

Philippines

Technical Memorandum

Philippines Labour Inspection Audit

LAB/ADMIN

**Labour Administration
and Inspection Programme**

Social Dialogue Sector

International Labour Office - Geneva

Contents

Foreword	v
Summary	vii
Introduction	1
1. Labour standards enforcement framework (LSEF).....	6
1.1. Self-assessment.....	6
1.2. Inspection.....	8
1.3. Training and Advisory Visits.....	11
2. Internal organization, staff and resources	12
2.1 General and technical inspection	13
2.2. Job Descriptions.....	14
2.3. Qualifications and experience.....	15
2.4. Salary and allowances.....	15
2.5. Powers of inspectors	15
2.6. Standards of behaviour	16
2.7. Resource support.....	16
3. Planning and conducting inspection work	18
3.1. Self-assessment procedures	19
3.2. Inspection procedures	20
3.3. Training and Advisory Visits (TAVs)	23
3.4. Labour inspection and labour relations.....	25
3.5. General.....	25
4. Specific topics	26
4.1. Labour protection policy.....	26
4.2. Protection of mine workers.....	26
4.3. Protection of maritime workers	27
4.4. Decent Work Country Programme 2008-2010	28
4.5. Consultative processes and the social partners	28
4.6. HIV/AIDS.....	30
4.7. Public-private sector partnerships.....	31
5. Findings and recommendations.....	31
5.1. National context.....	31
5.2. Legal framework.....	32
5.3. Importance of labour inspection	33
5.4. Labour Standards Enforcement Framework	33
5.5. Self-assessment.....	33

5.6. Inspection.....	34
5.7. Training and Advisory Visits (TAVs)	34
5.8. Number and Deployment of inspectors	35
5.9. Job Descriptions and Recruitment	35
5.10. Efficiency of inspectors	36
5.11. Performance improvement.....	36
5.12. Inspection Manuals	37
5.13. Master List of Establishments.....	37
5.14. Mineworkers	37
5.15. Maritime workers.....	38
5.16. Consultative processes	38
5.17. National labour protection policy	38
ANNEX 1 – Philippines: Ratified ILO Conventions as at September 2009	40
ANNEX 2 – Inspection Checklist	41
ANNEX 3 – Checklist: Training and Advisory Visits	45
ANNEX 4 – Reference Materials.....	48

Foreword

This audit of the labour inspection system in the Philippines was conducted in July 2009 at the request of the Department of Labour and Employment (DOLE) through its Bureau of Working Conditions (BWC). The Bureau is the focal point of the nation's labour inspection system and is responsible for the formulation and development of labour standards for working conditions and safety and health. The planning and operational aspects of labour inspection activities are undertaken by 16 regional offices throughout the nation with the Bureau providing overall supervision of these offices for the enforcement of standards.

The purpose of the audit was to assess the efficiency and effectiveness of the labour inspection system at both national and regional levels with a view to providing DOLE with recommendations to support the preparation of a performance improvement plan to reform, revitalize, and restructure as necessary, the entire labour inspection system. The Philippines has not ratified ILO Conventions concerned with labour inspection, labour administration, or occupational safety and health other than Convention 176, Safety and Health in Mines, ratified by the Philippines in 1995. The audit and its follow up provide an opportunity for the Philippines to consider the ratification of various international standards to support the reform of its labour inspection system. The audit and its follow-up will also contribute to the outcomes of the ILO Decent Work Country Programme for the Philippines.

The audit process involved a series of interviews with key informants as well as a review of documentation including the Philippines Constitution 1987, Philippines Labor Code, 1974, Implementing Rules and Regulations, Executive Orders, Departmental Orders, Memorandums of Understanding, desk manuals for inspectors and regional offices, DOLE reports, inspector's job descriptions, and reports and documents provided by other government agencies and trade union federations. Interview sessions were conducted with employer groups as well as individual employers, with trade unions and individual workers, and with government officials in DOLE headquarters, regional offices, as well as other government agencies. Interview sessions were highly interactive and conducted in the spirit of performance improvement.

The audit report contains a number of important findings and recommendations for the consideration of government and the social partners, including the future of the Labour Standards Enforcement Framework (LSEF), the role of government agencies other than DOLE in the inspection system, the role of the private sector in labour inspection, the role of trade unions and employers' organizations as well as workers and individual employers in inspection activities, the recruitment and training of inspectors, and the use of computer technology to support the work of labour inspectors.

The report also makes recommendations that extend beyond the labour inspection system itself. These include the need for a comprehensive labour protection policy that strikes a suitable balance between economic efficiency issues, on the one hand, and decent work issues on the other, and the need for revision and consolidation of labour laws.

The audit was conducted by Robert Heron, Labour and Employment Consultant, formerly an ILO specialist in labour administration, with the assistance of Jess Macasil, Programme Officer, ILO Manila, and with the full support and cooperation of government, and the social partners. The Labour Administration and Labour Inspection Programme (LAB/ADMIN) within the ILO's Social Dialogue Sector played a leading role in the audit process through its preparation of the terms of reference, providing preparatory

documentation, supervising the preparation of the report, and providing comments and advice on the first draft of the report.

Summary

Both statistical and anecdotal evidence indicate that the labour inspection system of the Philippines is not performing to an acceptable standard. On paper, the system, in spite of an out-dated labour code, is relatively robust based on an innovative labour inspection policy in the form of the **Labour Standards Enforcement Framework (LSEF)** introduced in 2004, supporting rules and regulations, and good quality and detailed manuals for the use of labour inspectors, both general and technical, to guide them in their inspection work. The reality, however, suggests that policy intentions are not being achieved.

The LSEF was introduced to encourage voluntary compliance with labour standards and to build strategic partnerships with employers and workers and their respective organizations, as well as partnerships with various government agencies with a view to securing wider compliance. The objectives and means of the policy framework are commendable, but the effectiveness and impact of policy implementation, to date, are questionable. The level of voluntary compliance remains something of an unknown and partnerships, although known to exist, are limited in scope and content.

The overall effectiveness of the system, as measured by the extent to which labour standards are applied and enforced in Philippine work places, has been negatively impacted by the enormous divide between the number of establishments liable to inspection (some 784,000) and the number of active inspectors (some 193) available to inspect them. Given such numbers, the prospect for effective inspection in which each workplace is inspected on average once per year, using traditional approaches, is totally unrealistic.

The appointment of more inspectors would help but the impossible establishment-inspector incongruence will always prevail. Achieving the goal of an acceptable and substantial compliance with labour standards requires new approaches and general revitalization of the inspection system, but without major restructuring, including the following:

- A reassessment of the assumptions underlying the LSEF, particularly concerning the number of employees in each establishment as a basis for distinguishing between the three components of the inspection system.
- The introduction of a risk assessment rating of establishments based on the likelihood of their compliance with labour standards.
- Allocating inspection resources in accordance with the assessed risk level of each establishment.
- Widening the existing self-assessment scheme to include all establishments assessed as low risk.
- Focusing routine inspection visits on high risk establishments.
- Delegating specific and limited inspection powers concerning both technical safety and general inspection to more accredited agencies to enable more workplaces to be inspected,
- Re-examining the assumptions and modalities of the training and advisory visits (TAVs) approach to securing compliance,

-
- Encouraging partnerships with various agencies to assist small enterprises to be both labour-standards compliant and more productive and profitable.

The Bureau of Working Conditions (BWC) as the lead agency in the nation's labour inspection system must pursue the creation and effective management of a revitalized system by empowering and encouraging various agencies and parties concerned with labour standards to do more actual inspection work, with the Bureau and senior inspection staff in regional offices focusing on planning, monitoring, evaluation and systems management. Given existing levels of resource availability, the BWC and regional offices cannot reasonably expect to secure substantial compliance with labour standards in every workplace throughout the nation. Substantial compliance requires a system based on delegation, accreditation and supervision, requiring strong and innovative management, supported by computer technology applications.

The overall effectiveness and impact of the system also requires considerable improvements in efficiency to ensure the best use is made of all available resources including technical staff, support staff, equipment, information, and time. This interface between increased effectiveness and improved efficiency requires:

- a reassessment of the use of existing staff resources by conducting a human resource audit covering all inspectors as well as support staff,
- new approaches to the recruitment and selection of labour inspectors based on revised and detailed job descriptions and job profiles,
- regular performance appraisal of all staff not only to identify eligibility for career progression, but also to identify training needs and areas where performance improvement is required,
- a commitment to refresher and up-grading training for all inspectors and inspector-managers,
- a reassessment of the time required to undertake an effective inspection with a view to eliminating identified time wasters,
- a significant increase in support resources particularly for labour standards enforcement divisions within regional offices including vehicles, computers, photocopiers, workplace measuring equipment, and basic protective clothing.

The labour inspection system should adopt the mantra of ***prevention, protection and improvement*** based on more awareness and information generation activities, greater cooperation between workers and management at enterprise level, productive partnerships with accredited agents to enable them to undertake more inspection work, and strong systems management. In this context, ILO Convention 81, (Labour Inspection Convention, 1947) provides the essential framework for the development of the labour inspection system but, to date, this convention has not been ratified by the Philippines.

The LSEF policy has moved the inspection system in the right direction but some policy refinements are required, some legal issues need to be addressed, and various operational changes need to be made. With strong political commitment, however, and an injection of resources, both human and logistical, the Philippines labour inspection system can transform its considerable potential into an institution that plays a major role in social and economic progress of the nation.

Introduction

National Context

Since 2001 economic growth in the Philippines has averaged 5 per cent but the country continues to face a number of longer term challenges including the need to increase employment, reduce debt, and reduce poverty. Poverty is a particular problem because of the relatively high population growth rate (about 2 per cent), and the unequal distribution of income.

The world financial crisis saw Philippines GDP fall from an increase of 7 per cent in 2007 to 4.6 per cent in 2008. The country was partly cushioned from the crisis because of high levels of government spending, a small trade sector, a reasonably strong service sector, and the remittances from millions of Filipinos working overseas.

Population estimates vary from 92.2 million (National Statistics Office) to 97.9 million (CIA World Fact Book). The National Statistics Office estimates show a labour force as at April 2009 of 37.8 million, an unemployment rate of 7.5 per cent and an under-employment rate of 18.9 per cent.¹ The National Capital Region (NCR) recorded the highest unemployment rate for the country at 13.5 per cent. Of the total unemployed of some 2.8 million 62 per cent were males and 38 per cent females. Half the unemployed were in the 15-24 age group and 34 per cent in the age group 25-34 years.

Of the total of 35 million employed persons in April 2009, 50 per cent worked in the services sector, 35 per cent in agriculture and 15 per cent in the industry sector. Employed persons can be divided into three main categories, namely, wage and salary workers, own account workers, and unpaid family workers. Almost 52 per cent of employed persons as at April 2009 were wage and salary workers. This amounts to about 18 million persons with more than 13 million of these employed by private establishments, almost 3 million by government departments and government corporations, and about 2 million working in private households.

Of the 35 million employed persons some 35 per cent were own account workers (over 12 million) and 13 per cent (5 million) were unpaid family workers. With the exception of 3 million government employees the remaining 32 million fall under the umbrella of labour protection in some form or another, including working conditions and basic rights, occupational safety and health, or social security. In reality, however, own account workers and unpaid family works remain largely untouched by the labour protection system.

In 2007, the number of establishments in the Philippines was almost 784,000 with 91.8 per cent of these employing less than 10 employees, 7.4 per cent employing 10-99 employees, 0.37 per cent employing 100-199 employees, and 0.34 per cent employing 200 workers or more.² The number of establishments does not include the multiplicity of operators in the informal economy such as stall holders, street vendors, own account farmers, and operators of jeepneys, tricycles and pedicabs.

¹ Under-employment refers to persons who desire additional hours of work in their present job, or desire to have an additional job, or desire a new job with longer working hours.

² National Statistics Office. It is expected that the recent financial crisis has resulted in a reduction in the number of work establishments but the number that has gone out of business since 2007 is unknown.

The challenge for the nation's labour administration is to provide labour protection services to 784,000 establishments, for a labour force of almost 38 million (less the 3 million employed in government service) in a variety of work situations that includes a wide range of formal establishments and a multitude of informal workplaces, throughout a country comprised of 16 regions in an archipelago of more than 7000 islands.

Policy and legal framework for labour inspection

Constitution 1987

The Philippines Constitution in Article II devotes several sections to labour matters, as follows:

Section 10 'The State shall promote social justice in all phases of national development.'

Section 11 'The State values the dignity of every human person and guarantees full respect for human rights.'

Section 14 'The State recognizes the role of women in nation-building, and shall ensure the fundamental equality before the law of women and men.'

Section 15 'The State shall protect and promote the right to health of the people and install health consciousness among them.'

Section 18 'The State affirms labor as a primary social economic force. It shall protect the rights of workers and promote their welfare.'

Article III in Section 8 confirms the right to freedom of association, as follows:

'The right of the people, including those employed in the public and private sectors, to form unions, associations, or societies for purposes not contrary to law shall not be abridged.'

Article XIII of the Constitution contains specific provisions concerning labour and women. With regard to labour, Section 3 states:

'The State shall afford full protection to labor, local and overseas, organized and unorganized, and promote full employment and equality of employment opportunities for all.

It shall guarantee the rights of all workers to self-organization, collective bargaining and negotiations, and peaceful concerted activities, including the right to strike in accordance with law. They shall be entitled to security of tenure, humane conditions of work, and a living wage. They shall also participate in policy and decision-making processes affecting their rights and benefits as may be provided by law.

The State shall promote the principle of shared responsibility between workers and employers and the preferential use of voluntary modes in settling disputes, including conciliation, and shall enforce their mutual compliance therewith to foster industrial peace.

The State shall regulate the relations between workers and employers, recognizing the right of labor to its just share in the fruits of production and the right of enterprises to reasonable returns to investments, and to expansion and growth.'

Concerning women **Section 14** states as follows:

'The State shall protect working women by providing safe and healthful working conditions, taking into account their maternal functions, and such facilities and opportunities that will enhance their welfare and enable them to realize their full potential in the service of the nation.'

The Constitution 1987 makes no specific reference to labour administration and labour inspection but its emphasis on basic rights, social justice, humane working conditions and labour protection in general make it very clear that institutional arrangements must be in place to ensure that intentions expressed in the Constitution are realized in daily life. This requires a wide range of labour administration interventions, including inspection services.

Labor Code 1974

The Labor Code of 1974 was enacted some years before the current Constitution was approved. Developments since 1974, including the introduction of the new constitution in 1987, suggest a revision of the Labor Code 1974 is required. Meanwhile, the 1974 Code, together with amending legislation, various rules and regulations, as well as Executive and Department Orders, provides the legal framework for the operation of the nation's labour administration and labour inspection system.

The Code consists of some 302 articles some with as many as 9 sub-articles, divided into 7 books. The coverage of the various books is as follows:

- Book 1 Pre-employment**, covering the recruitment and placement of workers, and the employment of non-resident aliens.
- Book 2 Human Resource Development Program**, covering national manpower development, and the training and employment of special workers such as apprentices, learners and handicapped workers.
- Book 3 Conditions of Employment**, covering working conditions (hours of work, overtime) rest periods and holidays, wages including minimum wages, and working conditions for special groups including women, minors, house helpers and home workers.
- Book 4 Health Safety and Social Welfare Benefits**, covering occupational safety and health, employee compensation, medical aid, and adult education.
- Book 5 Labour relations**, covering dispute resolution, labour organizations, the right to associate, unfair labour practices, collective bargaining, grievance machinery and voluntary arbitration, and strikes and lockouts.
- Book 6 Post-employment**, covering termination of employment, and retirement.
- Book 7 Transitory and Final Provisions**, covering penal provisions and liabilities, and offences and claims.

Book 3 of the Code is of particular concern for labour inspection in that it provides a broad indication of inspectors' powers and the workplaces they are required to inspect. The Code itself does not provide a clear statement of what constitutes a workplace although **Article 82** indicates that the provisions of the law relating to working conditions

'shall apply to employees in **all** establishments and undertakings whether for profit or not ...'

Article 82 further indicates, however, that 'government employees, managerial employees, field personnel, members of the family of the employer who are dependent on him for support, domestic helpers, persons in the personal service of another, and workers who are paid by results...' are not covered by the provisions relating to working conditions. With regard to occupational safety and health, however, Book 4 of the Labour Code makes it clear that safety and health standards apply **to all work places**.

Thus it appears that inspectors are empowered to visit **any** place where work is undertaken, including those in the informal economy, for safety and health inspection, but for the inspection of working conditions some workplaces fall outside their coverage.

The right of inspectors to visit workplaces is established by **Article 128** of the Labour Code, which states:

‘The Secretary of Labor and Employment or his duly authorized representatives, including labor regulation officers, shall have access to employer’s records and premises at any time of the day or night whenever work is being undertaken therein, and the right to copy there from, to question any employee and investigate any fact, condition or matter which may be necessary to determine violations or which may aid in the enforcement of this Code and of any labor law, wage order or rules and regulations issued pursuant thereto.’

For all practical purposes, this means that inspectors are empowered to inspect the 784,000 workplaces in the formal economy to check on working conditions (but not the working conditions of ‘managerial employees’ and some other categories of employees) and safety and health whenever such workplaces are actually operating, and also inspect the thousands of informal economy workplaces for safety and health standards, and working conditions for some of these informal workplaces.

In practice, however, inspectors do not inspect informal economy workplaces at all, and have relatively limited contact with workplaces in the formal economy.

International Labour Standards

The Philippines has ratified some 32 ILO Conventions including Convention 176 Safety and Health in Mines, 1995; Convention 182 Worst Forms of Child Labour, 1999; and Convention 144 Tripartite Consultation (International Labour Standards), 1976. A list of ratified conventions as at September 2009 is presented in **ANNEX 1**.

The Philippine’s ratifications, however, do not include Convention 81 Labour Inspection, 1947; Convention 129 Labour Inspection (Agriculture), 1969; Convention 150 Labour Administration, 1978; Convention 155 Occupational Safety and Health, 1981 and Convention 187 Promotional Framework for Occupational Safety and Health, 2006 – all of fundamental importance in building a strong labour inspection system.

The Inspection System

The Bureau of Working Conditions within the Department of Labour and Employment (DOLE) is the focal point of the Philippines labour inspection system and is responsible for the formulation of policies and laws relating to working conditions and the working environment, with the aim of ensuring compliance with labour standards. It does not, however, undertake actual inspection visits to workplaces to check on compliance. Such visits are undertaken by inspectors located in 16 regional offices throughout the country. Such visits are either routine or programmed visits, or visits undertaken in response to complaints, work accidents or other special circumstances.

The inspection system faces a serious shortage of inspectors in relation to the number of workplaces liable to inspection. As previously indicated, in 2007 the number of establishments to be inspected was 784,000 with 193 inspectors available to inspect them.

For each workplace to be inspected once per year would require each inspector to undertake in excess of 4000 visits per annum, clearly an impossible task. A more realistic standard of 250 visits per inspector would have resulted in some 48,250 visits in total meaning that on average each establishment would be inspected on average once every 16 years. In fact, about 26000 visits (excluding self-assessment and training and advisory

services) were undertaken in 2008 meaning that on average each establishment will be inspected once every 30 years.

The disparity between the number of establishments liable to inspection and the number of inspectors is not new. For example, in 2003 the number of workplaces to be inspected was in excess of 810,000 but the total number of active inspectors was only 200. Given a standard of 250 visits per inspector per annum 50,000 visits would have been undertaken in 2003. In fact, 35,283 visits were undertaken in that year meaning that each workplace was inspected on average once every 23 years.

This serious divergence between number of establishments and number of active inspectors in 2003 was one of several factors behind the introduction of a new approach to labour inspection introduced in January 2004, known as the Labour Standards Enforcement Framework (LSEF).

1. Labour standards enforcement framework (LSEF)

In 2004, DOLE introduced the Labour Standards Enforcement Framework (LSEF) with a view to securing ‘voluntary compliance’ with labour standards. The objective of securing compliance remained as the fundamental purpose of inspection but the means to achieve this stressed voluntary approaches, building partnerships with workers and employers, and developing partnerships with other government agencies. This was a bold and innovative attempt to improve the inspection system. The LSEF was introduced to:

‘build a culture of voluntary compliance with labor standards by all establishments and workplaces and expand the reach of the Department of Labor and Employment through partnership with labor and employers’ organization as well as with other government agencies and professional organizations that also have a stake on the welfare and protection of our workers...’³

Although the impossibility of the inspection equation (number of inspectors in relation to number of workplaces) was a factor driving change in the inspection system, the new arrangements represented a significant shift in inspection thinking by moving away from the traditional approach of law enforcement towards an approach embracing voluntary compliance, and the building of partnerships between the inspectorate and employers, workers and other government agencies.

The LSEF was an attempt to build a different **system** to enable DOLE ‘to expand its reach’ and encourage other parties to become actively involved in a new inspection system.

The LSEF represents current policy on labour inspection in the Philippines and provides the operational framework for all labour inspection activities. Accordingly, any audit of the labour inspection system requires a close examination of this policy and its implementation, and an assessment of its impact with regard to the quantity and quality of inspection work and its success in encouraging voluntary compliance and building strategic partnerships.

The LSEF has three main elements as follows:

- Self assessment,
- Inspection,
- Advisory services.

1.1. Self-assessment

Self-assessment applies to establishments employing 200 or more employees as well as those with a certified collective bargaining agreement, irrespective of the number of employees. Participation is voluntary with those establishments electing not to participate being subject to routine inspection visits. The establishment is provided with a checklist which is to be completed as a result of consultations between managers and worker representatives. The self-reporting checklist is then signed by a representative of the

³ DOLE: Department Order 57-2004

employer and workers, and forwarded to the Regional Office. The procedural arrangements for the operation of the self-assessment approach are outlined in **Chapter 4**.

Is it working?

The number of establishments meeting the requirements for self-assessment is less than 1 per cent of the total number of establishments and, of these, less than half (2,596 in 2008) participated in the scheme.

The following observations are offered on the operation of the system:

- The ILO Working paper on *the Implementation of the Labour Standards Enforcement Framework in the Philippines* shows that for 2006 the compliance rate under self-assessment was 77 per cent. This is a reasonable result but with less than half the establishments given the self-assessment checklist actually returning it (1,210 establishments out of 2,548), it cannot be concluded that 77 per cent of all eligible establishments were compliant. The relatively low rate of participation in the self-assessment scheme detracts from its intended purpose and needs further examination. Does it imply, for example, that those establishments that did not submit the checklist knew they were not compliant and were willing to take a chance that an inspection visit was unlikely? Does it mean that establishments found the checklist too difficult to complete? Does it mean that establishments were not interested in dialogue with workers?
- Some anecdotal evidence suggests that the system has been successful in building workplace cooperation in a number of establishments and has fostered a more mature approach to labour-management relations. Workers and trade union leaders, however, reported that there was no meaningful dialogue in the completion of the checklist and that the signature of the worker's representative on the completed document was no guarantee that real consultations had taken place.
- The checklist itself requires some re-working and there is a need to ensure that supporting documentation, as required in the Manual on Labour Standards, is actually provided by establishments.
- Concern was expressed during the audit process over the lack of follow-up once the checklist is submitted to the Regional Office including no acknowledgement of receipt of the document, no follow-up questions and few, if any, follow-up or spot-check inspection visits. Spot-check visits are seen as an integral part of the self-assessment system but the extent to which they actually take place requires further investigation.
- Some inspectors reported that self-assessment 'is not labour inspection' implying that it is not a major part of an inspector's responsibilities. This also raises questions concerning the perceptions of the scheme by workers and employers. Self-assessment is sometimes coupled with voluntary compliance. Voluntary compliance, however, does not mean establishments can decide whether to be compliant or not. All establishments covered by law must be compliant and, in this context, voluntary compliance means they can be compliant through their own actions rather than through the enforcement powers of labour inspectors.
- Self-assessment should not be seen as something separate and distinct from inspection. It is better seen as a different form of inspection in which part of the process is voluntarily undertaken by the establishments themselves rather than by inspectors. Rather than have an inspector complete the checklist, this is done by employer and worker representatives, together, as just one step in the inspection

process. The completed checklist must then be checked by an inspector, the attached documentation must be checked by an inspector, and follow-up visits must be undertaken by an inspector. Self assessment is not an abdication of inspection responsibilities: it simply relies on the ability and willingness of employers and workers to become an active part of the inspection process without the intervention of an inspector in the initial stages. Perceptions that it is an easy option and an alternative to inspection need to be corrected.

- Some establishments that have not participated in self-assessment because they do not meet the criteria for involvement expressed support for the extension of the scheme to smaller enterprises and those without a collective agreement. Such establishments expressed strong interest in participating, particularly if they have had a good compliance record for several years.
- The standard established by BWC that each inspector is required to undertake 2 spot checks per day of self-assessment reports generally has not been met. Indeed, the standard appears unrealistically high given the small number of establishments participating in self-assessment at present.

1.2. Inspection

Inspection in its more traditional form applies to establishments employing 10 or more employees but less than 200. Inspection visits are programmed by regional offices and inspectors are required to undertake 6 inspection visits per week over 10 months of the year, resulting in approximately 250 visits per inspector per year. Inspection visits are of two types, namely, general inspection and technical inspection. General inspection is of an integrated nature where the one inspector checks on working conditions as well as basic safety and health matters. Technical inspection is undertaken by inspectors with engineering qualifications and concentrates particularly on electrical and mechanical installations. In the vast majority of cases, technical and general inspectors undertake inspection visits separately from each other. In special circumstances, however, they may undertake joint inspections.

Currently there are 193 active inspectors (those who actually undertake visits to workplaces), including both general and technical inspectors, covering about 62,000 enterprises with 10-199 employees. If inspectors were all meeting the standard of 250 visits per year a total of almost 48,000 inspections would be completed. In 2008, however, BWC reported that of the 62,000 enterprises liable to this form of inspection under the LSEF only some 26,000 were actually inspected.

The inspection penetration rate varies considerably throughout the country, as determined by the number of active inspectors in each region in relation to the number of establishments. Figures provided by DOLE show that in 2008 for the country as a whole 42 per cent of establishments liable to inspection under this component of the LSEF were actually inspected. In the National Capital Region (NCR), however, the figure was 26 per cent. In only 5 of 16 regions was the figure 100 per cent or higher. In Region 12 the figure was 568 per cent indicating that, on average, each establishment was inspected more than 5 times.

In 2008, in only two regions did the number of inspection visits per inspector exceed the standard of 250 visits. For the country as a whole the number was 135. For NCR it was

227, CAR 340, and 288 in Region 3. In 7 regions the number of visits per inspector was less than 100 per year.⁴

The LSEF stipulates that Inspection visits are to be based on the following priorities:

- Existence of complaints, imminent danger or imminent occurrence of accidents and illnesses/injuries;
- Hazardous workplaces;
- Construction sites;
- Establishments employing women/child workers.

In all regions inspectors do not have access to government vehicles and use public transport. In some regions they are paid an allowance of 1,000 pesos per month for travel, irrespective of the number of actual visits undertaken; in other regions they are reimbursed for actual travel undertaken. In some regions, inspectors do not have access to computers and in many cases are not computer literate. There is no computer data base of those establishments liable to inspection.

Labour inspectors are required to investigate industrial accidents and occupational diseases. Accident investigations are normally assigned to technical inspectors but for investigations concerning occupational health matters inspectors are accompanied by medical personnel from the Bureau of Working Conditions and/or the Occupational Safety and Health Centre.

Do they investigation of accidents and diseases? How is the process?

Is it working?

The number of establishments meeting the requirements for inspection under the LSEF is in excess of 60,000 or some 7.7 per cent of the total number of establishments. Based on 2008 data, they are inspected on average once every 2.5 years. (No data.)

The following observations are offered on the operations of this part of the LSEF:

- In 2007, the compliance rate for inspected establishments was 55 per cent for general inspection and 83 per cent for technical safety inspection. The 83 per cent figure is misleading, however, in that it relates to units (individual items of machinery or plant) inspected and not to number of establishments. In 2007, technical safety inspection resulted in 2,389 violations in 5,350 establishments resulting, on average, in a compliance rate of 56 per cent.⁵
- The frequency of inspection visits varies significantly from region to region but, overall, the frequency does not meet the BWC standard of each enterprise being inspected once per year.

⁴ These calculations are based on data provided by DOLE, based on 193 active inspectors from a total of 236 inspectors.

⁵ Current Labour Statistics, BLES. For technical safety inspection information was not provided on the number of violations per establishment making it necessary to revert to a potentially misleading average per establishment.

-
- The number of visits per inspector per year also varies significantly from region to region, but the national average at 193 is considerably lower than the standard of 250 as stipulated by BWC. Efficiency in the use of inspection resources is questionable particularly given the lack of transport available to inspectors, the lack of equipment for environmental monitoring, the reliance on hand written documentation, and lack of training apart from the initial induction course. It is also possible that some inspection visits are too long in duration with inspectors needing assistance with their time management.
 - Trade union officials in particular are critical of the quality of inspection work, particularly relating to technical inspections.
 - Unions are also critical of inspectors for their failure in many cases to engage worker representatives during the actual inspection visit. Consultation with worker representatives is standard inspection procedure and is clearly stated as a requirement in the BWC Manual on Labour Inspection.
 - Several persons interviewed during the audit process indicated they considered that, with a good record of compliance, their establishments should be included in the LSEF self-assessment approach rather than the inspection approach.
 - The overall quality of inspection work is difficult to verify and requires further examination. Union representatives, however, feel strongly that quality is such an issue that union leaders should be delegated inspection powers and allowed to undertake inspection on a joint basis with government inspectors. This clearly would compromise the independence of the labour inspectorate and is not supported.
 - The issue of corruption on the part of labour inspectors was raised in discussions with workers and employers but in most cases was met with silence and indifference, but not denial. It was established, however, that two inspectors in Pampanga are currently under investigation for alleged extortion and another inspector has been suspended from inspection duties for undertaking inspection without authorization.

There is no evidence that the inspection component of the LSEF has contributed to building partnerships with trade unions and employers. There has, however, been a partnership agreement between DOLE and ten (10) Chartered Cities whereby qualified engineers employed by local government units (LGU's) are delegated powers to undertake technical inspections in accordance with the procedures set out in DOLE's Labour Inspection Manual. The success of this partnership is difficult to assess because the LGU's have not provided DOLE with reports on the number of inspection visits undertaken and their outcomes, and DOLE has not taken steps to insist that this information be provided, as envisaged in the Memorandum of Understanding between DOLE and the Chartered Cities. Anecdotal evidence suggests, however, that the LGU's are in fact undertaking technical inspection visits, with two inspectors indicating they each undertake some 16 visits per week. Local government Inspectors complain that they do not receive any allowances for travel, and that they lack training. The total number of inspection visits undertaken by the 10 LGU's is not included in the annual total of visits reported by BWC. This information should be collected and collated, and included in reports.

The relation between DOLE and LGU's is a clear indication of the type of partnerships envisaged by the creators of the LSEF. The relation between DOLE and LGU's, however, must extend beyond the signing of a memorandum of understanding and become a recognised component of the overall inspection system and managed accordingly, with a strong emphasis on monitoring and reporting.

1.3. Training and Advisory Visits

Under the third component of the LSEF, the Regional Offices of the Department conduct training and advisory visits (TAVs) to assist small and micro establishments map out an improvement programme geared at increasing productivity to facilitate their eventual compliance with labour standards. This approach is followed in workplaces with less than 10 employees, as well as those registered as Barangay Micro-Business Enterprises (BMBE's).

Training for owners and managers of micro and small businesses under the TAV Programme is given by both general and technical inspectors located in the various regions. Such inspectors as well as having experience in inspection work also have experience in conducting training activities, including the skills required to facilitate group discussions and interactive learning.

The training is undertaken in coordination with other government and non-government agencies and includes an orientation on practical work methods and low-cost workplace improvement strategies, aimed to contribute to productivity improvement and enterprise development. The Manual of Instructions on the Conduct of Technical Assistance/Advisory Services issued by BWC indicates the procedures to be followed for this component of the LSEF. It indicates that a TAV team will be established in each regional office, such team to include labour inspectors, and for all members of the team to have completed basic labour inspection training.

There are approximately 720,000 establishments in the Philippines that fall within this component of the LSEF. BWC was not able to provide data on the actual operation of the scheme and thus an assessment of its impact is not possible. Under existing arrangements, however, each DOLE regional office is expected to conduct one TAV orientation workshop per month for owners or managers of these establishments. If this target was achieved (and it is not at present) each region would conduct 10 workshops per year (based on activities for 10 months in each year) and a total of 160 workshops per year for the nation as a whole. If 25 owner/managers were to attend each workshop a total of 4,000 establishments would benefit each year. At this rate, it will take 180 years for all establishments to be covered. Of course, not all establishments will participate in the programme but assuming that half of them do, it will still take 90 years to cover them all, given the current rate of activity and assuming the total number of enterprises remains unchanged.

The TAV system involves a number of steps starting with the orientation workshop after which participants are required to complete a checklist which is then used as the basis for the preparation of an action plan for each establishment. The checklist is heavily weighted to safety and health issues with no questions on working conditions, other than one concerned with social security contributions. Visits are then made to establishments to check on progress on the implementation of the action plan, with all visits authorized by the Regional Director.

Once an action plan is in place establishments are exempt from inspection for up to 12 months if they are 'non-hazardous', and for up to 6 months if they are 'hazardous' or 'highly hazardous.' In effect, the right to inspect an establishment has been traded for the preparation and implementation of an action plan. The right to inspect, however, remains in cases where complaints are lodged, where accidents are reported, or the establishment shows no progress in the implementation of its plan.

Is it working?

Insufficient information is available on the operation of this component of the LSEF to determine whether it is working or not. It is labour intensive and involves a body of

knowledge and a range of skills not usually found in labour inspectors. The following observations are offered on this part of the LSEF:

- Many regional offices have not conducted the targeted number of orientation workshops.
- Some workshops are attended by managers rather than owners, meaning that checklists cannot be completed without the approval of the owner and the preparation of the required action plan is thus delayed.
- The checklist used to assess the current situation in each establishment does not give sufficient attention to working conditions, as distinct from safety and health issues, and the template of the action plan as presented in the BWC Manual does not relate closely to the existing checklist.
- It is too early to conclude whether the preparation and implementation of an action plan does, in fact, result in higher levels of productivity and that this, in turn, results in compliance with labour standards.

The TAV system, to date, has not resulted in the partnerships envisaged in the LSEF document. There is considerable potential for such partnerships to develop particularly involving LGU's, the Chamber of Commerce and Industry, and individual establishments under the KAPATIRAN (Big-brother-Little-brother) Scheme in which large enterprises agree to assist a number of smaller enterprises, often their sub-contractors, with a particular emphasis on safety and health.

By law, all work establishments, irrespective of size, are required to be inspected to assess compliance with labour standards. An approach is required, therefore, that provides for as many smaller enterprises as possible to be assessed. If risk level is accepted as a basis for setting inspection priorities and low risk establishments participate in self-assessment, it is likely that many small establishments would be captured in the self-assessment component of the inspection system. The number of actual inspection visits to small establishments, however, needs to increase. This could be done through saturation visits where one inspector visits up to 10 enterprises in one day, possibly using a shortened and simplified version of the current checklist and report form. It might also be achieved through the delegation of inspection powers to more LGU's, not only for technical inspection, but also for the inspection of working conditions.

2. Internal organization, staff and resources

Labour inspection in the Philippines is driven by the objective of securing compliance with labour standards required by law. The Bureau of Working Conditions in DOLE is the focal point of the labour inspection system, but actual inspection work is undertaken by inspectors in 16 regions, and their related provinces, throughout the country.

The deployment of inspectors throughout the country does not relate closely to the inspection work load in each region. For example in the National Capital Region (NCR) there is one active inspector for every 877 establishments liable to inspection, but in Region II the ratio is 1:103 and in Region IV-A the ratio is 1:506. For the nation as a whole the ratio is 1:265. The location of inspectors by region and the number of establishments liable to inspection by region is shown in **Table 2.1**. It should be noted that the number of establishments liable to inspection refers solely to those establishments falling within the second component of the LSEF. The number excludes establishments participating in the self-assessment scheme and also excludes those in the TAV scheme.

The issue of staff deployment is largely beyond the control of the BWC in that inspectors are selected and appointed by regional offices. There are a few instances in which inspectors from one region have been temporarily deployed to another and this approach could be used to advantage in future, particularly where 'blitz' or concentrated inspection activities are required.

Table 2.1 Labour Inspection 2008⁶

REGION	NUMBER OF INSPECTORS	NUMBER OF ESTABLISHMENTS LIABLE TO INSPECTION	ESTABLISHMENTS INSPECTED 2008
PHILIPPINES	236	62,473	26,169
NCR	53	27,175	7,026
CAR	10	721	1,022
I	12	2,130	1,008
II	10	930	922
III	20	5,318	3,745
1V-A	15	7,085	2,205
1V-B	11	1,550	364
V	9	3,191	221
VI	18	4,452	1,185
VII	14	1,131	1,379
VIII	11	1,347	871
IX	11	2,201	948
X	15	2,874	1,840
XI	15	1,336	1,546
XII	8	256	1,454
CARAGA	4	776	329

The BWC states that there are 236 inspectors throughout the country but with only 193 of these 'active' in the sense of actually undertaking visits to workplaces. The 'inactive' inspectors include those engaged in hearing cases, or in supervisory positions within the system. Thus, for all practical purposes, the Philippines has 193 inspectors actually undertaking inspection visits. Visits are either programmed or un-programmed. The former refers to those visits of a routine nature that form part of the work plan of each regional office. This schedule of visits is decided by the Regional Director in accordance with guidelines provided by the BWC. Un-programmed visits refer to those relating to complaints received, accident investigation, or other special circumstances that cannot be determined in advance.

2.1 General and technical inspection

Inspectors are either general inspectors or technical inspectors. General inspectors are 'integrated' in the sense that the one inspector undertakes inspection of working

⁶ Statistics provided by the Bureau of Working Conditions. The number of inspectors includes both active and non-active inspectors.

conditions, as well as basic aspects of safety and health. All general inspectors have at least a bachelor's degree and have participated in, and passed, an induction training course that covers both labour standards and occupational safety and health. The Occupational Safety and Health Centre of DOLE believes general inspectors could be trained to do more safety and health work as, for example, in the use of workplace monitoring equipment to enable them to actually measure specific aspects of the working environment. At present, however, regional offices do not have access to such equipment.

Technical inspectors are qualified engineers who undertake inspection of mechanical and electrical installations. They are not integrated in that their work focuses exclusively on safety issues. Normally, technical and general inspectors operate separately, with very few joint inspections.

2.2. Job Descriptions

All labour inspectors are civil servants with each inspector having the same job description, as follows:

'Implements laws, rules, policies, guidelines, programs and projects along the Division's areas of concern to include, among others, terms and conditions of employment of employment, health and safety in work places, periodic inspections of establishments to determine compliance with labour standards to include those for special groups, i.e. working women and young workers as well as apprentices/learners and submit regular and special reports of accomplishments as well as necessary recommendations.

Process applications for health and safety permits/certificates and recommend appropriate action.

Conduct periodic inspection in establishments to check compliance with labour standards in accordance with the Department's inspection Program and submit necessary reports/recommendations.

Evaluate/validate/investigate reported violations of labour standards laws, rules, and policies and prepare reports and recommendations.'

This job description requires review. It makes no specific reference to the role of inspectors in informing employers and workers on the content of laws, or to their role in advising workers and employers what they need to do to comply. It makes no reference to receiving and handling complaints, accident investigation, child labour rescue interventions, the accreditation of OSH practitioners, or to inspector's participation in job fairs. The job description makes no reference at all to the LSEF, and the different tasks inspectors are required to perform concerning self-assessment, and training and advisory visits.

It is proposed that the BWC plan and implement a human resource audit covering **all staff** in the Bureau and regional offices concerned with inspection work, including support staff. This audit will provide a basis for the preparation of revised job descriptions, provide a foundation for the introduction of a new approach to staff performance appraisal, identify training needs for all staff, including managers, identify special capacities of staff, and identify support staff able to play a more important role in the inspection system.

The implementation of the proposed audit could have a positive impact on staff morale and motivation provided, of course, it is presented as a means to make improvements to the system and not as a way of reducing staff numbers. From the outset it must be stressed that the results of the audit will be used to bring about positive changes in the system, and that staff will be actively engaged in the change process.

The planning and implementation of a human resource audit could also cover other agencies involved in various aspects of labour inspection such as LGU's and other government departments.

2.3. Qualifications and experience

All inspectors are required to have a bachelor's degree. The BWC reports that 75 per cent of inspectors have such a degree, 24 per cent have a master's degree and 1 per cent a PhD degree. Some 29 per cent of inspectors are female and 71 per cent male. Some 37 per cent of inspectors are in the age group 35-44 years, 39 per cent in the 45-54 years age group, and 16 per cent in the age group 55-64 years. The remaining 8 per cent are under 35 years. Technical inspectors usually have a degree in mechanical or electrical engineering and general inspectors a degree in one of the social sciences. Eligibility for appointment as a labour inspector requires that a person must firstly hold a permanent position of at least Labour and Employment Officer level 3 and, secondly, pass the Basic Training Course for Labour inspectors.

The BWC and regional offices consider this age structure provides evidence of a very experienced inspectorate. Age and years of experience, however, are no guarantee of high performance. Indeed, inspectors who have been on the job for some 20 or 30 years with little or no retraining, with no real culture of service, and with a strong policing mentality, may not be the ideal persons to play the leading role in an inspection system that needs to be revitalized, reorganized and modernised. The proposed human resource audit will play an important part in identifying the overall capacities of labour inspectors, with years of service and experience comprising but one component of a broader profile. The Bureau and regional offices should consider the need for an improved staff performance appraisal scheme that assesses actual performance against agreed indicators.

2.4. Salary and allowances

General and technical inspectors at the same level receive the same salary. Most inspectors are designated as Labour and Employment Officer Grade 111 or Senior Labour and Employment Officer. As at June 2009, a LEO Level 3 received a gross salary of 17,059 pesos per month (approximately USD350) and a travel allowance of either 1000 pesos per month or the reimbursement of actual travel costs, depending on the situation in each regional office. A senior LEO received a gross salary of 20,317 pesos per month (approximately USD 423) plus the same allowances as a LEO 3. In July 2009 a salary increase of 50 per cent of salary was announced, with the increase payable in equal installments over a 4-year period.

2.5. Powers of inspectors

Under Article 128 of the Labour Code inspectors are empowered to:

- enter the premises of an employer **at any time** of day or night whenever work is undertaken in those premises;
- access and copy the employer's records;
- question any employee;
- investigate any fact, condition, or matter to help determine violations or which may assist in the enforcement of the law.

The Secretary of Labour and Employment or the Secretary's authorized representatives has the power to issue compliance orders. The Director of each regional office is the 'authorized representative' of the Secretary and thus compliance orders are issued by regional directors and not by individual inspectors. The Regional Director, as the authorized representative, has the power to issue writs of execution for the enforcement of compliance orders.

Similarly, the Secretary or authorized representative may order a stoppage of work or suspension of operations in an establishment, or part thereof, where non-compliance with the law poses grave and imminent danger to the health and safety of workers in that workplace. The work of inspectors represents the initiating point for making such an order, but inspectors do not have the power to actually make an order.

The Secretary of Labor and Employment is empowered to introduce regulations that require employers to keep and maintain such employment records as may be necessary for the effective enforcement of the Labor Code, and can also make orders on safety and health matters to eliminate or reduce safety and health hazards in 'all workplaces.'

The powers of labour inspectors in the Philippines are considerably less than those stated in ILO Convention 81 Labour Inspection Convention, 1947. The Chief Labour Inspector, as head of the labour standards division in each regional office, has no special powers.

2.6. Standards of behaviour

Article 128(e) of the Labour Code 1974 indicates that any government official that abuses his or her authority with regard to their powers under the other provisions of Article 128, or is guilty of a violation under the Article, shall be liable to dismissal after appropriate administrative investigation. This does not refer explicitly to labour inspectors but as government officials, clearly, they are covered by Article 128(e).

There are no references in the Labour Code to labour inspector's obligations of the type covered by Article 15 of ILO Convention 81. That Article makes specific reference to inspectors being prohibited from having any direct or indirect interest in the undertakings they inspect, not revealing manufacturing or commercial secrets or work processes they learn of during their work, and to treat as confidential the source of any complaint received. These are important obligations and although included in the Revised Labour Inspection Manual they need to be enshrined in legislation if they are to have legal effect.

Labour inspectors are covered by a civil service code of conduct but its application is general rather than related to the specific circumstances of labour inspectors. A special Code of Conduct for Labour Inspectors that establishes standards of professional conduct, defines misconduct, clearly indicates the procedures for handling misconduct cases, and indicates penalties for breach of the code, would contribute to a positive image of inspectors and enhance their professional reputation.

A Code of Conduct for Labour Inspectors could be incorporated into letters of appointment of inspectors and included as part of any memorandums of understanding, or similar documentation, which empowers other agencies or individuals to undertake inspection work.

2.7. Resource support

The resource support for the labour inspection system is deficient in almost every dimension. Apart from the limited number of active inspectors, regional and provincial

officers lack access to refresher and up-grading training, have insufficient access to computers, lack training on computer applications, lack transport to facilitate visits to establishments, lack workplace monitoring equipment, as well as the skills to effectively use such equipment, have no computerized data base of workplaces to provide an inspection history at regional and national levels, and inspectors have no personal protective equipment of their own for use when inspecting hazardous workplaces. Regional offices have support staff to assist inspectors and each office maintains a Master List of Establishments, but such lists have not been computerized.

Eight of the 16 regional offices responded to a request to provide information concerning the equipment at their disposal. All eight appear to have an adequate number of computers and laptops but, individually, some inspectors reported they did not have computers allocated specifically for labour inspection functions. Other inspectors reported that this was not an issue because they were not computer literate anyway. Regional offices and most provincial offices have access to the Internet but many provinces have no photocopier and no mobile telephones provided by the inspectorate.

The labour inspection system to date has made little progress in using computer information technology as a means to improve efficiency. Inspection activities take place largely in a computer void without any plan to move progressively away from a reporting and monitoring system dominated by hand written reports. Clearly, the technology is available to move increasingly towards a 'paperless' system for both inspection reports on individual establishments, as well as aggregate reports generated by provinces and regions for forwarding to the BWC. The BWC and regional offices need to address the issue of computer technology as one way to make better use of the limited available inspection resources.

No information was provided from regions and provinces on the number of vehicles available for inspection visits but it is understood that the number of vehicles dedicated for inspection activities throughout the country is zero.

These deficiencies, clearly, impact on the overall efficiency of the inspection system. Of particular concern is the small number of active inspectors. Unfortunately, it is a reasonable expectation that the number of inspectors will not increase significantly in the next few years. Even if more inspectors are appointed, the gap between the number of inspectors and the number of establishments liable to inspection is likely to widen unless, of course, there is a reduction in the number of establishments liable to inspection. Current government policy, however, is to increase employment opportunities which, in all probability, will see an increase in the number of establishments liable to inspection, and even more so once the current financial crisis comes to an end.

There is little doubt that the current and limited level of resource support for labour inspection in the Philippines is an important factor in the overall system failing to perform to an acceptable level of performance.

The inspection system could benefit significantly from the use of computer technology. The computerisation of the inspection system could have a direct and major impact on its overall efficiency, and an indirect impact on its general effectiveness by providing the time required for inspectors to visit more enterprises. In the longer term, the inspection system must embrace computer technology on a wide scale and move, progressively, towards paperless systems, consistent with the need to provide original documents in cases of litigation.

3. Planning and conducting inspection work

As indicated in the Labour Standards Enforcement Framework (LSEF), there are three components of the Philippine's labour inspection system namely, self-assessment, inspection, and training and advisory visits. The procedures to be followed by inspectors for each of these components are as indicated in the **Manual on Labour Standards**, the **Revised Labour inspection Manual**, the **Revised Technical Safety Inspection Manual** and the **Manual on the Conduct of Assistance/Advisory Services**, all issued by the Bureau of Working Conditions.

By 15 January of each year every regional office is required to submit to the Bureau of Working Conditions a **Labour Standards Enforcement Programme** detailing the work to be undertaken by that office with regard to the components of the LSEF. No inspection work can take place in a region until this programme has the endorsement of the Bureau. This work programme is required to indicate:

- the number of workplaces to be covered by self-assessment;
- the number of workplaces to be inspected;
- the number of micro-enterprises and BMBEs targeted for training and advisory assistance;
- the number of chartered cities to be evaluated and recommended for delegated authority to conduct technical safety inspection;
- targets for advocacy, and education and training to encourage voluntary compliance.

Regional offices are required to prepare this work programme based on standards set by the Bureau. For spot-checks under the self-assessment system, inspectors are required to undertake a minimum of 2 such checks per day, conduct 1.5 workplace inspection visits per day, and each regional office shall conduct one training programme per month for training and advisory services. (In practice, daily standards are applied for a 4-day period to leave one day each week for the administrative work of inspectors.). **See page 25**

The work programme runs from 15 January to 15 November each year. This means that for a period of two months all regular and routine inspection, all training and advisory services, all assistance to employers for self-assessment, and all spot checks are suspended. Inspection based on complaints, accident investigations and/or imminent danger situation investigations shall continue during the 2-month period.

The need for this 2-month hiatus in inspection activities, ostensibly to allow for the handling of the backlog of violation cases, needs to be re-considered. Indeed, the whole issue of complaints and violations needs to be considered in relation to the overall effectiveness of the inspection system, in that a more effective system would normally generate fewer complaints and violations coming into the system in the first place.

The preparation of the work plan is facilitated by a **Master List of Establishments, Workplaces and Worksites** which every regional office is required to develop and keep up to date. The List is coded using the Philippine Standard Geographic Code for address/location, and the Philippine Standards Industrial Classification Code. In addition, for each establishment the List shows the number of employees, and whether the workplace is non-hazardous, hazardous, or very hazardous. Thus, for each entry on the Master List there is an establishment name, a geographic code, industrial classification, a hazard rating, and the number of employees.

The Master List is a starting point for a risk assessment exercise, but more information should be included if risk assessment is to be undertaken in a systematic manner. The current system of stating whether an establishment is hazardous or not is not based on any stated criteria, and fails to include risks that do not relate to workplace hazards but to other factors, such as type of employees (e.g. young persons, women, disabled workers), existence of consultative mechanisms (e.g. safety and health committee, labour-management committee), existence of a collective agreement, agreements with buyers, welfare facilities provided, complaints history, and strikes and lockouts. These factors, together with goods and services produced, nature of raw materials used, nature of the production process, and various specific safety and health indicators could all be included on a computerized Master List and used to provide a risk assessment, either on a rating scale or numerical assessment.

If the overall LSEF was to move towards a system based on risk level rather than establishment size, it will be necessary to prepare a list of risk assessment criteria and the weightings to be assigned to each. The preparation of a risk assessment tool should be undertaken by the Bureau in consultation with regional offices, and representatives of workers and employers. In this context, it will be necessary for all parties to have a common understanding of 'risk' which, from the viewpoint of labour inspection, is concerned with the likelihood and probability of non-compliance by establishments, irrespective of size, with labour standards required by law.

3.1. Self-assessment procedures

The procedures for self assessment are outlined in the **Manual on Labour Standards**. A checklist is distributed to eligible establishments in the first quarter of each year and establishments are required to complete it within a period of one month from its receipt. The checklist is forwarded to establishments by either registered mail or personal delivery. There are no on-line arrangements for receiving the blank checklist or sending the completed document to the regional office.

The checklist is completed in triplicate - one copy for the regional office, one copy for the union/workers, and the third copy for the employer. The Manual indicates that the self-assessment shall be the joint effort of workers and employers, that self-assessment shall include the verification of employment records and the assessment of work premises, and that supporting documentation shall be provided in support of the checklist. Orientation sessions are available to guide establishments in the completion of the checklist, a **Guide in Accomplishing the Checklist** is available, and an establishment may request assistance from the Regional Office for the completion of the checklist.

The Manual indicates that the completed checklist shall be checked by a Regional Monitoring and Evaluation Team to validate the authenticity of documents submitted in support of the checklist, check on the authority of the employer and worker representatives, and assess the general accuracy and completeness of the document. The Team may recommend that a labour inspector should undertake a spot-check of an establishment which would then be done in accordance with the procedures set out in the **Revised Labour Inspection Manual**. On the surface, the checking of the checklist by a Regional Team appears excessively bureaucratic. Consideration should be given to the initial desk check being undertaken by a qualified labour inspector, who would then recommend whether a spot-check inspection should be undertaken or not.

The **Manual on Labour Standards** indicates that the Monitoring and Evaluation Team may recommend spot-checks where it is satisfied that the self-assessment includes inaccurate findings and false documentation, that the self-assessment was conducted by

unauthorized persons, and in cases where compliance or restitution is partial rather than complete, and where safety and health hazards have not been corrected.

The procedure does not include any penalties for failure to submit the checklist or for late submission. There is no computerized master list of establishments eligible for self-assessment, and no computer files.

The checklist used for self-assessment is the same as the one used for routine inspection and covers working conditions, occupational safety and health, welfare matters, and various registration and certificate requirements. This checklist is presented in **ANNEX 2**.

3.2. Inspection procedures

The procedures for inspection under the LSEF are as set out in two manuals, one on general inspection, the other on technical safety inspection.

The procedures for conducting general inspection are as set out in the **Revised Labour Inspection Manual**. General inspection includes both working conditions and the working environment and thus a general inspector is required to secure compliance with safety and health rules and regulations. This manual provides for five different types of general inspection as follows:

- **Routine or Regular Inspection** means those visits to establishments that are scheduled as part of a programme of yearly inspection visits.
- **Complaint/Referral Inspection** means inspection conducted in response to a notice filed by an employee concerning a hazard or violation of standards, or referred by the media or any other source.
- **Imminent Danger Investigation** means inspection conducted based on any condition or practice in any workplace where specific danger could reasonably be expected to cause death or serious physical harm, and where enforcement of standards can eliminate the danger.
- **Accident Investigation** means inspection conducted in the event of work related accidents resulting in injury or death.
- **Spot-check** means inspection recommended by a Regional Monitoring and Evaluation Team related to the self-assessment scheme and inspection to establishments employing less than 10 employees and registered Barangay Micro Business Enterprises (BMBE's) to verify commitments related to the Training and Advisory Services (TAVs) under the LSEF.

The Manual indicates that inspection shall be undertaken in accordance with the following priorities:

- a) Complaints inspection and imminent danger investigation.
- b) Hazardous workplaces.
- c) Construction Sites.
- d) Establishments employing women/child workers.

Inspection tools

The manual indicates the tools inspectors ‘shall have’ to facilitate inspection visits, as follows:

- Inspection Authority, signed by the Regional Director, and to be shown to the owner or manager of the establishment before the inspection commences.
- DOLE ID card.
- Checklist and other prescribed forms.
- Instruments for working environment measurement.
- Applicable personal protective equipment such as, hard hat, and safety shoes.
- Camera to record an accident area or imminent danger condition, if necessary.
- Copies of the Labour Code of the Philippines, as amended.
- Occupational Health and Safety Standards.
- Other relevant laws and regulations.

In practice, all the ‘shall have’ tools are not available to labour inspectors. The necessary authorizations and documents are available, but equipment for measuring the working environment, personal protective equipment, and visual recording equipment are not provided.

Work Programme

The Regional Office work programme submitted to the Bureau in January of each year indicates the number of establishments to be inspected, and the Regional Director signs an inspection authority indicating which establishments are to be inspected by each inspector. No inspection can be undertaken without the written authority of the Regional Director.

The Director in each regional office is responsible for the supervision of the labour inspectorate and exercises the enforcement power of the Secretary of Labor and Employment, pursuant to Article 129 of the Labor Code of the Philippines, as amended.

Conducting the inspection

The **Revised Labour Inspection Manual** indicates in some detail what inspectors are required to do during the actual inspection visit. The majority of inspection visits are unannounced, meaning they take place without warning to the establishment.

The Manual provides information on the various steps to be followed in conducting an inspection visit including

- Gaining entry to the establishment;
- The opening conference;
- Review of records and documentation;

-
- Conducting interviews with employees;
 - Tour of the premises and the need for the inspector to be **always** accompanied by a workers' representative;
 - Completing the checklist;
 - The closing conference;
 - Posting the Notice of Inspection Results in the establishment;
 - Reporting using the checklist;
 - Violations.

The Manual also makes reference to situations in which the inspector may require the assistance of specialist expertise in the field of occupational safety and health, in areas where the labour inspector lacks specific technical knowledge. In such cases, the inspector is entitled to request assistance, but on the clear understanding that any person providing such assistance and advice comes under the direct supervision of the labour inspector concerned. There is no indication, however, of the obligations of such technical experts to the establishment, particularly concerning impartiality and confidentiality. These should be included in laws and regulations rather than an internal operations manual.

Disposition of Labour Standards Cases (No data)

The Bureau of Working Conditions has prepared a **Manual on the Disposition of Labour Cases** to guide regional offices in the handling of cases where the inspection process identifies a violation of labour standards. This Manual follows very closely the **Rules on the Disposition of Labor Standards Cases 1987**, and states in detail what regional offices must do to dispose of such cases under administrative proceedings. This is more a manual of what must be done under the law, rather than how to apply knowledge and skills to particular case situations.

On the completion of an inspection, the inspector indicates on an **Inspection Results Form** any restitution or corrections the employer is required to make. The employer has 5 days from the receipt of the Inspection Results in which to comply. Restitution can be done at the worksite for money claims not exceeding P 50,000 and a report of payment must be submitted immediately to the regional director for verification and confirmation. Restitution in excess of P 50,000 shall be made at the Regional Office itself, unless the Regional Director gives prior approval for it to be made at the work site.

It is possible for the parties to arrive at an agreement to resolve their dispute, either in part or whole, but such agreement is not binding unless it is in writing and signed by both parties in the presence of the Regional Director, or an authorized representative. A quitclaim agreement or waiver, executed by an employee in favour of an employer, normally will be binding provided the person making the waiver did it voluntarily, understood what he or she is doing, does so for an adequate and reasonable consideration, and the agreement is signed in the presence of the regional director or an authorized representative.

The disposition of labour cases also includes an administrative procedure for summary hearings for situations in which the employer fails to comply with the requirements of the Inspection Results Form in the specified period. The Regional Director is empowered to summon the employer and worker complainant(s) to a summary investigation hearing. An investigation hearing can also be called where it was not possible

to conduct a complete inspection, due to the fault of the employer such as denial of access to the workplace to be inspected, or lack of access to employment records, or workers.

The **Manual on the Disposition of Labour Cases** outlines the summary proceedings for the hearing of cases involving the recovery of wages and other monetary claims not exceeding 5,000 pesos for employees in domestic or house helper service, where the claim arises from an employer-employee relation, and where the employee does not include a claim for reinstatement. For cases that fall outside the above requirements, the complainant is required to file a complaint with the National Labor Relations Commission.

The resolution of rights disputes over wages and other monetary benefits in summary proceedings is time consuming and labour intensive. In an ideal situation, effective labour inspection would prevent such disputes from arising in the first place and, through the interventions of a well-trained and positively motivated inspectors, there is no reason why such disputes cannot be determined quickly and fairly. This requires that inspectors know the law, communicate clearly the provisions of the law to both employers and workers, and inform all parties what they actually need to do to comply with the provisions of the law. In virtually all cases, except the most difficult and contentious, a labour inspector should be able to convince a non-compliant employer of the need to comply within the given period, and advise on the potential negative consequence of a failure to comply, including the time consuming procedures that result from a failure to resolve problems at first point of contact. This approach highlights the key role of labour inspectors in the prevention of rights disputes.

The situation concerning workers in private homes and house helper service is more complicated. Clearly, in such private homes, unless an unpaid family worker is involved, there is an employer-employee relation but the Labor Code 1974 in Article 82 indicates that the working conditions of such employees are not covered by the law, but their safety and health situation is so covered. This further highlights the need for a clear and unambiguous definition of ‘workplace’ for the benefit of the labour inspection system, and whether private households are liable for checking on both working conditions and safety and health. Although employer-employee relations are evident in private homes, and thus qualify them as workplaces, the right of inspectors to enter such workplaces is questionable under constitutional privacy and sanctity provisions. Accordingly, until such sanctity and privacy provisions are clarified it is important that administrative procedures are in place to ensure that workers in private homes have access to a dispute procedure.

Technical Safety Inspection

Technical safety inspection refers to inspection for assessing the safety of boilers, pressure vessels, internal combustion engines, elevators, hoisting equipments, electrical wirings and other mechanical equipment installations. There is no standard technical safety inspection report form – separate reports are issued for each item inspected. As with general inspection, every technical inspection must be supported by a written **Inspection Authority** signed by the Regional Director, and shown to the owner or manager of an establishment before the inspection is conducted.

The **Technical Safety Inspection Manual** includes the procedures to be followed for the delegation of technical safety inspection to chartered cities.

3.3. Training and Advisory Visits (TAVs)

The Bureau of Working Conditions has prepared a detailed **Manual of Instructions for the Conduct of Technical Assistance/Advisory Services for Regional Offices** to guide them in the provision of services under the third component of the LSEF. This component is concerned with establishments employing less than 10 employees to assist

them to comply with labour standards through training, advice, and assistance in the preparation of improvement plans in close consultation with establishment owners.

As indicated in the Manual, training and advisory visits refer to the conduct of orientation seminars and authorized advisory/assistance and follow-up visits by trained DOLE personnel/inspectors to small and micro-enterprises with an employment size of nine (9) workers or less, to assist them in mapping out a development and improvement programme.

In many respects, this component of the LSEF is more of a business improvement programme than one concerned with labour inspection in that an increase in productivity is the main thrust of the programme, based on the assumption that productivity improvements will result in increased compliance with labour standards. At a macro-level it is generally accepted that economic progress is the means to improved working conditions and higher levels of compliance but, at workplace level, this may not be the case depending on the actual **distribution** of productivity gains. A strong employer, a subservient and unorganized workforce, and a lack of workplace level consultative mechanisms, may well see an employer securing productivity gains for increased profit and retained earnings, rather than improved working conditions and increased compliance or above-compliance with labour laws.

Training under the TAV component is undertaken in coordination with other government and non-government agencies and includes an orientation on practical work methods and low-cost workplace improvement strategies, which contribute to productivity and enterprise development. The **Manual of Instructions on the Conduct of Technical Assistance/Advisory Services** issued by BWC indicates the procedures to be followed for this component of the LSEF.

As previously indicated, the impact of the TAV approach under the LSEF is largely unknown. Given the large number of targeted enterprises and limited resources for the programme, the impact is likely to be very limited overall but, possibly, significant for a very small number of establishments that manage to prepare an acceptable improvement programme, and use this as an entry point for improved levels of compliance with national labour standards.

The TAV system involves a number of steps starting with the orientation workshop, after which participants are required to complete a checklist which is then used as the basis for the preparation of an action plan for each establishment. The checklist is heavily weighted to safety and health issues with no questions on working conditions, other than one concerned with social security contributions. This checklist is presented in **ATTACHMENT C**. Visits are then made to establishments to check progress on the implementation of the action plan, with visits authorized by the regional director.

Once an action plan is in place establishments are exempt from inspection for up to 12 months if they are 'non-hazardous,' and for up to 6 months if they are 'hazardous' or 'highly hazardous.'

The BWC was unable to provide detailed information on the activities of the TAV scheme. It appears, however, that this is more in the nature of a business improvement programme than one concerned with labour inspection. Indeed, it might be described as a 'non-inspection' programme in that establishments, under relatively loose conditions, are exempt from inspection for periods of up to 12 months. The concept of performance improvement for small and micro enterprises is most commendable, but its coupling with a programme of non-inspection is questionable. Equally questionable is the capacity of labour inspectors to contribute in a meaningful way to improved business performance unless, of course, they have received special training that clearly identifies links between improved productivity and profitability, and compliance with labour standards.

An alternative approach could be for small and micro enterprises to be assessed as high, medium or low risk with regard to the extent to which they are considered as likely to comply with labour standards, in much the same way as medium and large establishments would be so assessed. Standard inspection visits and activities would then be undertaken for high and medium risk establishments, and simplified self-assessment introduced for low risk establishments. This approach would not preclude business improvement programmes operating in tandem with labour inspection activities, but with such programmes conducted by business extension agencies best qualified to plan and implement them.

Such an approach would encourage partnership arrangements between the labour inspection system and business development agencies, both government and non-government, as intended under the LSEF. At the same time, this approach would ensure that labour inspectors concentrated on those things they are best able to do, namely, inform and educate enterprises on the content of labour laws, advise employers and workers on what they must do to comply with such laws, and initiate enforcement proceedings for those enterprises failing to comply.

The TAV system is labour intensive but the actual time spent by inspectors on this third component of the LSEF remains largely unknown. It is assumed, however, that the time involved is considerable – time that might be better spent in undertaking traditional inspection work rather than business extension activities better undertaken by others.

3.4. Labour inspection and labour relations

Labour inspectors in the Philippines are not involved in the resolution and settlement of labour disputes, and this is as it should be. Mediation and arbitration are specialist functions better handled by labour relations officers. Labour inspectors do, however, have a very important role to play in dispute prevention over existing rights. Through the provision of timely and accurate information and advice during inspection visits labour inspectors can resolve immediately problems over rights issues, thereby preventing small problems escalating into formal complaints and disputes. This is why it is important that inspectors ensure that workers' representatives are actively involved in all aspects of an inspection visit, and that interviews with workers focus on real issues.

3.5. General

The planning and conduct of inspection work in the Philippines is covered in some detail in a number of manuals prepared by the Bureau of Working Conditions. These are important and useful documents for labour inspectors but, as internal DOLE documents, they are not legally binding on establishments or workers. They might be used as a basis for internal disciplinary action against an inspector who fails to follow the stated procedure, but where they seek to impose obligations on employers and workers they are not binding.

Accordingly, the content of these manuals needs to be re-visited with a view to distinguishing between what is purely guidance, on the one hand, and what is intended to have legal consequences for establishments and indeed DOLE itself, on the other. For example, the impartiality and confidentiality issues for inspectors are a legal matter, as are the powers and obligations of any technical experts who provide assistance to inspectors. The right of inspectors to make both announced and unannounced visits, to take samples of materials and substances used, to take photographs, and to take measurements, are also important legal matters and are just some of the things to be included in laws or regulations rather than operational manuals. A detailed Labour Inspection Regulation offers a possible

solution to ensure that the intentions expressed in desk manuals become legal requirements.

There is no annual report on labour Inspection in the Philippines. The Bureau of Working Conditions receives information on inspection activities on a quarterly basis from all regional offices, and this is used to provide general information on inspection activities for inclusion in the DOLE Annual Report. But there is no detailed report dedicated to inspection. An annual report on inspection activities, either as a separate report or as part of DOLE's Annual Report, should be prepared and widely disseminated and include, as a minimum, information on those matters indicated in Article 21 of ILO Convention 81 (Labour Inspection Convention, 1947) and in Part IV of the Labour Inspection Recommendation, 1947 (No.81)

4. Specific topics

4.1. Labour protection policy

The Philippines does not have one overall labour protection policy covering all aspects of basic rights, working conditions, occupational safety and health, social security in all its forms, and protection for workers and self-employed persons engaged in non-traditional forms of employment, including work in the informal economy where decent work deficits are common.

ILO conventions and recommendations provide the framework for the preparation of such a policy and provide the foundation for the operation of a strong labour administration system. ILO C150 Labour Administration Convention, 1978, together with C155 Occupational Safety and Health Convention, 1981 and C187 Promotional Framework for Occupational Safety and Health Convention, 2006 provide valuable guidance for policy development on labour protection. C81 Labour Inspection Convention, 1948, and its related recommendation, provide the foundation for the development of an effective labour inspection system to ensure that policy pronouncements are transformed into meaningful labour standards, and that compliance with those standards is secured.

A labour protection policy in itself is not legally binding and requires the introduction of laws, regulations, rules and orders to ensure that policy initiatives move from intent to action. The main elements of a labour protection policy need to be identified and agreed, existing elements revised and consolidated, and new elements elaborated to ensure that protection has the widest possible coverage including to the millions that rely on the informal economy for their livelihoods.

The preparation of such a policy provides an opportunity for tripartite interaction at various levels on a wide range of issues. The **process** of developing such a policy is very important in ensuring that the final output strikes a reasonable balance between employment and economic efficiency issues, on the one hand, and decent work and social justice issues, on the other.

4.2. Protection of mine workers

The Bureau of Geosciences and Mines in the Department of Environment and Natural Resources, through its Mining Environment and Safety Division, has responsibility for mine safety in some 80 large scale mines as well as various registered small scale mines throughout the Philippines. In addition, there are also many small scale mines operating as part of the informal economy that are not registered (and thus operate illegally) and fall

outside the responsibility of the Bureau. The Bureau has some 60 engineers operating from 15 regional offices who are responsible for safety and health inspection in mines.

The Bureau is responsible for the administration of the Philippine Mining Act, 1995 (Republic Act No.7942) and its related Rules and Regulations. These Rules provided for quarterly inspection of mines, but the Bureau reports that this standard is not achieved and on average mines are inspected once per year.

The Bureau is responsible for preparing reports under ILO C176 Safety and Health in Mines Convention, 1995. The Bureau forwards its reports to the Department of Labour and Employment for communication with the ILO. Relations between the Bureau of Geosciences and Mines and the Bureau of Working conditions are claimed to be good, but need to be further developed. The Bureau of Geosciences and Mines is responsible for safety and health inspection in mines but has no authority with regard to the inspection of working conditions covered by the Labour Code 1974. The DOLE, however, does not undertake any inspections in mines thus creating a situation where mines are inspected on safety and health issues, but not inspected at all concerning working conditions. This is partly related to the overall shortage of labour inspectors, but also reflects a degree of inertia on DOLE's part.

DOLE needs to address this shortcoming as a matter of urgency. One approach could be for DOLE labour inspectors and mining inspectors to undertake joint inspections of mines, with a view to mining inspectors learning how to undertake labour inspection work and its related reporting, and ultimately for mining inspectors being able to check on both working conditions and safety and health as part of their routine visits to mines. Under such arrangements mining inspectors, in effect, would become 'integrated inspectors' by assuming responsibility for inspecting wages, hours of work, rest periods, social security arrangements and other matters, in addition to their responsibilities for safety and health. This would require some form of delegation and accreditation from DOLE to the Bureau of Geosciences and Mines, and possibly some amendments to the Labour Code 1974. The Bureau of Geosciences and Mines indicated that it would welcome early discussions with DOLE on this matter.

The Bureau of Geosciences and Mines would welcome feedback from DOLE on its reports under Convention 176. It also requires additional equipment for monitoring the working environment, and is seeking assistance in training for mine emergencies and evacuation. It would also welcome assistance for the preparation of a Manual for Mine Safety and Health Inspectors.

4.3. Protection of maritime workers

The Maritime Industry Authority (MARINA) has responsibility for safety and health on shipping vessels, both international and domestic, but at present has no authority to inspect working conditions. Working conditions (as is the case with mines) is the responsibility of DOLE under the Labour Code 1974.

MARINA is advocating the ratification of ILO Maritime Convention 2006 (not yet in force but expected to be in 2011). The Convention applies to international vessels and includes standards covering minimum age, conditions of employment, hours of work and rest, accommodation, recreation facilities, food and catering, health protection, medical care, welfare and social security protection for seafarers, the regulation of recruitment and placement services, and health and safety protection. There is some disagreement between DOLE and MARINA as to which authority should be responsible for inspection under the Convention, if and when ratified by the Philippines. MARINA considers that responsibility for flag State inspections and working conditions inspection should come under one

administration, namely MARINA. DOLE considers that working conditions are part of its mandate.

MARINA has some 108 inspectors at present and, as with the situation for mines, they could be delegated and accredited by DOLE to undertake inspection as envisaged in the Convention. DOLE does not have the resources to extend its inspection activities to seafarers and, indeed, cannot possibly meet its inspection standard of one visit per year to the 784,000 work establishments it is required to inspect. The integration of inspection services with one MARINA inspector covering both working conditions and safety and health on vessels appeals as the best use of the nation's scarce inspection resources.

4.4. Decent Work Country Programme 2008-2010

The ILOs Decent Work Country Programme for the Philippines reflects the ILO's fundamental goal of securing productive and decent work for men and women in conditions of freedom, equity, security and human dignity. The programme for the Philippines focuses on three priority areas, namely:

- decent jobs for Filipinos through local development,
- improved labour market governance, and
- strong and representative employer and worker organisations.

The planned outcomes of improved labour market governance are an improved legal framework through meaningful social dialogue, and improved compliance with international and national labour standards. The audit of the labour inspection system is directly related to securing higher levels of compliance.

The ILO has supported the LSEF through the development of training resources and the conduct of trainer-training but, as the LSEF is still relatively new, more support is required for government officials, particularly labour inspectors, and workers and employers and their respective organisations. The Decent Work Country Programme makes specific reference to conducting a labour inspection audit as a means to assist DOLE to strengthen its case for additional resources for the improvement of the labour inspection system.

The findings and recommendations of the audit report will be useful to DOLE not only as a means to secure additional resources for labour inspection, but also as a blue print for the medium to longer term development of the labour inspection system.

4.5. Consultative processes and the social partners

The Tripartite Industrial Peace Council was established by Presidential Executive Order No. 403 in 1990 to promote meaningful consultations between labour, employers and government in the formulation and implementation of labour policies. This Order establishes the Secretary of Labor and Employment as the chairperson of the Council and gives it the following functions:

- To monitor the full implementation of and sectoral compliance with the provisions of the Industrial Peace Accord.
- To assist in the preparation and conduct of national tripartite conferences which the President of the Philippines or the Secretary of Labor and Employment may

call from time to time to review existing labour and social policies, and to evaluate local and international developments affecting them.

- To formulate for submission to Congress tripartite views on labor and social concerns, as well as present a tripartite position and views on pending relevant legislative proposals.
- To advise the Secretary of Labor and Employment on major policies affecting labor and employment.

In 1992, Regional Tripartite Industrial Peace Councils and Industry Tripartite Councils were created by Presidential Executive Order No.25 to support the functions of the National Tripartite Peace Council. Although the functions of these tripartite forums make no specific reference to labour protection and labour inspection, clearly, the intention was to establish consultative mechanisms to address a wide range of labour and social issues.

In 1998, under Executive Order 383, the National Tripartite Industrial Peace Council had its composition reorganized to strengthen government representation, and had its functions broadened to include the following:

‘To monitor the full implementation and sectoral compliance with the provisions of all international conventions, tripartite agreements and commitments.

To serve as a communication channel and a mechanism for undertaking joint programs among government, employers, and labour towards enhancing labour-management relations.’

In addition, Executive Order 383 made specific reference to ‘**economic**, labour and social policies’ to replace the earlier wording that referred to ‘labour and social policies’ only.

In 1999, Executive Order 97 made further changes to the functions of the National Tripartite Peace Council to include overseeing the implementation of the Medium Term Comprehensive Employment Plan (CEP). This represented a significant shift in the Council’s focus as evidenced by the following functions:

‘Monitor the observance of policy guidelines and implementation of the action plans committed by those concerned agencies at the national and regional/local levels.

Facilitate the securing of the necessary budget, technical and human resources support for the effective implementation of the CEP.

Identify major problems in the implementation of the action plans and their causes and institute or recommend necessary corrective measures to the agency concerned.

Review and recommend policies, strategies and programs for improving employment generation, facilitation, enhancement and preservation.

Convene quarterly assessment meetings, prepare the annual Philippine Employment Report, update the CEP annually and organize a comprehensive review of the plan every three years.

Prepare and implement a communication plan to generate support for the CEP from Congress, other offices of the Executive Branch, and the public.

Submit quarterly reports to the President on the status of the implementation of the programs including issues and attendant recommendations thereon as well as the annual updates of the CEP.

Perform such other functions as the President may direct.’

Executive Order 97 also states that ‘the Regional Tripartite Industrial Peace Councils, chaired by the DOLE Regional Directors, shall oversee the implementation of the Regional Employment Plan of their respective regions, in coordination with the Regional Development Councils.’

It is apparent that tripartite structures exist at national and regional levels in the Philippines with a mandate that embraces labour, social and employment issues. It is less apparent whether labour protection issues and matters concerned with securing compliance with labour legislation have received sufficient attention, given the emphasis placed on employment generation in recent years. The preparation of a new labour protection policy and a related labour inspection strategy, culminating in the drafting of a new labour code, would require the tripartite bodies at national, regional and industry levels to devote more attention to a wide range of labour protection issues.

The Bureau of Working Conditions should take the necessary steps to establish a tripartite working group on labour protection and inspection, ideally as a working group under the umbrella of the existing National Industrial Peace Council. This working group should include representatives from government agencies other than DOLE and its regional offices, particularly the Bureau of Geosciences and Mines, MARINA, and representatives from LGUs engaged in technical safety inspection.

4.6. HIV/AIDS

The Republic Act 8504, generally known as the Philippine AIDS Prevention and Control Act 1998, includes a section specifically devoted to HIV/Aids in the workplace. Section 6 of the Act states

‘All government and private employees, workers, managers and supervisors including members of the Armed Forces of the Philippines and the Philippine National Police, shall be provided with standardized basic information and instruction on HIV/AIDS...’

Section 6 further indicates that basic information and instruction shall include the issue of confidentiality in the workplace and attitudes to infected employees and workers. The DOLE, in cooperation with the Department of Health, is mandated to oversee the anti-AIDS/HIV campaign in all private companies. It also has a role in ensuring that all overseas Filipino workers and government officials assigned overseas attend a seminar on the cause, prevention and consequences of HIV/AIDs before certification for overseas assignment.

The main areas of concern to labour inspectors are stated in Section 15 of the Act’s Implementing Rules and Regulations, 1999 which is concerned with HIV/AIDS in the workplace. Section 15 of these Rules and Regulations indicates that each employer shall develop, implement, evaluate and fund a HIV/AIDS information and education programme for all their workers. The monitoring and assessment of this programme is DOLE’s responsibility in collaboration with the Department of Health. Labour inspectors are responsible for checking on compliance with the programme but this is the totality of their involvement. Employers are required to provide inspectors with records and materials of the HIV/AIDS education and information programme they undertake and inspectors simply record this on their checklists.

Although the involvement of labour inspectors in HIV/AIDS activities is minor, DOLE’s Occupational Safety and Health Center plays an active role. Apart from its publications in this area, including **A Primer on HIV/AIDS in the Workplace**, the Center is also the overall coordinator of an Inter-Agency Committee on AIDS in the Workplace, formed in 1996 through DOLE Administrative Order No. 236. The Executive Director of

the Occupational Safety and Health Center also represents the Secretary of DOLE on the Philippine National Aids Council which was reconstituted in the 1998 legislation.

4.7. Public-private sector partnerships

Although some partnership arrangements exist between DOLE and local government units concerning aspects of technical inspection, no such arrangements exist between DOLE and the private sector other than the accreditation of occupational safety and health personnel to act as safety officers, consultants and trainers. No such accreditation exists, however, for safety and health inspection.

The inspection of boilers, pressure vessels, cranes, hoists, elevators and other specialist equipment could be undertaken by authorized persons and accredited agents from the private sector. Establishments would be required by law to engage competent persons, as identified and licensed by DOLE, to undertake the actual inspection and issue certificates of compliance. The role of technical inspectors would then focus on the supervision and monitoring of an accreditation system, rather than the actual checking of equipment.

Competent persons would normally be paid a fee for service by the establishment owning or responsible for the equipment.

Engaging competent persons to undertake technical inspection work would require some changes to the Labor Code 1974, although it may be possible to give legal effect to such a system through a separate labour inspection regulation.

A public-private partnership for technical inspection work fits comfortably with the objectives of the LSEF and should be encouraged and developed.

Although 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 which could be further extended. Under this scheme large companies provide assistance and support to smaller ones (including the sub-contractors of the larger enterprise) to enable the smaller companies to comply with safety and health standards. This scheme could be extended both in the number of enterprises involved and in scope of assistance provided as, for example, ensuring that smaller enterprises comply not only with safety and health standards but also with standards relating to working conditions.

5. Findings and recommendations

5.1. National context

Finding 1

Of the 35 million employed persons in the Philippines, 32 million come within the labour protection umbrella of DOLE. More than half of the 32 million, however, are own account workers or unpaid family workers who receive little protection in practice.

Recommendation 1

DOLE through its BWC and regional offices should develop and implement a strategy to ensure that labour protection services, progressively, are extended to **all**

categories of workers, such strategy to place special emphasis on occupational safety and health and social security in the first instance.

Finding 2

The Philippines has some 784,000 establishments legally required to be inspected, with some 92 per cent of these employing less than 10 employees. With only 193 active labour inspectors, and assuming each inspector undertakes the standard number of visits per annum, on average each establishment will be inspected once every 16 years.

Recommendation 2

DOLE through its BWC and regional offices and in consultation with employer and worker representatives and strategic partners should prepare and implement a strategy to ensure that all establishments falling under the Labor Code 1974 are regularly inspected in some form or another, with a view to all establishments being inspected on average once every 2-3 years.

5.2. Legal framework

Finding 3

Although the Philippine Constitution 1987 makes no specific reference to labour administration and labour inspection, it contains various provisions concerning labour protection and related matters thereby supporting the need for a range of labour administration interventions, including those expected of a labour inspectorate.

Recommendation 3

The DOLE and its BWC should make specific reference to labour-related provisions of the Constitution 1987 when preparing submissions for increased resource support for the national labour inspection system.

Finding 4

The Labor Code 1974 does not provide a suitable framework for a modern labour protection and labour inspection system, and does not accommodate the standards of key ILO conventions considered essential for a progressive labour inspection system.

Recommendation 4

The Labor Code 1974 should be revised and consolidated to ensure that it is in congruence with relevant articles of the Constitution 1987, and new regulations under the Code prepared. The new law and regulations should take account of international labour standards relating to labour administration, labour inspection, and occupational safety and health.

It is further recommended as a matter of priority that the Philippines take the necessary steps to ratify ILO Convention 81 (Labour Inspection Convention, 1947) and ILO Convention 129 (Labour Inspection (Agriculture Convention, 1969).

It should be include the need to ratify C 81 and if possible 129.

5.3. Importance of labour inspection

Finding 5

There is strong confirmation from all parties that labour inspection is necessary and important as a means of securing compliance with labour standards and protecting the interests of workers. Its importance is seen by constituents primarily from the viewpoint of protection, rather than prevention and improvement.

Recommendation 5

Awareness campaigns making use of both print and electronic media on the purpose of labour inspection stressing its role in prevention, protection and improvement should be planned and implemented nation-wide enlisting the support of government, union and employer organizations as well as private sector sponsors, consistent with the need to ensure that sponsor arrangements do not compromise the integrity of labour inspection as a government responsibility.

5.4. Labour Standards Enforcement Framework

Finding 6

The LSEF is a genuine and innovative attempt to address shortcomings in the inspection system but has not had a major impact in securing higher levels of compliance with labour standards and has had limited success in building meaningful partnerships with workers, employers, and their organizations and with government agencies. The system has potential but can claim no great achievements to date.

Recommendation 6

The assumptions underlying the LSEF whereby size of establishment and existence of a collective agreement are used to decide different approaches to inspection should be critically re-assessed and consideration given to classifying all establishments by risk level as the basis for determining inspection priorities. Inspection resources should then be focused on high risk establishments.

5.5. Self-assessment

Finding 7

The criteria for participation in the self-assessment scheme has confined this approach to inspection to a small number of establishments. In addition, many of those establishments eligible to participate have not done so. More information is required to determine the reasons for the relatively low rate of participation with a view to ensuring more establishments participate in this approach to inspection. The self-assessment scheme has sufficient potential to warrant its continuation, provided a number of technical and administrative refinements are introduced.

Recommendation 7

Consideration should be given to the self-assessment approach to inspection being applied to **all** low-risk establishments, with risk levels being assessed in relation to the likelihood of compliance with labour standards by each establishment. The likelihood of compliance should be determined in accordance with criteria and their weightings agreed between BWC, regional offices, and representatives of employers and workers.

It is further recommended that the self-assessment reporting form be redesigned to include more information relating to actual systems in place within establishments (e.g. systems for accident prevention, overtime recording and payment, accident reporting, fire safety) and for the reporting form to actually specify the supporting documentation required to verify responses.

It is further recommended that every self-assessment report be the subject of a desk inspection by a labour inspector to check its contents, that **all** reports assessed as unsatisfactory result in a follow-up inspection visit, and that a sample of those reports assessed as satisfactory also be the subject of an inspection visit.

It is further recommended that BWC in cooperation with regional offices and representatives of employers and workers take steps to ensure that the self-assessment process is based on real and meaningful dialogue between worker and employer representatives in the workplace.

It is further recommended that consideration be given to making self-assessment mandatory for low-risk establishments.

5.6. Inspection

Finding 8

The inspection component of the LSEF has experienced mixed reactions with some establishments expressing support for the system but with unions, in particular, criticizing both the quality of inspections and the procedures adopted by inspectors. Overall, inspectors are not meeting their annual target of inspection visits. The delegation of technical inspection authority by DOLE to designated chartered cities under specific memorandums of understanding is commendable but needs closer monitoring and improved information flows.

Recommendation 8 (Nothing to add)

Consideration should be given to identifying low risk-establishments currently targeted for traditional inspection with a view to such establishments participating in the self-assessment scheme.

It is further recommended that consideration be given to encouraging the involvement of the private sector in technical inspection through a system of accreditation and licensing to competent persons to enable them to inspect designated items of equipment (e.g. cranes, hoists, elevators, boilers) under the overall supervision of the BWC and regional offices.

It is further recommended that general labour inspectors receive further training on occupational safety and health to enable them to inspect aspects of materials handling and storage, machine and electrical safety and environmental factors including noise, dust, illumination and temperature.

5.7. Training and Advisory Visits (TAVs)

Finding 9

Insufficient information is available to assess whether this component of the LSEF is contributing to an increased level of compliance with labour standards in small and micro enterprises. A strategy that exempts an enterprise from routine inspection visits, except in

special circumstances, in return for the preparation and implementation of an improvement plan designed to increase productivity and levels of compliance with labour standards, is questionable. The scheme is also labour intensive thereby reducing the time available for inspectors to undertake routine inspection work.

Recommendation 9

Consideration should be given to designing and implementing a tracer study to determine whether establishments participating in the TAV scheme have in fact improved their level of compliance with labour standards.

It is further recommended that DOLE consider a strategy that identifies other agencies and entities to take the leading role in the business improvement aspects of the TAV programme to enable labour inspectors to focus on its labour standards components and undertake more routine inspection visits.

It is further recommended that consideration be given to identifying low-risk establishments currently targeted for participation in the TAV scheme, with a view to such establishments participating in the self-assessment approach, possibly in a simpler and streamlined version.

5.8. Number and Deployment of inspectors

Finding 10

The total number of labour inspectors at 193 is impossibly small in relation to the number of establishments required to be inspected. In addition, the deployment of inspectors throughout the various regions does not appear to relate closely to the amount of inspection work to be done, resulting in some regions having too few inspectors and some too many.

Recommendation 10

The number of labour inspectors should be increased as a matter of urgency with the objective of having at least 400 active inspectors in position within two years.

It is further recommended that BWC consider issuing guidelines to regions to guide them on the number of inspectors required in relation to the number of establishments to be inspected, or the number of workers to be protected, or other appropriate criteria.

5.9. Job Descriptions and Recruitment

Finding 11

The job descriptions for labour inspectors are generic rather than individual, are considerably out of date, and do not reflect the reality of the tasks required of inspectors under the LSEF. The recruitment and selection process for labour inspectors does not relate sufficiently closely to the specific tasks they are required to perform, and is based on a profile that gives insufficient attention to the specific skills and personal attributes required for effective inspection work.

Recommendation 11

Job descriptions for labour inspectors should be revised and re-written on an individual basis, as required, to reflect responsibilities and tasks against which staff

performance can be assessed more systematically, and to serve as a basis for staff recruitment.

5.10. Efficiency of inspectors

Finding 12

The overall efficiency of the labour inspectorate and its individual inspectors is difficult to assess in that the only available indicator of efficiency is the number of inspection visits undertaken per inspector per annum. This number varies significantly from region to region but, overall, the average is well below the standard set by the BWC. This, however, takes no account of various other tasks inspectors are required to perform. In addition, there is no information available on the actual time inspectors spend on their various tasks.

Recommendation 12

The BWC should consider undertaking a human resource audit of all staff, including support staff, in the labour inspection system to determine what inspectors actually do with their time and use this as a basis for preparing up-dated job descriptions for all staff. The audit would assist in developing a more objective and systematic approach to staff performance appraisal, provide a firm basis for the identification of training needs for managers of the inspection system, inspectors, and support staff. In addition, the audit would identify special capacities of inspectors, and identify those support staff able to play a more significant role in inspection activities.

It is further recommended that the BWC consider the introduction of a work diary for all inspectors to provide a clear indication of the time inspectors actually spend on their various tasks.

5.11. Performance improvement

Finding 13

In general, labour inspectors lack access to the technical and support resources required, including vehicles, equipment and training, to improve their overall efficiency and effectiveness, and there are indications that some inspectors, of unknown number, are self-serving and using the inspection system for personal gain.

Recommendation 13

The BWC in collaboration with regional offices should prepare and implement an annual training programme covering various aspects of performance improvement including up-grading in technical knowledge as well as skill development in such areas as communication, time management, leadership, planning, performance monitoring and other areas where performance gaps are evident, with a view to all inspectors at all levels attending at least one training activity per year. The training of labour inspectors should make full use of ILO training materials for labour inspectors already available, as well as materials currently in preparation.

It is further recommended that BWC prepare an information computer technology strategy for the labour inspection system with the aim of replacing, wherever possible, manual applications with computerised systems and ensuring that all staff have the necessary knowledge and skills to work within that system.

It is further recommended that the BWC consider preparing a special Code of Conduct to establish standards of professional conduct of inspectors relating to conflicts of interest, confidentiality matters, corruption and other forms of misconduct with a view to developing a more positive image of the labour inspection system and the professional reputation of the inspectors within that system.

5.12. Inspection Manuals

Finding 14

The BWC has prepared a series of detailed and useful manuals covering all areas of the LSEF. In some instances the manuals include information (e.g. inspector obligations) better included in laws and regulations rather than an internal operations manual that is not legally binding.

Recommendation 14

BWC should take the necessary steps to review and up-date as required its operational manuals with a view to ensuring that any matters intended to have legal consequences for inspectors and establishments are given legal effect through amendments to laws and regulations.

5.13. Master List of Establishments

Finding 15

The Master List of Establishments prepared by each regional office provides information on the name, location, industry, hazard rating and number of employees for each establishment in each region. With additional information, the Master List would provide a good starting point for the assessment of risk level for each establishment thereby providing the means for inspection activities to be focused where risk is highest. Currently, the master list is not computerized.

Recommendation 15

The BWC should consider the additional information to be included in the Master List to facilitate the assessment of risk for each establishment, and take the necessary steps to progressively computerize the regional master lists with a view to creating and regularly up-dating a national data base of all establishments liable to inspection.

It is further recommended that, in time, the national data base of establishments also include an inspection history for each establishment requiring that inspection reports and other relevant documents be attached to the computer file for each establishment, such files to be accessible by inspectors as part of their preparation for their inspection visits.

5.14. Mineworkers

Finding 16

At present mines are inspected for safety and health matters only, with this work the responsibility of inspectors from the Bureau of Geosciences and Mines. DOLE is responsible for the inspection of working conditions in mines but, at present, no inspection visits to mines are undertaken by labour inspectors.

Recommendation 16

The BWC should initiate discussions with the Bureau of Geosciences and Mines with a view to preparing a strategy to enable mine inspectors to also inspect working conditions of mineworkers, such strategy to include the legal issues to be addressed to facilitate such arrangements and the training of mine inspectors to ensure labour protection standards are met.

5.15. Maritime workers

Finding 17

At present vessels are inspected for safety and health matters by inspectors from MARINA. DOLE is responsible for the inspection of working conditions on vessels but at present no such inspection is undertaken by labour inspectors.

Recommendation 17

The BWC should initiate discussions with MARINA with a view to preparing a strategy to enable MARINA inspectors to also inspect working conditions on vessels, such strategy to include the legal issues to be addressed to facilitate such arrangements and the training of MARINA inspectors to ensure labour protection standards are met.

5.16. Consultative processes

Finding 18

The Tripartite Industrial Peace Council is mandated to facilitate tripartite discussions on a range of labour, social and economic policy matters, including all aspects of labour protection. The Council does not, however, have a permanent committee or working group dedicated to labour protection and related inspection matters.

Recommendation 18

The BWC should take the necessary steps to establish a tripartite committee or working group, ideally under the umbrella of the Industrial Peace Council, to provide policy and operational advice for the on-going development of the Philippine's labour protection and labour inspection system, such committee or working group to include representation from all government agencies concerned with labour protection and inspection, as well as representatives of workers and employers, and wider community representation as required.

5.17. National labour protection policy

Finding 19

Labour protection and labour inspection do not have the benefit of a comprehensive and coordinated labour protection policy that provides a framework for a fair and balanced approach for the protection of the nation's labour force.

Recommendation 19

The BWC in consultation with regional offices, representatives of employers and workers, and other strategic partners, should initiate the preparation of a labour protection

policy document encompassing all areas of labour protection and incorporating a labour inspection strategy, to guide the development of the nation's labour protection system for the next 10 years or so, and to provide the foundation for the revision of the nation's labour laws and regulations.

ANNEX 1

Philippines: Ratified ILO Conventions as at September 2009

- C17 Workmen's Compensation (Accidents) Convention, 1925
- C19 Equality of Treatment (Accident Compensation) Convention, 1925
- C23 Repatriation of Seamen Convention, 1926
- C29 Forced Labour Convention, 1930
- C53 Officers' Competency Certificates Convention, 1936
- C77 Medical Examination of Young Persons (Industry) Convention, 1946
- C87 Freedom of Association and Protection of the Right to Organise Convention, 1948
- C88 Employment Service Convention, 1948
- C89 Night Work (Women) Convention (Revised), 1948
- C90 Night Work of Young Persons (Industry) Convention (Revised), 1948
- C93 Wages, Hours of Work and Manning (Sea) Convention (Revised), 1949
- C94 Labour Clauses (Public Contracts) Convention, 1949
- C95 Protection of Wages Convention, 1949
- C98 Right to Organise and Collective Bargaining Convention, 1949
- C99 Minimum Wage Fixing Machinery (Agriculture) Convention, 1951
- C100 Equal Remuneration Convention, 1951
- C105 Abolition of Forced Labour Convention, 1957
- C110 Plantations Convention, 1958
- C111 Discrimination (Employment and Occupation) Convention, 1958
- C118 Equality of Treatment (Social Security) Convention, 1962
- C122 Employment Policy Convention, 1964
- C138 Minimum Age Convention, 1973
- C141 Rural Workers' Organisations Convention, 1975
- C143 Migrant Workers (Supplementary Provisions) Convention, 1975
- C144 Tripartite Consultation (International Labour Standards) Convention, 1976
- C149 Nursing Personnel Convention, 1977
- C157 Maintenance of Social Security Rights Convention, 1982
- C159 Vocational Rehabilitation and Employment (Disabled Persons) Convention, 1983
- C165 Social Security (Seafarers) Convention (Revised), 1987
- C176 Safety and Health in Mines Convention, 1995
- C179 Recruitment and Placement of Seafarers Convention, 1996
- C182 Worst Forms of Child Labour Convention, 1999

ANNEX 2

Inspection Checklist

Republic of the Philippines
DEPARTMENT OF LABOR AND EMPLOYMENT
Regional Office No. _____

Annex B

Checklist For Labor Inspectors

INSTRUCTIONS: Accomplish this form in two (2) copies for each establishment inspected. The Regional Office is to send every 12th day after the month the original copy to the Bureau of Working Condition and keep the second copy for Regional Office file. Supporting documents indicated in the Documents Attached portion below, e.g. Notice of Inspection Result etc. are to be attached to the Regional Office's file.

GENERAL INFORMATION						
Name of Establishment			Address		GEO Code	
Owner/Manager/President			Kind of Business/Economic Activity/Principal Product		PSIC CODE	
Employment			No. of Apprentices/Learners	Authorized Capitalization (as of date of Audit)	BMBE Registration No. *	
Age Group	Female	Total	No. of aliens Employed	Total Assets (as of date of Audit)	<input type="checkbox"/> Contractor <input type="checkbox"/> Sub- Contractor	
Below 15						
15 - 17 yrs						
18 - 30 yrs						
Above 30			No. of Shifts	Type of Workplace <input type="checkbox"/> highly hazardous <input type="checkbox"/> hazardous <input type="checkbox"/> non-hazardous		
Total						
Last Inspection:			Type of Inspection			
This Inspection			<input type="checkbox"/> Regular <input type="checkbox"/> Follow-up <input type="checkbox"/> Complaint <input type="checkbox"/> Accident Investigation			
Inspection Authority No.						
GENERAL LABOR STANDARDS						
Labor Standards			Findings (check whether complying or not)		Required Correction (state the number of workers affected and amount of required restitutions)	Schedule of Correction (state date necessary corrections/restitution will be made)
			Complying	Not Complying		
Wages						
Minimum Wages (refer to attached list on applicable Minimum Wage)						
Payment of Wages (see attached Manual)						
Workers paid by result (see attached Manual)						
Apprentices/Learners (75% of minimum wage)						
ECOLA (refer to attached list on applicable ECOLA)						
13th Month Pay (not less than 1/12 of total basic salary earned within calendar year. Does not include COLA and other benefits not integrated as part of basic salary. To be paid not later than 24 December of each year.)						
Overtime Pay (additional 25% of hourly rate for work performed on ordinary day; Additional 30% for rest day, special or regular holiday)						
Night Shift Differential (not less than 10% of regular wage for each hour of work performed bet 10pm - 6am)						
Regular Holiday Pay (with pay even if unworked; work on regular holiday shall be paid additional 100% of daily rate; work on regular holiday falling on employee rest day shall be paid 200% plus 30% thereof)						
Special Day (no work no pay; work on special days shall be paid regular wage plus at least 30%; special day work falling on employee's scheduled rest day shall be paid additional 50% of daily rate)						

GENERAL LABOR STANDARDS					
Labor Standards	Findings (check whether complying or not)		Required Correction (state the number of workers affected and amount of required restitutions)	Schedule of Correction (state date necessary corrections/restitutions will be made)	
	Complying	Not Complying			
Rest Day Work (additional 30% of daily rate for work performed on rest days; additional 50% for work performed on a rest day which is also a special day; additional 30% of the regular holiday rate of 200%)					
Service Charges (collected by most hotels, restaurants and similar establishments. 85% shall be distributed equally among the rank-and-file employees and 15% for management to answer for losses and breakages and for distribution to managerial employees at the discretion of management)					
Meal Period (not less than one hour time-off for regular meals, which is not compensable. Shorter meal period of not less than 20 minutes may be given provided that is credited as compensable hours of work and subject to certain conditions)					
Service Incentive Leave (five days with pay per year for those with at least one year of service; commutable to its money equivalent if not used within one year.)					
Weekly Rest Periods (not less than 24 consecutive hours after every six (6) consecutive normal workdays)					
Paternity Leave (seven days with pay including allowance for the first 4 deliveries; not convertible to cash)					
Maternity Leave (60 days for normal delivery/78 days for cesarean section; benefit for first 4 deliveries, abortion/miscarriage)					
Solo Parent Leave (not more than 7 working days every year)					
Anti-Sexual Harassment Law					
Posting/dissemination of RA 7877					
Create Committee on decorum					
Company Policy					
Social Amelioration Program Bonus (all millers, except refineries and all sugar planters)					
Retirement Pay - RA 764 (distinct and separate from SSS benefits)					
Payroll/Daily Time Records/Employment Perm (keep at workplace; at least 3 years-period)					
Registration of Contractor/Subcontractor (Dept. Order 18.02)					
Registration with SSS					
Certificate of Remittance to SSS					
Registration with Pag-ibig					
Certificate of Remittance to Pag-ibig					
Coverage of Remittance with PHILHEALTH					
Alien Employment Permit					
Apprenticeship/Learnership Program (duly approved by TESDA)					
Work Permit (Child Labor)					
List of Labor Component (list of employees, length one status of employment and salary)					
Compressed Workweek Scheme					

OCCUPATIONAL SAFETY AND HEALTH STANDARDS				
Labor Standards	Findings (check whether complying or not)		Required Correction (state the number of workers affected /benefited)	Schedule of Correction (state date necessary corrections will be made)
	Complying	Not Complying		
Registration of Establishments (Rule 1020, OSHS)				
Adequate Aisles/Passageway: (sufficient width and height and with signs and markings)				
Good Housekeeping (conditions of floors, walls and storage rooms)				
Emergency Exits (2 per floor)				
Materials handling & Storage (appropriate labels, dotting and storage)				
Waste Disposal System (waste receptacle and its removal; drainage system)				
Adequate Lighting (in Work Areas/in aisles, passageway)				
Noise Pollution Control (provide appropriate PPE or isolation of work area)				
Proper Ventilation (provision of natural or artificial air supply)				
Radiation Exposure Control (provide PPE, Examination of work area)				
Airborne Contaminant Control (provide PPE, improve technical process, improve ventilation)				
Personal Protective Equipment (provision and appropriate training)				
Fire Protecting Equipment/Facilities (water tank, fire extinguisher, conduct of fire drill)				
Provide Machine Guarding (railing or casing on moving parts)				
Proper Office Spacing (between workers & machines)				
No Imminent Danger Situation (condition that could cause death or serious physical harm)				
Personal Facilities (separate toilet, supply of potable water, washing facilities, etc.)				
Safety Officer/Accredited Safety Practitioner (number depends on number of workers employed)				
Health and Safety Organization (according to number of employees)				
Health Personnel (First-Aider, nurse, physician, dentist)				
Medical Facilities (Treatment room, clinic)				
Emergency Medicines				
Emergency Health Provider				
Workers Welfare Facilities				
Administrative Reports on Health and Safety				
a. Minutes of Meeting of HSC				
b. Employee's Work Accident/Illness Exposure Data (for every accident)				
c. Annual Work Accident/Illness Exposure Data (whether or not there's accident)				
d. Annual Medical Report (health record of program and activities)				
HIV/AIDS Program (education and information)				
Drug-Free Workplace Policy/Program (D.O. 53-03)				
DOLE Approved Construction Safety and Health Program				
Construction Safety Signages				
Construction Heavy Equipment (CHE)				
Construction Heavy Equipment Operators				
Construction Worker's Skills Certificate				
Continuing Training related to occupational health and safety				

DOCUMENTS ATTACHED:	
TRANSCRIPTION OF RECORDS IN VIOLATION CASES	
<input type="checkbox"/> Notice of Inspection Results <input type="checkbox"/> Affidavit of Employees Interviewed <input type="checkbox"/> Payroll	<input type="checkbox"/> Production Records <input type="checkbox"/> Daily Time Records For Wages <input type="checkbox"/> Restitution Payroll
FINDINGS/RECOMMENDATIONS EXPLAINED TO: 1. _____ <i>Name & Signature of Owner's Representative</i> 2. _____ <i>Name & Signature of Workers Representative</i> <i>Date:</i> _____	OWNER'S STATEMENT: <input type="checkbox"/> will correct all noted violations. Report on corrections/ restitutions shall be submitted to Regional Office not later than _____. <input type="checkbox"/> request training in the following areas: _____ _____ <input type="checkbox"/> others: _____ _____ _____ <div style="text-align: right;"> _____ <i>Owner/Manager</i> <i>Date</i> </div>

FOR REGIONAL OFFICE USE ONLY			
Inspection Conducted by: <div style="display: flex; justify-content: space-between;"> <div>_____</div> <div>_____</div> </div> <div style="display: flex; justify-content: space-between;"> <div><i>Labor Inspector</i></div> <div><i>Date</i></div> </div> Findings/Recommendations: <div style="height: 100px; border: 1px solid black;"></div>		Evaluated by: <div style="display: flex; justify-content: space-between;"> <div>_____</div> <div>_____</div> </div> <div style="display: flex; justify-content: space-between;"> <div><i>Chief, Labor Standards Division</i></div> <div><i>Date</i></div> </div> Findings/Recommendations: <div style="height: 100px; border: 1px solid black;"></div>	

ANNEX 3

Checklist: Training and Advisory Visits

ANNEX 2

CHECKLIST For Identifying Improvements in Enterprise Performance and Work Conditions

This checklist is a useful reference for identifying areas where potential improvements in enterprise performance and work conditions can be made among Small and Microindustries (SMIs). The DOLE Regional Offices will be tasked to support these initiatives by way of training education and assistance visits to industries participating in this program.

How to Use the Checklist:

1. Read through the checklist and spend a few minutes walking around your work area before starting to check.
2. Read each item carefully and determine which measures should be taken or not according to the following procedures for checking:
 - a) If the answer is "not needed" (meaning such measures need not be considered because it is already being implemented or is not applicable) put a check in the box under **NOT NEEDED**.
 - b) If the measure is "needed" (meaning such measures is necessary or is already being implemented but needs further improvement) put a check in the box under **NEEDED**.
 - c) The space under **PROPOSED ACTION** must be used to indicate your suggestion to implement the measure.
3. Before finishing, make sure that you have answered all items in the checklist.

	NOT NEEDED	NEEDED	PROPOSED ACTION
1. Provide convenient storage areas or racks for tools, raw materials, parts and products for easy handling and housekeeping.	<input type="checkbox"/>	<input type="checkbox"/>	
2. Arrange for minimum manual handling operations and training workers for appropriate lifting and carrying procedures.	<input type="checkbox"/>	<input type="checkbox"/>	
3. Put tools, switches, materials within easy reach of workers.	<input type="checkbox"/>	<input type="checkbox"/>	
4. Provide a stable work surface at each work station.	<input type="checkbox"/>	<input type="checkbox"/>	
5. Provide chairs, benches of correct height with a sturdy back rest.	<input type="checkbox"/>	<input type="checkbox"/>	
6. Adjust height of work surfaces, equipment, controls to avoid awkward postures.	<input type="checkbox"/>	<input type="checkbox"/>	

	NOT NEEDED	NEEDED	PROPOSED ACTION
7. Provide adequate work room space based on the number of workers and on the kind of task performed.	<input type="checkbox"/>	<input type="checkbox"/>	
8. Attach and maintain appropriate guards to dangerous moving parts of machines.	<input type="checkbox"/>	<input type="checkbox"/>	
9. Ensure that no parts of the human body will be at the danger area of machine when it still in motion.	<input type="checkbox"/>	<input type="checkbox"/>	
10. Use safety devises which prevent operation of machine while workers' hands are in danger.	<input type="checkbox"/>	<input type="checkbox"/>	
11. Use appropriate mechanical feeding and operation devices to avoid manual handling of dangerous points of operation.	<input type="checkbox"/>	<input type="checkbox"/>	
12. Improve general lighting to make it suitable for the type of work.	<input type="checkbox"/>	<input type="checkbox"/>	
13. Apply local lighting suited for particular visual task or precision work.	<input type="checkbox"/>	<input type="checkbox"/>	
14. Reduce noise or vibration at point of source by technically changing or repairing machinery in equipment producing it.	<input type="checkbox"/>	<input type="checkbox"/>	
15. Reduce the period of exposure to noise or vibration by rotating workers or inserting short breaks.	<input type="checkbox"/>	<input type="checkbox"/>	
16. Ensure that all hazardous substances are properly labeled and in covered containers.	<input type="checkbox"/>	<input type="checkbox"/>	
17. Introduce or improve local exhaust ventilation.	<input type="checkbox"/>	<input type="checkbox"/>	
18. Provide workers with appropriate personal protective equipment.	<input type="checkbox"/>	<input type="checkbox"/>	
19. Provide an adequate supply of cool, safe drinking water within the workplace.	<input type="checkbox"/>	<input type="checkbox"/>	
20. Provide regularly cleaned, sanitary facilities like toilets and washrooms with running water.	<input type="checkbox"/>	<input type="checkbox"/>	

	NOT NEEDED	NEEDED	PROPOSED ACTION
21. Provide adequate passageways between work stations free from obstacles or slipping hazards.	<input type="checkbox"/>	<input type="checkbox"/>	
22. Properly install visible signages on strategic areas of the workplace.	<input type="checkbox"/>	<input type="checkbox"/>	
23. Provide unobstructed, clearly marked emergency exits.	<input type="checkbox"/>	<input type="checkbox"/>	
24. Provide enough fire extinguishers within easy reach making sure workers know how to use them.	<input type="checkbox"/>	<input type="checkbox"/>	
25. Eliminate frayed, entangled or octopus wiring connections.	<input type="checkbox"/>	<input type="checkbox"/>	
26. Rearrange layout and order of operations to improve production flow.	<input type="checkbox"/>	<input type="checkbox"/>	
27. Design and implement a waste reduction program.	<input type="checkbox"/>	<input type="checkbox"/>	
28. Ensure availability of first aid equipment and medicines.	<input type="checkbox"/>	<input type="checkbox"/>	
29. Ensure availability of qualified first aider.	<input type="checkbox"/>	<input type="checkbox"/>	
30. Develop a system of recording and reporting of accidents and illnesses.	<input type="checkbox"/>	<input type="checkbox"/>	
31. Develop a health and safety program in the establishment.	<input type="checkbox"/>	<input type="checkbox"/>	
32. Health and Safety Committee established.	<input type="checkbox"/>	<input type="checkbox"/>	
33. Basic health services available to staff.	<input type="checkbox"/>	<input type="checkbox"/>	
34. Provide first aid medicines and treatment room.	<input type="checkbox"/>	<input type="checkbox"/>	
35. Ensure Registration with DOLE (Rule 1020). Legal size paper may be used for the lay out plan and location plan duly signed by owner.	<input type="checkbox"/>	<input type="checkbox"/>	
36. Ensure remittance of SSS contribution.	<input type="checkbox"/>	<input type="checkbox"/>	

ANNEX 4

Reference materials

Administrative Order 2000-98, Mine Safety and Health Standards, Department of Environment and Natural Resources, 1998.

Department Order 54-04, Labour Standards Enforcement Framework, DOLE, 2004.

Department Order 13, Guidelines Covering Occupational Safety and Health in the Construction industry, Occupational Safety and Health Center, DOLE, 2003.

Department Order 53-03, Guidelines for the Implementation of a Drug-Free Workplace: Policies and Programs for the Private Sector, Occupational Safety and health Center, DOLE, 2003.

Department Order 8-95, Guidelines in the Constitution and Institutionalization of National Industry Councils, Regional Tripartite Peace Councils, and regional or local Industry Tripartite Councils, DOLE, 1995.

Department Order 14-96, Executive Committee and Technical Working Committee created by the National Tripartite Conference, DOLE, 1996.

Decent Work for All, General Council Report, Trade Union Congress of the Philippines, 2007.

Executive Order 307, Establishing an Occupational Safety and Health Center in the Employees' Compensation Commission, 1987.

Executive Order 403, Establishing the Tripartite Industrial Peace Council, 1990.

Executive Order 25, Amending Executive Order 403 and Further Strengthening the Tripartite Industrial Peace Council, 1993.

Executive Oder 383, Reorganizing and Strengthening the Tripartite Industrial Peace Council, 1996.

Executive Order 49, Amending Executive Order 383 (1996) for the purpose of reconstituting and expanding the membership of the Tripartite Industrial Peace Council, 1998.

Executive Order 97, Amending Executive Order 49 (1998) further expanding the functions of the Tripartite Industrial peace Council, 1999.

Manual of Instructions on the Conduct of Technical Assistance/Advisory Services for Regional Offices, Bureau of Working Conditions, DOLE, 2004.

Manual on Labour Standards, Bureau of Working Conditions, DOLE, 2004.

Manual on the Disposition and Settlement of Labour Standards Cases, Bureau of Working Conditions, DOLE, 2004.

Report on Unratified Conventions under Article 19 of ILO Constitution (C81, C129, P81, R81, R82, R133), DOLE, 2005.

Report on Unratified Conventions under Article 19 of ILO Constitution (C155, R 164), DOLE, 2008.

Revised Manual on Labour Inspection, Bureau of Working Conditions, DOLE, 2004.

Revised Technical Safety Inspection Manual, Bureau of Working Conditions, DOLE, 2004.

Safety in Confined Space, Occupational Safety and Health Center, DOLE, 2007.

ILO Decent Work Country Programme: Philippines 2008-2010.

Implementation of the Labour Standards Enforcement Framework in the Philippines, ILO Manila, 2007.

Let's Talk About Safety and Health, Occupational Safety and Health Center, DOLE, 2006.

Philippine Constitution 1987.

Philippine Labor Code 1974.

Philippine Labour Market Outcomes and Scenarios: 2000-2015, ILO Asia-Pacific Working Paper Series, 2008.

Philippine AIDS Prevention and Control Act, 1998 (Republic Act 8504).

Phil-OSH, Newsletters of the Occupational Safety and Health Center, DOLE.

Primer on HIV/AIDS and the Workplace, Occupational Safety and health Centre, DOLE, 2006.

Small Scale Mining, Laws and Implementing Rules and Regulations, Mines and Geosciences Bureau, Department of Environment and Natural Resources (Undated).

Workers' Perceptions of Companies' Compliance with Core Labor Standards and Codes of Conduct, USAID/Solidarity Center/TUCP Anti-Sweatshops Project, 2002.