



International
Labour
Organization

ILO Curriculum on Building Modern and Effective Labour Inspection Systems

Module

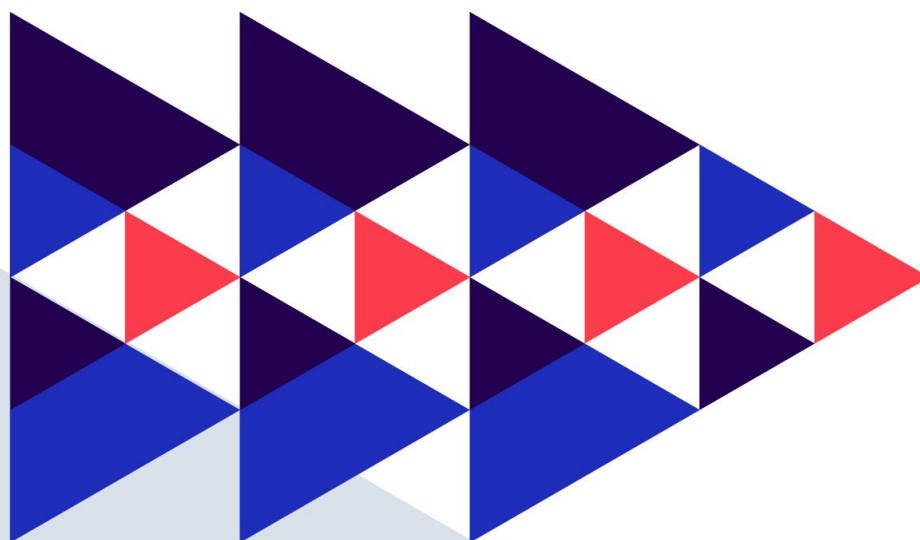
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► **Cooperation and partnership**

ILO Curriculum on Building Modern and
Effective Labour Inspection Systems

▶ Module **5**

Cooperation and partnership





► What this module is about

Labour inspectorates need to cooperate and work in partnership with other organizations if they are to be effective and maximize their impact.

This module examines cooperation in relation to labour inspection at several levels: between different government ministries, between inspection services, with social partners and other stakeholders, and in international partnerships. It considers the role of other bodies and institutions in supporting labour inspection in its different functions and provides an overview of voluntary initiatives to promote compliance with national legislation and international principles and rights at work.



► Objectives

At the end of this module, participants will be able to:

- appreciate the importance of cooperation and partnership to ensure the impact and efficiency of a labour inspection system;
 - recognize the importance of collaboration with other government bodies and inspection services at both national and international levels;
 - describe different modalities for promoting tripartism and collaboration with social partners at different levels, and promote them;
 - identify other important partners in a labour inspection system;
 - be familiar with the international debate and practice on voluntary compliance in relation to labour inspection.
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Acknowledgements

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▶ 1. Introduction

There is still a persistent inadequacy, at least in practice, in cooperation mechanisms that should be helpful to labour inspectorates and their activities. The most obvious reason for this is the tendency of the different authorities involved to operate separately from one another. It is therefore desirable to achieve closer integration of objectives and resources, and in the circulation and processing of information.

For too long, labour inspectorates in most countries have operated in a reactive manner and in isolation, and the results achieved reflect the resources generally allocated to them. This is still the case in many developing countries. In industrialized countries, greater awareness of the economic losses that result from poor or non-compliant working conditions has prompted greater efforts to improve working conditions generally. Institutional cooperation and the active involvement of the social partners continue to prove their worth in this regard.

Establishing inter-institutional cooperation and multilateral collaboration is an inherent aspect of the very concept of a labour administration system.

Since the purpose of a systemic approach is to ensure that the whole is greater than the sum of the parts, the effectiveness of labour inspection will depend in no small measure on its capacity to function through interaction with its social and economic environment. Action is required to develop mechanisms and areas of cooperation with all the public and private players concerned, in particular with the social partners and their representative organizations.

The designation of a central labour-inspection authority ensures that the activities of the authorities placed under its control are coordinated with a view to achieving a clearly defined objective.

It also ensures a degree of cohesion between mechanisms for cooperation and collaboration with other public and private bodies and institutions, and with employers and workers and their organizations, which are referred to in Article 5 of the Labour Inspection Convention, 1947 (No. 81) and Articles 12 and 13 of the Labour Inspection (Agriculture) Convention, 1969 (No. 129).

Lastly, by passing on some of the information the central authority for labour inspection receives from its subordinate departments to the consultative bodies that deal with labour and social issues, to all ministries concerned and to the social partners, it can contribute to strengthening the labour administration system as a whole.

A global and systemic approach to labour inspection is needed. An approach of this kind has become predominant in industrialized countries in recent decades, where it is widely accepted that a high level of protection at work contributes to social cohesion. Various cooperation mechanisms and institutions are also being rapidly developed in many transition countries with a view to strengthening the labour inspection system.

▶ **2. Cooperation with the social partners**

2.1 The strategic framework of tripartism

Tripartism is the framework in which labour inspection must operate if it is to be successful. In the ILO context, this means interaction between government (the labour administration system) and employers and workers, their organizations and their representatives. It is an instrument for addressing common concerns, involving various means of interaction within a framework of social dialogue: sharing of information, consultation, negotiation and decision-making. In the context of labour inspection, it can take place at international, national, provincial, sector or enterprise level.

Tripartite interaction has several objectives. It enables the parties to be actively involved in issues of mutual concern, thereby promoting improved understanding of their common and conflicting interests. Through tripartite interaction, a balance can be found between economic, political and social concerns, as well as between the individual interests of each of the three parties and overall sectoral or national interests. Tripartite cooperation means that the specific knowledge and interests of each of the three parties can be taken into account in addressing economic and social questions. In this way, policies, laws and solutions can be formulated which are acceptable to each party and which address its specific needs. Tripartite cooperation can result in a broader consensus in decision-making, thereby enhancing the legitimacy of the process, the acceptability of its outcomes and close cooperation in implementation, and ultimately easing the task of enforcement by inspectors in the field.

Effective tripartism requires that each of the social partners be represented. For workers' and employers' organizations, this implies that they speak on behalf of the majority of workers and employers in the country, or at least a sufficient number to give them credibility and recognition; that they have effective contact with the members they represent to ensure that those members' interests and ideas are considered; and that they are able to nominate whom they choose as their representatives in the tripartite consultative forum.

Effective tripartism also requires that workers' and employers' organizations be independent: each social partner should be operating according to its own objectives and procedures without undue influence from government authorities. Effective tripartism and social dialogue can lead to reduced conflict, industrial peace and harmony, higher motivation, greater productivity, improved quality, better labour protection and, in consequence, a reduced need for labour inspection interventions.

2.2 Principles of tripartite cooperation in labour inspection

A well-organized labour inspection service with appropriate resources and adequate legal instruments is an important component of economic and social development. It is recognized that cooperation yields better results than confrontation, at least in terms of social peace, and the

more the labour inspectorate can do to foster cooperation between employers, workers and the government, the greater its contribution to the economic and social well-being of the country is likely to be.

The need for close cooperation between labour inspectorates and employers and workers is one of the key principles of labour inspection. Article 5 of Convention No. 81 states that "the competent authority shall make appropriate arrangements to promote collaboration between officials of the labour inspectorate and employers and workers or their organizations". In addition, Para. 6 of Labour Inspection Recommendation, 1947 (No. 81), advises that collaboration between officials of the labour inspectorate and employers' and workers' organizations should be facilitated by the organization of conferences or joint committees, or similar bodies, enabling a dialogue to be established among the various parties.

On a more general note, Article 5 of the Labour Administration Convention, 1978 (No. 150), requires that:

1. Each Member which ratifies this Convention shall make arrangements appropriate to national conditions to secure, within the system of labour administration, consultation, cooperation and negotiation between the public authorities and the most representative organizations of employers and workers, or - where appropriate - employers' and workers' representatives.
2. To the extent compatible with national laws and regulations, and national practice, such arrangements shall be made at the national, regional and local levels as well as at the level of the different sectors of economic activity.

2.3 Cooperation with social partners at macro-policy level

The object of national policy on labour protection is to create a general framework for the improvement of working conditions and the working environment. Policy formulation has two major aspects: the design process and the content. Policy design is best anchored in a framework of tripartite consultation. Many countries have established tripartite bodies specifically mandated to engage in social dialogue in this context. In other countries, tripartite bodies set, guide, monitor and control the policy formulation and implementation process.

These committees may be set up spontaneously or in accordance with some procedure laid down by law, or they may be advisory bodies set up at different levels, for example advisory labour councils, collective-agreement supervisory boards, and national safety and health advisory councils.¹

¹ Guidance for setting up this kind of mechanism can be found inter alia in the Occupational Safety and Health Convention, 1981 (No. 155), and its accompanying Recommendation (No. 164), and also in the EU Framework Directive on Occupational Safety and Health (89/391/EEC).

Where the government provides the secretariat for these bodies, the aim should be to organize regular meetings with meaningful agendas, and to ensure that decisions that have been taken are put into effect.

The basic duties, characteristics, responsibilities and rights of members and services of tripartite and bipartite collaboration bodies and their organizations should be laid down in a national labour protection policy.

More progressive arrangements come about when governments can create an environment whereby tripartite committees are made accountable for recommending new legislation and amending existing laws, developing policy, taking responsibility for the direction and supervision of labour inspection services and activities, and producing codes of practice and guidance.

Members of the labour inspectorate frequently share in the work of advisory bodies (in addition to providing the secretariat). They may be appointed, by name, as representatives of the minister to whom the particular body is responsible, in which case their appointment is based on the public character of their duties, their rank in the national civil service, or their personal fitness to represent the department. On other occasions, the labour inspection service may be asked, with other technical units, to send representatives to meetings to provide information that the service has obtained in the course of its day-to-day work. This information may be essential in guiding discussions or deciding on a course of action.

Sometimes it is necessary to make use of the labour inspectorate's knowledge of labour relations in a given area or a particular industry, or to examine the difficulties which might arise in the practical application of a legal text in course of preparation. In such cases, the representative of the labour inspectorate attends merely as an observer or expert, takes no real part in making decisions, and his or her contribution is limited to giving advice. The position is quite different when an inspector's attendance is part of his or her routine duties, and when it is the labour inspection service itself that is represented because of its technical responsibility (as is the case, for instance, in France and other countries that have adopted the French system). This usually involves participation in a collective decision. Occasionally, the inspectorate is asked to give its approval before a final decision on a particular issue is made.

The role of an inspection service on a sectoral planning committee is to draw attention to the labour problems that should be considered before a particular measure is decided on, and the problems that could result from the introduction of such a measure.

Very often these tripartite bodies have several functions. In addition to formulating policy, they may be required to supervise the inspectorate effectively, monitor policy implementation, evaluate results, attribute resources or assume overall responsibility for the proper running of the inspection service. They may be politically accountable to a government minister or directly to parliament.



▶ The UK tripartite body on occupational safety and health

In the UK, social partners work together at national level in the field of occupational safety and health.

The Health and Safety Executive (HSE) is responsible for consulting all stakeholders in Great Britain on matters of occupational safety and health, and advising government on long, medium and short-term policy and plans for safety and health at work. There is thus consultation between the HSE and social partners, educational and training establishments, standard-setting organizations, insurance organizations and others to develop best practice and a preventative safety and health culture in Great Britain.

The HSE Board comprises representatives of employers' and workers' organizations, as well as other key stakeholders. It also has a structure of tripartite industry advisory committees covering specific sectors or topics, and it encourages them and other industry representatives to produce detailed guidance on relevant matters.

The HSE also comprises the inspectorates which are responsible for providing advice and information at the enterprise level and promoting compliance with relevant safety and health legislation.

Cooperation agreements

In addition to formal tripartite, bipartite or tripartite-plus national bodies, inter-institutional cooperation with the social partners may take other forms, such as collaboration agreements.

For example, cooperation in the field of occupational safety and health is ensured through tripartite agreements in Bulgaria and Cyprus. In the Netherlands, the aim of cooperation between employers and workers is to reduce the number of people drawing sickness and disability benefits by improving conditions of work.



▶ Tripartite agreement in Portugal

The Government of Portugal has announced that the labour inspectorate and the social partners have concluded an agreement on working conditions, health and safety at work, and combating occupational risks. The aim is to develop a national prevention plan and a plan of action targeting the most risk-prone sectors. The Government hopes that the implementation of this agreement will be an opportunity to reactivate the National Occupational Health and Safety Council, to establish an observatory for prevention, and to improve collaboration between the occupational risks centre and other interested bodies. It should also facilitate the adoption or amendment of legal provisions applicable to the sectors most affected by occupational accidents, as well as efforts to restructure the statistical system for recording and following up occupational accidents and cases of occupational disease.²

How can one encourage the active participation of social partners in the labour inspection system? There are no “standard” recommendations valid for every country; each country must find its own way to promote partnerships and alliances.

The ILO, in following up assessments made in several countries, has formulated recommendations aiming to fill gaps identified in the systems concerned. By way of example, recommendations from an ILO assessment in Greece are reported in the box below.³

² https://www.ilo.org/wcmsp5/groups/public/--ed_protect/--protrav/--safework/documents/meetingdocument/wcms_108572.pdf, para. 168, page 55.

³ ILO, *Greece - Labour administration needs assessment report*, 2017.



▶ Recommendations of ILO audit carried out in Greece

Recommendations on social dialogue mechanisms:

- ▶ Strengthen the functioning of the National Employment Committee, the Government Employment Council and/or the Supreme Labour Council (ASE) in a way that helps to create harmonized policies.
- ▶ Convene regular meetings to discuss the labour market situation with the social partners, with the aim of having a “common picture” or at least an exchange of information and analysis of the situation, or a common country assessment of the decent work situation in the country, as a basis for discussing labour and employment policies.
- ▶ On a regular basis (for example, every 6 months) organize tripartite meetings in which officers of the Ministry of Labour, Social Security and Social Solidarity (MLSSSS) participate, and inform the social partners concerning MLSSSS plans and the expected results. This can help strengthen the monitoring culture both in the Ministry and among the stakeholders, as well as the social dialogue culture. It will also help the stakeholders to have a better understanding of the difficulties that the MLSSSS faces in trying to find more rapid solutions to the various social and labour-related problems.
- ▶ Create opportunities for public debate (at least one meeting, round table or seminar each half year) concerning labour market problems and policies, in which the social partners can share their knowledge and make suggestions.

2.4 Cooperation with social partners at supra-national level

Cooperation with social partners can also be organized at supranational level, in particular within the framework of integrated regional and sub-regional economic, trade and social blocs. The most advanced experience from this point of view is that of the European Union, in particular in the area of occupational health and safety (OSH).



▶ European Union tripartite approach to OSH

The European Commission, in matters related to OSH, is always bound to consult with and consider the discussions and written advice of the Advisory Tripartite Committee on Health and Safety when formulating new proposals for legislation. The members of this Committee are chosen by the Member States and by the European workers' and employers organizations. In many cases, government representatives are selected from the staff of labour inspectorates.

The classification, labelling and technical standardization of chemicals in accordance with European directives – which set forth the essential safety and health requirements for the CE design and marking of products, machinery and protective equipment – are a tripartite exercise.⁴

2.5 Cooperation with social partners at sectoral and local level

In addition to national tripartite bodies, many governments have established statutory tripartite bodies responsible for labour protection at the regional and sectoral levels. These bodies deal with a wide variety of topics, which may include labour protection legislation, wages policy, occupational safety and health, industrial relations and even vocational training. In most cases, qualification for membership is set out by regulation, and is usually confined to workers' or employers' representatives or members of professional organizations with a vested interest in the matters under discussion. The department of the labour administration directly concerned usually provides administrative support, and the body's effectiveness is directly related to the quality of this support.



▶ Mining sector, Belgium

Workers' delegates are involved in the mining inspectorate. They are appointed for a period of four years, renewable on the approval of the trade union organizations to which they belong.

Their experience in mining work enables these workers' delegates to make an effective contribution to the activities of the mining engineers under whom they work. One of the main characteristics of this institution is that the workers' delegates have authority, in the event of imminent danger, and after discussion with management or management representatives, to order measures with immediate effect, including the evacuation of the danger area. The mining service engineer, who must be alerted at the earliest opportunity, has 24 hours in which to give his opinion on the decision taken.

⁴ Ref: 98/37/EC (machinery) and 89/686/EEC (Personal Protective Equipment).

Sectoral bodies can be particularly effective in interpreting legislation relating to the processes or activities of the industry or sector in question, by agreeing and publishing detailed guidance. This reassures employers that the same requirements are being imposed on competitors, as well as assisting inspectors in their enforcement of agreed standards.

2.6 Cooperation with social partners at enterprise level

A growing number of countries have introduced legislation that requires joint committees to be established in industrial, commercial – and even non-commercial – enterprises above a certain size, although this has not occurred to the same extent in the agricultural sector. These committees complement some of the functions of the labour inspectorate; exercise in-plant supervision of conditions of work, in particular occupational safety and health; and generally help prevent occupational and ever-increasing social and economic risks. A parallel development has been the introduction of safety delegates elected by workers, usually when there are more than ten workers (but sometimes more than five) in the enterprise concerned. Occasionally, these delegates are appointed by trade unions. In recognition of the value of joint safety and health committees and safety delegates, the tendency is for governments to give them increasingly extensive powers, for example allowing them time off (by law) to accompany labour inspectors on their visits. This is important, since they can indicate hazards which might otherwise escape the inspector's notice and generally add considerable value to the inspector's presence in the workplace.

Cooperation between the inspection services and workers' representatives is not confined to questions of occupational safety and health. In a number of countries, there is legislation stipulating that trade union delegates and other staff representatives within the enterprise should have special responsibility for conditions of work and employment. These delegates/representatives are specifically responsible for submitting complaints and observations to the labour inspectorate relating to the application of the legal provisions and regulations.



► **Workers and employers assume a greater role in promoting compliance through social dialogue in the Philippines⁵**

The Philippines workplace compliance system was designed to provide the opportunity for workers and employers to engage with the inspection process, thus making inspections more transparent. According to national inspection rules, representatives of workers and employers in an enterprise must participate in pre-inspection conferences conducted by inspectors, who are expected to explain the inspection process, the inspector's independence and scope of authority, and the documents to be reviewed. The procedures set forth the criteria for selecting workers' representatives so to ensure legitimacy and independence. Once the inspection report is available, labour inspectors are expected to share their findings with both parties.

2.7 Cooperation with employers

The effectiveness of labour inspection services is considerably enhanced if it is supported by the concerted action not only of workers but, first and foremost, of employers and their representatives. There is a global tendency to associate both workers and employers more closely with the work of the inspectorate. Many countries' safety and health inspection systems – notably in the European Union, but also in Australia, Canada, Japan and New Zealand – focus on the employer as the person unequivocally responsible for labour protection within the enterprise. New policies in these countries aim to stimulate (as in the Netherlands) or influence/persuade (as in the United Kingdom) employers to do whatever is reasonably practicable to improve and safeguard working conditions and the working environment and, in doing so, to go beyond the legal minimum standards of protection. If these policies are to succeed and have a sustainable effect in the workplace, labour inspection must also be seen to be providing services to employers. In the main, these will consist of advice and information, but in more and more countries inspectors are also providing training for employers' representatives or staff, such as safety engineers and occupational nurses. In the small-enterprise sector, inspectorates are increasingly offering training programmes that combine elements of business management and issues relating to basic labour protection.

In many cases, the establishment of joint committees and other such bodies is provided for by legislation, and supplemented by collective agreements supervised by the inspectorate.

The structure and scope of employers' organizations is an important determinant of how and to what extent the labour inspectorate can engage in social dialogue and provide effective services. Centralized federations facilitate cooperation. In many industrializing countries, employers that are members of a national federation, though often in the minority, tend to provide substantially

⁵ https://www.ilo.org/wcmsp5/groups/public/---ed_dialogue/---lab_admin/documents/publication/wcms_792446.pdf, page 57.

better conditions than do non-organized employers. They are more available to share information and experience, and are generally more open to the service orientation of labour inspection.

Individual employers, both large and small, can do much to encourage greater consultation and discussion with workers on working conditions and the working environment. Inspectorates can advise and encourage employers to form joint consultative bodies and informal work groups to assume responsibility for some of the matters related to labour inspection, such as working conditions, safety and health, and implementation of labour law in the workplace.

Employers' organizations can be encouraged to advise individual employers on good work practice and assist them in undertaking more self-inspection. After all, good work practice is good business!



▶ The Good Neighbour Scheme in Ireland

An interesting initiative in Ireland has been the “Good Neighbour Scheme”. Under this scheme, large companies work together with smaller companies to promote greater awareness of workplace health and safety issues. The scheme aims to “marry” the two together, with the larger companies offering a helping hand to the smaller companies. The type and level of support is left entirely up to the companies concerned. A similar scheme is operating in Japan, with more active involvement on the part of the Labour Inspectorate. There, if small enterprises refuse the help of experienced professionals from the larger companies, they may be targeted for in-depth inspection by the officers of the Labour Standards Bureau. Certain provinces in Canada are also experimenting with “godfather”-type schemes or linkages between large and small companies, though entirely on a voluntary basis.⁶

By way of example, the box below reports the recommendations of an ILO assessment in a developing country (references to the country have been cancelled on purpose, in order to focus on the issues, not on the specific context).

⁶ ILO, Document N56, *New Prevention Strategies for Labour Inspection*, Labour Administration Branch.



► Measures to ensure active involvement of employers' organizations

In order to further enhance the role and effectiveness of the employers' organization XY in the improvement of understanding between employers and workers, on the one hand, and inspection officers, on the other, in areas of labour and factory inspection, a number of specific recommendations are prepared as follows.

Concerted tripartite revision of existing labour legislation and enforcement practices by Government in order to cover all employers, workers and workplaces as regards labour and industrial relations matters such as freedom of association, collective bargaining, workers' protection and compensation, labour/factory inspection, and settlement of disputes.

Continuous membership drive by XY, and especially by its constituent industrial groups, to recruit and involve the greatest number of employers and employees' organizations, especially among indigenous enterprises and commercialized parastatals.

Concerted effort by XY and its constituent industrial groups to convince employers to regard occupational safety and health as integral parts of the daily and normal factors of production on an equal footing with wages, employee benefits, finance, technology and sales, and to make the prevention of occupational accidents and diseases the highest possible priority.

Continuous assistance of employers by XY and its constituent industrial groups through practical programmes of information, education, training, and research in occupational safety and health, as well as working conditions.

For XY and its constituent industrial groups to encourage and assist employers in establishing company-specific, practical, and action-oriented policies and programmes on occupational safety and health and working conditions at the shop-floor level, including the creation of safety committees, worker/management consultative committees, job safety analysis, plant safety supervisions and accident investigation procedures.

For employers to include matters of occupational safety and health and the improvement of working conditions as important issues in collective-bargaining negotiations and agreements.

Moreover, employers can take voluntary initiatives to go beyond the floor established by national law and adopt measures that apply international labour principles and rights at work, even in the absence of national ratification, as further illustrated in Chapter 5 of this module.

So-called voluntary compliance programmes, such as those practised in the United States, can be seen as a new type of service provided by the inspectorate to employers.

2.8 Cooperation with workers

Labour inspection was established to ensure the effectiveness of labour legislation. It is therefore inevitable and indispensable that labour inspectors have close relationships with workers. These can be established in a variety of ways: both outside enterprises, with members of trade union organizations, and within enterprises, with workers' representatives who serve on work councils and labour protection committees, shop stewards and safety representatives.

Trade unions at the industry and enterprise levels can do much to bring breaches of labour law and regulations to the attention of individual employers and employers' organizations, thereby improving workers' protection. However, fewer than one in three workplaces employing 10 or more workers in the EU (29%) has some form of employee representation. Legislative requirements are a key driver of the introduction of such representation.⁷

Trade unions can also encourage and participate in collective bargaining on working conditions, including workplace safety and health.

ILO Conventions and Recommendations on OSH matters (in particular C.155 and R.164) stipulate that workers' representatives and other participatory structures should receive sufficient information; be able to discuss such information with their organizations; be able to ask for agreed external technical expertise; have the opportunity to analyse risk factors and propose preventive measures; and be consulted before important OSH measures are taken and before the adoption of changes in operations or work organization that have repercussions on OSH, in particular on air pollution and noise.

Despite their widespread ratification, these regulations are often only superficially applied in many countries worldwide. In some countries, however, trade-union supervisory organs have, among other things, the right to supervise the way in which enterprises fulfil their obligations in respect of occupational safety and health, and to carry out regular inspections of workplaces and installations. In some cases, these bodies also have powers to verify whether enterprises investigate occupational accidents and to participate in investigating the causes of such accidents and occupational diseases, conducting their own enquiries if appropriate. In order to perform their task effectively, these organs may, by issuing instructions of a binding nature, ask enterprises to make good shortcomings in the operation of machinery and equipment and, in the event of imminent danger, order a stoppage of work.

Labour inspectors in many countries play an important role in overseeing the observance of trade union rights, the protection of legitimate workers' representatives, and the effective operation of statutory bodies designed to engage in social dialogue. This is also an important area in which inspectors provide advisory services, for workers and employers alike.

The continuing decline in trade union membership in many industrialized countries has had the effect of eroding the status of trade unions as representatives of their constituency. This being the case, the services provided by labour inspectorates assume greater importance. The task of

⁷ [Industrial relations: Developments 2015-2019 | Eurofound \(europa.eu\)](#).

ensuring compliance with regulations designed to guarantee that workers' representatives can exercise their functions, and that representative bodies can function constructively in such conditions, takes on a new dimension.

In many countries, labour inspectors are also charged with the task of providing training for workers' representatives on all issues related to labour protection.

If the inspectorate does not organize this training itself, inspectors will regularly participate in training activities organized by other parties. Inspectors also provide direct services to individual workers, in so far as they react to complaints or give advice. Although decisions on what action to take rest with its inspectors, an inspectorate will be judged on whether or not it provides a service, and whether this service is performed to the satisfaction of one of its primary clients: workers. In some countries, trade unions or individual workers, if they are dissatisfied with the way a complaint has been handled, will refer it to their parliamentary representative or to an ombudsman, which may result in its being made public, thus showing the inspectorate in a bad light.

The box below reports the recommendations of an ILO assessment carried out in the same developing country as featured in the previous box.



▶ **Measures to ensure active involvement of workers' organizations**

These recommendations are addressed to the workers' confederations and their affiliated industrial trade unions and staff associations.

- ▶ The Confederations and each of their affiliates should draw up a comprehensive, action-oriented policy to improve labour protection in the country.
- ▶ Labour protection issues should be made an integral part of all collective bargaining negotiations.
- ▶ Labour leaders should develop considerably more sensitivity and acquire the necessary awareness and knowledge through extensive workers' education training and information. ILO should give more assistance in this field.
- ▶ The Confederations and their affiliates should give special attention and training to the newly set-up safety and health committees and safety representatives.
- ▶ Labour leaders should make it a matter of priority to represent the workers' interests on matters of occupational safety, health and welfare in tripartite bodies at both federal and state levels. This should include the presentation of position papers, etc.
- ▶ Specific provisions on child labour with stiff fines for non-compliance should be adopted.
- ▶ There is a need to provide guidelines for employers to correctly calculate the compensation benefits for injured workers and dependants of dead workmen.

Worker inspectors

In some Central and Eastern European countries, so-called "worker inspectors" play a special role. In truth, the institution's origins lie much further back in time. It emerged in the industrialized countries of Western Europe at the end of the 19th century and had long been a central demand of trade unions in France and Germany.

Trade unions had secured the right for union representatives to act as inspectors under a variety of names in industries like mining. In some cases, these worker inspectors held auxiliary posts within the general labour-inspection authority. The evidence suggests that this institution made a major contribution to accident prevention, provided there was a clear demarcation between the collective representation of workers and the enforcement of legislation.

In most former Soviet-bloc countries, the labour inspection system had forged close ties with the trade unions and was based partly on the activities of these "worker inspectors". The relationship was not clear-cut, inasmuch as the trade unions tended to operate as an extension of the Party and State authorities. The worker inspectors often sought to play down a company management's liability for accidents and blame them on mistakes by individual workers.

The revival of independent trade unions ought to have given a new impetus to this institution. The worker-inspection system was run down during the transition to a free market economy and has completely disappeared in some countries. In Poland, the system has struggled to survive in firms with trade union representation but remains very active in the mining industry in the Czech Republic.

In Luxembourg in 2002, an audit by the ILO labour inspection service criticized the appointment of labour inspectors on proposals from representative trade unions. ILO missions in Central and Eastern European countries have recommended that trade union inspection systems be dismantled.

However, far from being a quirk of former Soviet-bloc countries, the worker inspection system could in many ways strengthen preventive strategies in the countries of Western Europe. Although lacking such wide-ranging powers, district workers' safety representatives in Sweden carry out certain tasks that are akin to labour inspection by running legislation enforcement campaigns in some areas.

▶ 3. Cooperation between inspectorates

3.1 National cooperation and partnerships

Labour inspection responsibilities are frequently split between different government ministries or departments according to specified criteria, such as geographical location, economic sector or subject matter. In all cases, it is important for there to be good cooperation between these different inspectorates, at both national and local level, to improve efficiency and effectiveness. Rationalizing and pooling material and logistical resources could also alleviate the chronic inadequacy of the means available to inspectorates in many countries. For this reason, some countries have now adopted so-called Integrated Labour Inspection Systems, moving towards the principle of “one enterprise: one inspector”.

The importance of cooperation between inspectorates and other government authorities and institutions is widely recognized, even though the methods and extent of such cooperation vary from country to country. First and foremost, cooperation must be established among the various services that deal with different kinds of inspection or different sectors of employment. Experience shows, however, that such cooperation is frequently non-existent, sometimes due to the absence of any central coordinating authority. For instance, in countries where departmental inspection responsibilities correspond to economic sectors, labour inspectors responsible for industry and commerce may have hardly any contact with their colleagues responsible for, say, agriculture, who will probably be attached to the ministry of agriculture. The isolation of different branches of the inspection system is unjustified when they are all part of the same labour administration. In such circumstances, there seems to be no obvious reason for a lack of central coordination. Even if this kind of isolation does not lead to rivalry over fields of influence or competence, it is bound to be harmful to the standing of labour inspection as a whole, in particular in the eyes of its clients. It also prevents the cross-fertilization of ideas and practices, given that experience in one sector can often provoke innovation in another.

Cooperation between different inspection services should be organized at the highest level, particularly when it comes to the joint consideration of problems which, at the national level, are bound to concern each of those services, no matter what their responsibilities may be. At lower levels, contacts may be organized on an informal basis, although it is preferable that cooperation between inspection services be institutionalized. In some countries, where specialized inspectorates have been set up to deal with safety and health in mines, their inspectors are obliged by law to inform the general labour inspectorates of the results of their visits. The latter may also ask to participate in the mines inspectorates' visits. In one country, the legislation stipulates that the ministry of labour and social security, the ministry of health and the national insurance body must collaborate in carrying out their activities.

In some countries, agreements between inspectorates take the form of official memoranda of understanding. These are sometimes concluded between marine safety departments and labour inspectorates regarding the safety of dockworkers loading and unloading ships: if there is

defective equipment on board ships, labour inspectors must inform their colleagues in marine safety.

OSH inspection and market surveillance

OSH inspection systems are key in enabling governments to ensure compliance with OSH laws and regulations, and enforce them. OSH inspection focuses mainly on the protection of workers' safety and health, while at the same time promoting productivity in the workplace.

Market surveillance involves checking products or services directly, either at the retail stage or, in some cases, at the import or wholesale stage. It requires a joint effort on the part of the different regulators and inspection systems to achieve total surveillance of products already in circulation. Coordination among the OSH inspection system and other inspection entities is essential to guarantee that dangerous products are systematically detected, with a view to preventing damage, including damage to worker's safety and health. This is because the quality and built-in safety of all products are very important in preventing the occurrence of occupational accidents and work-related diseases.



▶ The case of China

In China, work safety inspection comes under the Ministry of Emergency Management (MEM), in application of the Work Safety Law, while occupational health inspection is a function of the National Health Commission (NHC). Market surveillance is the province of the State Administration for Market Regulation (SAMR), which is also responsible for standardization, certification and accreditation, as well as food safety and special equipment inspection. These three parties cooperate closely to ensure the quality and built-in safety of all OSH-related products.

With regard to standardization, the SAMR lays down the national policy, legal framework and guidance, and approves the adoption of national standards (GB), including national work safety standards. Meanwhile, the MEM has established the National Technical Committee on Work Safety Standardization to formulate and implement development plans, and annual plans for work safety standardization, in conjunction with relevant departments. In China, national work safety standards may be mandatory or simply recommended. Other departments responsible for work safety supervision and management draw up and improve their sectors' work safety standards, following the requirements of national standards.

Where special equipment such as boilers, pressure vessels and elevators and cables is concerned, the SAMR has established a Special Equipment Safety Inspection Bureau, which prepares special equipment catalogues and technical safety specifications, and supervises and inspects the production, operation, use, testing, import and export of special equipment, as well as the implementation of energy-saving standards for high-energy-consuming special equipment and boiler-related environmental protection standards. The Inspection Bureau organizes investigations, deals with special-equipment-related accidents, and conducts statistical analysis in accordance with the relevant laws.

3.2 International cooperation and partnerships

Several international organizations exist to support national labour inspection services and promote greater professionalism amongst inspectors themselves. Such organizations greatly facilitate cooperation on common topics between national inspectorates, with gains in both effectiveness and efficiency. Details of innovations, information and ideas can be exchanged by networking, as well as at formal meetings, conferences and so on. The internet has also made it much easier to work effectively at an international level, although some labour inspectorates are still inadequately resourced in this respect.

The International Association of Labour Inspection (IALI)

The IALI was established in 1972 as a group of labour inspectorates based in European countries, to promote information exchange. It now has over 110 members all over the world, and holds regular international meetings and other events to ensure a good flow of relevant and up-to-date information.

Its stated aims are:

- ▶ to promote the professionalism of its members in all aspects of labour inspection, so as to enhance their impact and effectiveness;
- ▶ to hold international and regional conferences and similar events at which members can exchange ideas and experience about how best to promote compliance with labour law and good practice;
- ▶ to provide information to its members about professional issues through the Association's website, newsletters, reports and other publications;
- ▶ to promote closer collaboration between its members, through regional networking and activities.

The IALI has always worked in close partnership with the International Labour Office and other host-country organizations, and is increasingly working at the regional level.⁸

Regional inspectorate associations and networks

There are also a number of regional associations of labour inspectorates, set up for similar purposes.

The EU Senior Labour Inspectors Committee (SLIC),⁹ for example, provides a forum for discussion and cooperation on common issues for labour inspectors across the EU, and fosters networking.

Similarly, the Regional Alliance of Labour Inspectorates (RALI) groups the countries of South-East Europe, as well as Azerbaijan and Ukraine. It fosters regular regional cooperation in the area of labour inspection and the exchange of best practices.

In South America, the Confederación Iberoamericana de Inspectores de Trabajo (CIIT) was set up in 1992 for similar purposes. It supports its member inspectorates in their efforts to promote compliance with labour laws.

In April 2009, during the international workshop held in Santiago de Chile to celebrate the 90th anniversary of the ILO and the 80th anniversary of the Dirección General de Trabajo of Chile, a network of labour inspectorates grouping certain Latin-American countries, as well as Spain and Portugal, was also formed. The main aims of this network – the Red Iberoamericana de Inspeccion de Trabajo – are to promote and support national inspectorates, exchange information and share

⁸ More information about the IALI is available on its website: www.iali-aiit.org.

⁹ [Health and safety at work - Employment, Social Affairs & Inclusion - European Commission \(europa.eu\)](http://Health%20and%20safety%20at%20work%20-%20Employment,%20Social%20Affairs%20&%20Inclusion%20-%20European%20Commission%20(europa.eu)).

knowledge. Membership is open to further countries, for instance to the countries of Central America since November 2009.

A network of 10 ASEAN national labour inspectorates was established at the 21st ASEAN Labour Ministers Meeting (ALMM) on 24 May 2010 in Ha Noi, Viet Nam, as the result of an ASEAN Labour Inspection Conference.¹⁰ The network aims to share experience and good practices in the organization and operation of national labour inspection systems, and make recommendations for enhancing the capacity and cooperation of labour inspection among ASEAN Member States and partners.

Networks concerned with capacity-building for labour inspection

The RIIFT (Réseau International d'Institutions de Formation¹¹ dans le domaine du Travail) is an international network of training centres working in the field of labour. It serves as a platform for exchanging information and experiences on training and education, encouraging its members to reflect on national training strategies. At present, this network operates only in French.

Since 2010, the International Training Centre of the ILO (ITCILO) has organized a biennial Academy on Workplace Compliance through Labour Inspection. The Academy provides participants with a unique opportunity to gain new insights, share experiences and reflect on key issues, trends and challenges relating to labour administration, labour inspection and workplace compliance. It has become a networking platform for global labour inspectors.

¹⁰ <https://asean.org/storage/2012/05/Recommendations-of-the-1st-6th-ASEAN-Labour-Inspection-Conference.pdf>

¹¹ <https://riift.itcilo.org/>

► 4. Cooperation with other stakeholders

Broad cooperation is also needed between the various labour inspectorates and other stakeholders, i.e. organizations that also have an interest in promoting decent working conditions and upholding social justice in the workplace.

For instance, research and training organizations often have much data and other information useful for inspectorates, and regular cooperation between such organizations brings mutual benefit. Methods of communication vary from one country to another, but the development of good IT systems and databases, as well as the publishing of annual reports, has brought significant improvements in data exchange in recent years. This is less true for developing countries, where lack of infrastructure makes it much harder to compile relevant and coherent information. However, there have been significant advances in some areas in recent years, notably as regards occupational safety and health, which bodes well for the future.

The different services responsible for employment, equality in the workplace, vocational training, job placements, migration, youth, basic or compulsory education, people with disabilities and the gathering of statistical information can all play a significant part in helping the labour inspectorate to define its priorities. For example, statistical data disaggregated by sex and precise data on school truancy, migrants and job placements for disabled workers in certain activities are all useful in planning inspections of establishments generally, including establishments where there are workers in vulnerable categories.



► Example from Australia

In Australia, the Fair Work Ombudsman (FWO) cooperates closely with the public employment services to ensure that the level of wages and conditions of service offered to job seekers conform with the legal requirements. Another fruit of this constructive relationship is the provision of information and advice about workplace rights and obligations.

The FWO also provides some practical online tools such as its “Employment Contract Builder” and other advisory services, and information on basic minimum employment standards and wages for managers of small and medium-sized enterprises (SMEs), in the context of job-creation programmes that are often organized by the public employment services of the labour administration system.

4.1 Social security and social insurance institutions

The respective objectives of social security and labour inspection are complementary, and the benefits of bringing them together under the authority of a single government authority are becoming increasingly evident in several countries.

Although it may be a legal obligation of the employer, worker or responsible medical practitioner to report accidents at work or cases of occupational disease to the labour inspectorate, in practice it is often the social security agencies that are the first – and sometimes the only – recipients of such notifications. It is therefore desirable that there be provisions to ensure that any relevant information on cases and conditions defined by legislation is communicated as systematically as possible to the labour inspectorate. This would enable the labour inspectorate to identify high-risk establishments and activities, and decide on measures for eliminating risk factors. By the same token, inspectorates should be required to inform the social security and social insurance agencies of situations that pose a threat to workers' safety and health, and breaches of OSH laws which they encounter during inspection visits.

Information about OSH performance passed on by labour inspectorates would be useful in helping social security agencies to assess insurance premiums based on work injury rates. Employers who were particularly negligent or persistent in violating laws might find themselves paying higher premiums, while injunctions could reinforce the safety and health role of the labour inspectorate. The benefits of such cooperation for all parties concerned have been more than amply demonstrated in countries where relevant measures and good practices have been implemented.

The branch of social security responsible for occupational-accident and disease insurance, and workers' compensation, has become an important new partner in labour inspection in several countries. In France, for instance, cooperation between the French labour inspectorate and the regional health insurance funds is time-honoured and effective. Similar arrangements exist in Austria and Luxembourg.



▶ Example from China

In January 2021, the Ministry of Human Resources and Social Security (MOHRSS), which is responsible for work injury insurance, the Ministry of Emergency Management (MEM), in charge of work safety inspection and administration, the National Health Commission (NHM), responsible for occupational health inspection, and five other departments jointly promulgated a National Five Year Plan of Action for Prevention of Work Injury 2021-2025.

4.2 The police

Support from the police can be useful and is sometimes essential in carrying out inspection missions, especially when certain types of enforcement are concerned. For example, if inspectors are likely to face serious obstruction, it may be advisable for them to be accompanied by police officers when they visit the workplaces in question. In some countries, accidents and dangerous incidents must first be reported to the police, who then inform the labour inspectorate.

Enabling labour inspectors to seek support from the police when they are obstructed in the performance of their duty can have a deterrent effect, all the more so if effective measures are in place to ensure rapid implementation. When inspectors believe they are likely to face threats to their physical safety (e.g. from a violent employer), the presence of a police officer can ensure that a planned inspection takes place more smoothly.

Inspectors may have legal powers to bring along police officers when circumstances require it, but in many developing countries this is not practicable because of the separation of the two institutions and the absence of appropriate mechanisms at different levels of the hierarchy. Nevertheless, cooperation between labour inspectorates and the police is vital, at both national and local level.

4.3 Judicial bodies

The impact that labour inspectors have is to a large extent dependant on the threat of the sanctions they can impose, through the courts or otherwise.

Unfortunately, the judiciary in many countries do not give high priority to labour law cases, and the fines and other sanctions they impose may be far too low for the purposes of deterrence or punishment. Inspectorates should therefore collaborate with the judiciary to build understanding and mutual trust, and judges should be encouraged to treat alleged violations of labour law seriously and impose realistic fines or other penalties when cases are proven. A growing number of countries are making positive efforts in this direction.

One reason why judges and other members of the legal profession may not hold labour law cases in high regard is the often poor quality of inspectors' reports brought before the courts. Inspectors must therefore be well trained in collecting convincing evidence and in writing coherent and well-argued legal reports.

Judges and other members of the legal profession should also be well-informed and trained with regard to labour rights and labour law. Closer cooperation between the judiciary and the labour inspectorate can also raise awareness of the social and economic value of labour inspection, and encourage the legal profession as a whole to pay closer attention to the goals and efforts of the inspectorate.

4.4 Tax authorities and the ministries responsible for the sectors covered by inspection

There should be machinery to ensure that information held for other purposes by other public authorities (for example, tax authorities or departments responsible for issuing operating licences) is made available to the labour inspectorate, in order to identify establishments in need of inspection.

In Croatia, the central labour inspection authority has vigorously proposed that the cooperation of the tax authorities should be sought in any proceedings to recover unpaid wages.

4.5 National human rights mechanisms

Following a recommendation made in the Vienna Declaration and Programme of Action (1993),¹² many countries have created a national human rights mechanism, which individuals may use to file complaints regarding violations of human rights, including labour rights. In these countries, effective cooperation between the labour inspection system and the national human rights mechanism has proved to be useful and is encouraged, as Article 5 of the Vienna Declaration states that “all human rights are universal, indivisible and interdependent and interrelated. The international community must treat human rights globally in a fair and equal manner, on the same footing, and with the same emphasis...” Fundamental labour rights and OSH are integral parts of human rights, which are the main focus of labour inspection.

4.6 Immigration authorities

In view of the growing numbers of foreign and migrant workers in many countries, the labour inspectorate is often asked to cooperate with immigration authorities in finding migrant workers whose status is irregular.

The preventive role of inspectors needs to be stressed in this context, and they should not be required to act in effect as agents for the enforcement of migration law. If they are required to detect illegal migrants on behalf of the migration authorities, for example, this will undermine their impartiality and independence. Trust will be eroded and migrant workers will be unlikely to cooperate with inspectors or, for that matter, to make any complaints about their working conditions. Inspectorates may need to sensitize other authorities on such matters.

¹² OHCHR | Vienna Declaration and Programme of Action.



► An opinion from the CEACR¹³

The Committee (CEACR) recalls that, pursuant to *Article 3(1) and (2)* of Convention No. 81 and *Article 6(1) and (3)* of Convention No. 129, the functions of the system of labour inspection shall be to secure the enforcement of the legal provisions relating to conditions of work and the protection of workers while engaged in their work, and any further duties which may be entrusted to labour inspectors shall not be such as to interfere with the effective discharge of their primary duties. In this respect, it stated in its *General Survey* relating to labour inspection, 2006, paragraph 78, that any function of verifying the legality of employment should have as its corollary the reinstatement of the statutory rights of all workers if it is to be compatible with the objective of labour inspection, which is to protect the rights and interests of all workers and to improve their working conditions.

4.7 Social research institutions and universities

Article 9 of Convention No. 81 and Article 11 of Convention No. 129 call for interaction between the inspection services and “duly qualified technical experts and specialists”. This mutually beneficial relationship is indispensable for the proper functioning of labour inspection, and extends to cooperation with public and private institutions, universities, research centres, consultants and others.

Cooperation with such organizations ensures that inspectorates are better informed on labour-related matters in different fields, in particular in emerging areas. Institutions may also undertake research on occupational safety and health, leading to the development of innovative methods of prevention, and may be able to help inspectors with the investigation of accidents or diseases.

Universities are also playing a greater role in the professional training of labour inspectors, awarding them formal qualifications in relevant topics. In Ethiopia, for example, a new degree course has been set up to train inspectors in occupational safety and health.

¹³ http://ilo.org/dyn/normlex/en/f?p=1000:13100:0::NO:13100:P13100_COMMENT_ID:4013733.



▶ The Centre for the Improvement of Working Conditions and Environment, Pakistan

The Centre for the Improvement of Working Conditions and Environment, based in Lahore, Pakistan, is a centre of expertise on occupational safety and health and working conditions and provides training and expertise to employers, workers and government agencies, including labour inspectors. It has pioneered several low-cost innovations for improving working conditions in places where young, female and other vulnerable workers are employed.

Collaborative research recently led to the development of a low-cost carpet-weaving loom that is better designed ergonomically, reducing the need for workers to stand all day and increasing productivity. Inspectors were informed about the developments and have been able to advise employers. The innovation won a Tech Award for Innovation from the USA.¹⁴

Technological developments render the task of labour inspection increasingly complex and represent one of the major challenges facing today's inspectors. Even when they belong to a high-performing service, they cannot keep abreast of all developments, therefore cooperation with research institutions is of growing importance.

4.8 Professional bodies and NGOs

Professional bodies exist for many disciplines and regular cooperation with them can be of benefit to all parties. For example, institutions for safety and health officers in industry promote networking among members and encourage best practice. Inspectors' support for such organizations can be very encouraging for their members, while regular cooperation provides opportunities for inspectors to disseminate important information to wider audiences.

Labour inspectorates need to work with national and international standard organizations, as standardization is advancing in all domains. There are currently close to 35,000 published standards, including some in the field of occupational health and safety. Standards affect the design and use of both facilities and products.

Cooperation with NGOs is particularly important when issues such as child labour or HIV/AIDS are concerned.¹⁵ NGOs may, for example, be involved in tackling hazardous child labour or raising awareness of HIV/AIDS, and as such they can be very useful partners for inspectorates in local communities. The aim of cooperation between inspectorates and such NGOs should be to combine the traditional role of inspection with a supportive framework for preventing risks of exploitation and creating opportunities for self-development.

¹⁴ <http://www.wiserearth.org/organization/view/aa09b8de12439b5f1ba5f47b85edb5e9>.

¹⁵ See *Combating child labour: A handbook for labour inspectors*, ILO, 2002; *A handbook on HIV/AIDS for labour and factory inspectors*, ILO, 2005.

4.9 The media

The media have a vital role to play in upholding public respect for rights at work and the task of inspectors in promoting them. Fruitful cooperation between inspectorates and the media can thus create a positive image of labour inspection as an important tool for social development, as well as helping inspectorates to meet their broader aims.

Inspectors have in fact made good use of the mass media for many years, using such channels as radio, TV, newspaper columns, poster campaigns and so on. These media have all been used to good effect, having a significant impact on employers, workers and their organizations in general, as well as publicizing the work of inspectors. Cooperation of this kind has enabled inspectorates to get important messages across in workplaces not normally subject to inspection, such as those in the informal economy. Use of the media has thus become an indispensable part of an inspectorate's broader operational strategy.

However, inspectors need to be cautious in their dealings with the media so as not to give misleading information or prejudice investigations. After a major accident, for example, the press may want an immediate story and seek to interview the investigating inspector about the likely causes and consequences of the accident. In attempting to be helpful, an inspector may make premature comments about the likely outcome of the investigation, to the embarrassment of the inspectorate and the enterprise concerned.

Some inspectorates have therefore appointed dedicated staff to maintain regular contact with the media, while others have trained individual inspectors on how best to work with them. Inspectors should make contact with such groups or specialists within their organizations when necessary, e.g. after an accident of public interest, to ensure that their dealings with the media are always professionally managed.



► Media spokespersons, National Labor Inspectorate, Poland

The Polish National Labour Inspectorate has designated a special team of spokespersons to be responsible for contacts with the media. Based in each of the 16 district inspectorates, they represent the National Labour Inspectorate in contacts with the press, radio and TV, and maintain good working relations with them. In particular, they are responsible for disseminating appropriate information, creating a positive image of the inspectorate, and keeping the media well informed concerning its current activities.

Spokespersons need to have some knowledge of the work of field inspectors and many of them are in fact former labour inspectors. They also need good communication skills and the ability to work well under stress, especially when it comes to public appearances. They attend regular (annual) training sessions, which serves to expand their knowledge and perfect their media-relations skills. Training topics include press law, preparation of press releases, workshops in improving conversational skills in contacts with journalists (interviews, press conferences, etc.), as well as speaking to camera (practical exercises).

Closer cooperation with the media should be seen as a sound long-term investment. It serves to make the general public more aware of the importance of the inspectorate's work and the need to promote decent working conditions. This, in turn, should lead to increased worker protection and better standards of compliance.

Many labour inspectorates are in fact now working with the media on a regular basis, for example in publicizing local campaigns so as to achieve greater awareness and impact. Elsewhere, inspectorates have engaged with the media in relation to national programmes, such as campaigns to promote occupational safety and health or to combat child labour. These efforts have proved invaluable in reaching out to a wider section of the working population, such as small firms and those in the informal economy, which rarely if ever receive an inspection visit.

Special attention need to be paid to the use of social media, in particular websites and applications that enable people to share content quickly, efficiently and in real-time. Social media are being used internally among labour inspectors and externally with the general public to improve the efficiency and effectiveness of labour inspection, and communication with a wide audience.

► 5. Voluntary compliance and beyond

At the heart of their relationship with society is the obligation that companies must comply with the law.

Most countries have legislation that reflects internationally recognized values and principles, and provides a frame of reference for corporate responsibility. Moreover, the ILO Declaration on Fundamental Principles and Rights at Work (1998) makes clear that “all Members, even if they have not ratified the Conventions in question, have an obligation, arising from the very fact of membership in the Organization, to respect, to promote and to realize, in good faith and in accordance with the Constitution, the principles concerning the fundamental rights which are the subject of those Conventions, namely: (a) freedom of association and the effective recognition of the right to collective bargaining; (b) the elimination of all forms of forced or compulsory labour; (c) the effective abolition of child labour; and (d) the elimination of discrimination in respect of employment and occupation”. It is the responsibility of government to ensure the rule of law and the enforcement of a country’s laws across society; labour inspection is the key instrument for law enforcement in the workplace.

There are, however, constraints on the capacity of government to enforce the law. In recent decades, labour administrations (including labour inspectorates) have been reduced (in size, resources and mandates) by structural adjustment measures in many countries.

At the same time, in a globalized world, with production systems transcending national boundaries, country-focused forms of regulation alone (national labour law and national systems of industrial relations) are not sufficient to ensure full respect for labour rights.

It is in this context that the ILO World Commission on the Social Dimension of Globalization (WCSDG) examined the new challenges globalization poses to the Member States, including the extra efforts required to protect workers in the face of mobile and powerful capital.¹⁶ “Global markets have grown rapidly without the parallel development of economic and social institutions necessary for their smooth and equitable functioning”, the report noted.¹⁷ It called for a concerted effort to protect workers’ rights and build a labour movement that could provide “the countervailing power necessary to promote improved wages for workers, combat and reverse any deterioration of labour standards and support a virtuous cycle of rising living standards and equitable growth”.¹⁸

It is in this context that we have seen the rapid growth of the concept of Corporate Social Responsibility.

¹⁶ ILO (2004), *Fair Globalization: Creating Opportunities for All*.

¹⁷ Ibid, p. xi.

¹⁸ Ibid p. 66.

5.1 Corporate social responsibility

Definitions

Corporate Social Responsibility (CSR) is the name now most commonly applied to the multitude of innovative social and environmental initiatives undertaken by business in both the marketplace and the wider community.

There are several definitions of CSR.

According to the European Commission, CSR is:

a concept whereby companies integrate social and environmental concerns in their business operations and in their interaction with their stakeholders on a voluntary basis. Being socially responsible means not only fulfilling legal expectations, but also going beyond compliance and investing 'more' into human capital, the environment and the relations with stakeholders.¹⁹

The International Labour Organization (ILO) has also recently defined CSR as:

...a way in which enterprises give consideration to the impact of their operations on society and affirm their principles and values both in their own internal methods and processes and in their interaction with other actors. CSR is a voluntary, enterprise-driven initiative and refers to activities that are considered to exceed compliance with the law.²⁰

In summary, CSR consists in companies themselves unilaterally and voluntarily defining social and environmental policies by adopting alternative instruments that are neither collective agreements nor legislation, and entering into partnerships with multiple actors in pursuit of these aims.

Historical background

The concept of the social responsibility of business is an old one; it which can be found in a number of cultures and traditions, and even religions.

During the 1950s, the concept of CSR was the subject of debate and a large number of studies in the United States and in Europe.

During the 1960s and 1970s, the increasing dominance of multinational enterprises raised the issue of CSR in the discussions of certain international organizations, such as the ILO and the Organisation for Economic Co-operation and Development (OECD). Consequently, the ILO adopted the Tripartite Declaration of Principles concerning Multinational Enterprises and Social Policy (MNE Declaration)²¹ and the latter published OECD Guidelines for Multinational Enterprises (OECD Guidelines).

¹⁹ See: <http://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=COM:2001:0366:FIN:EN:PDF>.

²⁰ InFocus Initiative on Corporate Social Responsibility: Strategic Orientations (GB.295/MNE/2/1). See: <http://www.ilo.org/public/english/standards/relm/gb/docs/gb295/pdf/mne-2-1.pdf>.

²¹ <https://www.ilo.org/empent/areas/mne-declaration/lang--en/index.htm>.

The present understanding of CSR emerged during the second half of the 1990s, after the 1992 Rio Conference on Environment and Sustainable Development, at which the United Nations invited multinational enterprises to assume a commitment towards society and the environment by including in their commercial agreements provisions to protect basic human rights, workers' rights and the environment.

In 1999, in his address to the World Economic Forum, the United Nations' Secretary-General, Kofi Annan, challenged business leaders to join an international initiative that would bring companies together with UN agencies, organized labour and civil society to support universal social and environmental principles, and so launched the idea of a Global Compact.

The international reaction to his speech was extremely positive, and the Office of the Secretary General decided to convene the three UN agencies most closely associated with the principles and values promoted by the initiative – the International Labour Organization, the Office of the High Commissioner on Human Rights and the United Nations Environment Programme – to discuss the creation of the UN Global Compact initiative to involve companies in the promotion of universal principles and values. The Global Compact's operational phase was launched at UN Headquarters in New York on 26 July 2000.

The UN Global Compact is an initiative based on companies' voluntary decision to commit themselves to a responsible mode of conducting business. It is based on 10 universal principles which, thanks to their universality, have been accepted in all 193 of the UN's Member States, including countries where legislation concerning human and labour rights, environmental protection and the fight against corruption is not fully developed.



▶ The 10 UN Global Compact Principles

The UN Global Compact asks companies to:

Human rights

1. Support and respect the protection of internationally proclaimed human rights.
2. Make sure that they are not complicit in human rights abuse.

Labour

3. Uphold freedom of association and the effective recognition of the right to collective bargaining.
4. Uphold the elimination of all forms of forced and compulsory labour.
5. Uphold the effective abolition of child labour.
6. Uphold the elimination of discrimination in respect of employment and occupation.

Environment

7. Support a precautionary approach to environmental challenges.
8. Undertake initiatives to promote greater environmental responsibility.
9. Encourage the development and diffusion of environmentally friendly technologies.

Anti-corruption

10. Work against all forms of corruption, including extortion and bribery.

The Global Compact has given rise to a network for sharing good practices, involving companies, governments (at national and local level), employers' and workers' organizations, NGOs and academic institutions.

Governments ensure the legitimacy and universality of the Global Compact principles and develop the legal framework in which they are put into effect. By exercising their legislative competency, governments can provide an enabling legal environment, whereby voluntary initiatives, such as the Global Compact, can play a complementary role.

The public-private partnership approach

The liberalization of international trade, expansion of foreign direct investment and emergence of massive cross-border financial flows over the last two decades have led to significant changes in the way the world economy is organized and governed. In this globalized context, the private sector has begun to play an increasingly important role in areas of work that were previously the preserve of public-sector actors and civil society, such as social policy and the environment, thus contributing to the spread of self-regulation practices and public-private partnerships.

Public-private partnerships can be very useful in promoting workers' rights, if the framework for such collaboration is well defined and transparent. However, enterprises are not an alternative to government; CSR is not an alternative to public legislation and engagement, and enterprises need to ensure that, in the actions they take, they are not circumventing national policy debates or priorities.

This point is crucial as the rise of voluntary self-regulation in the field of labour field is sometimes viewed as an alternative to regulation by the State. The arguments for this approach is that rigid rules laid down centrally by governments, backed by inflexible sanctions, are ineffective, expensive and counter-productive, while corporate self-regulation is seen as an answer to the problems of governance in the 21st century.

On the contrary, a stronger role for labour administration, combined with socially responsibility on the part of enterprises and sound industrial relations, could be a winning strategy for creating an environment favourable to sustainable development.



▶ A public-private partnership project involving labour inspectors

The multi-national enterprise Volkswagen AG, the German Development Organization (GTZ, now GIZ) and the ILO participated in a public-private partnership project, which ran from 2002 to 2008, to promote safety and health in the Volkswagen supply chain. The project covered three countries – Mexico, South Africa and Brazil – and involved those countries' labour departments and their labour inspectors. Volkswagen experts and local labour inspectors conducted joint audits of the suppliers concerned, all of them small and medium-sized enterprises, and gave advice on prevention and other safety and health matters. Inspectors also participated in training courses for representatives of the supplier companies.

Evaluation of the project showed that it was successful in meeting most of its objectives, except in Brazil, where agreement was not reached regarding the inspectors' enforcement role during the audit process. The project nevertheless produced significant benefits in Mexico and South Africa, for both labour inspectors and the enterprises involved, whose trust and confidence in the work of the inspectorate was much increased.

Private compliance initiatives (PCIs)

The role of public labour inspection is to promote compliance with labour legislation and secure its enforcement in line with international labour standards and other ILO instruments. Recent decades have seen the development of a range of private compliance initiatives (PCIs) with differing objectives, including the assessment, and in some cases the certification, of conformity with national labour law and/or international labour standards.

With the approval of the Governing Body of the ILO, a tripartite Meeting of Experts on “Labour Inspection and the Role of Private Compliance Initiatives” was held in Geneva from 10 to 12 December 2013.²² The chairperson of the meeting summed up its findings as follows:

- ▶ Labour inspection remains a public function. Efforts should be made at the national level to strengthen its role in both compliance and enforcement, in conformity with the principles of the ILO Labour Inspection Convention, 1947 (No. 81).
- ▶ It is essential to enhance the role of workers and employers, and of their respective organizations, in ensuring compliance in the workplace. Improving industrial relations can contribute to better compliance.
- ▶ Attention should also be given to the impact of PCIs on workplace compliance in the informal economy, small and medium-sized enterprises and supply chains.
- ▶ PCIs are not a substitute for labour inspection or an alternative to compensate for the lack of resources of labour inspectorates. However, synergies have to be found whereby the aims of PCIs and labour inspection coincide, notably when considering the improvement of working conditions. It is important to clarify and define the role of the different partners involved in workplace compliance in respect of standardization, certification and monitoring. The inspectorate’s enforcement function cannot be subcontracted or delegated to private bodies. PCIs should not exempt anyone from complying with labour laws or from workplace inspections by public authorities
- ▶ PCIs can only play a complementary role in helping an enterprise to fulfil its legal requirements. Such collaboration and cooperation, as required by Convention No. 81 and the Labour Inspection (Agriculture) Convention, 1969 (No. 129), should be based on exchanges of information and discussion of programmes and plans with the labour administration and labour inspection services. Existing practices (joint training, tools, manuals and public reporting) demonstrate that cooperation is possible and can work successfully without undermining the role of labour inspection.
- ▶ The balance between exercising the power to enforce laws through legal sanction and promoting PCIs is a continuing challenge, which realistically can only be met by experienced and well-trained inspectors on a case-by-case basis. Close cooperation with employers' organizations and unions can greatly assist inspectors in meeting these challenges.
- ▶ It is clear that different partners, be they workers, employers, NGOs or other agencies, can be the originators in developing PCIs. The involvement and participation of the social partners is key, and the ILO’s involvement, where relevant, can further enhance the fairness and sustainability these initiatives. There are in fact cases which suggest that PCIs based on a bipartite or tripartite approach are more successful than others.

²² https://www.ilo.org/wcmsp5/groups/public/---ed_dialogue/---lab_admin/documents/meetingdocument/wcms_230798.pdf.

Including national legal provisions in company codes and CSR initiatives – as well as in collective bargaining agreements – can be a successful law enforcement strategy. At the same time, it provides a good starting point for seeking to go beyond the established legal requirements.

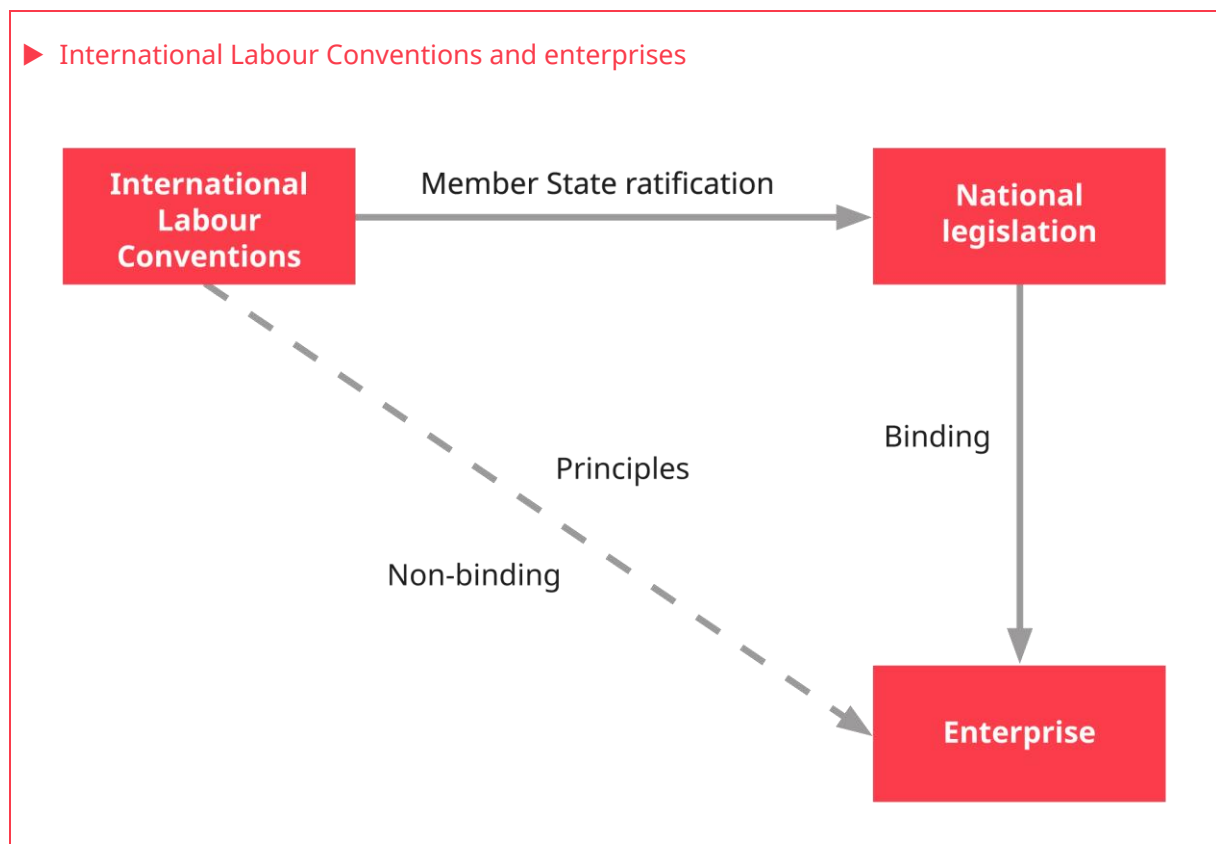
The concept of PCIs could be expanded to promote compliance not only with national legislation but also with international labour standards.

It is not only through national law that the ILO Conventions apply to enterprises (when they are adopted and ratified by governments); the principles of the ILO Conventions can also serve as an inspiration to enterprises, even if they have not been ratified, and used as points of reference to guide enterprise behaviour.

Enterprises that adopt the principles derived from ILO Conventions can play a tremendous role in enhancing law enforcement in countries where legislation is either non-existent or not enforced.

Multinational enterprises

There are two main instruments that can guide the social behaviour of multinational enterprises: the ILO Tripartite Declaration of Principles concerning Multinational Enterprises and Social Policy and the OECD Guidelines for Multinational Enterprises.



Many CSR initiatives refer to the Declaration on Fundamental Principles and Rights at Work. However, the point of reference for the ILO's work on CSR is the MNE Declaration (5th Edition, 2017).²³

The objective of the MNE Declaration is to encourage multinationals to make a positive contribution to economic and social progress and to minimize and resolve the difficulties to which their various operations may give rise. It provides guidelines on how enterprises should apply principles deriving from international labour standards concerning employment, training, conditions of work and life, and industrial relations.

The OECD Guidelines, adopted in 1976 and revised in 2000, are recommendations addressed to multinational enterprises by governments. They set out voluntary principles and standards for responsible business conduct consistent with applicable laws. The OECD Guidelines aim to:

- ▶ ensure that the operations of multinational enterprises are in harmony with government policies;
- ▶ strengthen the basis for mutual confidence between enterprises and the societies in which they operate;
- ▶ help improve the foreign investment climate; and
- ▶ enhance the contribution to sustainable development made by multinational enterprises.

The OECD Guidelines are part of a broader instrument, the OECD Declaration on International Investment and Multinational Enterprises, which seeks to promote a comprehensive, interlinked and balanced approach to the way in which governments treat foreign direct investment, and to enterprises' activities in countries which adhere to the Guidelines.

5.2 Social audits, monitoring and certification

Over the last decade, systems for auditing, monitoring and certifying labour standards have developed alongside existing national inspection programmes.²⁴ These audit and certification initiatives come under a range of names, including social auditing, external verification and independent monitoring. At their core, however, is the issue of inspection and assessment of social standards in enterprises.

These audit systems include company-based monitoring programmes, global corporate auditing services, industry-based initiatives, NGO programmes, and accreditation and certification systems. Some assessments are conducted by the buyers themselves (e.g. Code of Vendor Conduct, Gap Inc.).²⁵ Alternatively, they may be subcontracted to different types of organizations,

²³ <https://www.ilo.org/empent/areas/mne-declaration/lang--en/index.htm>.

²⁴ It is difficult to get information on the size of the market, but there are signs that it is significant. In 2005, for example, Walmart conducted 13,600 social audits in 7,200 factories, and the CSCC claims to conduct 11,000 social audits each year.

²⁵ <https://www.gapinc.com/en-us/investors/corporate-compliance/code-of-vendor-conduct>.

some commercial (e.g. Cal Safety Compliance Corporation (CSCC)), some not-for profit (e.g. Verité), or to academic institutions or trade unions. Audits are carried out mainly in such industries as garment-making and footwear, textiles and agriculture, but similar initiatives also exist in forestry and are being developed in tourism and fisheries.

The best-known organizations performing these audits are Social Accountability International (SAI), the Business Social Compliance Initiative (BSCI), the Fair Labour Association (FLA) and Worldwide Responsible Accredited Production (WRAP), but these are only the tip of the iceberg. Companies such as C&A, Reebok, Timberland, Nike, H&M and Adidas-Solomon have also developed social compliance programmes in recent years, while NGOs like the Clean Clothes Campaign have engaged in workplace monitoring around the world.

Although the terms are used interchangeably, in many contexts there is at least some difference between social auditing and monitoring. Monitoring usually implies “ongoing and regular surveillance of a facility by one or more people. The most important characteristic of monitoring is the requirement of continuous engagement and presence at the facility. Unlike auditing, monitoring systems are more capable of offering an in-depth and long-term view of the workplace. Monitoring requires the continuous presence and engagement of monitors”.²⁶

Certification is usually granted at the final stage of a social auditing or monitoring process, when companies report on how they have performed in fulfilling the aspirations of their code of conduct or the code of conduct of their buyer. In the case of a buyer, this may also involve external verification by an organization like the FLA. In the case of a supplier, this last stage may involve certifying that they conform to a specific code, for example SA8000.²⁷

Pros and cons, an open debate

Companies, industry associations, NGOs and multi-stakeholder initiatives have developed these “social auditing and certification” systems for a variety of reasons. They include:

- ▶ Pressure from activists and consumers concerned with working conditions and compliance with labour standards in global supply chains and demanding so-called “fair trade” products made under the right conditions;
- ▶ Reduction of brand liability, as part of corporate risk management strategies;
- ▶ Demand from supplier factories wishing to gain a competitive advantage over their peers;
- ▶ Weaknesses in existing governmental inspection systems.

Auditing and certification systems have developed, at least in part, in response to weaknesses in national regulation systems. The development of these audit/monitoring/certification programmes raises a number of important questions with regard to how workplaces are monitored and who is responsible for monitoring them. These questions naturally concern

²⁶ See Hunter and Urminsky, *Social Auditing, freedom of association and the right to collective bargaining*, MULTI, ILO.

²⁷ See Susan Hayter’s presentation on InFocus Forum on “Private systems of social auditing, monitoring and certification: a review of the issues”, November 2006.

governments, and employers' and workers' organizations, as all three are involved in labour inspection to varying degrees.

Pros

These systems may well contribute to decent work, in that they engage multiple actors in the supply chain, provide incentives and market access, and facilitate the transfer of technology and know-how, which ultimately contributes to social and economic progress. Where workers are involved in the day-to-day monitoring of working conditions, they can lead to sustainable improvements in labour standards.

There are some good examples of initiatives that involve practical cooperation with public authorities, such as the ILO Better Work project.²⁸ Multi-stakeholder organizations such as the FLA and the SAI are also encouraging cooperation by including labour inspectors in their training programmes.

The key point, from an ILO perspective, is that while voluntary forms of self-regulation can be an important complement to public regulation, they are not an alternative.

The principles embodied in the ILO MNE Declaration also provide guidance on good practice, encompassing consultation with national governments, social dialogue, and the development of industrial relations specific to the national context that include mechanisms for monitoring and dealing with complaints.

Cons

Private systems of labour assessment are criticized for failing to include independent verification. There are no rules governing service providers and there is no professional competency framework. Since the names of suppliers and the audit reports themselves tend to be confidential, there is also no way for the public to independently verify the claims made in CSR reports.

Another issue is the relationship between national regulation and public inspection. Most of the model codes call for companies to comply with national law. The auditing protocols and guidance that support these codes tend to assess conformity with national regulatory requirements. Divergences are sometimes found between what is required by the model code and national law, especially concerning overtime and wages.

Where the relationship between private systems of labour assessment and public inspection are concerned, Article 5 (a) of the Labour Inspection Convention, 1947 (No. 81) calls on the competent authority to promote effective cooperation between the labour inspectorate and private institutions engaged in similar activities. However, in the majority of cases these private initiatives function independently or are seen to be filling a regulatory gap; at worst, they are seen to be privatizing public labour inspection.

²⁸ https://www.ilo.org/global/programmes-and-projects/WCMS_084616/lang-de/index.htm.

Private systems of compliance have also been challenged for having only limited scope in reaching subcontractors and the more vulnerable casual and home-based workers. Another issue is the high cost of private services for monitoring compliance, as well as the fact that these systems seem to be vulnerable to the same weaknesses as public services.

From a broader policy view, there is a risk that the sphere of private law is being extended to the detriment of public law, not only in the choice of instruments, but also as regards their control, leading to an undermining of the regulating power of the public authorities. The concrete implications could be a weakening of law-making and contractual rights, if they are replaced by non-binding instruments without any legal value; a weakening of the regulating and arbitral role of national and international public authorities, if they are replaced by voluntary one-sided regulation on the part of companies; an undermining of the national and international public authorities in their role as supervisors of the application of standard-setting systems, if they are replaced by private bodies; and lastly an extension of the sphere of private law to the detriment of public law, with private instruments (codes of conduct, labels, charters) controlled by private bodies according to their own regulations, rather than by the public administration and labour inspectorates.

Looking ahead

These risks could be avoided if a transparent, modern, strong and effective system of labour inspection is adopted, including effective cooperation between private labour-assessment initiatives and public inspection services to improve governance. The challenge is to ensure that standards are developed for “social auditors” and private workplace audits. These should be compatible with the best practices of the labour inspectorate, promote a culture of compliance, and be consistent in promoting good industrial relations.

▶ 6. Summary

The systems approach of the Labour Administration Convention, 1978 (No.150)²⁹ calls for cooperation among labour administration bodies and a wide range of other stakeholders at national and local level in all their main functions, starting with the labour inspectorate. Clearly, this includes the social partners, i.e. workers' and employers' organizations, but other stakeholders also need to be engaged if labour inspectorates are to have a wider impact on workplaces. Where inspection responsibilities are divided between different inspection services, it is vital that they cooperate and work together. Cooperation with other enforcement authorities, such as the police, is also important in many contexts.

There needs to be cooperation at several different levels: at national level, in defining the legal and policy framework for labour inspection; at sectoral level, in providing guidance for labour inspection in particular industries; at local level, in promoting compliance with legislation in enterprises; and lastly at international level, in promoting exchanges of information and good practice in line with the international labour standards on labour inspection.

In the last decade, several functions traditionally performed by labour inspectorates have been carried out by various forms of private initiative, such as voluntary self-regulation and audit systems, which have taken it upon themselves to monitor and certify labour standards.

Public-private partnership can be a useful means of promoting workers' rights, if the framework for such collaboration is well defined and transparent. CSR should be complementary, not an alternative, to institutional labour legislation enforcement mechanisms, first and foremost labour inspection.

²⁹ https://www.ilo.org/dyn/normlex/en/f?p=NORMLEXPUB:12100:0::NO::P12100_ILO_CODE:C150.

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