of labour inspectors have been assigned specialized functions. [20] For example, labour inspectors focus either on labour in general (working conditions) or on safety and health and the environment, in particular. Alternatively, they may specialize in a given area according to their skills and training (legal experts, doctors or technical specialists). [21] In Mexico, although inspections are carried out by the same group of inspectors, they are classified according to subject: working conditions, safety and health or training and skills. [22]

212. Several countries have recently consolidated and merged their different inspection bodies. This was the case in Jordan in 2006 and the Netherlands in May 2010. [23]

Collaboration with other institutions or administrations

213. In order to be effective, any labour inspection system needs to collaborate with other government agencies and public or private institutions that carry out similar activities. [24] There is an increasing tendency in all regions to conclude agreements to that end and to improve the basis for formal collaboration. In some systems, such collaboration may require a large framework and/or ministerial-level agreements, while

[18] Information provided by the Government.

[19] Inspection functions are divided according to specialization (medical, engineering and safety and health).

[20] M.L. Vega: *Labour administration: To ensure good governance through legal compliance in Latin America – The central role of labour inspection*, LAB/ADMIN Working Document No. 1 (Geneva, ILO, 2009).

[21] See J.L. Daza Pérez: "Mercosur and labour inspection", in *Mercosur: The impact of economic integration – A case study, Labour Education*, Vol. 1997/4, No. 109 (Geneva, ILO).

[22] M.L. Vega: *Labour administration: To ensure good governance*, op. cit.

[23] Information provided by the governments.

[24] Article 5(a) of Convention No. 81 and Article 12(1) of Convention No. 129.

in others there are different requirements to be met. Collaboration exists among labour inspectorates, employment offices, tax authorities, [25] social security bodies and the police. For example, more labour inspectorates are involving the police force in highly dangerous situations or in criminal operations (such as trafficking, forced labour and child labour). In certain systems, formal collaboration agreements are required, such as that signed between the German Federal Ministry of Finance and the Ministries of Labour of the Länder, which are responsible for the various inspection units, including the labour inspectorates. Poland has concluded agreements under which the tax authority is notified of any unlawful activities discovered in the course of inspections. This has had a notable impact in terms of fighting fraud in this country. In Bulgaria, a cooperation agreement between the National Social Security Institute and the National Revenue Agency has led to a considerable drop in the rate of undeclared work. [26]

214. Collaboration with social security institutions and bodies is crucial in order to compile and compare data and hence to design better targeted operations. Some countries carry out joint inspections or actions, for example El Salvador, where there is a special integrated inspection unit, or Belize, where inspections are conducted jointly between the Social Security Board and the Labour Department. [27] In other countries, for example in Europe, collaboration mainly takes the form of information gathering prior to the inspection visit.

215. In Portugal, under administrative agreements, inspections are conducted jointly with other government units. Post-inspection joint appraisals are also carried out and solutions discussed, especially in cases involving illegal immigrants and their possible integration in the labour market. A slightly different approach has been taken in the United Kingdom, where the Fair Employment Enforcement Board has been created to promote collaboration between enforcement bodies. The Board's focus is on compliance with working time and minimum wage laws. It is composed of the Minister for Employment Relations (Chairperson), HM Revenue and Customs, the Employment Agency Standards Inspectorate, the HSE, Gangmasters Licensing Authority, the Department for Environment, Food and Rural Affairs, the Confederation of British Industry, the Trades Union Congress, the Federation of Small Businesses and Citizens Advice. The Board also launched a "Pay and Work Rights Helpline" for vulnerable workers in May 2009, to serve as a focal point for queries and complaints from workers covered by the participating enforcement agencies. In practice, the Board has formalized existing arrangements between agencies and assists workers in responding to working time and minimum wage issues.

216. In the Arab States, a recent example is the United Arab Emirates, where a memorandum between the Ministry of Labour and the Health Authority strengthened cooperation on OSH activities with a view to introducing prevention policies and exchanging data on occupational injuries and diseases. [28] The same is true for Oman, which reformed its labour inspection system in 2008. In Jordan, the Ministry of Labour established national coordination committees, which include other ministries and operate on multiple staff levels. For instance, the Inter-ministerial Technical Level Committee includes mid-level staff from the Ministries of Labour, Trade and Justice and the General

[25] For example, in Bulgaria, Latvia and The former Yugoslav Republic of Macedonia.

[26] See M.L. Vega: *La inspección de trabajo en Europa: Retos y logros en algunos países seleccionados aún en tiempos de crisis*, LAB/ADMIN Working Document No. 3 (Geneva, ILO, 2009).

[27] Information provided by the Government.

[28] Information provided by the Government.

Intelligence Department; its main purpose is to investigate and respond to violations falling outside the scope of the Labour Code, including trafficking. [29]

217. In Latin America, several countries have introduced administrative agreements for better collaboration among agencies and institutions. For example, in Argentina, the Federal Labour Pact [30] lays down the legal framework for joint actions between the inspectorate and other agencies or entities, particularly on technical matters, with a view to providing an enhanced enforcement service.

218. In Asia, there are many examples of sound collaboration in relation to specific technical areas, such as OSH. In Cambodia, [31] the law provides that the labour and health department shall establish relations and close collaboration with the labour inspectorate to implement the law and regulations related to hygiene at work and the protection of workers' health. The first National Occupational Safety and Health (OSH) Programme of Cambodia (2006–10) provides for the strengthening of cooperation among all the OSH-related agencies and the holding of regular coordination meetings to exchange experiences and develop joint action programmes. In Singapore, [32] the Occupational Safety and Health Division of the Ministry of Manpower engages its stakeholders through regular dialogue and works in cooperation with the Workplace Safety and Health Advisory Committee (WSHAC) and the various advisory subcommittees. The WSHAC was set up in 2005 and comprises representatives of industry, workers, employers, members of academia and advisors from the legal insurance and training fields.

219. In Africa, formal collaboration has been streamlined through regulation. In Senegal, under an administrative regulation, the Commission for the Supervision and Regulation of Social Security Institutions (COSRISS) operates in collaboration with other organizations. The Commission includes representatives of the labour inspectorate, given their responsibility for monitoring issues related to social security at the workplace. [33] Such collaboration with other ministries is also to be found in Swaziland, [34] where the Tripartite Advisory Technical Committee for OSH is composed of representatives of several ministries.

220. As stated in 2008 by the CEACR, [35] cooperation between the labour inspection services and the justice system is also crucial for the effectiveness of labour inspection itself. Examples of such collaboration include Senegal, where section L.195 of the Labour Code requires judicial authorities to notify the labour inspectorate of the outcome of cases of violation. Angola, Mali and Niger also have legislation calling for such collaboration, as do a good number of European and Latin American countries.

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[29] Ministry of Labour, Hashemite Kingdom of Jordan: *Labour administration and compliance in Jordan: A multi-stakeholder collaboration* (Feb. 2008).

[30] The Pact is intended, inter alia, to ensure nationwide legal uniformity and security on labour matters, unify the violation and penalty regimes, and implement an Integrated Labour and Social Security Inspection System (Act No. 25212 of 23 December 1999 on the Federal Labour Pact and Act No. 25250 of 11 May 2000 on labour reform).

[31] Anukret 87/ANKr.BK., op. cit., article 21.

[32] Information provided by the Government.

[33] Decree No. 2003-1000 of 31 December 2003 establishing the Commission for the Supervision and Regulation of Social Security Institutions.

[34] Occupational Safety and Health Act, 2001 (No. 9 of 2001), section 20(2)(d).

[35] CEACR: General observation concerning Convention No. 81, 2008.

Consultation with the social partners

221. In accordance with Conventions Nos 81 and 129, [36] if interventions by labour inspectors are to be effective, it is essential for employers and workers to be fully aware of their respective rights and obligations and to ensure that these are observed. In this regard, there are a variety of approaches aimed at ensuring effective consultation.

222. In Europe, a number of countries have set up national tripartite consultative bodies dealing with labour inspection issues. [37] Such bodies provide a framework for cooperation between workers' and employers' organizations and the labour inspectorate. This is the case in Spain, where the Tripartite Consultative Commission for Labour Inspection and Social Security is responsible for providing advice and making proposals for action strategies to set general priorities and objectives for labour inspection, including inspection campaigns, staffing and resources, inspector selection policies and training. In Portugal, the Permanent Commission for Social Partnership, which is the forum for national social dialogue, also deals with labour inspection policies and programmes. For example, in 2009, the tripartite constituents decided to launch a national campaign on preventive measures in safety and health, especially in economic sectors which pose a high risk for workers. In Italy, the National Council for Economy and Labour, through a special subcommittee, deals with labour inspection issues and agrees on awareness campaigns and events with the social partners. In Norway, the Norwegian Labour Inspection Authority focuses on safety and health-related inspections and programming for annual campaigns in collaboration with workers' and employers' organizations.

223. Elsewhere in Europe, cooperation with the social partners may take other forms. In Bulgaria, a declaration by the General Labour Inspectorate served as a basis for cooperation with two of the most representative trade union confederations, later joined by the Bulgarian Industrial Association. [38] It was followed in 2003 by a tripartite agreement on coordination and cooperation in labour inspection, which recommended that the tripartite partners work together on safety and health. In the Netherlands, since the "Different Government" programme was launched in 2004, a process of rationalization of labour inspectorates has been under way, with improved communication and data transfer between inspectorates and the social partners. In 2004, the United Kingdom Health and Safety Commission published a safety and health strategy for the period to 2010 and beyond. One of the key elements of the strategy was recognition that long-term improvements could only be achieved by winning the hearts and minds of those involved with workplaces, rather than grudging acceptance of measures. The strategy was published following consultations with over 2,500 people – employers, trade unions and other interested parties. [39] In the Republic of Moldova, the labour inspectorate recently signed cooperation agreements with the most representative workers' and employers' organizations. [40]

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[36] Article 5(b) of Convention No. 81 and Article 13 of Convention No. 129. Recommendations Nos 81 and 133 also indicate possible modalities for collaboration in relation to OSH.

[37] See M.L. Vega: *La inspección de trabajo en Europa*, op. cit.

[38] ibid., p. 29.

[39] A.F. Ellis: "Occupational health and safety inspection in Western Europe: Policies, practices and experiences", in *The global challenges of labour inspection*, *Labour Education*, Vol. 2005/3-4, No. 140–141 (Geneva, ILO, 2005).

[40] See M.L. Vega: *La inspección de trabajo en Europa*, op. cit.

224. In Sweden, inspectors often write to workers and employers of an enterprise informing them of inspection objectives and programmes, requesting comments which are then taken into account when planning inspections and establishing technical requirements. Information leaflets and documents are produced for distribution during inspections. In Poland, district inspectors hold meetings with employers from different branches in order to discuss issues such as common risk factors and measures to address them. These are then monitored on subsequent inspection visits. [41]

Box 4.3
Safety and health charter in Belgium

In Belgium, a safety and health charter for contractors and subcontractors has been developed by employers' organizations in order to mainstream OSH issues in subcontracted work through collaboration between contractor and subcontractor. This enables the principles of prevention, mainstreaming, involvement, partnership, communication and coordination to be put into practice. Requests to sign the charter are submitted to the labour inspectorate, which certifies that the candidate enterprise has not, in the previous six months, been convicted or issued with an administrative fine or unrevoked suspension order by the inspectorate for a violation committed within the previous three years. Once they have been certified, enterprises can register on the charter website.

Source: See www.chartedesecurite.be.

225. In Latin America, there are a number of examples of tripartite activity at the sectoral and state levels. In Brazil, for example, the tripartite pact to combat precarious work and achieve full employment and decent work, signed in 2009 by the State of São Paulo, involves all the relevant authorities and the social partners in efforts led by the labour inspectorate against undeclared and forced labour in the textiles sector. Similar tripartite activities involving different partners are being carried out by the maritime inspectorates, which coordinate operations both with other enforcement bodies (the federal police, the OSH agency Fundacentro, the Brazilian Institute of Environment and Renewable Natural Resources (IBAMA), and the fisheries and social security ministries) and with the social partners. In addition, labour inspectors in certain countries are specifically tasked with providing information to the social partners on the institutional framework.

226. In South Africa, the Advisory Council for Occupational Health and Safety is composed of worker and employer representatives, as well as representatives of the labour and health ministries. Chaired by the chief inspector, it advises the Department of Labour on OSH matters and on the promotion of education and training in the field of OSH. [42] In Morocco, the national plan to improve working conditions (PNACT), launched in 2007, was prepared in consultation with the social partners, focusing on enterprises with more than 50 employees, to ensure effective compliance with the new Labour Code.

227. In Asian countries, there are a growing number of examples of tripartite committees on labour inspection. For example, in the Lao People's Democratic Republic, [43] a joint committee for inspection was formed at the provincial level. This body includes representatives of the Lao Federation of Trade Unions, the Lao National Chamber of Commerce and Industry, the Division of Trade, the police and organizations

[41] ibid.

[42] Occupational Health and Safety Act, 1993 (No. 85 of 1993), sections 2, 3 and 4.

[43] Information provided by the Government.

such as youth organizations and women's unions. These provincial committees consult and inform on labour inspection issues and policies to be implemented at the local level.

Public–private initiatives

228. The examples above point to the critical importance of coordinating labour inspection services within the system and with other national inspection and government agencies, as well as public or private institutions engaged in similar activities. This can greatly help to improve the overall effectiveness of a country's labour inspection system.

229. Employers' associations, multinational enterprises and specific NGOs and programmes have taken initiatives to promote and strengthen compliance and offer a particular kind of independent certification that does not always require the cooperation of the public labour inspectorate.

230. Several approaches have been applied in many countries, with different impacts and results. One of the main initiatives is the Better Work programme. [44] The programme assesses compliance with labour standards in selected economic sectors. Some instances of collaboration with the public inspectorates have recently appeared. In Vietnam, Better Work is working with the Ministry of Labour, Invalids and Social Affairs (MOLISA), the Vietnam Chamber of Commerce and Industry (VCCI) and the Vietnam General Confederation of Labour (VGCL) through a project advisory committee (PAC) composed of representatives of the tripartite partners, which guides the programme on policy issues and daily operations. As a result of such consultations, the MOLISA inspectorate will not prioritize in their inspection list the factories that have already been assessed by Better Work Viet Nam (except in the event of serious violations). The MOLISA inspectorate also agreed to liaise regularly with Better Work to share experience and knowledge, and to clarify any points that are not clear in the implementation of labour legislation. Better Work is also involved in developing the MOLISA inspectorate training strategy.

Box 4.4
Better Work Haiti

The Better Work Programme in Haiti is an example of a public–private initiative. It not only involves enterprises in compliance with labour standards following the ILO methodology, but includes a tripartite assessment of the labour administration and inspection system as a reference framework for developing further activities. The main findings of the assessment are implemented in cooperation with the public authorities and social partners, combining compliance strategy at the enterprise level with a more robust institutional approach in the labour administration system.

For further information see ILO and IFC: Better Work Haiti – Garment industry: First biannual report under the HOPE II legislation (Geneva, 2010).

231. The last two decades have seen an increase in corporate social responsibility (CSR) initiatives, especially in multinational enterprises (MNEs) in the export sector, including the establishment of social reporting and private monitoring systems. Such initiatives can complement public labour inspection and may help improve working conditions. In Honduras, for example, the Honduran Apparel Manufacturers' Association (*Asociación Hondureña de Maquiladores* – AHM) has stepped up its activities focused on awareness

[44] Launched in partnership between the International Finance Corporation (IFC) of the World Bank Group and the ILO, Better Work is aimed at improving working practices and competitiveness in global supply chains. See the Better Work website, at www.betterwork.org.

raising and encouraging compliance with labour legislation, introducing good practices and CSR programmes among its affiliates. It has also strengthened relations with different organizations promoting compliance and social action. In Sri Lanka, several national award schemes open to all enterprises have served to give prominence to workplace issues such as productivity and OSH. For instance, the National Safety Award, launched in 1994 by the leading insurance company providing insurance under the Workmen's Compensation Ordinance to enhance industrial safety, is granted every two years, under the guidance of the Department of Labour. [45]

232. There is a risk that some private monitoring initiatives might undermine the public inspection function, create enclaves of good practices with few linkages to the rest of the economy and divert attention and resources from other sectors that do not necessarily produce for export. Many of these private initiatives keep monitoring reports confidential, thus preventing the identification of pertinent labour issues and development of public policy to address them. The labour inspectorate should be able to work with the different actors involved, but the role of labour inspection should remain a public prerogative. Only an effective public inspection system can ensure that private monitoring is credible and effective, inter alia, through the dissuasive effect of penalties.

233. Public–private inspection initiatives exist almost everywhere. Latin America provides some examples which, although focused primarily on the environment, do have a direct impact on OSH. Private enterprises may receive certification for full safety compliance, based on a set of criteria and technical checks, with the support of public authorities. For example, in the Plurinational State of Bolivia, companies certified for sustainable forest management have their licenses renewed without a public inspection. [46]

234. In Asia, there are some examples of private initiatives. In the Philippines, [47] although partnership arrangements exist between the Department of Labor and Employment (DOLE) and local governments concerning aspects of labour inspection, no such arrangements exist between DOLE and the private sector other than the accreditation of OSH personnel to act as safety officers, consultants and trainers. Although there is not a public–private partnership relating specifically to inspection activities, the Kapatiran (big brother–little brother) scheme supported by DOLE is an example of private–private cooperation. Under this scheme, large companies provide assistance and support to smaller ones (including the subcontractors of larger enterprises) to help them comply with safety and health standards. To avoid undermining the public function, it is recommended that private inspection initiatives be coordinated within the public labour inspection system.

[45] For further information, see H. Perez: *Good labour practice compilation on labour inspection practices in EPZs and guidelines for an effective labour inspection in EPZ* (Geneva, ILO, 2010), unpublished document.

[46] Another interesting example is Ecuador, where the supervision of forestry activity was outsourced to independent entities (including NGOs and private companies). Following a complaint that public activities had been taken over by the private sector, the Constitutional Court decided to suspend the programme on the grounds of illegal delegation of government authority. M.L. Vega: *Labour administration: To ensure good governance*, op. cit., p. 35.

[47] ILO: Philippines labour inspection audit, 2009.

Traditional challenges for labour inspection

235. The challenges faced today by labour inspection are largely traditional in nature. These challenges are widespread, suggesting that a global approach should be taken to identify effective proposals built on best practices that could lead to corrective action.

Human and financial resources

236. Among the traditional challenges facing labour inspection, most countries indicate that, to varying degrees, the human and financial resources available for inspection systems are insufficient for them to carry out their functions effectively. Such deficiencies have been highlighted in both developed and developing countries. In Europe, for example, a survey [48] conducted by the European Trade Union Institute for Research, Education and Health and Safety (ETUI–REHS) on inspection systems in the EU concluded that, from a trade union perspective, there was a lack of strategic planning on the staffing of labour inspectorates in the region, with the number of staff steadily declining in many countries, while the work of labour inspectors was becoming increasingly complex. Confirming these findings, most of the ILO audits on national inspection systems, [49] as well as annual reports presented by member States on Conventions Nos 81 and 129, mention the lack of human resources as a common theme, in some cases reaching alarmingly low levels. [50]

237. Although it is unlikely that any country is fully satisfied with the human and financial resources available for its inspection services, efforts made by many governments to increase them reflect the importance that public authorities and the social partners attach to supporting an effective compliance system. In Latin America and the Caribbean, countries such as Argentina, Belize, [51] Costa Rica, the Dominican Republic, Guyana, Honduras, Nicaragua, Paraguay, Peru, Trinidad and Tobago and Uruguay have taken important steps to increase labour inspection staff. [52] Recently, Mexico hired 100 new inspectors throughout the country to improve the balance between inspectors and the number of companies, federal entities and occupational risks identified by the Mexican Social Security Institute. [53]

238. There have been significant developments in other regions too. Oman established its first labour inspectorate in October 2007, recruiting 92 inspectors, all with law degrees. It hired an additional 68 inspectors in July 2009. [54] Ethiopia also significantly increased its number of labour inspectors from 44 in 2003 to 120 in 2009. [55] In South Africa, there are currently 965 inspectors, [56] and a new wave of hiring was scheduled for

[48] European Trade Union Institute (ETUI): "Special report: The Community strategy – Inspection still a weak link in most national preventive strategies", in *HESA Newsletter*, No. 33, Nov. 2007.

[49] ILO: *Programme and Budget 2008–09: Labour inspection audits – A methodology*, available on the LAB/ADMIN website, at www.ilo.org/labadmin.

[50] For example, a recent audit on the labour administration system of Nepal reported that there were 11 factory inspectors in the country, which has an active population of around 10 million.

[51] The Labour Department of Belize has recruited seven new labour inspectors since 2008, representing over a quarter of its entire professional staff. ILO: *Final report: A review of the functions and organizational structure of the labour administration system of Belize* (August 2010), unpublished document.

[52] M.L. Vega: *Labour administration: To ensure good governance*, op. cit., p. 25ff.

[53] ibid.

[54] Information provided by the Ministry of Manpower.

[55] ILO: Ethiopia labour inspection audit, available on LAB/ADMIN website, at www.ilo.org/labadmin.

[56] Information provided in preparation for the labour administration audit carried out in March 2010.

the start of 2011. The South African Department of Labour has planned since 2008 to allocate a significant portion of its budget to the recruitment and training of new inspectors. In 2009, in the United States, 250 new wage and hour inspectors were hired – an increase of more than one third. [57] The US Occupational Safety and Health Administration (OSHA) saw substantial growth in its 2010 operating budget, enabling it to recruit more inspectors. [58] In Europe, countries including Italy and Portugal have added to the number of labour inspectors. For example, in Portugal, 100 new labour inspectors were hired in 2009. [59] By contrast, in Sweden there has been a freeze on the recruitment of labour inspectors.

Training of labour inspectors

239. Promoting career stability and training inspection officials is a central concern for governments. Many countries have been able to maintain a stable inspection staff with the legal status of public officials or the equivalent, [60] as required by the ILO Conventions. [61] A number of countries in Central America (for example, the Dominican Republic, [62] El Salvador and Honduras) have introduced legal reforms aimed at formalizing the careers of labour inspectors. [63]

240. In many labour inspection systems, however, staff turnover is high, with large numbers of inspectors moving into the private sector. This is largely due to the lack of incentives, primarily in terms of pay, to encourage inspectors to stay in their jobs. Moreover, the unattractive working conditions for many inspectors may lead to ethical problems. Professional conduct and the risk of corruption are recurring themes in the comments of the ILO Committee of Experts. Most governments are aware of the problem and have adopted measures to prevent such pitfalls and improve the professional behaviour of inspectors. In Latin America, [64] Europe and West Africa, several countries have introduced an internal supervisory or auditing body to monitor the ethical conduct of civil servants.

[57] United States Department of Labor (DOL): *News release*, 19 November 2009, at www.dol.gov/opa/media/press/whd/whd20091452.htm.

[58] L. Walker: "DOL FY 2010 budget includes increased OSHA funding", in *EHS Today*, 8 May 2009, at www.ehstoday.com/standards/osha/dol-fy-2010-budget-increased-osha-funding-0508/. With this funding, the Department of Labor (DOL) plans to recruit 160 new enforcement staff, many of whom will be bilingual. Overall, DOL expects to hire nearly 1,000 new employees under this budget, including about 670 investigators, restoring worker protection staffing to 2001 levels.

[59] M.L. Vega: *La inspección de trabajo en Europa*, op. cit., p. 21. See also Portuguese Ministry of Labour and Social Solidarity, at www.mtss.gov.pt/tpl_intro_destaque_iies.asp?1699.

[60] For example, Costa Rica's legislation offers similar career perspectives, providing for strict selection criteria (Decree No. 29477-MTSS of 18 April 2001 amends the regulations on the organization and services of the labour inspectorate, requiring that labour inspectors hold a degree in law, social science, labour administration or a related field), higher salaries (with a productivity bonus) and incentives, as well as continuous education.

[61] Article 6 of Convention No. 81 and Article 8 of Convention No. 129.

[62] The development of the labour inspectorate in the Dominican Republic is an example for the region. Starting with a non-professional and unqualified inspection staff of 77 inspectors in 1991, it now has 203 inspectors, 55 per cent of whom hold law degrees.

[63] These activities come under the ILO project "Strengthening the civil services in the Ministries of Labour of Guatemala, Honduras and El Salvador" financed by the United States DOL.

[64] See V. Jatobá: *Labour inspection within a modernized labour administration*, op. cit., p. 27.

Box 4.5
The Global Code of Integrity for Labour Inspection

In June 2008, the International Association of Labour Inspection (IALI) adopted a Global Code of Integrity for Labour Inspection. The purpose of the Code is to promote professionalism through integrity, commitment, responsiveness and good governance. The Code calls on labour inspectorates to facilitate a work environment that allows staff to comply with and apply the values and standards of conduct in the Code. Overall, it serves as a foundation for establishing a credible and professional labour inspection system.

The Code has been translated into several languages and is used as a reference document in a number of countries for the formulation of national codes of ethics in labour inspection.

241. Proper and adequate training [65] for labour inspectors is another key issue. In countries where specialized training institutions are lacking, ministries of labour often develop their own training curriculum. Sometimes national public administration schools provide basic induction courses for all civil servants, including inspectors. Some countries have opted to establish dedicated training schools for labour inspectors. The National Institute for Labour, Employment and Vocational Training (INTEFP) in France [66] is one of the first of its kind. Several other countries have set up their own training centres, for example Algeria (National Labour Institute – INT), Bulgaria, Poland (National Labour Inspectorate's Training Centre – OSPIP), Romania (Labour Inspection Training Centre – CPPPIM), Spain (School of Labour Inspection and Social Security) and Tunisia (National Institute of Labour and Social Studies – INTES). In India, the three main labour inspectorates (general inspection, OSH and mining) have their own training institutes at both central and state levels. [67]

Box 4.6
Modular training manual: Building modern and effective labour inspection systems

Given the urgent need for technical training material on labour inspection, the ILO is working to help member States improve curricula for labour inspectors. In the framework of a project financed by Norway, "Enhancing labour inspection effectiveness", LAB/ADMIN and the International Training Centre of the ILO in Turin (ITC–ILO) developed a new labour inspection training manual in 2010. The curriculum is designed around a series of modules covering a wide range of labour inspection issues, including labour inspection principles, policies and strategies, as well as practical tools and methodologies for inspectors. The manual is available in several languages: Albanian, Arabic, Armenian, Chinese, English, French, Macedonian, Moldovan, Montenegrin, Portuguese and Spanish.

Conditions of work and employment

242. As mentioned above, in most countries the scope of labour inspection activities is broad and covers several areas. Depending on the region and/or country, inspection

[65] As provided under Article 7(3) of Convention No. 81 and Article 9(3) of Convention No. 129.

[66] Created in 1955, its mission is to provide initial and continuous education for labour ministry officials, including a specific programme for inspectors.

[67] Namely, the V.V. Giri National Labour Institute in Delhi and the Directorate General, Factory Advice Service and Labour Institutes (DGFASLI) in Mumbai. These two training centres provide a wide range of training, including induction courses for newly recruited inspectors and refresher courses for senior inspectors; there are also training centres at the state level in Gujarat, Tamil Nadu, Kerala and Maharashtra.

priorities may focus on working-time violations, non-payment of wages (especially the minimum wage) and benefits, and OSH violations. In Latin America, data from the Labour Directorate of Chile (2006) indicate that 41 per cent of penalties imposed were for violations of working-time regulations. In Nicaragua, 38.3 per cent of proceedings in the last five years involved safety and health violations, followed by violations related to overtime (nearly 18 per cent), the absence of written employment contracts and failure to apply their provisions (17.2 per cent). In Brazil, labour inspectors advise workers and employers on how to ensure better working conditions and comply with labour legislation, while recognizing enterprises' need to improve productivity. [68]

243. In European countries such as France, Italy, the Netherlands, Poland, Portugal and Spain, inspectors often intervene in cases of undeclared or illegal work (see below). In the Arab States, the core issues for labour inspectorates are the existence or absence of employment contracts, non-payment of wages and problems related to illegal immigration. In fact, the bodies responsible for granting work permits in that region account for a high proportion of inspection activities. [69]

244. As a result of the economic crisis, there has been an increase in workload and pressure for many employees, with repercussions on working time in particular. Consequently, there is an increasing tendency to carry out more proactive inspections on working conditions, taking account of the relationship between working conditions and other areas, such as OSH or the employment relationship.

Safety and health

245. The scope of labour inspection covers many technical issues, especially OSH. The traditional hazards and inspection activities are the same in most countries. However, there have been changes in the approach taken by inspectorates, especially since the introduction of OSH management systems in industrialized countries at the enterprise level and the increasing use of risk assessments. Safety and health at work and risk prevention are a perennial and evolving problem that should be addressed through general and sustainable approaches in accordance with the Occupational Safety and Health Convention, 1981 (No. 155), [70] and the Promotional Framework for Occupational Safety and Health Convention, 2006 (No. 187).

246. Today, labour inspectorates face challenges in trying to apply laws and regulations to a shifting and complex labour landscape. Such challenges in the area of health and safety have been dealt with in different ways in the various regions of the world. For example, in El Salvador, where the law did not allow safety and health inspectors to impose fines, the legislation in force has recently been amended [71] to grant these inspectors the same sanction powers as inspectors responsible for working conditions. In other countries, the focus is more on prevention. For example, in Viet Nam, [72] the Department of Labour Inspection organizes a national safety and health week in

[68] See R. Pires: *Compatibilizando direitos sociais com competitividade: Fiscais do trabalho e a implementação da legislação trabalhista no Brasil* [Reconciling human rights with competitiveness: Labour inspectors and the implementation of labour legislation in Brazil] (Rio de Janeiro, IPEA, 2008).

[69] Information provided by governments (in particular, labour inspection audits of Lebanon, Oman, Syrian Arab Republic and Yemen).

[70] See also the Protocol of 2002 to the Occupational Safety and Health Convention, 1981 (No. 155), on the recording and notification of occupational accidents and diseases.

[71] Legislative Decree No. 254 of 21 January 2010 enacting the General Act on risk prevention in the workplace.

[72] Information provided by the Government.

workplaces to raise awareness on specific themes and to train inspectors. The preventive approach to safety and health is also predominant in most African countries. In Benin, Ethiopia, Kenya, Malawi, Niger, Senegal, United Republic of Tanzania and Togo, labour inspectors conduct OSH training for workers and employers.

247. Over the years, labour inspectors have gone beyond their traditional role of merely indentifying violations to make recommendations and even impose penalties, depending on the severity of the violation. In most countries they have also been able, in line with Article 13 of Convention No. 81 and Article 18 of Convention No. 129, to take measures with immediate executory force, such as suspending a process or even closing an enterprise in the event of imminent danger to the health or safety of workers.

248. Today labour inspectorates are adopting a more proactive approach to better inform workers and employers on safety and health issues. The changing nature of OSH risks and production methods affects the ability of inspectors to effectively promote preventive measures. Nonetheless, there are some promising ways forward. One positive trend is the growing public interest in participating in risk regulation. In addition, new prevention strategies are emerging based on action programmes carried out by employers in cooperation with labour inspectors. This collaborative approach reinforces the employers' general duty of care and has the potential to mitigate OSH problems related to new forms of work, discussed below.

249. In this respect, it is worth noting the EU initiatives under the Common principles for labour inspection in relation to health and safety in the workplace adopted by the Senior Labour Inspectors Committee (SLIC) in line with the Community strategy 2007–2012 on health and safety at work.

Fundamental principles and rights at work

250. The enforcement of working conditions (especially wages and working time) and respect for fundamental principles and rights are at the core of labour inspection activities. Regulating and preventing child and forced labour are priority concerns in many countries, especially where inspectors' activities do not cover the informal economy. Given the importance of combating child labour, there has been a trend in recent years for governments to establish child labour sections, units or specific administrative bodies (in parallel with the implementation of the ILO–IPEC programme) involving labour inspectorates to varying degrees (for example, Ecuador, El Salvador, [73] Republic of Moldova and Turkey).

251. These special child labour units were established in collaboration with the social partners. They focus on specific priority issues and strive for a coordinated approach with other children's rights organizations and public institutions.

252. The approach of labour inspectors in enforcing children's rights varies from country to country. Some countries combine specific training of labour inspectors with training for staff of other ministries. This is the case in the Dominican Republic, where a specific training programme and awareness-raising campaign is usually undertaken by the labour inspectorate with the Ministry of Education to detect the worst forms of child labour, especially during the rice and coffee harvests. In addition, the National Institute of Technical-Vocational Training (INFOTEP) has designed programmes (the Youth and Employment Programme being the most well-known) focusing on the informal sector, aimed at training young people aged between 16–29 who are too old to go back to school

[73] There is a unit on gender and non-discrimination in the central inspectorate, for example. ILO: El Salvador labour inspection audit, 2009.

but who have an inadequate level of education. They were given a daily allowance and attended a five-month course, followed by an internship with local employers. The combined programme trained over 20,000 young people as automobile repair workers, plumbers and electricians, among others. [74]

253. In Turkey, a multi-component programme including training and data collection was undertaken in the area of child labour through a pilot project developed in Izmir. [75] The labour inspectors adopted a holistic approach, expanding their supervisory activities to include referral and monitoring services. With the collaboration of other institutions, child workers were placed in primary schools, while older children were referred to vocational training centres and informal education programmes, including literacy courses. There was also follow-up with the children's families and children were offered assistance in the form of psychological assessment, vocational and technical training and income-generating activities. As part of this programme, 180 Turkish inspectors received child labour training.

254. Recently, in Morocco, the Ministry of Employment and Vocational Training appointed 43 labour inspectors as focal points responsible for coordinating efforts to combat child labour at the local level. [76]

Box 4.7
Special groups to combat child labour and forced labour in Brazil

In 2000, the Brazilian labour inspectorate coordinated the creation of special groups to combat child labour and protect adolescent workers (GECTIPAs). These groups existed until 2004, with the aim of generating skills and institutional capacity on child labour. Each federal state had at least two inspectors exclusively assigned to this issue, enabling more effective identification of workplaces using child labour. During this period, specific procedures and techniques for inspection visits were developed for approaching and interviewing boys and girls. The GECTIPAs played an essential role in institutionalizing the eradication of child labour within labour inspection activities and contributed substantially to making combating child labour one of the mandatory objectives of inspectorates in every state, with the application of a new labour inspection methodology since January 2010.

The main instrument in the fight against forced labour in Brazil is the special mobile inspection groups (GEFM) created in 1995. GEFM action has helped rescue over 30,000 slave labourers. These multidisciplinary groups are coordinated by the Labour Inspection Secretariat of the Ministry of Labour and Employment and composed of a labour lawyer, federal police and a labour inspector. Their objective is to respond to allegations of slave labour on site, to free the workers and to impose appropriate sanctions on the estate owners. To ensure successful operations and prevent corruption, confidentiality must be maintained before the teams go out. The teams are coordinated at the federal level. In some states (for example, Mato Grosso), where the skills of the labour inspectors investigating slave labour have been upgraded, these groups have been decentralized and operate at the state level.

[74] M.L. Vega: *Labour administration: To ensure good governance*, op. cit., p. 22.

[75] See www.ilo.org/public/english/region/eurpro/ankara/download/lib.pdf.

[76] Information provided by the Government.

Among the risks and difficulties encountered by the GEFM are constant threats and attacks by the estate owners, who dominate the local public authorities in certain states and hinder inspection activities. There have been reports of acts of violence against the Groups. On the other hand, the GEFM has had a positive impact on the workers' image of the public authorities, which are now perceived as exemplary by workers as regards labour law enforcement in rural areas.

Sources: ILO: The good practices of labour inspection in Brazil: The prevention and eradication of child labour (Brasilia, 2010); P.T. Maranhão Costa: Fighting forced labour: The example of Brazil (Geneva, ILO, 2009).

Non-discrimination

255. In the context of enforcement of fundamental principles and rights at work, there are also a number of interesting experiences with regard to non-discrimination. In Latin America, in countries like Chile, Costa Rica and Uruguay, there have been encouraging developments; in Chile, the National Women's Service (SERNAM) and the Labour Directorate of Antofagasta recently concluded a collaboration agreement which set a joint agenda to improve, monitor and safeguard women's activities through effective collaboration in inspection activities in the area, particularly in cases of sexual harassment. According to the agreement, a follow-up programme on sexual harassment will be set up, to be run by either the labour inspectorate or SERNAM. An oversight programme concerning the working conditions of women night workers will also be implemented and communication strategies will be designed to publicize the rights of female domestic workers in particular, in order to strengthen and formalize their employment relationships. [77]

256. In Costa Rica, special campaigns for women workers and adolescents involving the labour inspectorate have been planned to ensure that dismissals of pregnant women and adolescents are not discriminatory. In 2005, these special cases (which included supervision and follow-up in cases of freedom of association violations) accounted for 718 interventions, representing more than 90 per cent of all inspection interventions. [78] In Uruguay, new legislation enabled the labour inspectorate to play an important role in taking action against and/or preventing sexual harassment. [79] The inspectorate receives complaints and can take immediate action to help protect the victim. The inspectorate may impose a fine irrespective of whether or not the victim chooses to go to court.

257. In Europe, many countries have made progress in conducting specific campaigns on gender equality at work. In Spain, since the promulgation of the Equality Act [80] in 2007, an inspection intervention plan has been developed, which includes training, education, a checklist and inspection visits aimed at verifying cases of wage discrimination in specific sectors and enterprises. A total of 3,000 enterprise inspections were carried out in 2009 to monitor enforcement of the Act, which requires enterprises to take steps to achieve equality between women and men, prevent gender discrimination, ensure respect for the right of women and men to reconcile work and family life, and guarantee protection for the safety and health of women during pregnancy, maternity and breastfeeding. [81] In Ukraine, with ILO support, the inspectorate is developing a training

[77] See labour directorate website, at www.dt.gob.cl/1601/article-90661.html.

[78] M.L. Vega: *Labour administration: To ensure good governance*, op. cit., pp. 22 and 24.

[79] Act No. 18561 of 11 September 2009 on sexual harassment, to provide for prevention and punishment of sexual harassment at the workplace and in teacher–student relations.

[80] Organic Act No. 3/2007 of 22 March, on effective equality between women and men.

[81] See www.kpmg.com/ES/es/ActualidadyNovedades/ArticulosyPublicaciones/Paginas/Campana-Inspeccion-Trabajo-Planes-igualdad.aspx.

programme and checklist on gender equality in the workplace, aimed at educating inspectors on the subject and ensuring more effective application of the legal provisions on non-discrimination.

258. In Africa, several countries have made solid progress in strengthening labour inspection services to comply with non-discrimination issues. This is the case in Benin, Burkina Faso, Mali, Kenya, Niger, South Africa, United Republic of Tanzania and Togo, among others. For example, in Kenya, labour inspectors use a particular inspection form for tracking discrimination in the workplace (including questions relating to gender equality, maternity pay and equal pay for men and women). In South Africa, inspectors verify the design of employment equity plans [82] and monitor their implementation on an annual basis. [83]

The informal economy

259. It is clear from the above that the extension of labour administration services to the informal economy is an ongoing requirement, as provided in Article 7 of Convention No. 150: countries that have ratified the Convention shall, when national conditions so require, promote the extension of the functions of the system of labour administration to non-wage workers. However, it is difficult to measure the real impact of these interventions in promoting decent working conditions, and national inspectorates do not seem to have successfully implemented any specific programmes.

260. The term "informality" as it is understood today refers to a current widespread reality in national labour markets. The informal economy encompasses many different groups of workers, enterprises and employers whose activities either lie outside the scope of the law or are covered by laws that are not applied or enforced, or are too onerous or costly to apply and therefore ineffective. [84] Nonetheless, the informal economy includes many legitimate activities that are not illegal under criminal law.

261. Labour inspectorates are generally responsible for monitoring the application of legislation with regard to workers involved in the informal economy, usually in the absence of special rules for small enterprises [85] or independent workers that constitute the bulk of the informal sector. [86] In some countries, however, legal measures have been adopted to facilitate the task of inspection in dealing with the black market and undeclared work (see below) by combining the registration or formalization process with inspection activities. In other countries, criteria have been established to determine who is an employee and who is not, thereby enabling inspectors to identify bogus self-employment. [87]

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[82] Employment Equity Act, No. 55 of 1998, section 20.

[83] Information provided by the Government.

[84] ILO: Conclusions concerning decent work and the informal economy, International Labour Conference, 90th Session, Geneva, 2002.

[85] An exception is Brazilian Act No. 9841 of 5 October 1999 on micro- and small enterprises, section 12 of which provides that all labour and social security inspections shall provide guidance to micro- and small enterprises as a matter of priority.

[86] Interestingly, section 249 of the Labour Code of the Dominican Republic provides that prior authorization of the Department of Labour is required to recruit minors for street businesses; in practice this enforcement measure covers most micro-enterprises. Act No. 16-92 of 29 May 1992 promulgating the Labour Code.

[87] In South Africa, for example, the Basic Conditions of Employment Amendment Act, 2002 (No. 11 of 2002), sets out a number of criteria for defining employees, until the contrary is proved, regardless of the form of the contract. These criteria include: "the person is economically dependent on the other person for whom that person works or renders services" and "the person only works for or renders services to one person".

262. Experiences of labour inspection in the informal economy can be found in several countries at different stages of development. In India, for example, a new programme to assist the Labour Commissioner's Office in dealing with the informal economy is being put in place in the State of Maharashtra. The programme's main activities will include a training unit, the development of a structure to deal with the unorganized sector and the preparation of templates, inspection plans and checklists to address specific problems in the informal economy. [88]

263. In Latin America, several amendments to legislation have refocused attention on the informal economy. For example, in Peru the legislation on labour inspection [89] was amended to guarantee the confidentiality of complaints, strengthen the power of inspectors and extend their remit to workers' cooperatives and employment agencies for domestic workers. The Act on the promotion and formalization of micro- and small enterprises [90] sets annual inspection targets to cover 20 per cent of registered micro-enterprises. In Chile, the Labour Code [91] provides for a system of progressive penalties according to the number of workers employed in the enterprise. This allows the labour inspectorate to extend coverage to micro-enterprises and to impose fines on enterprises with fewer than ten workers. Such fines can be replaced (only once a year) by mandatory attendance at a training programme (maximum duration two weeks) on labour law issues, dispensed by the Department of Labour.

Domestic workers

264. With regard to specific aspects of domestic work, [92] one finds considerable use of labour inspection services. Several countries have introduced measures to prevent illegal domestic work and enable supervision by the labour inspectorate. For example, in France, the Universal Service Employment Voucher Scheme (*Chèque Emploi Service Universel* – CESU) was introduced to simplify the process of hiring and paying domestic workers. Workers' wages are paid using vouchers that can be purchased at a local bank. Employers benefit by being able to claim an income tax deduction for 50 per cent of the cost of the vouchers. The system allows recordkeeping both by the labour administration and by the employer, who is required to keep a copy. Similar schemes are applied in Austria, Finland, Luxembourg and Switzerland.

265. Balancing the need for inspectors to enter a workplace freely with the principle of privacy of the family and of the home is a problematic issue for labour inspectorates in the case of domestic workers. However, there are a number of practical examples of how to reconcile these concerns and facilitate enforcement in private households. In Brazil, for example, where the right to the inviolability of the home is enshrined in article 5 of the Constitution, labour inspectors are authorized to monitor registers of domestic workers. In Canada, the Supreme Court ruled that even where the workplace is also a private home, inspections are not an unreasonable use of inspection powers. [93]

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[88] Information provided by the Indian Government in the context of the Norwegian technical cooperation project on strengthening labour inspection.

[89] Act No. 28292 of 20 July 2004 amending Legislative Decree No. 910, General Act on labour inspection and protection of workers.

[90] Act No. 28015 of 3 July 2003.

[91] Decree with force of Law No. 1 of 2005, to revise, coordinate and systematize the Labour Code.

[92] For more information, see ILO: *Decent work for domestic workers*, Report IV(1), International Labour Conference, 99th Session, Geneva, 2010, p. 85ff.

[93] *Comité paritaire de l'industrie de la chemise* v. *Potash* (1994), 2 SCR 406.

266. In Uruguay, the Constitution states that "The sanctity of the home is inviolable. At night no one may enter it without the consent of the head of household, and during the day, only on the express order of a competent judge, in writing and in cases determined by law". [94] The Ministry of Labour and Social Security may carry out inspections in the home where there is a presumption of violation of labour regulations and social security provisions, although the authorization of a judge is required for such inspections. [95] In fact, the General Inspectorate of Labour and Social Security has created a special division responsible for monitoring the enforcement of provisions concerning domestic labour.

Agricultural workers

267. There are also specific provisions dealing with agriculture. Agricultural work is a particularly important area for inspection, not only because of its large economic dimension in many countries, but also in the light of the Labour Inspection (Agriculture) Convention, 1969 (No. 129). In industrialized countries, activities in this sector are generally aimed at preventing undeclared work (see below) and supervising the working conditions of seasonal workers. Many violations in the area of child and forced labour (see above) are reported in the agricultural sector. In general, the remoteness of agricultural workplaces, as well as the temporary nature and composition of the labour force, hinder inspection activities and require more targeted action, which, however, does not often occur in practice. In general, agriculture is not properly covered in most countries, including several developing countries.

268. In order to help workers protect themselves from abusive employment practices in this sector, some countries (for example, Italy and Norway) have posted relevant information for agricultural workers on their inspectorate's website concerning the form and application of employment contracts and rights in general. [96]

269. In certain central structures, the inspectorate has a department responsible for the agricultural sector, as in the case of the agricultural division of the labour inspectorate of El Salvador, which uses specific inspection procedures, including a preliminary preventive inspection which cannot result in the assessment of a fine. [97] The Syrian Arab Republic has an agricultural labour inspection unit under its Central Directorate of Agricultural Relations, which only enforces legislation specific to this sector. [98]

Export processing zones

270. Even when labour legislation is applicable to export processing zones (EPZs) without exemption, enforcement in EPZs calls for special attention, given the substantial challenges in carrying out labour inspection functions effectively. The general lack of resources (material and human) and training of labour inspectors, and the absence of a

[94] Constitution of Uruguay, 1967, article 11.

[95] Act No. 18065 of 15 November 2006 on domestic work, section 13.

[96] See Norwegian Labour Inspection Authority website, at www.arbeidstilsynet.no/fakta.html?tid=97840.

[97] ILO: El Salvador labour inspection audit, 2009.

[98] Act No. 56 of 2004 regulating agricultural relations. Section 140 stipulates that agricultural labour inspectors shall have the status of judicial police in regard to the enforcement of the provisions of the Act, and sections 124–139 specify the powers, competences and obligations of such inspectors.

clear legal framework giving them power to act in the general interest are especially prevalent in most EPZs. [99]

271. It is not common for labour inspectorates to have specific units of labour inspectors specialized in EPZs or programmes or campaigns aimed at enforcement and prevention in the zones.

272. There are a few examples of specific action in Asia and Latin America. In Sri Lanka, there is now a labour inspectorate in one of the EPZs. In Honduras, the labour inspectorate has launched a mobile labour services unit to visit the different EPZs and respond to inquiries from workers employed in them. The intention was to bring the inspectorate to the workers so that the workers would not have to go to the offices to present their claims or be informed about their rights. Accordingly, in order to facilitate access of labour inspectors or any other public institution to EPZs, a protocol has been signed between the labour inspectorate and the AHM. The objective of the protocol is to grant inspectors access to EPZ premises, although it does not include access to the factories, whose representatives still have to decide whether or not they will receive the public authorities. The same initiative is being undertaken in Guatemala, where a special inspection unit has been created at the central level.

HIV/AIDS

273. Labour inspectorates have ways of addressing the impact of HIV/AIDS in the workplace and its implications for inspection activities, in particular with regard to discrimination and prevention. The recent ILO HIV and AIDS Recommendation, 2010 (No. 200), assigns specific tasks to the labour administration in implementing labour policies related to HIV/AIDS, including developing strategies and programmes (in particular, training programmes) to prevent HIV transmission in the workplace by ensuring a safe and healthy work environment.

274. There are a number of interesting national approaches in this area. The Namibian National Code on HIV/AIDS and Employment, for example, provides guidelines and instructions which all employers and workers must follow when applying the relevant provisions of the Labour Act in respect of HIV/AIDS in employment. In Ethiopia, the Ministry of Labour and Social Affairs has created a task force to coordinate activities on HIV/AIDS. These activities were reinforced by the appointment of a focal point in the inspectorate responsible for monitoring the Ministry's programme on HIV/AIDS. [100] Activities undertaken include educational forums, the drafting of a code of practice based on the ILO code of practice, [101] several "Train the Trainer" courses and the development of a checklist to guide inspections targeting this issue. Several Caribbean countries have introduced similar training programmes, including Barbados, Belize, Jamaica, Suriname, and Trinidad and Tobago. In Guyana, for instance, the Ministry of Labour, Human Services and Social Security has mainstreamed HIV into the inspectorate and training components of the Labour Occupational Safety and Health (LOSH) Division. The LOSH officers have been trained to provide technical assistance to enterprises in designing and implementing HIV policies and programmes. A software programme has also been developed to enable the LOSH Division to track the implementation of an HIV response by enterprises.

[99] For more information see ILO: *Good labour practice compilation of labour inspection practices and guidelines for effective labour inspections in EPZs* (Geneva, Feb. 2010).

[100] ILO: Ethiopia labour inspection audit, 2009.

[101] ILO: *An ILO code of practice on HIV–AIDS and the world of work* (Geneva, 2001).

Box 4.8
Labour inspection and HIV/AIDS in the Philippines

In 1998, the Philippines adopted the Philippine AIDS Prevention and Control Act of 1998. Section 15 of the Implementing Rules and Regulations under the Act deals with HIV/AIDS education in the workplace. It provides that each employer shall develop, implement, evaluate and fund an HIV/AIDS information and education programme for all their workers. The monitoring and assessment of this programme is the responsibility of DOLE, in collaboration with the Department of Health. The labour inspectorate is responsible for enforcing compliance with the programme. Employers are required to provide inspectors with records and materials of their HIV/AIDS education and information programme and inspectors record this on their checklists. In collaboration with DOLE's Occupational Safety and Health Center, the labour inspectors play an active role. The Center is also the overall coordinator of an inter-agency committee dealing with AIDS in the workplace, established in 1996 by DOLE Administrative Order No. 236. The Executive Director of the Occupational Safety and Health Center also represents the DOLE Secretary on the Philippine National AIDS Council.

Source: ILO: Philippines labour inspection audit, 2009.

New challenges for labour inspection in a changing world

275. The world of work is by nature changeable, varied and, despite the existence of labour standards, unpredictable. Added to this are the challenges posed by the specific technical requirements of different occupations, the use of technology and the existence of new industrial processes. More than ever before, there is a need for mechanisms to enable inspectors' skills and knowledge to be brought up to date. They must also possess the flexibility and dynamism necessary to fulfil their preventive, advisory and enforcement roles, as specified in Article 3(1) of Convention No. 81 and Article 6(1) of Convention No. 129.

276. Changes in the labour market over the last decade have resulted in a growing trend towards extending the remit of labour inspectors (in particular, in countries that focus on OSH inspection) to cover other issues related to employment relations.

277. In recent years, developments such as the ageing of the working population, higher rates of female employment, increasing rates of youth unemployment, migratory movements, [102] new forms of work organization (telework and outsourcing), the setting of new global goals for sustainable development and a new environmental approach (renewable energy and green jobs) have given rise to major changes in the industrial and social spheres, both nationally and internationally. This has compelled inspectors to focus on new priorities, with new methods of investigation and new challenges. In addition to monitoring and enforcing compliance with standards, there is a need to detect new and highly complex risks, as well as the evasion of responsibility in increasingly elaborate chains of employment relationships, and the existence of new forms of employment, particularly in small and medium-sized enterprises (SMEs).

[102] M. Amable, J. Benach and V. Porthé: "La precariedad laboral y la salud de los inmigrantes en España ¿qué sabemos y qué deberíamos saber?" [Labour precarity and health among immigrants in Spain: What do we know and what should we know?] in *Archivos de Prevención de Riesgos Laborales*, 2007, Vol. 10, No. 1 (Barcelona). The authors indicate that owing to the loss of support from social networks and the language difficulties entailed by migration, migrants are at greater risk of health problems than nationals. In fact, the immigrant population shows a higher incidence of poor health than the Spanish population, as well as more frequent psychological problems, because they tend to make less use of health-care provision in the period immediately after arrival.

278. There is also a need to take into account the growing specialization of traditional processes, along with the frequent use of robotics, microelectronics, telematics and nanotechnology. In parallel, changes in work organization, in particular more flexible hours of work and the use of information technology, need to be taken into account. Additional factors to be borne in mind relate to more individualized human resources management systems involving mandatory performance objectives. These trends are evident in both industrialized and developing countries, which often host offshore enterprises boasting complex technological processes but with inadequate administrative controls in place.

279. Added to the above are new risks to workers' health, some of which already existed but were not recognized as risks (for example, ultraviolet radiation), [103] and new pandemics, such as avian influenza. All of these emerging issues should be addressed in a consistent manner by inspectors through prevention and enforcement, a task that is far from straightforward. This task is made more difficult by additional problems such as the effects of stress and psychosocial risks in the enterprise [104] (involving an element of subjectivity), which are heightened at times of economic crisis.

280. In addition to the wide range of risks mentioned above, which would appear to require every inspector to possess knowledge of many specialized technical areas, the different factors may overlap and feed into one another. It is therefore important that, irrespective of the competency and degree of technical complexity of the inspectorate (specialized or general), account is taken at all times of the conditions and the environment in which the work is performed. The Community strategy on safety and health at work recommends that priority be given to the study of risks associated with "cross-factors" (such as work organization and workplace design issues, and combined exposure to physical and chemical risks). [105]

Box 4.9
Effects of work intensity on health

According to a recent European Working Conditions Survey, temporary workers of more than six months' standing suffer the highest frequency of work-related health problems (37 per cent) when compared to the total number of workers employed under different types of contract since, in addition to the activity being temporary and more intense, they are exposed to physical and environmental risks (more prolonged than for shorter temporary contracts) and the psychological effects of workplace pressure. They are also at greater risk of workplace accidents because of lack of training.

Source: European Foundation for the Improvement of Living and Working Conditions: *Very atypical work: Exploratory analysis of fourth European Working Conditions Survey*, Background paper (2010).

Safety and health

281. In view of the new factors affecting the health of workers across the world, labour inspectorates started to rethink the traditional three-pronged approach to labour inspection based on regulation, monitoring and sanctions. Inspectors are increasingly

[103] Considered by the EU to be a carcinogen in 36 industries. European Agency for Safety and Health at Work: *Outlook 1: New and emerging risks in occupational safety and health* (Luxembourg, Office for Official Publications of the European Communities, 2009).

[104] According to the World Health Organization (WHO), depression will have become the principal cause of work incapacity by 2020. See European Commission: *Improving quality and productivity at work: Community strategy 2007–2012 on health and safety at work,* COM(2007)62 final (Brussels, 21 Feb. 2007).

[105] ibid., p. 13.

directly involved in workplace risk prevention strategy, seeking to further develop and implement basic hazard mitigation systems and participating in, or advising on, risk assessment. The inspector is playing a proactive, anticipatory role, operating directly within the workplace. This is a new and more systemic approach, based on the new OSH methods of risk management and prevention (emphasized in ILO Convention No. 187).

282. To fulfil this new role and ensure wide coverage of the population, the Directorate of Enforcement Programs (DEP) in the United States, part of OSHA, uses information technology to disseminate guidelines on improved national compliance with OSH standards. The DEP provides information in the form of directives and interpretations explaining how a standard should be enforced by Compliance Safety and Health Officers (CSHOs) and how employers should comply with it. [106] A similar approach is taken in the United Kingdom by the HSE, which publishes information under the heading "What to expect when a health and safety inspector calls", in the form of leaflets and a web page. [107]

283. As indicated in the 2009 General Survey on OSH by the CEACR, [108] the preventive functions of labour inspectorates are becoming increasingly important. In Belgium, for example, the traditional focus of the labour inspectorate *(Direction Générale Contrôle du bien-être au travail)* is on technical assistance and information, with sanctions imposed as a last resort. [109]

284. In a number of countries, national safety and health policies are focused on the work of the labour inspectorate. This is the case of the Danish Working Environment Authority, which over the period 2005–12 intends to use spot checks to examine safety and health conditions in every enterprise in the country. Enterprises are awarded a "smiley" according to the results of this screening, which are published on the Authority's website (www.at.dk). In Bulgaria, the General Labour Inspectorate contributes systematically to the development of safety and health policies and strategies. [110]

285. The need to adapt constantly and swiftly to technological and scientific progress and to an ever-evolving world of work calls for specialized OSH bodies in areas such as risk assessment, medical surveillance, mechanical engineering, acoustics, materials analysis, equipment testing, certification of machinery and processes, preparation of technical standards and dissemination of information. Although risk assessment is the responsibility of enterprises, direct support is often provided by the labour inspectorate. This type of involvement is common in industrialized countries. Inspectorates in many countries plan visits based on risks and national or sectoral OSH regulations. An interesting compilation of priorities has been produced by the European Risk Observatory. [111]

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[106] www.osha.gov/dcp/index.html.

[107] www.hse.gov.uk/pubns/hsc14.htm.

[108] ILO: *Occupational safety and health*, Report III (Part 1B), International Labour Conference, 98th Session, Geneva, 2009, para. 98 (General Survey, 2009).

[109] www.emploi.belgique.be/detailA_Z.aspx?id=834#AutoAncher1.

[110] ILO: General Survey, 2009, para. 98.

[111] European Agency for Safety and Health at Work (EU–OSHA): *Labour inspectorates' strategic planning on safety and health at work: Results of a questionnaire survey to EU–OSHA's focal points*, European Risk Observatory Working Paper 10 (Luxembourg, Office for Official Publications of the European Communities, 2009).

286. Involvement by inspectors in risk assessment can be seen, for example in the Spanish "Plan PREVEA", [112] intended for enterprises with up to 50 employees, which provides support and OSH-related technical advice from inspectors on a voluntary basis. As a prerequisite, enterprises must plan preventive activities to improve safety and health conditions in the workplace, with the active participation of workers' representatives in the enterprise. If the plan is carried out, sanctions can be avoided, on condition that the OSH objectives are met and that no serious or fatal workplace accidents or occupational illnesses occur. In Norway, internal control systems have been mandatory since the beginning of the decade for all public and private enterprises, which are required to carry out preventive activities. There was a shift from on-site detailed inspections to a system-oriented approach. By 2001, the results were already being felt, with improvements not only in internal prevention plans (30 per cent of enterprises had improved), but also in terms of better work organization (37 per cent of enterprises). [113]

287. Prevention and investigation of workplace accidents are still among the traditional challenges facing labour inspectorates in the area of safety and health, although significant developments are occurring in terms of trends and investigative techniques. According to EU–OSHA, accidents headed the list of concerns voiced by European authorities in 2009 (80 per cent expressed major or some concern), followed by work-related stress (79 per cent) and musculoskeletal disorders [114] (78 per cent). Violence or threats of violence, bullying and harassment were of concern to nearly 40 per cent of survey respondents. [115] The European Risk Observatory reports that while the accident rate has fallen since 1998, this decrease is more significant for men (21 per cent) than for women (14 per cent). [116] The accident rate is particularly high in sectors such as construction and agriculture, with a higher rate across sectors for younger people. In Europe, the Community strategy on health and safety at work (2007–12) has set the objective of reducing the incidence of accidents at work across the EU by 25 per cent.

Environmental risks

288. From a safety and health standpoint, environmental risks, particularly those related to "green jobs", increasingly require a specific approach by inspectorates. Convention No. 129 already introduced new perspectives and paved the way for developments that will entail innovative, holistic and collaborative approaches to inspection, involving a combination of labour and environmental considerations, as well as new methods of work. In Brazil, for example, with ILO support, the Government has committed to conducting a pilot project in Mato Grosso to promote innovative inspection methods for green jobs. [117]

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[112] Dirección General de la Inspección de Trabajo y Seguridad Social, Spain: *Informe anual de la Inspección de Trabajo y Seguridad Social 2009* [Annual Report of the Labour and Social Security Inspectorate].

[113] ILO–IALI: *Labour inspection and occupational safety and health management systems,* Summary report of the Joint ILO–IALI Symposium (Düsseldorf, May 2001).

[114] Although there are many contributory factors, musculoskeletal disorders result mainly from repetitive tasks, often involving physical effort.

[115] EU–OSHA: *European survey of enterprises on new and emerging risks: Summary*.

[116] www.osha.europa.eu/en/new_eustrategy/.

[117] Within the framework of Ministerial Order No. 546 of 11 March 2010, which governs the operation of the labour inspectorate through a combination of planning and evaluation.

Psychosocial risks

289. Psychosocial risks, stress and work-related violence are now being addressed by inspectorates. According to the abovementioned EU–OSHA survey, these "new" forms of risk (particularly stress) are ranked one percentage point below accidents in terms of perceived seriousness by European enterprises. Concentration of tasks among a small workforce, along with the current threat of job loss, generates a significant increase in anxiety and cardiovascular disease, as well as a high rate of absenteeism, which in turn exacerbates the problem as new additional tasks are imposed on staff members who would otherwise not have been affected. In other words, a chain effect exists which, despite its significance, seems not to have been addressed in many countries. [118] Many enterprises, aware of the scale of the problem, have implemented preventive management systems, although these are generally internal programmes based on negotiation and dialogue. [119]

290. Psychosocial risk assessment has spread across Europe and is a mandatory part of a general risk assessment, often involving inspectorate participation. Inspectorates in the region have developed several specific measures. For example, since March 2009, the German Committee of the Länder for Occupational Safety and Health (LASI) has been producing handbooks and checklists for inspectors, as well as organizing training courses, with the aim of mainstreaming psychosocial risks into the inspection procedures of the federal states. [120] Denmark has appointed psychologists as inspectors and, since 2000, the labour inspectorate has produced a publication entitled *Surveying the psychosocial environment*, to inform the general public on approaches to such risks and to serve as a handbook for inspections. [121]

Vulnerable groups

291. Changes in the world of work are also affecting the working conditions of vulnerable groups. These groups need to be targeted with specific programmes and inspection campaigns in order to address the particular risk factors affecting them. Several initiatives are being undertaken in Europe. For example, in Austria, the programme on age-sensitive working conditions includes specific advocacy activities by the inspectorate aimed at older workers. Several countries have introduced programmes to identify and address the problems faced by young people in specific sectors (for example, Australia, Denmark, Greece, Italy, New Zealand, Portugal and Spain).

[118] In Europe, for example, only Belgium, Finland, the Netherlands and Norway define it explicitly in their legislation, while it is implicit in definitions used in France, Italy and Spain.

[119] For example, the recent negotiations in Danone in France.

[120] K. Seiler: " Psychosocial risks at work – An advanced labour inspection approach of the German Laender", Powerpoint presentation, 23 Nov. 2009.

[121] J. Graversgaard: "Key role of labour inspection: How to inspect psychosocial problems in the workplace?", in S. Iavicoli (ed.): *Stress at work in enlarging Europe* (Rome, National Institute for Occupational Safety and Prevention, 2004).

Box 4.10
Labour inspection and youth in Austria

The Austrian labour inspectorate is developing several projects to address issues relating to young people at work, particularly in terms of safety and health. In the last six years, more than 11 projects have been undertaken in collaboration with young people, schools and enterprises. In 1999, the inspectorate launched the "Team4Kids" initiative, aimed at preparing young people for work through education and training and to promote a safety and health culture, both among young people and in vocational schools, careers advice institutions and workplaces.

Source: www.arbeitsinspektion.gv.at/NR/rdonlyres/4B3A8D52-3653-4659-92A2-D2569B6A15E4/0/safe_start.pdf.

292. The Danish inspectorate has, since the early 1990s, organized activities for young people, combining inspection campaigns, information materials and schools outreach. In the Netherlands, an annual inspection of enterprises employing young people on holiday jobs is carried out. Twenty-five per cent of inspectors are assigned to "youth" inspections during this period, with an estimated 1,500 to 2,000 workplaces visited each year. [122]

293. Similar campaigns target the unregulated economy and foreign labour. Migration is a key challenge for inspectorates everywhere. For example, in the United Arab Emirates, in view of the high volume of migrant labour, a wage protection mechanism has been in place since 2007, ensuring electronic monitoring of wages paid to foreign workers. [123] The system was introduced through Ministerial Decree No. 788 of 2009 on protection of wages, and a Wage Protection Office was established. With a team of inspectors enjoying the same powers as other labour inspectors, the Office supervises the proper payment of wages paid by bank transfer. Although it does not cover all workers, the system does represent an interesting approach to inspection.

Employment relationship

294. New forms of employment, outsourcing and complex supply chains have made the daily tasks of inspectors more difficult, requiring sound approaches, data collection and information campaigns involving the social partners, the media and special institutions. The extensive use of "indirect employment" practices through a complex network of agreements with service enterprises, sometimes even in another country, with employees often unaware of the identity of their real employer, makes it difficult for a labour inspectorate to enforce laws. The task is also complicated when employment agencies are involved. According to the ILO, "the situation is even more uncertain as regards the possibility of action by labour inspectors concerning workers in objectively ambiguous or disguised employment relationships". [124]

295. Innovative programmes providing information and education services, vocational advice and advocacy all play an important part in enforcing compliance with the law and collective agreements. In this context, labour inspectorates need to equip themselves with a broad range of tools, including teaching materials, guidelines and checklists, in order to enhance the skills of inspectors and their ability to deal effectively with problems associated with disguised or ambiguous employment relationships.

[122] Netherlands: *Report on the practical implementation of Council Directive 94/33/EC of 22 June 1994 on the protection of young people at work*, at www.ec.europa.eu/social/BlobServlet?docId=2921&langId=en.

[123] Under Cabinet Decree No. 133/1 of 2007.

[124] ILO: *The employment relationship*, Report V(1), International Labour Conference, 95th Session, Geneva, June 2006, para. 67. See also G. Casale (ed.): *The employment relationship: A comparative overview* (Oxford, Hart Publishing, 2011).

296. In Spain, for example, the Act on subcontracting in the construction sector [125] was passed because of the high accident rate in this sector, due in part to the widespread practice of subcontracting. The Act limits the number of levels of subcontracting and lays down conditions for subcontracting enterprises, ensuring transparency in the construction sector. It defines, inter alia, the concept of contractor, subcontractor and independent worker, sets down obligations and responsibilities and prescribes penalties for non-compliance.

297. Finnish legislation makes detailed provision for the employer's obligation to inform the worker of the main terms of his or her contract. Workers who do not receive information on their employment situation and who consider themselves to be employed may lodge a complaint with the competent authority. [126]

298. In Singapore, [127] there is no single conclusive piece of legislation to distinguish between an employment contract and a service provision contract, although the Ministry of Manpower has posted on its website a set of criteria to be applied to determine the existence of an employment relationship. In some countries, including several in Latin America (for example, Chile) the inspector's task is hampered by the fact that where there is a need to establish, either directly or indirectly, the existence of an employment relationship, only the labour court is competent to make this determination.

Effects of the recent economic crisis

299. The recent global economic crisis has affected all sectors and has had an obvious social impact. [128] Apart from an increase in unemployment and labour turnover, there has also been a rapid and progressive change in certain indicators that have a direct influence on the work of labour inspectorates (both their work and the working conditions they are required to inspect) and, consequently, on their ability to guarantee social stability through the protection of workers and proper application of the law.

300. Inspectors have to act swiftly to implement new preventive and advisory tools, as well as penalties, tailored to a new and unexpected context in which some of the problems they had already faced have become more acute (identification of new employment relationships and an increase in all forms of undeclared work). [129] Despite similarities in the social outcomes of the crisis and pre-crisis periods, the responses have differed markedly. Countries such as Italy, Portugal and the United States have over the last two years increased staffing levels and/or budgets in order to reinforce the role of inspection, which is regarded as vital in this context. Conversely, some countries have suffered budget cutbacks which have had a direct effect on inspection work. Sweden has seen a 31 per cent reduction in safety and health staffing and budget between 2006 and 2010 (167 fewer people engaged in inspection or similar tasks). Cuts have also affected professional development and funding for communication and training campaigns, as well as leading to reductions in administrative support staff numbers. As a result, the number of inspections carried out has fallen since 2006, while the number of violations

[125] Act No. 32/2006 of 18 October 2006 to regulate subcontracting in the construction sector.

[126] Employment Contracts Act, 55/2001, as amended, Chapter 2, section 4.

[127] Information provided by the Government.

[128] For more information on the impact of the crisis on labour inspection, see ILO: *The global economic and social crisis and its impact on labour inspection systems*, LAB/ADMIN document (Geneva, 2009).

[129] For more information see ILO: *Employment and social protection policies from crisis to recovery and beyond: A review of experience*, Report to the G20 Labour and Employment Ministers Meeting, Washington, DC, 20–21 April 2010 (Geneva, Apr. 2010), pp. 53–56.

and preventive measures remains stable. [130] Budget cutbacks have also been implemented in Spain and the United Kingdom.

301. In many countries, labour inspectorates have refocused and redoubled their work as an immediate consequence of the crisis. In Spain, the inspectorate has seen an almost 300 per cent increase compared to 2007 in administrative procedures relating to workforce adjustment plans as enterprises close or downsize. [131] It has been necessary to refocus programmes and alter monthly workplans in order to deal with current needs. In Argentina, the impact of the National Labour Regularization Plan (see below) was affected by fluctuations in the economy, obliging the labour inspectorate to take steps to guarantee outcomes and maintain optimum regularization levels.

302. Other countries have overhauled their labour inspection systems, with substantial changes in organization and composition. In Ireland, for example, in parallel with the traditional safety and health inspectorate [132] (responsible for assisting the Safety and Health Authority in certain general functions pursuant to section 34 of the Safety, Health and Welfare at Work Act 2005), [133] the new National Employment Rights Authority (NERA) was established under the Employment Rights Compliance Bill of 18 March 2008. Its purpose, in accordance with the national "Towards 2016" agreement, is to improve compliance with labour legislation through enhanced administrative coordination with the tax, customs, safety and health and police authorities, as well as joint inspections with these entities. This reform enabled new inspectors to be appointed (the total increased from 31 to 90), with more preventive and few punitive powers. A budget of 750,000 euros was allocated to promotional and educational activities focused on implementation and compliance.

Undeclared work

303. The impact of the crisis was felt most acutely in terms of vulnerable work, as it has resulted in new forms of employment relationship and a proliferation of undeclared workers, with existing legislation unable to cover all cases. In recent years, numerous legislative reforms have sought to enhance enforcement and compliance in this area, for example the Labour Inspection Act of 2008 in Bulgaria and the State Labour Inspection Act of 2008 in Latvia. [134] Reforms were also initiated as a means of revising the rules for identification of an employment relationship, for instance, Portugal's Act No. 7/2009 (12 February 2009) to revise the Labour Code, which introduced amendments with a view to facilitating inspection.

304. The fight against undeclared work is part of a broader strategy to combat undocumented work in general and involves various legislative measures. This task, however, should not have the effect of transforming the inspector into a migration police

[130] Information provided by the Government.

[131] See Dirección General de la Inspección de Trabajo y Seguridad Social, Spain: *Informe anual de la Inspección de Trabajo y Seguridad Social 2009* [Annual Report of the Labour and Social Security Inspectorate], op. cit.

[132] The inspectorate is split into several enforcement agencies, with limited links between them, a structure that is typical of English-speaking countries. See M. Piore: "Looking for flexible workplace regulation in Latin America and the United States", Paper for conference on Labour standards application: A compared perspective (Buenos Aires, Nov. 2005).

[133] Safety, Health and Welfare at Work Act 2005 (No. 10 of 2005).

[134] Bulgaria: Act of 24 November 2008 on labour inspection; Latvia: Act of 19 June 2008 on state labour inspection.

officer. [135] Labour inspectors are often asked to cooperate with law enforcement or immigration authorities to monitor the situation of foreign and migrant workers. Such cooperation should be carried out cautiously, bearing in mind that the main objective of the labour inspection system is to protect the rights and interests of all workers and to improve their working conditions. [136] Labour inspectorates face numerous difficulties when seeking to counter undeclared work. Such difficulties are very similar to those encountered in efforts to curb forced labour. In general, the jurisdiction and capacity of inspectorates are often limited in this domain.

305. In order to address the challenges of undeclared work, public authorities have taken various steps to facilitate the work of the labour inspectorate. In some cases, such measures have focused on preparatory and preventive activities, such as those carried out by the National Committee for the Formalization of Irregular Work in Italy or the Hidden Economy Monitoring Group in Ireland. [137] Information and dissemination campaigns have also taken place. In Sweden, the ID06 project in the construction sector [138] took a similar approach and proved to be an effective monitoring tool to address undeclared work, with a requirement for all building site workers to register and carry identity cards. Similar measures have been introduced in Finland, Italy and Norway. [139]

306. In a similar vein, section 52a was introduced in the Finnish Occupational Safety and Health Act in February 2006 [140] requiring those directing or overseeing a construction site to ensure that every person working on the site possesses and displays photographic identification. Other measures of this kind aimed at vulnerable groups (although focused solely on safety and health) exist in New Zealand, which issues a "Passport to safety" [141] to workers in the 15–24 age bracket, who are deemed vulnerable. This covers both safety and contractual protection. Australia has also introduced this programme, [142] which is similar to the Canadian Safe Communities model.

307. In Switzerland, the Federal Act of 17 June 2005 on measures to combat undeclared work, in force since 1 January 2008, has increased the workload of the labour inspectorates in every canton with regard to undeclared work (9,000 checks had already been carried out by July 2010). The Act established a new cantonal labour inspection body with new investigative powers. At the same time, a new set of fines has been implemented, providing for both a higher financial penalty and the exclusion of guilty enterprises from tendering for public contracts or receiving subsidies. The names of non-compliant enterprises are also published on the Internet. This new body operates in parallel with the traditional safety, health and working conditions inspectorate. The new inspection agency plays a key role in coordinating with other public agencies (the police,

[135] For further information on undeclared work, see ILO: *Labour inspection in Europe: Undeclared work, migration, trafficking*, LAB/ADMIN Working Document No. 7 (Geneva, 2010).

[136] ILO: General Survey, 2006, para. 161.

[137] European Foundation for the Improvement of Living and Working Conditions (Eurofound) website, at www.eurofound.europa.eu/areas/labourmarket/tackling/cases/it007.htm, and www.eurofound.europa.eu/areas/labourmarket/tackling/cases/ie001.htm.

[138] www.eurofound.europa.eu/areas/labourmarket/tackling/cases/se002.htm.

[139] Eurofound. See also OECD: *Combating the illegal employment of foreign workers* (Paris, 2000).

[140] Act No. 44 of 2006 on OSH enforcement and cooperation on OSH at workplaces.

[141] www.safecommunities.org.nz/p2s/gen.

[142] www.safework.sa.gov.au/youth/fom_passport.jsp.

employment offices, social security, customs and tax authorities) to combat undeclared work.

308. In the Netherlands, the labour inspectorate, the Social Intelligence and Investigation Service and the Inspection Service for Work and Income were brought together in March 2010 under the supervision of an Inspector General within the Ministry of Social Affairs and Employment. This measure is the result of changes in the monitoring of undeclared work since 2003, which have been hastened by the current state of the economy. [143]

309. The collation and use of statistical data is a common strategy in the fight against illegal work. In Belgium, a set of merged databases have proven invaluable in detecting, preventing and combating undeclared work. [144]

310. Since the total number of labour inspectors may often be limited, new integrated methods have been formulated to detect undeclared work using information gathered from other sources or by other administrative bodies not obviously connected with labour issues. To this end, certain countries are developing indicators to compare and verify information compiled from various databases, in addition to other information resources. Spain, for example, has devised a creative technique to identify undeclared seasonal work during the orange and grape harvests: labour inspectors compare the area of agricultural land with the number of hours worked during the previous year's harvest and the number of workers registered each month in the database of the social security institution. If a discrepancy is found between the figures, employers may be asked to provide additional documentation, including labour contracts. If this does not resolve the problem, an inspection may be carried out or the employer called to a meeting at the labour inspectorate. This approach has led to a 217 per cent increase in the number of workers registered in the social security databases between 2007 and 2009, with a 50 per cent increase in work permit applications. [145]

311. Plans and campaigns to regularize undeclared workers have been initiated in certain Latin American countries. In Argentina, the National Labour Regularization Plan (PNRT) mentioned above is run jointly by the Ministry of Labour, Employment and Social Security, the Federal Administration of Public Revenue (AFIP) and the labour authorities of the provincial governments, with the involvement of the Federal Labour Council. Established in 2003, the plan seeks to ensure proper working conditions and to enhance detection and corrective measures in the event of non-compliance with labour and social security regulations. Its objectives include social security registration of previously excluded workers, and ensuring that employers carry out registration on a voluntary basis. It also raises awareness of the problems arising from undeclared work and the benefits of regularization. The results have been positive: since 2002, there has

[143] In the Netherlands, the number of safety and health inspectors fell by 4 per cent between 2003 and 2006. However, this cannot be attributed to the parallel increase in the numbers of anti-fraud inspectors (179 in 2006, with an increase of more than 30 per cent over the same period), but rather resulted from the reorganization of technical inspectors into multidisciplinary groups collaborating with other ad hoc experts.

[144] This involves the DIMONA *(Déclaration Immédiate/ONmiddellijke Aangifte)* electronic registration system of the National Social Security Office, the LIMOSA *(Landenoverschrijdend Informatiesysteem Migratie Onderzoek Sociaal Administratief)* international migration information system and the anti-fraud organization of the Social Inspection Services (*Organisation Anti-fraude des Services d'Inspection Sociale* – OASIS). The database was created in 2001 as part of a joint anti-fraud project.

[145] Information provided by the Ministry of Labour. See also R. Aragón Bombin: "Labour inspectorates' collaboration in a globalized world: The twenty-first century challenges", Presentation made in October 2009, available on LAB/ADMIN website, at www.ilo.org/labadmin/what/pubs/lang--en/docName--WCMS_118081/index.htm.

been a 64 per cent increase in registration of private sector employees (between the second quarters of 2002 and 2009). [146] In 2009, a new regulatory framework was defined in response to the crisis, involving state subsidization of employers' contributions and facilities for regularizing workers.

312. Since 2008, the "Plan Reto" programme in Peru has been seeking to regularize undeclared workers through a combination of raising public awareness and inspection of certain types of labour activities where irregular employment is a risk. One objective of the programme is to transfer workers to an electronic payroll system. [147]

313. The work programmes of some inspectorates are based on an undeclared work strategy and/or policy. In Bulgaria, the labour inspectorate incorporated undeclared work into its 2008–10 Strategic Action Plan. In other countries, such as France, Hungary, Italy, Lithuania, Poland and Portugal, undeclared work is increasingly being mainstreamed into annual plans and programmes of inspection activity. In Belgium, quantitative inspection targets are laid down for each inspector, with a priority focus on undeclared work. In addition, a national strategy has been prepared to combat social and tax fraud.

314. In parallel, it has proven essential for inspectors to work with the social partners, both through partnership agreements in specific sectors with a high incidence of undeclared work (for example, Belgium, Estonia, France, Germany, Ireland and Italy) and through joint information and awareness-raising campaigns on undeclared work (for example, Denmark and Portugal).

315. In other countries, the social partners are involved in the design of programmes and activities concerning undeclared work, as well as the preparation of inspection plans. This is the case in Lithuania, where the social partners participate at national level in the planning of measures to combat undeclared work through consultations within the National Tripartite Council.

316. In the context of undeclared work, labour inspectors require specific training on the phenomenon in general and on the specific sectors in which such work most frequently occurs in a given country. European countries are increasingly coming to recognize this need. Training is provided in inspector induction programmes in countries such as France, Hungary, Italy and Portugal.

Cross-border inspections

317. Within this context, a trend has emerged over the last 20 years or so towards coordinated joint inspection activities, no doubt as a result of regional integration processes and the burgeoning free movement of workers and services. For example, joint or coordinated cross-border inspections, in addition to those prompted by cross-border public works projects, are becoming standard practice. This is the case in Luxembourg, where the German authorities (financial and labour inspectorates) are invited to conduct joint inspections in border areas on a regular basis, particularly on building sites and in areas with a high concentration of posted workers. Together with coordinated inspections, there has been a notable increase in bilateral cooperation agreements between labour inspectorates since the early 1990s, particularly in Europe. [148] The

[146] Data produced by the Observatory of Employment and Business Dynamics (OEDE) in the Ministry of Labour, Employment and Social Security based on social security administrative records.

[147] Information provided by the Government.

[148] Bilateral agreements have historically existed between various countries, particularly in Europe. They were intended essentially to generate cooperation and the exchange of information. High-quality inspection in a neighbouring State provided a guarantee of social peace and fewer cross-border problems.

majority of these draw on and seek to implement EU Directive 96/71/EC concerning the posting of workers in the framework of the provision of services, although their scope is not limited to posted workers. As recently as May 2010, a trilateral cooperation agreement on undeclared work was signed between the Ministries of Labour of Bulgaria, Greece and Romania. [149]

318. Since 2007, a number of initiatives have emerged within the Southern Common Market (MERCOSUR) [150] to achieve coordination between labour inspectorates and consistency between the inspection procedures of the four member States. As in Europe, several joint inspections have taken place, with coordinated and simultaneous operations being organized in border areas. In May 2008, MERCOSUR prepared a joint proposal which included actions relating to inspection and child labour and targeted specific economic sectors (such as sawmill workers on the border between Argentina and Brazil). At the same time, MERCOSUR took measures and drew up guidelines with a view to establishing a regional modus operandi. A first step in this direction was the design in 2006 of joint inspection activities in relation to the Minimum Conditions for Labour Inspection Procedure (CMC Decision No. 32/06) and the Minimum Profile Requirements for Labour Inspectors (CMC Decision No. 33/06). These are still under development.

319. In the Asia–Pacific region, the Heads of Workplace Safety Authorities (HWSA) [151] of Australia and New Zealand, although limited to safety and health issues, have implemented a number of harmonization initiatives. As well as prevention campaigns (on scaffolding in 2009, for example), a strategy has been drawn up for the period 2002–12, identifying a list of safety and health priorities and seeking common approaches consistent with the priorities of both countries.

320. In the Association of Southeast Asian Nations (ASEAN), the 21st ASEAN Labour Ministers Meeting (ALMM) recently adopted the ASEAN Labour Ministers' Work Programme, 2010–15. The Programme highlights the importance of strengthening the capacity of labour inspection and reiterates the need for a regular ASEAN Labour Inspection Conference. [152] This commitment complements the work already being done in relation to OSH through the ASEAN Occupational Safety and Health Network (ASEAN–OSHNET).

Improving administrative and legal means of action

321. In accordance with Conventions Nos 81 (Article 16) and 129 (Article 21), workplaces shall be inspected as often and as thoroughly as is necessary to ensure the effective application of the relevant legal provisions. The application of the law thus requires the use of different instruments and administrative measures which ensure efficient and rapid enforcement at all stages of inspection interventions. It should be recalled that such interventions include not only inspection visits, but also preventive,

[149] Cooperation agreement between the Ministry of Labour and Social Policy of the Republic of Bulgaria, the Ministry of Labour and Social Security of the Hellenic Republic and the Ministry of Labour, Family and Social Protection of Romania in the field of working conditions and the protection of labour rights, available on the LAB/ADMIN website, at www.ilo.org/labadmin/info/lang--en/docName--WCMS_145368/index.htm.

[150] Working Subgroup 10 on labour relations, employment and social security is responsible for labour inspection in MERCOSUR.

[151] A group comprising the general management of the peak OSH regulation bodies in both countries.

[152] See www.ilo.org/labadmin/what/events/lang--en/docName--WCMS_145969/index.htm.

awareness-raising and educational activities and campaigns, as part of a holistic approach encompassing all the needs of enforcement. Within this broad vision, the concept of a programme, plan or, as it is sometimes called, "enforcement policy", is fundamental.

322. In the inspection plans or programmes, it is essential that all those involved clearly understand their responsibilities, the level of performance to be achieved, objectives and timeframe, and so on. Accordingly, a general inspection strategy is needed at national level. This strategy should be formulated under the supervision of the central authority and in consultation with the social partners. To ensure the effective implementation of the plans and the efficient communication of the difficulties encountered, those who formulate the strategy must also be responsible for monitoring the inspections. Moreover, planning is not a one-way process, as the information obtained by inspectors during their visits will help to prepare plans to ensure that inspection is carried out as effectively and efficiently as possible in an ever-evolving process.

Planning and programming

323. National plans and enforcement policy programmes exist everywhere, albeit with different variations and degrees of detail. Pakistan, for example, adopted a national enforcement policy in 2006, which embodies the Government's commitment to implementing inspection and enforcing the law. Such a programme sets the functions, goals and strategic objectives of labour inspection, the strategy for involving the main actors, and approaches and means of action. The United Kingdom [153] and New Zealand [154] have also formulated policy documents which contain specific approaches for enforcing the law.

324. Notwithstanding these general "policies and programmes", inspectorates often establish specific annual intervention programmes based on various criteria. In certain cases, consultations take place with the social partners to define the specific focus of interventions.

325. In the United States, for example, OSHA develops plans and programmes concerning hazards or accident risks, workers' complaints, referrals from other government agencies, employers who report a high rate of employee injury or disease, dangerous occupations such as trench excavation, the use of dangerous equipment such as mechanical presses and monitoring.

326. In Latin America, multi-annual strategies or plans are established according to available budgets and usually for a period of two to four years. These plans are implemented through annual or quarterly programmes, which establish precise indicators and milestones. For example, Mexico's Development Plan [155] for 2005–11 provides for operational inspection guidelines, a labour inspection manual and a working conditions manual containing practical examples. The Plan establishes the "Declare" system (online labour declaration), which encourages voluntary commitment (to foster a culture of compliance through online information) aimed at disseminating labour regulations

[153] Health and Safety Executive, United Kingdom: *Enforcement Policy Statement* (2009), at www.hse.gov.uk/pubns/hse41.pdf.

[154] Department of Labour, New Zealand: *Keeping Work Safe: The Department of Labour's policy on enforcing the Health and Safety in Employment Act 1992*, New Zealand (2009): www.dol.govt.nz/publications/research/keeping-work-safe/keeping-work-safe_01.asp.

[155] www.edomex.gob.mx/planeacion/docs/plandesarrollo.pdf.

through a virtual library, and which provides for self-assessment by the user and builds confidence in the labour authorities.

327. In Peru, the labour inspectorate has issued a series of directives on procedures and guidelines to ensure the effective application of the law. They include a pre-established checklist that indicates for each subject what can be inspected and what the basic elements of comparison are. To ensure that each of these directives (essentially focusing on issues related to trade unionism, outsourcing and intermediation) is followed, their application is supervised annually in regard to the sectors covered, the extent of non-compliance and other characteristics.

328. In a process of internal revision and modification of working methods, Brazil has recently (April 2010) implemented a new goals-based inspection methodology through national and regional projects and group work. These projects will set priorities according to the general goals of the multi-annual inspection plan. The programme relies on technological support, financed by the Employee's Severance Guarantee Fund (FGTS), and a capacity-building programme. The national programmes for 2010 focus on four areas: eradication of forced labour, combating child labour, integration of people with disabilities and training. [156]

329. In the Arab States, Oman has recently put in place an electronic information sharing system that allows inspectors to fill checklists electronically on site and to access the central database at the same time. Inspectors have recently been provided with 180 portable digital assistants (PDAs) to simplify their daily tasks. In Jordan, the computerization of the inspection system at the central level in the Ministry of Labour has improved communication and reporting.

Lack of comparable data

330. In regard to planning and programming, it is important to be able to rely on solid and valid labour inspection data. This is a weak point when comparing labour inspection experiences. In 2006, the Committee of Experts pointed out that: "although information on the number of labour inspectors or inspection staff is regularly sent to the ILO, it is nevertheless difficult to evaluate it in the light of the relevant provisions of the Conventions. In particular, there is a lack of information that would make it clear to what extent the number of practising inspectors is decided upon using relevant criteria. In addition, the variety of names for the different inspection staff referred to by the instruments makes it very difficult to make any comparison". [157]

331. The disparity of concepts, criteria and parameters in the design of administrative records, together with the absence of uniformity in the selected sources and the lack of data or inconsistent compilation of data, all make it difficult to produce a comparative analysis of data among countries and across regions, [158] or to identify meaningful trends or ratios based on the information and records available. In addition, different definitions for basic concepts such as inspector, inspection visit, or inspection action are used (see Appendix II). Most of the statistics are not gender-disaggregated, [159] making it difficult to verify the gender composition of inspection staff [160] (see Appendix I).

[156] Information provided by the Government.

[157] ILO: General Survey, 2006, para. 194.

[158] See, for example, the LAB/ADMIN dataset *Figures on labour inspection*, at www.ilo.org/labadmin/info/lang--en/docName--WCMS_141485/index.htm.

[159] The number of countries that provide gender-disaggregated data is quite limited. Out of a total of nearly 90 member States, this information is only available for 15. See LAB/ADMIN: *Figures and statistics on labour*

332. In this context, it is desirable that a common methodology be established for the compilation of data on labour inspection. This would improve the collection of statistics in annual reports in accordance with the provisions of Conventions Nos 81 (Article 21) and 129 (Article 27) and would enable a meaningful exchange of information, which is an essential instrument in planning, programming and evaluating inspection activities.

Specific campaigns

333. As part of the annual plan and to complement inspection visits (both proactive and reactive), general inspectorates organize campaigns or thematic visits with a particular objective to address major national or sectoral issues. These are generally designed in consultation with the social partners. Campaigns are fundamental instruments for inspection planning, as seen above. Many of the good practices in inspection are implemented or channelled through these types of activity (two typical examples are the fight against child labour and that against undeclared work).

Box 4.11
The role of the Senior Labour Inspectors Committee

Public campaigns in Europe are fundamental and constitute a strong incentive for ensuring prevention. In 2003, the Senior Labour Inspectors Committee (SLIC) launched the first Europe-wide campaign targeting the construction industry and focusing on preventing falls from high places.

In Europe, labour inspection campaigns of this kind have proved to be valuable tools for raising awareness and improving the enforcement of obligations under laws and regulations. In most countries, the accident rate in the construction industry has declined as a result of the measures taken. The EU Member States conduct identical information campaigns using the media and the press to raise public awareness in the construction industry and use the same inspection methods. Campaigns are held every year, with clear quantitative results throughout the EU. The last SLIC campaign, held in 2010, was on the use of hazardous substances in the workplace.

334. Collaboration between the inspectorates and the media has been essential to achieve greater visibility for their work, at national and international levels. Many campaigns, particularly regarding OSH issues (prevention) or on illegality and/or employment, have been developed in collaboration with the media. For example, in Australia, a media campaign was effective in reducing back pain claims and lowering compensation costs. Entitled “Back pain: Don’t take it lying down”, the campaign targeted workers who had already experienced an episode of back pain to help reduce disability, a leading cause of health-care costs. The campaign included television and radio commercials featuring health-care professionals, local celebrities and actors. Billboards and posters were used, along with guidelines for the management of back pain, targeted at doctors. Over a three-year period after the campaign, the number of back pain claims was reduced by more than 3,300 and more than 40 million Australian dollars (AUD) was saved in compensation costs. [161]

inspection system: A topic to be developed, draft, at www.ilo.org/labadmin/info/lang--en/WCMS_141079/index.htm.

[160] Article 8 of Convention No. 81 and Article 10 of Convention No. 129 provide that both men and women shall be eligible for appointment to the inspection staff, and that, where necessary, special duties may be assigned to men and women inspectors.

[161] “Can social marketing campaigns prevent workplace injury and illness?”, in *At Work*, Issue 49, Summer 2007 (Toronto, Institute for Work & Health).

Monitoring and evaluation

335. The planning and implementation of labour inspection activities should be followed by monitoring and evaluation. In this regard, periodic reports are the basis for measuring results and establishing a number of common criteria.

336. Several countries have legislation that specifically provides for periodic reports in accordance with the requirements of international labour standards. In addition to reflecting inspection activities or the results of such activities, these reports present an evaluation of the activities carried out during the reporting period. For example, in Bulgaria, the analysis covers injuries in the workplace and the application of laws and regulations concerning OSH and labour relations. In Ethiopia, the periodic reports also contain information on the impact of industrial accidents in terms of human, material and financial costs. In Algeria, Morocco and Tunisia, the periodic reports on labour inspectors' activities must mention occupational accidents and their causes, the reasons for collective and individual labour disputes and any information that can contribute to regional or national economic recovery, the development of labour relations in the workplace and improvements in working conditions. [162]

337. Evaluation is frequently carried out by labour inspectorates. In some cases, it only involves comparing a number of indicators (such as the number of inspection visits, notifications of improvement or visits per inspection) against those of previous years, rather than an evaluation in the context of a specific plan.

338. In the EU, the European Commission established a "scoreboard" project to chart progress of the EU Member States towards achieving the European OSH strategy, with a report published in 2009. [163] Similar projects can also be found in other regions of the world. For example, there are plans on safety and health inspections in southern Australia and Singapore. In the Philippines, the Labor Standards Enforcement Framework (LSEF) establishes quantitative goals, setting the target at six visits per week for each inspector for a total of ten months a year. The inspection programme in each region has to be submitted before 15 January of each year to the Bureau of Conditions of Work, which has to approve and monitor it twice every three months.

339. In Africa, in a selected number of countries, results-based management systems have been introduced. In Kenya, for example, this system covers the entire public administration and is not specialized as it applies a general criterion for all inspections (15 or 20 visits per month per inspector) whether in the capital or in the field, without taking into account the resources and characteristics of each geographical unit. [164] In most countries of West Africa, in the context of public administration reform programmes, a new merit-based appraisal system covering inspectors has been established using a goals-based evaluation system rather than the number of visits. In Burkina Faso this system is provided for in the general statutes of the public administration and falls within the remit of the General Inspectorate for Services of the Ministry for Public Administration. [165]

[162] All these examples are based on information provided by the governments.

[163] European Commission: *Scoreboard 2009: Community strategy on health and safety at work*.

[164] Information provided by the Government.

[165] ILO: Burkina Faso labour administration system audit.

Compliance and enforcement of legal provisions

340. Labour inspection cannot be fully understood without considering penalty procedures. Such procedures are needed to obtain reparation in the case of a violation. They also serve as a deterrent. However, penalties are only one of the means of action available to inspectors to promote or, in this case, enforce compliance. Nonetheless, in many instances, national rules and practices governing penalties are unclear and do not give sufficient discretion to inspectors to guarantee compliance with the law.

341. In general, most countries use fines and administrative proceedings as penalties in labour inspection. [166] The latter can be appealed to the courts after administrative channels have been exhausted; in other words, labour inspection interventions involving administrative, civil or penal proceedings can end up in court as a last resort. Some countries with specific social security inspectorates use special administrative procedures, which provide automatic affiliation and expeditious means of enforcement.

342. In other countries, specific methods have been developed to allow the inspectorate and the judiciary to collaborate in order to ensure the effectiveness of inspection interventions. In Spain, for example, the action plan for launching and implementing the strategy on safety and health in the workplace (2007–12) [167] created special inspectors in each autonomous community responsible for monitoring labour violations, in particular in the area of safety and health. These inspectors collaborate directly with the trade unions and the inspectorate, particularly as regards the enforcement of obligations to protect safety and health where the employer is alleged to have committed an infraction.

343. In France, a section has been established within the General Directorate of Labour to compile records of administrative and criminal proceedings and ensure coordination with the Ministry of Justice to improve the handling of cases. Such collaboration is fundamental. In fact, the ILO Committee of Experts has pointed out that "the effectiveness of the binding measures taken by the labour inspectorate depends to a large extent on the manner in which the judicial authorities deal with cases referred to them by, or at, the recommendation of labour inspectors", and that measures should be taken "to raise the awareness of judges concerning the complementary roles of the courts and the labour inspectorate". [168]

344. Penalties, including fines, are often modest and thus do not constitute deterrents, particularly for medium-sized and large enterprises. It is sometimes difficult to collect the fines imposed. A good number of countries have amended their laws to set more realistic amounts and propose more flexible and automatic methods of determining fines. Similar reforms were carried out in many European countries, including the Czech Republic, Denmark, France, Italy, the Netherlands and the United Kingdom. [169] The Syrian Arab Republic [170] has revised legislation, as has El Salvador with the publication

[166] In addition to fines, and following the principles of the relevant Conventions (Articles 13 and 18 of Convention No. 81 and Articles 18 and 24 of Convention No. 129), most legislation explicitly provides that inspectors can suspend or halt processes or activities in the event of a serious risk to workers, as well as impose penalties for obstructing labour inspectors in the performance of their duties.

[167] www.isciii.es/htdocs/centros/medicinadeltrabajo/ultima_hora/EESST.pdf.

[168] CEACR: General observation concerning Convention No. 81, 2008.

[169] Information provided by governments.

[170] The new Labour Act, No. 17 of 2010, sections 255ff.

of the Risk Prevention Act (Legislative Decree No. 254 of 2010). In some Asian countries, such as Bangladesh, [171] new legislation has been adopted to this end.

345. Given the cost of detecting undeclared work, the related penalties have been increased, particularly in a number of European countries. For example, Austria, France, Greece, Italy, Portugal and Slovakia have revised their legislation to provide not only for a significant increase in penalties but also for the initiation of penal proceedings. In France and Germany, for example, the penalties for undeclared work can include one or three years of detention or heavy fines. In Norway and Switzerland, the penalties for undeclared work include imprisonment.

346. Some countries reinforce the punitive impact of the penalties imposed through their publication on public Internet sites. This includes the "Smiley system" in Denmark or similar systems, such as those introduced in Portugal and Spain, where a penalty can be combined with an order to post cases of recurring, serious or extremely serious violations. In Portugal, the penalty can even be accompanied by a prohibition on participating in public tenders for contracts. In the United Kingdom, information on improvements and notices of prohibition must be made available to the public. In addition, since 2001 the judicial rulings handed down every year against violators of OSH legislation have been publicized on the Internet. A similar system is applied in Brazil, where perpetrators of forced labour are listed and publicized. [172]

347. In Switzerland, sanctions can include an increase in insurance premiums and, as in the United Kingdom, the withdrawal of permits and the suspension or revocation of the enterprise's operating license. Belgium adopted similar systems involving occupational accident premiums, which use a mathematical formula to reduce the amount of the premium for compliant enterprises with few accidents and progressively increase the amount for those that do not meet the minimum compliance requirements (similar to the no claims bonus system applied by automobile insurance). Spain has also introduced similar reductions in occupational insurance premiums for enterprises that have contributed to the prevention of accidents at the workplace. An innovative approach might be the adoption of deterrence measures in the form of an administrative penalty that affects the vital economic interests of the enterprise. This might include withdrawal of the enterprise's eligibility to participate in public tenders, as in Hungary and Portugal, the withdrawal of subsidies and public assistance, or temporary or definitive closure of the establishment, as in France, Portugal and The former Yugoslav Republic of Macedonia.

348. In the United Arab Emirates, if an enterprise infringes the provisions of Federal Act No. 8 of 1980 on labour relations, the Ministry of Labour may suspend the processing of applications such as the approval of new employment contracts with foreign workers. This measure can be applied either temporarily or permanently (section 8, Ministerial Order No. 788 of 2009 on the protection of wages). As a further penalty, companies could also be downgraded or even removed from the Ministry of Labour register, which would place them under a more disadvantageous administrative fee and expense regime. The Ministry can also refuse to approve employment contracts if the employer does not provide workers with suitable documents.

[171] Bangladesh Labour Act, 2006 (XLII of 2006).

[172] Information provided by the Government on Convention No. 81.

349. In the Lao People's Democratic Republic, the Labour Law [173] provides that people or organizations that achieve successful results in the implementation of the labour law shall receive benefits and advantages in economic terms.

350. To be effective, penalties must not only be adequate in terms of amount and visibility, they must be further reinforced by enforcement procedures and the establishment of enforcement bodies capable of immediate action. Additional safeguards are provided by guaranteeing appeal processes that prevent abuse and defencelessness. In Chile, fines may be appealed to the courts; in addition, special proceedings may be instituted before the Court of Appeal when it is deemed that constitutional rights have been violated. In Argentina, Act No. 25212 of 1999, ratifying the Federal Labour Pact, provides for a new system of infractions and fines that defines the different violations more clearly and lays down a uniform system of penalties as the basis of the fine, with minimum and maximum amounts that can be adjusted by the administrative authority (section 5). In the event of failure to pay the fine, criminal charges may be brought.

351. In Brazil, a process control plan has been implemented to follow up and improve the collection of penalties. This has led to a decrease in the number of appeals filed and reduced the amount of time taken to process them from 400 days in 2005 to 90 days in 2007. In 1998, Mexico streamlined its system of inspection and penalties, introducing simplified procedures and restrictions on the imposition of sanctions by the local and federal authorities. The new text gives priority to guidance. [174]

352. The use of guidance and prevention as a form of deterrence has yielded new experiences. Several countries have pursued promising approaches in the adoption of deterrence measures. [175] For example, in Chile, a special programme was created for SMEs that violate labour rights. Called "replacing fines with training", it enables employers to avoid penalties by enrolling in a special training programme. In Guatemala and the Dominican Republic, low-income employers who have committed infractions are required to participate in state-financed programmes in human resources development, which involve specific training activities.

353. In Asia, Thailand has developed a series of guidance documents ("cookbooks") on sectors such as textiles and construction, which explain to inspectors and managers, in user-friendly language, what OSH issues to look for in particular sectors. Approximately 40,000 copies have been printed and distributed to all inspectors and enterprises. [176] Similarly, in Viet Nam, [177] MOLISA holds an annual National Week of Occupational Safety and Health each year in one province on a specific theme, such as OSH in agriculture and craft villages, or explosion and fire prevention. The local authorities and enterprises also organize training courses in which labour inspectors are invited to give lectures on related policies and regulations.

[173] Labour Law 2006, section 74.

[174] M.L. Vega: *Labour administration: To ensure good governance*, op. cit., pp. 31–32.

[175] See R. Pires: *Governing regulatory discretion: Innovation, performance and accountability in two models of labor inspection work*, Paper presented at the first Conference on Regulating for Decent Work: Innovative Labour Regulation in a Turbulent World (Geneva, ILO, 8–10 July 2009).

[176] ILO: Thailand labour inspection audit, 2004.

[177] Government report on labour inspection instruments under article 19, 2005.

Box 4.12
Deterrence measures in Singapore

In Singapore, apart from taking enforcement action to increase employers' awareness of the minimum terms and conditions of employment, labour inspectors conduct regular lectures on the Employment Act. The target audience is employers from among SMEs with limited knowledge of the Employment Act, including those who have violated the Act. Promotional activities, seminars and workshops are organized all year round to raise awareness and share best practices on OSH, including workers' and employers' rights and duties. Promotional efforts include assisting the Tripartite Alliance for Fair Employment Practices (TAFEP) to encourage the adoption of fair and responsible employment practices through seminars, guidelines and other means.

Sources: Government report on Convention No. 81 under Article 22, 2003; TAFEP website, at www.fairemployment.sg/.

354. In Europe, most countries have special programmes on this issue. For example, Belgium uses a combination of prevention activities and penalties. A "contribution for the common good" can be levied on an employer, and subsequently removed from the employer's taxes once the workers have been registered with the social security authorities. In Spain, Royal Decree No. 404/2010 of 31 March 2010 provides for a system of lower occupational risk contributions for enterprises that have contributed significantly to reducing and preventing occupational accidents. The amount of the incentive can vary from 5 to 10 per cent of the occupational risk contribution, depending on the case. The Labour and Social Security Inspectorate supervises the enterprises concerned.

Self-assessment

355. Today, in a good number of countries, particularly where there are increasingly stringent requirements for OSH inspection, high-risk enterprises have been given greater responsibility in this area, under the supervision of the labour inspectorate. In an effort to establish preventive measures at the enterprise level, some European countries have introduced voluntary risk management self-assessment schemes to apply the new EU safety and health directives. Enterprise self-assessment means that responsibilities are shared between the employer, the workers and, in the case of safety and health, OSH committees. They serve as a frame of reference to guide inspection actions in a more targeted and proactive manner. The advantage of self-assessment is that all the stakeholders in an enterprise can actively work together to enforce the relevant legal provisions, building a shared awareness of challenges in the workplace and the measures needed to address them. Over the past five years, a number of self-assessment schemes have been introduced in Latin America. For example, in Chile, the General Directorate of Labour, which posts self-assessment checklists for the different sectors on its website, [178] uses sectoral regulatory and preventive measures.

356. The labour inspection system should, nonetheless, still be responsible for inspecting conditions of work and should have the necessary powers to do so. In any case, self-assessment cannot be seen as a replacement for a properly functioning labour inspection system. Generally, employers will complete a questionnaire that has been prepared by labour inspectors in close cooperation with workers' representatives. Labour inspectors then review these questionnaires and decide if there is a need to further inspect the establishments.

[178] www.dt.gob.cl/documentacion/1612/w3-propertyvalue-23497.html.

357. In several Asian countries, there are examples of self-assessment initiatives in regard to OSH in particular. The Philippines introduced such an initiative to build a culture of voluntary compliance with labour standards by all establishments and enable DOLE "to expand its reach" and encourage other parties to become actively involved in a new inspection system. In the long term, the programme is aimed at creating a culture of safety, health and welfare in the workplace and an ethic of self-regulation. [179]

358. In Thailand, a self-reporting system has been set up for SMEs to report on their labour practices. Under the system, SMEs are required to fill out questionnaires addressing a set of 19 issues (18 on conditions of work and one on OSH) covering all their major legal obligations. This form has to be signed by both the employer or his/her representative and a workers' representative, or at least one worker employed in the company, and returned to the Provincial Labour Office, where other officials help the inspectors analyse the returns and send the results online to headquarters. [180]

359. In Viet Nam, a self-inspection form has also been introduced through Decision No. 02/2006/QD-BLDTBXH of 16 February 2006, [181] which requires the employer to reply to a questionnaire and send it, with his or her signature and that of a trade union representative (where the latter exists), to the labour inspectorate. Labour inspectors may help the employer complete the form, and they can ask the employer to take action in the event of violations of labour law.

360. In general, self-assessment is a very useful tool for promoting a culture of risk prevention and compliance with labour legislation. It works better when it is carried out within a coordination mechanism provided by the labour inspectorate.

[179] ILO: Philippines labour administration/labour inspection audit, 2009.

[180] ILO: Thailand labour inspection audit, 2004.

[181] CEACR: Direct request concerning Convention No. 81, 2007.

Chapter 5

ILO strategy on labour administration and labour inspection

A renewed ILO vision

361. Labour administration and labour inspection have enjoyed an increasingly high profile in recent years, both nationally and internationally. Much of the growing interest stems from government recognition that, in a globalized world, labour administration and inspection institutions have become key actors in designing and implementing national economic and social policies.

362. Labour administration and inspection are a major source of information in their fields of competence for governments, employers and workers. They are active intermediaries in the prevention and settlement of labour disputes. They are also informed observers of labour market trends by virtue of their privileged relationship with the social partners, and can offer effective solutions to meet the evolving needs of their users. Employers and workers continue to call for additional resources for ministries of labour and inspectorates in order to promote fairness and good governance, and to make decent work a reality.

Box 5.1
The main principles of good governance in labour administration

Participation	Social dialogue and tripartism
Transparency	Decision-making, information and government services available for all
Credibility	Fair policies, laws and rules that are known and applied uniformly
Responsibility	An open organization that is accountable for its activities and for discharging its mandate
Rule of law	Compliance with labour laws

363. The 2008 ILO Declaration on Social Justice for a Fair Globalization recognized the need to "strengthen the ILO's capacity to assist its Members' efforts to reach the ILO's objectives in the context of globalization", inter alia, through "promoting social dialogue and tripartism as the most appropriate methods for ... making labour law and institutions effective, including in respect of the recognition of the employment relationship, the promotion of good industrial relations and the building of effective labour inspection systems" (Preamble and section I, A(iii)).

364. Reflecting its commitment to these goals, the ILO established the Labour Administration and Inspection Programme (LAB/ADMIN) in April 2009 to help constituents, in particular ministries of labour and labour administration and inspection

systems, to play a crucial role in the improvement of working conditions and compliance with labour legislation, the prevention and settlement of labour disputes, the promotion of tripartism, assistance with labour market transitions, and the development of adequate vocational training systems.

365. The conditions under which labour administration and inspection systems operate have changed dramatically over the last few decades, mainly owing to technological, economic and political developments and the effects of globalization. Some labour institutions have seen this as an opportunity to reinforce their role and further development. In other cases, the influence of these institutions has decreased. In this context, labour administration and inspection systems must find the means to redefine their organization and intervention strategies so that they can better respond to expectations raised by evolving labour markets in a globalized world and by the financial and economic crisis.

Realizing this vision through ILO technical assistance

366. LAB/ADMIN leads the ILO's work on technical support and advisory services in labour administration and inspection, mobilizing relevant expertise across the Office and working though networks covering different technical sectors and regions to enhance assistance to constituents. Given the large scope of labour administration and inspection institutions covering a wide range of technical themes, as described in this report, LAB/ADMIN necessarily coordinates its activities with other ILO technical units. This includes collaborating with the Programme for the Promotion of the ILO Declaration on Fundamental Principles and Rights at Work and the International Migration Programme on the role of labour inspection in combating undeclared work and forced labour. LAB/ADMIN has also worked with the International Programme on the Elimination of Child Labour in refining training materials for labour inspectors. In the area of occupational safety and health, LAB/ADMIN coordinated the development of labour inspection training materials for the agricultural sector with the Programme on Safety and Health at Work and the Environment (SafeWork). It also developed a module on gender equality and labour inspection jointly with the ILO's Bureau for Gender Equality, and has worked together with the Conditions of Work and Employment Programme in support of the adoption of international standards on domestic work. There is regular collaboration between LAB/ADMIN and the relevant technical staff in the International Labour Standards Department, exchanging comments on draft technical documents, preparing comparative studies and sharing information to assist the work of the ILO Committee of Experts.

Box 5.2
LAB/ADMIN's objectives

1. Developing the capacity of labour administrations to realize the ILO Decent Work Agenda through the elaboration and implementation of sound national labour policies.
2. Strengthening labour inspectorates to be modern and effective tools for good governance.
3. Establishing and strengthening the legal and institutional framework of labour administration and inspection systems.
4. Ensuring efficient coordination of the various administrations and agencies dealing with socio-economic policy.
5. Promoting relevant ILO international labour standards.
6. Ensuring consultation and participation of workers and employers in labour administration and inspection systems.

367. The completion of national needs assessments, or audits, is the baseline for planning and programming LAB/ADMIN technical assistance. These assessments are typically carried out following government requests. Since the creation of the programme in 2009, LAB/ADMIN has completed some 20 assessments in countries including Angola, Armenia, China, Guatemala, Haiti, Kenya, Philippines, South Africa and United Republic of Tanzania.

368. The value of this assessment approach lies in the application of an analytical process that involves all the social partners and, where appropriate, other organizations. Such consultation provides different views on the effectiveness and efficiency of the administration/inspection systems and on how their organization and functions could be modified to improve overall performance. The assessments point to the following areas in which there is commonly a need for capacity development: (a) strengthening the legislative basis and institutional framework of labour administration; (b) improving labour law enforcement by strengthening national labour inspection systems, in terms of working and employment conditions, as well as occupational safety and health; (c) improving institutional capacities for planning, programming, monitoring and evaluating national labour policies; (d) improving the policy and legislative framework for gender equality in the workplace; and (e) developing employment services.

369. The needs assessment is an initial step that is followed by the preparation of an action plan grounded in the report's findings and recommendations. [1] The action plan, in turn, serves as a roadmap for labour administration/inspection agencies to enhance the quality of their services and improve policy implementation. It is also designed to orient ILO assistance and activities in line with the Organization's own programme and budget objectives. In addition, it provides a reference point for developing ILO technical cooperation projects and/or horizontal cooperation agreements. [2]

370. The support of a group of donors (such as Canada, France, Italy, Norway and the United States) has made it possible to launch activities and implement programmes to strengthen and modernize labour administration and inspection. Recently,

[1] The formulation of an action plan is structured on a grid that contains the following elements: Requirements (needs identified during the assessment); National Actions (actions that can be implemented independently by the country); and Actions in Cooperation (those actions requiring horizontal cooperation, international cooperation or technical assistance from the ILO).

[2] For example, South–South cooperation under 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 March 2009.

programmes have been developed in Albania, Algeria, Angola, Armenia, Brazil, El Salvador, Guatemala, Honduras, India, Jordan, Kazakhstan, Lebanon, Republic of Moldova, Montenegro, Oman, South Africa, Syrian Arab Republic, The former Yugoslav Republic of Macedonia, Ukraine, United Arab Emirates and Yemen.

371. Several countries include labour administration and inspection as priority areas for action in their Decent Work Country Programmes (DWCPs), providing a strong demand-driven basis for ILO technical assistance in this area. This tendency has been further reinforced by the technical cooperation projects carried out since 2008. Among the Arab States, Lebanon, Oman, Syrian Arab Republic, United Arab Emirates and Yemen all have labour administration and inspection targets in their DWCPs. In Europe and Central Asia, the same can be said of Albania, Armenia, Kazakhstan, Republic of Moldova and The former Yugoslav Republic of Macedonia. In Asia, India and Indonesia have included these areas of work in their DWCPs. In Africa, specific references are found in the DWCPs of Benin, Burkina Faso, Senegal, South Africa and Togo. Among Latin American countries, Colombia, El Salvador, Guatemala and Paraguay mention these areas in their DWCPs.

372. ILO work in the area of labour administration and inspection is supported by technical cooperation activities that focus on prioritized countries linked to outcome 11 of the ILO's programme and budget. These interventions include: capacity development and consolidation for labour administration/inspection systems; facilitating knowledge sharing between national experts on sound labour administration and inspection practices; building or reinforcing technical communities of practice on topics of mutual concern through exchanges and dialogue (for example, South–South cooperation); assisting member States in improving coordination of national systems of labour administration and inspection; and developing the ability of these institutions to plan, programme, monitor and evaluate their activities.

Box 5.3
Main services provided by LAB/ADMIN

- Assessments of institutional organization and management
- Provision of administrative and professional support to tripartite bodies
- Exchange of information on labour administration systems, practices and laws
- Assisting countries in the implementation of relevant ILO standards
- Enhancing the influence of labour administrations and their decision-making capacity
- Promoting international networks
- Research and publications

373. National programmes have focused on updating labour administration and inspectorate capacities through: improved inspection methods; developing systems for the collection of data; developing systems and strategic approaches for better coordination and more effective organization within the labour administration system; close participation of the social partners when reviewing labour inspection laws; developing national training programmes, including training of trainers; and raising awareness on the role of labour inspection among employers and workers and their organizations. These programmes also have a strong knowledge-sharing component that includes good practice exchanges and study visits, as well as the dissemination of ILO experience in international forums.

374. To promote consistency in training in labour administration and inspection based on ILO standards, LAB/ADMIN, in collaboration with the International Training Centre of the ILO in Turin, has developed two comprehensive modular training packages – one for labour administrators and one for labour inspectors. The training materials have been translated into several languages and in some cases adapted to take into account a country's legal and labour market context. These modules have been piloted in countries where LAB/ADMIN carries out technical cooperation projects and, in many cases, now form part of national training programmes for labour administrators and inspectors.

375. Another specific area of ILO assistance to ministries of labour and labour inspectorates covers data collection and the introduction of computerized labour inspection systems, as in Albania and Sri Lanka. There is a growing number of requests for assistance in developing information and communication systems to improve the service delivery, coordination and efficiency of labour ministries and inspectorates. Initial work is being carried out in collaboration with the Department of Statistics of the ILO with a view to setting out the basis for a homogenous data and administrative records system. Some preliminary results are available on the LAB/ADMIN website.

376. In addition, the Office prepared promotional material on the work of labour inspectors in collaboration with other departments, including the Bureaux for Workers' and Employers' Activities (ACTRAV and ACT/EMP), with the aim of helping workers and employers and their organizations to better understand the role of labour inspectors and thus support the labour inspectorates' functions.

377. Through its website, LAB/ADMIN makes information available to the public on its ongoing activities, programmes, research and publications among others. The website includes labour administration and labour inspection profiles, a set of good practices and training tools for labour administrators and labour inspectors. Based on research studies and expert meetings, these materials are intended to provide a state-of-the-art comparative knowledge base of experience and practice on prominent issues. The aim is to give labour administrators and inspectors a solid basis for assessing their own policies in these areas and measuring them against practices in other parts of the world. Research carried out by LAB/ADMIN has included studies on the impact of the economic crisis on national systems of labour administration and the role of labour inspection in combating undeclared work, as well as comparative studies on labour inspection sanctions and remedies for ensuring labour law compliance. Over the past two years, the ILO has supported the work of global and regional networks which foster knowledge and experience sharing between national labour administration and inspection systems. For example, the ILO maintains an active presence in the International Association of Labour Inspection (IALI), the Senior Labour Inspectors Committee (SLIC) and the International Network of Training Centres in the Field of Labour (RIIFT), as well the Organization of American States (OAS).

378. At the same time, ILO technical assistance has been instrumental in the recent creation of new networks such as the Ibero–American Network of Labour Inspection, in which labour ministries and inspectorates from Latin America, Spain and Portugal share experiences and good practices. LAB/ADMIN continues to support the work carried out by the three regional labour administration centres in Africa, namely the Arab Centre for Labour Administration and Employment (ACLAE) and the African Regional Labour Administration Centres for English- and French-speaking African countries, respectively (ARLAC and CRADAT), which provide training for officials, research, advisory services and other information to strengthen labour institutions on the continent.

379. This report identifies several areas in which the ILO's knowledge base should be improved and new tools developed, especially if the ILO is to be an effective and relevant supporter of the process of modernization of labour administration institutions in order to improve their capacity to design and implement labour policy and enhance their institutional performance and service delivery. Existing synergies between the ILO and research institutions and major universities should be further strengthened. Deeper collaboration should be pursued, for example, between the ILO and the wider UN system, as well as the OECD and the European Union, on topics of relevance to labour administration and inspection, including expanded research on current trends and issues facing modern PES.

380. In view of the above, the international donor community may wish to further support these capacity development measures – which have already shown meaningful results – to ensure a sustainable technical cooperation portfolio for ILO assistance in the areas of labour administration and inspection.

Suggested points for discussion

1. Given that employment-centred policies should be an integral part of governments' broader policy objectives, how are labour administration systems in general, and labour ministries in particular, currently structured, managed, and coordinated? What should governments do to strengthen the functioning of labour administration and inspection services, particularly in the light of the challenges resulting from the economic crisis?
2. What role should workers' and employers' organizations play in improving the functioning of labour administration and inspection services? What institutional arrangements best enable them to exercise this role (for example, tripartite committees, joint policy working groups)?
3. Given the important public function of labour administration and inspection services, what should be the role of private initiatives and public providers in their delivery – particularly for public employment services and labour inspection? What are the possible mechanisms for coordination and good governance, while ensuring complementarity?
4. How can labour inspection systems best improve and balance prevention and enforcement measures to ensure compliance with national labour laws for achieving decent work (for example, education, prevention and sanctions)?
5. How can governments better ensure labour administration and inspection services apply universally to all workers? What measures can be effective for extending these services, in particular to vulnerable workers (for example in supply chains, export processing zones, the rural and informal economies)?
6. What should be the ILO's priorities for research, standard-setting, the ratification and implementation of relevant ILO Conventions, advocacy, technical assistance and policy advice in the area of labour administration and inspection?

Appendix I

Sex-disaggregated data on labour inspectors, selected countries

Year	Inspectors	Argentina	Armenia*	Bangladesh*	Brunei D.	Burkina Faso	Ethiopia*	Gabon	Hungary*	Indonesia	Kazakhstan*	Latvia*
	Men (number)	310	106	76	31	139	103	97	495	1 934	293	47
	Women (number)	188	28	2	23	22	17	84	201	437	70	77
2009	**Total**	498	134	78	54	161	120	181	696	2 371	363	124
	Men (% of total)	62.2	79.1	97.4	57.4	86.3	85.8	53.6	71.1	81.6	80.7	37.9
	Women (% of total)	37.8	20.9	2.6	42.6	13.7	14.2	46.4	28.9	18.4	19.3	62.1

* Data for 2008.

Year	Inspectors	Lebanon*	Lithuania	Malaysia**	Mali	Mauritania	Oman*	Paraguay	Singapore	Syrian Arab Rep.*	The FYR of Macedonia	United Arab Emirates
	Men (number)	26	109	328	65	23	205	35	135	55	61	266
	Women (number)	46	93	391	37	4	20	14	59	8	41	89
2009	**Total**	72	202	719	102	27	225	49	194	63	102	355
	Men (% of total)	36.1	54	45.6	63.7	85.2	91.1	71.4	69.6	87.3	59.8	74.9
	Women (% of total)	63.9	46	54.4	36.3	14.8	8.9	28.6	30.4	12.7	40.2	25.1

* Data for 2008. ** Peninsular Malaysia.

Appendix II

Performance of labour inspection systems, selected countries

Reference period	Criterion	Algeria	Australia	Brazil	Costa Rica	Cyprus	Dominican Republic	El Salvador	France	Guatemala	Honduras	Ireland
2007	Inspection actions	90 669	19 600	428 079	10 332	5 870	79 484	29 450	215 588	5 515	14 723	13 631
	No. of inspectors	...	220	3 172	88	85	192	159	1 743	239	118	127
	Inspection actions per inspector	...	89.09	134.95	117.41	69	413.98	185.22	123.7	23.08	125	107
2008	Inspection actions	108 372	33 600	356 174	12 235	5 805	85 265	29 948	251 093	11 127	17 392	16 009
	No. of inspectors	...	310	3 112	90	87	202	159	1 910	238	120	127
	Inspection actions per inspector	...	108.39	114.45	135.94	66.72	422.1	188.35	131.5	46.75	144.93	126.06
2009	Inspection actions	126 326	30 418	334 625	14 385	...	86 816	29 728	...	13 131	15 277	18 451
	No. of inspectors	876	330	2 949	93	...	203	159	...	238	120	127
	Inspection actions per inspector	144.21	92.18	113.47	154.68	...	427.67	186.97	...	55.17	127.31	145.28
2009/07	Inspection actions	39.3	55.2	-21.8	39.2	-1.1 (08/07)	9.2	0.9	16.5 (08/07)	138.1	3.8	35.4
% change	No. of inspectors	...	50	-7	5.7	2.4 (08/07)	5.7	0	9.6 (08/07)	-0.4	1.7	0
	Inspection actions per inspector	...	3.5	-15.9	31.7	-3.3 (08/07)	3.3	0.9	6.3 (08/07)	139.0	1.8	35.8

Reference period	Criterion	Latvia	Netherlands	New Zealand	Nicaragua	Peru	Poland	Singapore	South Africa	Spain	Switzerland	Viet Nam
2007	Inspection actions	13 538	36 621	9 582	4 383	59 900	80 525	6 904	180 767	1 229 163	35 511	4 655
	No. of inspectors	134	455	172	92	340	1 513	185	779	1 729	266	141
	Inspection actions per inspector	101.03	80.5	55.71	47.64	176	53.22	37.32	232.05	710.9	133.30	33
2008	Inspection actions	13 238	35 000	9 388	6 716	77 590	80 500	6 714	200 665	1 047 977	36 360	5 695
	No. of inspectors	124	473	189	94	424	...	178	...	1 746	252	154
	Inspection actions per inspector	106.76	74	49.67	71.45	183	...	37.72	...	600.2	144.57	37
2009	Inspection actions	...	35 404	9 372	6 861	84 095	88 000	5 643	153 697	1 122 513	37 258	3 146
	No. of inspectors	...	458	189	96	411	1 397	194	965	1 854	262	175
	Inspection actions per inspector	...	77.3	49.59	71.47	204.61	62.99	29	159.27	605.45	142.02	17.98
2009/07 % change	Inspection actions	-2.2 (08/07)	-3.3	-2.2	56.5	40.4	9.3	-18.3	-15	-8.7	4.9	-32.4
	No. of inspectors	-7.5 (08/07)	0.7	9.9	4.3	20.9	-7.7	4.9	23.9	7.2	-1.5	24.1
	Inspection actions per inspector	5.7 (08/07)	-4	-11	50	16.3	18.4	-22.3	-31.4	-14.8	6.5	-45.5

Note: These tables contain a sample of statistics collected by the Office on the activities of selected national labour inspection systems (LIS) between 2007 and 2009. The data cover 22 countries representing every geographic region. Countries were selected based on the completeness and reliability of available data. Figures on LIS were primarily drawn from article 22 reports on the Labour Inspection Convention, 1947 (No. 81), submitted to the Committee of Experts on the Application of Conventions and Recommendations. Other sources included the Eurostat Health and Safety at Work database, websites of national labour ministries responsible for labour inspection, replies to an Office questionnaire, ILO technical memoranda and project information on national labour inspection systems. The ILO Labour Administration and Inspection Programme (LAB/ADMIN), is currently working with the Department of Statistics to promote greater and more proficient use of statistics by labour inspection authorities through technical assistance and the development of global tools. For additional information on other countries, see the LIS data set prepared by LAB/ADMIN, at http://www.ilo.org/labadmin/info/lang—en/docName—WCMS_141485/index.htm.

Inspection actions: The total number of individual workplace visits, follow-up visits and document reviews, as well as advisory or preventive services and consultations carried out by labour inspectors during the given period.

No. of inspectors: The total number of persons of either sex who, for the given period, are formally recognized as labour inspectors and/or who exercise inspection functions (e.g. sub-inspectors, *contrôleurs du travail*, technical labour inspectors).

Inspection actions per inspector: This figure is a rudimentary efficiency indicator, showing the average number of inspection actions carried out in a country by each labour inspector in the given period.

… = Data not available.