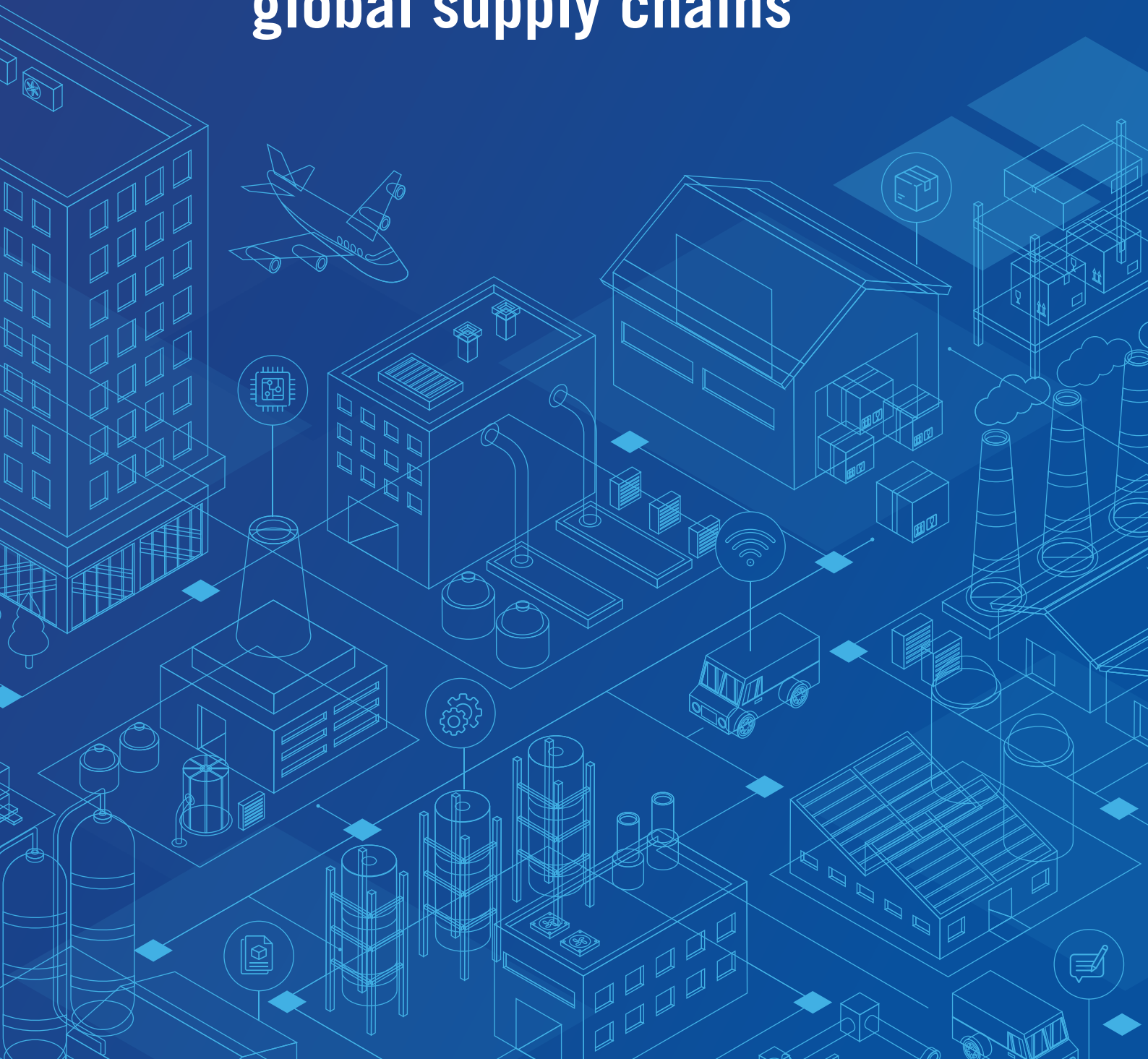




Labour Inspection Technical Note on strategic compliance planning for decent work in global supply chains





I. Introduction

Global supply chains led by multinational enterprises have significant impact on economic growth and job creation. Whether as lead firms or buyers, multinational enterprises account for an estimated half of global exports, nearly a third of the world's gross domestic product (28 per cent) and about one quarter of global employment (453 million jobs) (DESA 2015).

Global supply chains¹ refer to the cross-border organization of the activities required to produce goods or services and take them to consumers through inputs and various phases of development, production and delivery. This definition includes foreign direct investment by a multinational enterprise in a wholly owned subsidiary or in a joint venture in which it has direct responsibility for the employment relationship. It also includes the increasingly predominant model of international sourcing whereby the engagement of lead firms is defined by the terms and conditions of a contractual or sometimes tacit arrangement with their suppliers and subcontracted firms for specific goods, inputs and services (ILO 2016).

Although global supply chains have provided benefits to many workers and economies around the world, there is evidence that the dynamics of production and employment relations within the global economy, including in some global supply chains, have had negative implications for working conditions. Numerous efforts have been

made at the international level by governments, trade unions, employers and non-government organizations to regulate, monitor and improve working conditions in global supply chains. Yet, cross-border supply chains are not subject to a single regulator. Moreover, the complexity of a multinational enterprise and the supplier and subcontractor networks make monitoring and enforcing decent working conditions particularly challenging. In the end, each component part of a global supply chain resides somewhere within the mandate of a specific national labour inspectorate. Thus, labour inspectors have a direct and essential role in protecting the rights of workers in global supply chains.

Given the significance of global supply chains and multinational enterprises on employment and the overall economic development of countries in which they operate as well as their complex, cross-border operation, there is a need for labour inspectorates to understand and engage strategically with global supply chains on labour law compliance. This is even more critical in situations in which enterprises or entire industries linked with global supply chains have been involved in violations of both national and international labour standards. Such violations not only impact workers directly but they also pose reputational risks for lead firms and buyers as well as potential trade sanctions. And they affect consumer behaviour, which could affect the

1 The ILO uses the terms “global supply chains” and “global value chains” interchangeably.

industry in a given country and the livelihoods it supports.

Strategic compliance planning (SCP) is a method that the International Labour Organization (ILO) developed to help labour inspectorates, at any level of development, improve compliance outcomes in the ever-evolving world of work. It is applicable in any industry or enterprise, regardless the size or complexity of the business model, including those linked with global supply chains. What differentiates SCP from the traditional “find and fix” enforcement approach of labour inspectorates is that it is more proactive than reactive and does not depend on enforcement alone to ensure compliance. Instead, it combines enforcement with a range of other tailored strategies, based on an assessment of priority targets and issues as well as analysis of the root causes and drivers of non-compliance. Compared with the traditional enforcement approach, SCP emphasizes engagement with a broader set of stakeholders, aiming not just at correcting violations found at the time of inspection but also to sustain compliance as well as influence compliant business and regulatory processes that can help improve compliance in an entire sector or global supply chain – beyond a single inspected workplace.

SCP can strengthen a labour inspectorate’s ability to fulfil its mandate in line with the ILO Labour Inspection Convention, 1947 (No. 81) and Labour Inspection (Agriculture) Convention, 1969 (No. 129),² specifically to:

- secure the enforcement of legal provisions relating to conditions of work and protection of workers while engaged in their work;
- supply technical information and advice to employers and workers concerning the most effective means of complying with legal provisions; and
- bring to the notice of the competent authority defects or abuses not specifically covered by existing laws.

This Technical Note guides labour inspectorates on how SCP can contribute towards improving working conditions in global supply chains. This includes providing a better understanding of global supply chains and their influences on non-compliance and compliance. It also gives options for inspectorates to consider in addressing non-compliant enterprises linked to global supply chains within their national jurisdiction and mandate. It concludes with recommendations on how to mainstream SCP within the labour inspectorate’s work more generally, especially considering that the SCP approach is not limited to inspection efforts in global supply chains.

² The ILO Declaration on Social Justice for a Fair Globalization (2008) classifies both ILO Conventions No. 81 and No. 129 as governance Conventions. This means they are among the most significant ILO Conventions from the viewpoint of governance, which is to say, in the application of international standards and national labour laws for the protection of workers.



II. Understanding the drivers of labour law non-compliance and compliance within global supply chains

Drivers of non-compliance and compliance are two sides of the same coin. **Drivers of non-compliance** are those factors that contribute to or result in labour law violations in enterprises and that inspectors should seek to eliminate or modify. **Drivers of compliance** are factors that incentivize enterprises to be more compliant and that inspectorates should try to encourage and leverage.

Analysing what influences (or what drives) both non-compliance and compliance can help the labour inspectorate better understand and target root causes and thus have more lasting impact and behavioural change in global supply chains.

The ILO *Report to the 105th Session of the International Labour Conference in 2016* highlights **decent work deficits commonly found in global supply chains**. These include low wages, excessive working time and other occupational safety and health issues, the prevalence of non-standard forms of employment, lack of access to social security, gender inequality, forced labour and child labour, especially in the lower tiers of the supply chain where informality is prevalent and inspection action less common.

To effectively identify drivers of non-compliance and compliance, it is **critical for inspectorates to engage in dialogue with social partners and**

other stakeholders at the enterprise, industry and national levels to understand the business, regulatory and workplace dynamics of a given global supply chain and its industry. **Identifying drivers of both compliance and non-compliance is also linked with one of the SCP steps (on exploring influences) and is described further under section III of this Technical Note.**

Common drivers of both non-compliance and compliance can be categorized into: (i) **trends and market forces** affecting business processes and practices; (ii) **regulatory factors**; and (iii) **social dialogue mechanisms**.

A. Trends and market forces that drive non-compliance and compliance

First, understanding **trends and market forces that drive non-compliance and compliance** requires the labour inspectorate to understand and better appreciate how much influence multinational enterprises, or lead firms or buyers, have on working conditions in their supply chains. International trade and e-commerce have led to a **rise in outsourcing and offshoring of business processes, especially to countries with lower production (including labour) costs.**

This, however, has created an unequal relationship. Multinational enterprises, either lead firms or buyers, which have either limited or no legal obligation under national laws, have significant influence over business processes and practices related to the quantity, quality and timeliness of production. Coupled with **stiff competition** between suppliers and the **seasonality of demand**, this can lead to a **price squeeze** for suppliers down the supply chain, often leaving them with tight profit margins. With little flexibility in costs for operations and raw materials, suppliers may resort to lowering labour costs or other business decisions that may negatively impact labour law compliance – whether general labour standards or occupational safety and health.

In recent years, other trends affecting market forces have emerged that can **positively influence compliance** in global supply chains, such as:

- a rise in consumer demand for ethically produced goods and services;
- increased attention to socially responsible investing;
- the inclusion of national and international labour standards in trade agreements and preferential tariff systems as conditions for market access;
- the rise of private sector compliance initiatives related to working conditions among multinational enterprises and their supply chains; and
- legislation requiring multinational enterprise due diligence on labour issues in several countries, such as in Australia, the United Kingdom, the United States and France.

It is thus important for **labour inspectorates to understand how these factors both positively and negatively affect working conditions in global supply chains and what actions could leverage these factors, in addition to regular enforcement work, to improve compliance outcomes.** An example is the increasing number of trade agreements and preferential tariff systems linking market access with enterprise or industry compliance and international labour standards. In particular, these standards often reference the eight ILO Core Conventions covering: freedom of association and collective bargaining, elimination of all forms of forced labour, effective abolition of

child labour and the elimination of discrimination in respect of employment and occupation.

One of numerous examples is the Comprehensive and Progressive Agreement for Trans-Pacific Partnership between Australia, Brunei Darussalam, Canada, Chile, Japan, Malaysia, Mexico, New Zealand, Peru, Singapore and Viet Nam. Its provisions include commitments by the parties to respect internationally recognized labour rights and principles and non-derogation and enforcement of labour laws, among others. All European Union free trade agreements also have separate trade and sustainable development chapters that emphasize observance of all international labour standards and effective enforcement of labour laws. And the Generalized System of Preferences used by both the European Union and the United States provide trade incentives tied to compliance with the ILO Fundamental Principles and Rights at Work.

Given these drivers of non-compliance and compliance that have emerged in recent years, an increasing number of multinational enterprises and their global supply chains have been **implementing various private compliance initiatives.**

Private compliance initiatives are commonly referred to in the private sector as corporate social responsibility (CSR) programmes. The private compliance initiatives, or CSR, mechanisms are voluntary and aim to monitor compliance with established public laws and regulations or private sector codes of conduct. Labour inspectors may encounter such private compliance initiatives in the conduct of their inspections of workplaces within global supply chains. Because many of these private compliance initiatives include reporting obligations related to labour matters, inspectors can use such information to complement their investigations. Private compliance initiatives, of course, cannot replace labour inspectorates as the publicly mandated guarantor of working conditions. But inspectors have an important feedback role to make sure private compliance initiative standards are in line with international and national labour standards. At the same time, inspectorates can assess the impact of these initiatives on improving working conditions, which can factor into the risk profiling of workplaces selected for inspection and the promotion of such initiatives more broadly within an industry.

Types of private sector compliance initiatives

Types	Description
Self-assessment (company-initiated and led)	Management frameworks, processes and procedures are used to ensure that an organization can fulfil all the tasks required for compliance according to public and private norms or corporate codes of conduct. Enterprises may make the results of their assessments public. Examples include the industry-led Better Cotton Initiative and the Responsible Business Alliance. There are also company-led initiatives, such as Nike, Starbucks, Levi Strauss & Co. and Nestlé.
Internal and external auditing	This is a systematic process of collecting, analysing and reporting information on compliance indicators based on identified standards. Enterprises may engage their own employees or may engage external consultants to carry out a more independent audit. Enterprises may conduct internal audits in preparation for an external, buyer-led audit or before an inspection visit.
Certification and labelling	This is often the result of an audit and publicly demonstrates an enterprise's achievement of certain benchmarks at the time of the audit or certification process through labelling. Examples of this include the International Standards Organization, Social Accountability 8000 certification, Fairtrade International, the Rainforest Alliance, Care and Fair, Good Weave, Good Agricultural Practices, FishWise and the Marine Stewardship Council.
Public reporting	This refers to a platform for the publication of reports on compliance with laws and private commitments made, such as on the Sustainable Development Goals, to promote transparency. Examples of this include the United Nations Global Compact, the Global Reporting Initiative and California's Transparency in Supply Chains Act.

Technology has given rise to public reporting platforms on compliance with various standards, including national and international labour standards, that have the potential to be more collaborative and transparent. These technology-based private compliance initiatives allow lead firms and buyers, investors, workers and especially consumers the ability to provide feedback and access information on the compliance of a business within the supply chain. These platforms may also be a source of strategic information for inspectors to better understand a given global supply chain and for better planning of inspection actions in supplier firms. In some cases, where appropriate arrangements are made, inspection results can even be fed into these private compliance initiative systems to benefit from the findings generated by inspectors and thus help improve their own monitoring.

Despite the different types of standards that may be used in private compliance initiatives, there are **three main instruments that are considered as reference points for responsible business conduct on labour rights**: (i) the ILO Tripartite Declaration of Principles concerning Multinational Enterprises and Social Policy; (ii) the Organisation for Economic Co-operation and Development [OECD] Guidelines for Multinational Enterprises; and (iii) the United Nations Guiding Principles on Business and Human Rights.

These instruments do not set new standards but rather reinforce existing international labour standards, particularly the ILO Fundamental Principles and Rights at Work.

International instruments on responsible business conduct

The following three international instruments recognize the positive contribution that multinational enterprises can make to economic and social progress and aim at providing guidance on how to resolve difficulties that they may encounter in their operations. As international standards for responsible business conduct, these instruments go beyond philanthropic corporate social responsibility programmes and emphasize the need for multinational enterprises to ensure due diligence. Due diligence within the framework of these standards requires multinational enterprises to prevent, mitigate and address any possible adverse impact that their activities, operations, products, services or business relationships (including subsidiaries, suppliers, franchisees, licensees, joint ventures, investors, clients, contractors, customers, any other non-state or state entities) may have on labour rights within their supply (value) chains.

1. International Labour Organization Tripartite Declaration of Principles concerning Multinational Enterprises and Social Policy

The Tripartite Declaration provides more specific guidance for governments, workers and employers on how to apply the ILO Fundamental Principles and Rights at Work and other relevant ILO Conventions and Recommendations, given the peculiarities of multinational enterprises. Other areas covered are wages and working conditions, social security, employment relationships and security of employment, among others. The ILO has set up a Helpdesk to provide businesses with more free, confidential and specific advice on the application of the Declaration within their operations. The ILO can also help facilitation company-level dialogue between multinational enterprises and trade unions on the application of the Declaration, upon the request of both parties.

2. Organisation for Economic Co-operation and Development Guidelines for Multinational Enterprises

The OECD Guidelines is a commitment involving 36 of the world's most developed economies and another 13 countries with substantial trade activities with OECD member countries. The OECD Guidelines affirms the same guidance provided for by ILO Conventions and other United Nations instruments on human rights, the environment and anti-corruption as well as other broader issues, such as consumer interest, science, technology and taxation.

To support the implementation of the OECD Guidelines, signatory countries are expected to set up national contact points who carry out information dissemination campaigns and support company-level dialogue on areas covered by the Guidelines. The OECD has also developed several practical and sector-specific due diligence guides on responsible business conduct to align business policy and practice with their Guidelines. The Guidelines also provides examples of their application.

3. United Nations Guiding Principles for Business and Human Rights

The United Nations Guiding Principles for Business and Human Rights provides a framework for different actors responsible for observing human rights, as provided for under the Universal Declaration of Human Rights based on its three pillars. The Guiding Principles recognizes the role of different actors to ensuring business' observance of human rights. It recognizes the role of the State to "protect" or enforce human rights, the role of business to "respect" human rights and the need for effective "remedy" in the event of violations. It also specifies elements, mechanisms and processes to ensure due diligence.

Source: ILO 2013.

Labour inspectorates can leverage multinational enterprises' commitment to their private compliance initiatives to promote compliance to corresponding national labour laws down through their supply chain. The ILO background paper to the Meeting of Experts on Labour Inspection and the Role of Private Compliance Initiatives in 2013, entitled *Labour Inspection and Private Compliance Initiatives: Trends and Issues*, cites limitations to how private compliance initiatives operate today. These limitations include the vested interests in private compliance initiatives, given that in some cases the cost of compliance audits is covered by the enterprise under audit. Thus, private compliance initiatives have an incentive to deliver positive results and the companies who pay for them have the ability to influence the outcomes. Second, enterprises commissioning the audit determine the scope, based on either their buyer or leading firm or their own internal minimum requirements. This could then limit the scope of the private compliance initiatives and potentially exclude lower tiers of the supply chain or miss problematic issues. And because private compliance initiatives are private services, questions arise on the consistency of their findings with established interpretations of national law.

The background paper, though, recognizes the potential for complementarity between the private compliance initiatives and labour inspection in the promotion of a culture of compliance. But it requires ensuring a common understanding of national standards, similar inspection methodologies and exchange of assessment results in cases of extremely serious violations.

B. Regulatory factors

A second category that can drive both non-compliance and compliance are regulatory factors, which refer to laws and institutions that influence labour standards within global supply chains. Regulatory factors that can contribute to non-compliance could include:

Limitations on a labour inspectorate's mandate within global supply chains

One major challenge faced by some labour inspectorates in holding multinational enterprises accountable for labour law violations in the lower tiers of their supply chain is their jurisdictional limitation – that is, their enforcement power covers only workplaces located in their country and that are under national labour laws. There are also cases wherein the labour inspectorate's mandate to enforce the law in specific sectors is limited or where their mandate might overlap with or be superseded by other government agencies (agriculture, fishing, maritime, mining or forestry), causing gaps in the regulatory oversight of working conditions.

For example, some countries include various trade and investment incentives, such as the exemption from specific labour laws or coverage of the labour inspectorate, in the establishment of export processing zones to attract more investors. Various cases dealt with by the ILO's supervisory system have involved violations of labour laws and international labour standards in export processing zones, primarily due to these exemptions. **A strategic compliance plan for global supply chains may lead inspectorates to focus on working conditions in export processing zones and their underlying regulatory framework, among other measures.**

Gaps in labour laws

Another regulatory challenge that drives non-compliance are gaps in national laws, especially in countries where labour standards are not in line with international labour standards or do not cover all workers. One example are challenges faced by labour inspectorates in some countries on the weakness of national regulations related to non-standard forms of employment (permissible disguised employment through labour-only contracting, for example) or informal work arrangements, which could be linked with global supply chains.

Labour inspectorates, however, can still influence **regulatory factors that drive or support compliance** by bringing to the attention of competent authorities the defects or abuses not specifically covered by existing laws. This expectation is based on one of their functions under the ILO Labour Inspection Convention No. 81.

Strong labour inspectorates

It is essential for labour inspectorates to have an appropriate mandate and powers, one that is in line with ILO Conventions No. 81 and No. 129. It is also important for labour inspectorates to be independent, technically competent and adequately resourced so they can effectively deter non-compliance with labour laws as well as properly advise employers on how best to comply with the law.

Apart from ensuring a sufficient number of labour inspectors with the necessary technical capacity to identify violations and enforce the law, ensuring that data to help the inspectorate make informed decisions are available is also critical. Good data on compliance trends and the impact of inspectorate actions can help improve strategic planning, performance monitoring and regulatory design.

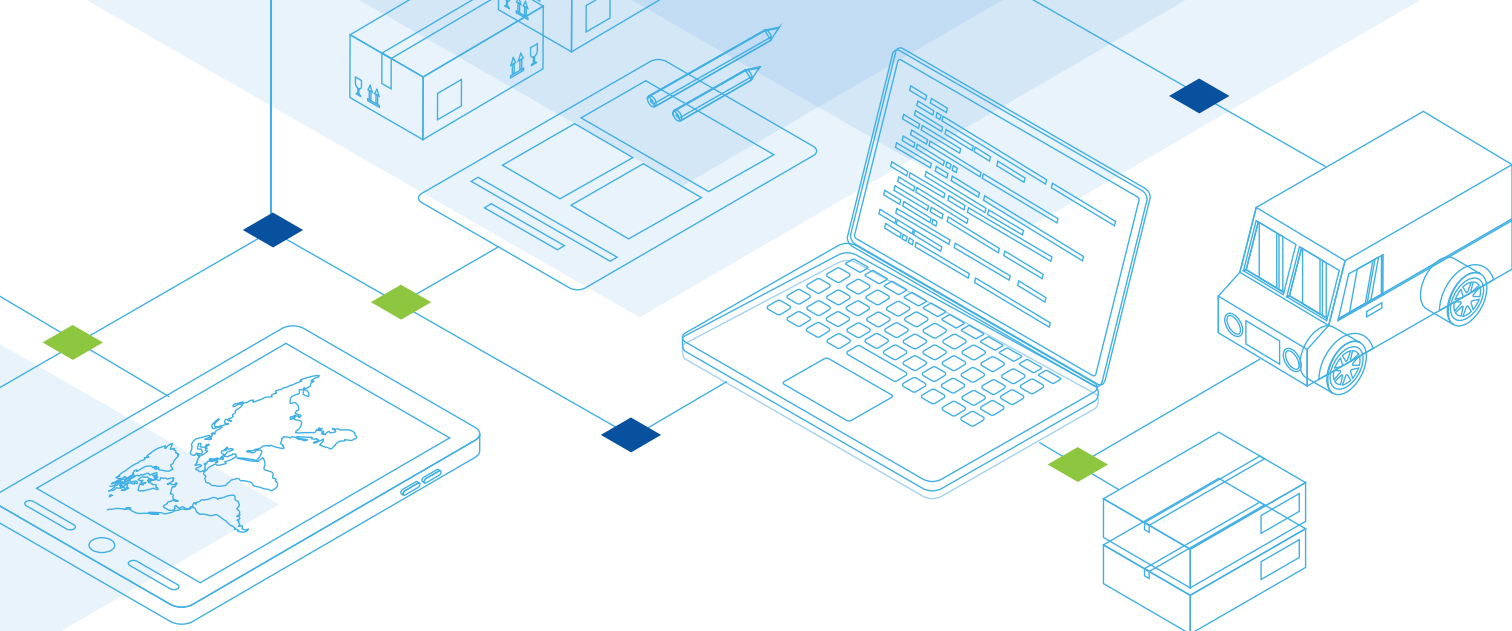
C. Social dialogue mechanisms and workplace cooperation

The strength of social dialogue at the enterprise and industry levels is critical for achieving compliance. Effective workplace cooperation and worker representation can be key to this. Strong and independent workers' organizations, with workplace representation, can monitor compliance with labour laws and engage with management on compliance issues and even negotiate them into collective agreements. Social dialogue can help make labour law compliance more sustainable in the workplace while also contributing to industrial peace.

At the sector level, strong social dialogue mechanisms can support the development and implementation of tripartite strategic compliance plans and the development of labour regulations based on a tripartite consultative process between government, employers and workers. In Viet Nam, for instance, a tripartite body was established to discuss compliance in the electronics sector. In the Philippines, the Clothing and Textile Industry Tripartite Council agreed to adopt guidelines on the issuance, revocation and suspension of certificates of accreditation for garment exporters in the event of serious labour law violations.

There has been an increasing number of global framework agreements between global unions and multinational enterprises with provisions on supply chain disclosure and violation of such provisions as criteria for terminating supplier contracts. In the automotive industry, global works councils in European-based companies have had an important role in extending workers' representation to sites where there are limitations on the right to freedom of association and collective bargaining and where labour laws and institutions are weak.

Some international certification schemes have also become a platform for social dialogue, similar to the inclusion of ILO core labour standards in the Forest Stewardship Council covering the forestry and wood industries. **Labour inspectorates can also use these certification mechanisms as a platform for social dialogue to promote compliance with labour standards, especially if they are consistent with national standards, such as in matters related to occupational safety and health. Dialogue between labour inspectorates and social partners on compliance priorities can contribute to improved targeting by the inspectorate as well as building trust and partnership with worker and employer representatives who can collaborate as well as independently contribute to improving workplace compliance.**



III. Steps in strategic compliance planning

As noted, SCP can be an effective higher-level planning tool for labour inspectorates at the national and sector levels to ensure compliance in complex global supply chains within their jurisdiction.³ SCP draws on enforcement and other complementary interventions that address root causes or drivers of non-compliance or compliance and involves other stakeholders in the process.

This next section walks readers through the six steps of SCP:

1. Exploring the labour inspectorate's formal and informal mandates, its available resources and data.
2. Identifying priority issues and targeting.
3. Exploring influences or identifying drivers of non-compliance and compliance.
4. Exploring stakeholders.
5. Exploring interventions.
6. Operationalizing strategic compliance plans.

Step 1 – Exploring the labour inspectorate's mandate, resources and data

The first step in the SCP process is to **explore the labour inspectorate's formal and informal mandates, its available resources and its enforcement and compliance data**. This step helps

give a full understanding of the inspectorate's potential and limitations. The goal is to have a realistic appreciation for the inspectorates' potential for action (such as, "Start where you are. Use what you have. Do what you can.") and not to develop a wish list or simply identify weaknesses.

This step considers the following:

Mandate – To ensure that a labour inspectorate can exercise its powers in a given sector or workplace or on a specific issue, it is important to know whether it has a mandate (or legal authority) to do so.

Mandates can be either formal or informal. Formal mandates refer to official sources for rule-making that grant authority to the inspectorate (whether through laws, regulations or jurisprudence).

For *legal* mandates, it is important that labour inspectorates follow the applicable law and jurisprudence, which determine the scope of an inspectorate's enforcement action (what workplaces and what issues it can inspect). Within the context of global supply chains, an example of a formal legal mandate might be clear legal authority (or not) for inspectors to enforce labour laws in export processing zones.

Formal *policy* mandates can also be based on institutional directives, work plans, performance indicators or even job descriptions. These documents set out more specific and often time-

³ Recall that while the focus in this Technical Note is on the use of SCP to address compliance in global supply chains, the same method is applicable to any number of sectors or enterprises under an inspectorate's mandate.

bound actions and priorities of the inspectorate – within the boundaries of the legal mandate. The labour inspectorate holds power given by formal policy mandates, such as the authority to levy sanctions, improvement notices, fines, workplace closures, revocation of licenses or even embargoes over the shipment of goods produced under abusive working conditions.

Informal political mandates can be in the form of public commitments made by a government, such as an announcement on inspection priorities to focus on export processing zones, export-dependent sectors or significant violations or hazards present in export-oriented sectors (such as garment factory fire or collapse hazards, forced labour in fishing or plantations and child labour). A political mandate might also exist because of the considerable economic importance of an export-driven sector to a country, where ensuring decent working conditions is important to preserve the competitiveness and sustainability of the industry as well as access to preferential trade benefits.

Resources can include any of the following:

- Sufficient number of inspectors and inspectorate support staff with the appropriate skills, possibly including researchers, lawyers, communication and training staff.
- Financial resources for inspection visits and other inspection activities, such as campaigns.
- Equipment and technology to make inspection work possible or more efficient such as occupational safety and health measurement tools, appropriate personal protective equipment or a case management system.
- Physical resources such as offices and personal protective equipment.
- Information, such as media contacts for awareness-raising campaigns.

Data refer to both qualitative and quantitative enforcement data (those based on the conduct of different types of enforcement action, such as visits conducted, violations found, sanctions levied) and compliance data (based on research and reports). Industry reports on working conditions and private compliance initiatives also can be a useful source of information to consider during the SCP process and even during inspection visits.

Many labour inspectorates are also taking advantage of available technology, particularly the digitalization of inspection data-gathering, case management systems, social media, chatbots and other technologies for efficient, effective, transparent and accountable planning and enforcement. Such tools can even be used to provide more timely, targeted and accessible labour law advice as well as channels for complaints. Using technology can further provide labour inspectorates an opportunity to map out supply chains within industries and carry out research to develop more targeted strategies for specific global supply chains.

Step 2 – Exploring issues and targets

The second step in the SCP process is using an analysis of the inspectorate's formal and informal mandates, resources and compliance data (from Step 1) to explore priority compliance targets and issues.

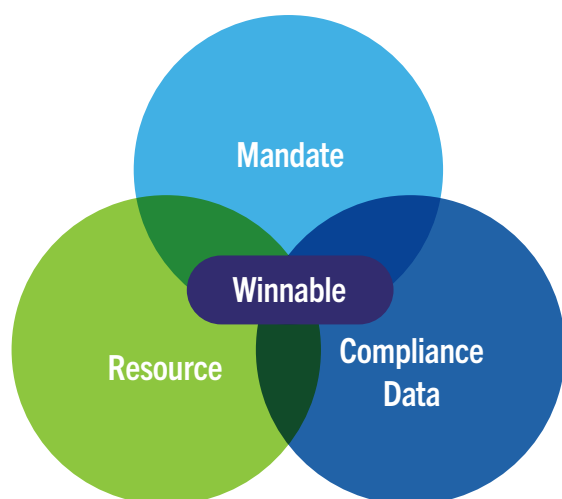
Compliance targets are employers, workplaces, sectors or business models (such as global supply chains) of greatest concern or where compliance data show higher risk of actual or potential violations and where interventions are likely to have the greatest impact. Targets essentially have a physical location. In the context of global supply chains, mapping the supply chain of exports and production processes can help identify the various targets in a global supply chain all the way from the smallest supplier up to multinational buyers. Drawing a detailed map facilitates targeting while also understanding the relationship between different businesses and processes in the chain, which can help identify points of leverage and influence to draw upon in the (eventual) design of interventions in Step 5.

Issues are labour law violations of the greatest concern in the identified targets (violations of wages, working time, occupational safety and health, child labour, forced labour or discrimination).

The more detailed the available enforcement and compliance data that the labour inspectorate has the more informed its decisions on priority

targets and issues. The labour inspectorate could, for example, target export-driven industries in its strategic compliance plan, based on data showing recurring serious violations combined with a strong political mandate to intervene in the sector. Thailand, for instance, developed a common risk assessment framework used by different government agencies involved in the enforcement of laws on illegal, unreported and unregulated fishing as part of its efforts to promote compliance in its export-dependent fishing industry. This included forced labour to help further target fishing vessels most at risk for violations and therefore deserving of labour inspection attention.

To prioritize targets and issues, an inspectorate should look at “winnable” priorities or where mandates, availability of data and resources from Step 1 overlap, as symbolized in the following Venn diagram.



Step 3 – Exploring influences

Step 3 of the SCP process is about exploring the underlying causes or drivers of non-compliance and compliance. While labour inspectors generally focus on labour law violations, it is also important for inspectorates to try to understand why companies sometimes do not comply with the law. This is linked with section II of this Technical Note, which discusses some of the most common drivers of non-compliance and compliance in global supply chains. These causes may vary depending on the sector and the enterprise.

Root causes of non-compliance and compliance could be the result of a variety of factors, from economic, political and systemic to cultural and behavioural factors. Exploring influences requires the labour inspectorate to keep on asking why non-compliance persists in specific sectors. Mapping all stakeholders and engaging with them then gives labour inspectorates a better understanding of the root causes of non-compliance and compliance.

In the context of global supply chains, sectors or industries where the inspectorate does not receive as many complaints but where there is a large number of migrant workers in non-standard forms of employment may require a closer look from the inspectorate because language, culture and fear of losing their jobs could be preventing workers from raising complaints even during an inspection. This is often the case in fishing and agriculture and sometimes in labour-intensive export processing zones in the garment and electronics industries.

An example of exploring influences was an inquiry launched in the agriculture sector by Australia’s labour inspectorate due to concerns on the potential abuse of migrant workers, some of which served the export market. The inquiry sought to understand the nature and contributing factors for non-compliance and led to a targeted compliance campaign in specific regions, combining massive education and communications campaigns for workers under Australia’s Working Holiday Visa, strong enforcement and litigation. It led to the recovery of AU\$1 million of underpaid wages for 2,500 workers. Part of the interventions included the labour inspectorate launching an online anonymous reporting tool, which enabled the use of different languages, and working with the Department of Home Affairs to offer protections for affected workers to file complaints without fear of visa cancellation.

Step 4 – Exploring stakeholders

Step 4 of the SCP process involves identifying and assessing the stakeholders who either contribute to or hinder labour law compliance related to the priority targets or issues. For labour inspectorates, this requires asking for each driver of non-compliance or compliance who are the actors and how they exert influence. Stakeholders (particularly

workers' and employers' organizations) may vary from sector to sector and country to country. Knowing the stakeholders and their role within the global supply chain is important for identifying potential regulatory partners, influencers, targets for awareness-raising and advocacy and other interventions developed in Step 5. Stakeholders might include:

- other government agencies with a regulatory role in the sector or business model;
- trade unions;
- employers' organizations;
- local and foreign chambers of commerce and industry associations;
- prominent political figures and investors;
- general public, consumers and media;
- private compliance initiatives, including membership organizations for public reporting; and
- civil society or community organizations, cooperatives and faith-based or non-government organizations.

Step 5 – Exploring interventions

Based on an initial review of the inspectorate's mandate and resources (Step 1), followed by the identification of priority targets and issues (Step 2), their underlying causes and drivers (Step 3) and the relevant stakeholders (Step 4), the consideration of appropriate inspection interventions or actions takes place. Rather than starting with a set number of inspection visits to be carried out and assigning them accordingly, the SCP approach considers first the context of non-compliance before considering what actions are necessary to take (including inspection visits).

Because what drives non-compliance and compliance can be a varied mix of factors (such as lack of awareness, persistently non-compliant industry practices or the prevalence of disguised employment), a combination of interventions may need to be adopted. Labour inspectorates should think in terms of what would create broader impact apart from conducting inspection visits, which might be necessary but not sufficient to

change non-compliant behaviour in a sustained and possibly systemic way.⁴ This is even more relevant for global supply chains due to their size, complexity and the numerous stakeholders involved. Possible interventions could include but should not be limited to the following:

Enforcement

Even with strategic compliance planning, labour standards enforcement remains the primary intervention of the labour inspectorate. SCP is not about soft compliance measures. Rather, enforcement includes interventions that seek to identify and potentially sanction non-compliant practices through the use of improvement notices, administrative and criminal penalties, sanctions, workplace closures, suspension or revocation of licenses, prosecution or other means. All strategic compliance plans should have some element of enforcement that focuses on priority target firms and issues and specific levels of the supply chain because targeting lead firms can set an example in a sector or down a chain. The selection of these firms (for example, lead firms, or particular subcontractors in a supply chain) as well as clarifying the enforcement objective (zero tolerance for cases of child or forced labour) are critical elements when designing an enforcement intervention.

Education

This includes interventions that seek to improve the capacity and change the knowledge and attitudes of certain stakeholders towards labour law compliance through trainings, assessments and providing recommendations, guidance and legal advice.

Communication

This could include such interventions as awareness-raising campaigns delivered by and directed at workers, employers and/or consumers or even the general public. It might also include naming and shaming (or the more positive version, naming and acclaiming) campaigns to put pressure on non-compliant companies.

4 That is, across an entire industry or global supply chain. Labour inspection actions that can target and transform entire systems have an opportunity to create the widest and most sustainable impact on working conditions.

Political

These are interventions that primarily seek to promote compliance through political advocacy. They also cover putting pressure on local leaders, business organizations or industry associations linked with global supply chains to reinforce compliance or in relation to the entry into force of a trade agreement, membership in an international body, ratification and/or compliance with ILO Conventions or loan approval processes from international financial institutions.

Systemic

These are interventions that primarily seek to promote compliance through either the creation of barriers to entry or expansion of privileges by changing business or regulatory systems. Systemic interventions could include leveraging certifications or ensuring coordination with certification systems in terms of standards and processes (industry certifications such as Good Agricultural Practices), permits, licenses and the creation or expansion of access to benefits and privileges, including government contracts, grants or loans. They might also include legal reforms, such as establishing joint liability between lead firms and suppliers, especially for serious violations. Systemic interventions might also address defects or gaps in the law that either limit the mandate and actions of labour inspectors from acting with respect to global supply chains (for example, in export processing zones or in specific sectors such as fishing) or that leverage collaboration with private compliance initiatives to enhance the compliance data and influence of the inspectorate in a targeted industry (such as sharing information between inspectors and labour standards auditors in global supply chains).

Step 6 – Operationalizing strategic compliance plans

Step 6 involves translating the outputs of the previous steps into an operational compliance plan reflective of the labour inspectorate's engagement strategy. The SCP analysis should be integrated into their periodic plans, which then is the basis for developing individual inspector work plans as well. A labour inspectorate's compliance plan

should be seen as an engagement strategy, with the goal of increasing pressure on stakeholders who can influence compliance.

Examples of the application of strategic compliance planning in global supply chains

In addition to following the SCP steps described here, it is useful to consider examples in practice. The following highlights cases of interventions by labour inspectorates in several countries, reflecting the principles and steps of the SCP in global supply chains. These SCP examples show a combination of strategies whereby each complements the other – and which, together, ratchet up the pressure towards compliance in specific global supply chains.

Tackling disguised employment in the palm oil sector in Colombia

Colombia is one of the world's largest exporters of palm oil. However, disguised employment relationships and serious violations against workers' exercise of their rights to freedom of association and collective bargaining were widespread. With international pressure from trading partners, particularly the United States, the Government of Colombia worked with the ILO to implement a project that highlighted the potential of an SCP approach to labour law compliance. Using SCP enabled the labour inspectorate to focus interventions in the subsectors of the industry where violations were most prevalent, especially in isolated plantations. The SCP analysis determined that a major contributor to poor working conditions was the widespread use of contract labour in the sector, denying workers their rightful labour law protections. In addressing this underlying cause through strong enforcement and advocacy, the project led to the signing of tripartite labour formalization agreements in several plantations. The analysis that followed the SCP approach led to the development of several tools, such as checklists and use of contract and production process mapping to help the labour inspectorate better understand the business model and the actors involved and to help the labour inspectors identify incidence of disguised employment relationships. The labour inspectorate

also sent a strong message to the industry by penalizing employers found guilty of blatantly violating the labour laws. An electronic case management system was also developed as part of the reforms to enable more efficient and effective gathering of inspection data and monitoring of cases.

Occupational safety and health in the ready-made garment sector in Bangladesh

In Bangladesh, the 2013 collapse of the Rana Plaza garment factory killed more than 1,100 workers and injured 2,500 more. The different reforms implemented by various stakeholders in the ready-made garment sector as a result of this disaster are examples of the application of the strategic compliance approach and particularly systemic interventions. Apart from building up the capacity of the Department of Inspection for Factories and Establishments through the hiring of additional inspectors and provision of training, several initiatives were also put in place. The first was the National Tripartite Plan of Action on Building and Fire Safety, which ensured that policy, legislative and administrative reforms were implemented, such as easier union registration requirements to strengthen workers' representation at the workplace level, reforms of the welfare fund and multistakeholder fire and building safety inspections. This coincided with two private multistakeholder initiatives – the Accord for Building and Fire Safety in Bangladesh and the Alliance for Bangladesh Worker Safety, which included buyers and global brands sourcing from Bangladesh. Joint trainings were conducted to ensure a common understanding among the different public and private initiatives. Global union federations and civil society organizations also had an active role in these initiatives. Some of the results of these interventions have been the increase in the formation of occupational safety and health committees in the ready-made garment sector, with stronger participation of workers, gender considerations incorporated into the labour inspection checklist and data collection systems, training of labour inspectors, promotion of technical advisory visits supporting compliance within the sector and greater involvement of global brand and buyers in the promotion of compliance down through the supply chain.

Coordination between a private compliance initiative and the labour inspectorate in Viet Nam

The ILO's Better Work Programme in Viet Nam is a good example of effective coordination between private compliance initiatives and the labour inspectorate. The Better Work Programme is a private compliance initiative jointly funded by the ILO and International Finance Corporation (World Bank Group). It aims to provide enterprise-level monitoring and assistance to the global supply chains of major international brands in the apparel industry to ensure compliance with both national and international labour standards. Findings during Better Work assessments are confidential, but enterprise advisers are expected to report to the inspectorate any serious labour law violations (such as child labour and forced labour) under a jointly agreed Zero Tolerance Protocol. In addition, Better Work Viet Nam has launched an initiative with the national inspectorate to address persistent non-compliance – factories whose working conditions did not improve despite longstanding efforts by Better Work. A framework for persistent non-compliance was negotiated, whereby enrolled companies that are found to be non-compliant on at least four issues subject to public reporting, in three consecutive Better Work assessments, are then referred to the labour inspectorate for appropriate enforcement action. The leading firm or buyers are also informed of these non-compliance issues after the first assessment. Through the strategy of leveraging on the priorities and strengths of various stakeholders to build partnerships towards compliance, Better Work Vietnam is now working with 62 brands and retailers in 392 factories and benefiting more than 600,000 workers. This integration of a private compliance initiative and public inspection action is an innovative example of the SCP capacity to leverage different actors (beyond the inspectorate) towards the common goal of improved working conditions.

The role of reliable data in promoting supply chain compliance in the Philippines

To assist the labour inspectorate with more effective labour law enforcement, the Philippines Department of Labor and Employment, with support from the ILO, enhanced its existing Labor Inspection Management Information System. This improvement enables the mapping or tagging of an enterprise's labour contractors across the country. It is also consistent with the country's labour laws, which includes joint liability for specific labour law violations between principal companies and contractors. These features enabled the labour inspectorate to (i) map out supply chains for labour contractors and target those linked with multinational enterprises or big local companies; and (ii) engage in dialogue with principal companies or lead firms or buyers on addressing non-compliances down the chain. The Department of Labor and Employment designed its system in such a way that it supports reporting requirements on the country's compliance with labour provisions of trade agreements and a country's Generalized System of Preferences.

Addressing forced labour in the fishing and seafood industry in Thailand

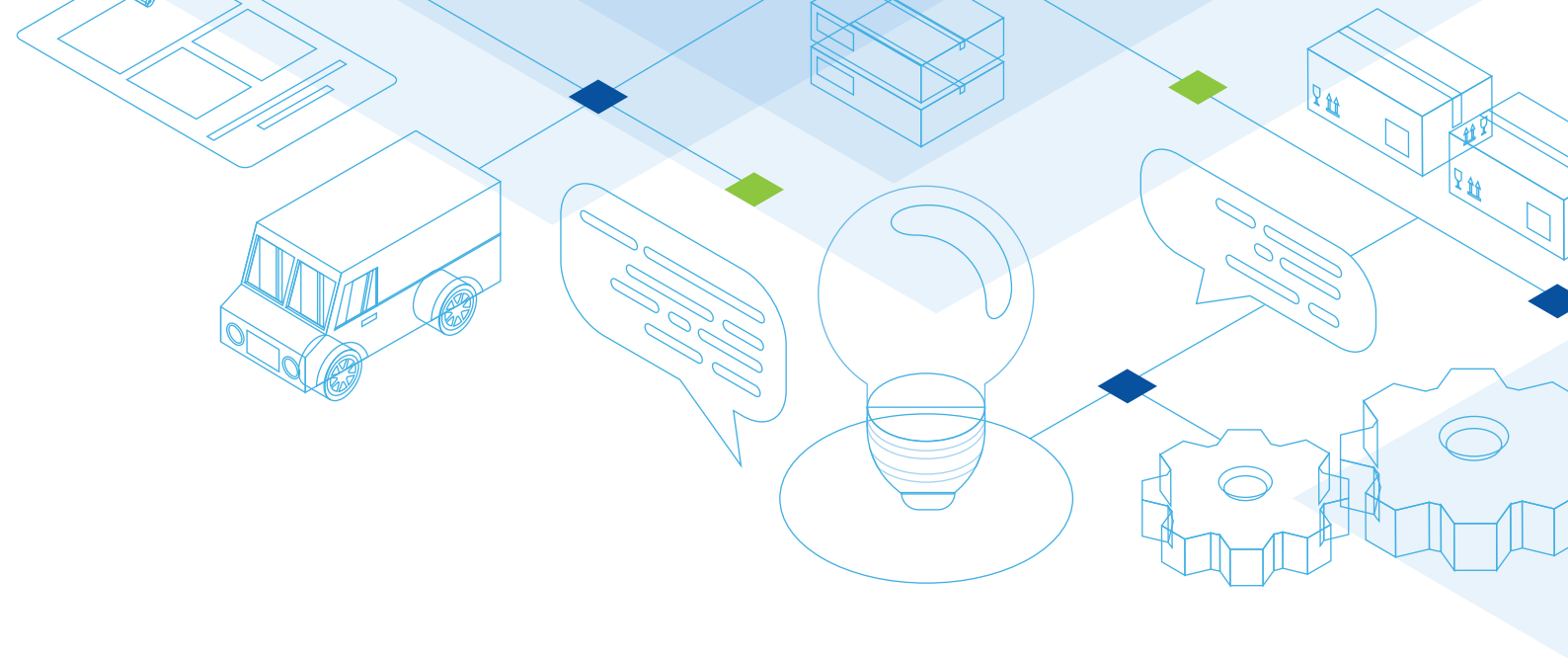
In 2015, the European Union issued a yellow card to Thailand for illegal, unreported and unregulated fishing. This also coincided with reports of human trafficking and forced labour in the Thai fishing fleet. In response and with the support of the ILO's Ship to Shore Rights project, the Thai Government undertook a number of strategic measures to reduce the labour law violations and improve working conditions in this export-driven industry. This included instituting interagency port inspections and monitoring fishing and maritime as well as labour standards. The ILO also assisted the labour inspectorate with the development of a risk-based fishing inspection checklist to help prioritize the inspection of fishing vessels.

Fishing vessels were also required to come back to port at least once a month for inspections to avoid long periods at sea, which raises the risk of labour abuses and detection avoidance. To address wage violations in the industry, the Government mandated the transition to electronic wage payments to improve wage protection for fishers and in so doing, help inspectors better monitor compliance with applicable wage laws.

Forced labour in various sectors in Brazil

Brazil's multifaceted and multistakeholder campaign against the use of forced labour, particularly in agriculture, is considered an international good practice of strategic compliance. One important element to its success is the establishment of Special Mobile Inspection Groups composed of labour inspectors, representatives from the prosecution and the Federal Police. The inspection groups are dispatched based on information from workers and communities about potential situations of forced labour. The multidisciplinary composition of the inspection groups means that building a legal case starts during the actual inspection. This potentially allows prosecutions to proceed more efficiently. The police provide security to the inspection teams and can help rescue any victims of forced labour. The Ministry of Labour and Employment has developed a public database exposing companies investigated by the labour inspectorate for forced labour. Violating companies are punished by market forces through losses in stock market shares, damaged public reputation and terminated contracts. These efforts have cascaded to more private compliance initiatives per industry, and national banks have discontinued the granting of loans to companies on the "dirty list". By 2011, an addendum to the National Pact for the Eradication of Slave Labour⁵ allowed multinational enterprises to become signatories in relation to suppliers they may have in Brazil.

5 Signed on 19 May 2005, in a ceremony at the Office of the Attorney General of the Republic in Brasilia, the National Pact is a voluntary commitment undertaken by some 200 enterprises with the aim of dignifying and modernizing labour relations in production chains.



IV. Recommendations for mainstreaming SCP as a model and a tool for engaging with global supply chains

The following recommendations touch on how labour inspectorates can use SCP to improve the effectiveness of inspection planning and thereby ensure decent working conditions in global supply chains.

- Integrate SCP into the labour inspectorate's regular planning process and build up the capacity of the inspectorate's managers to facilitate and support this approach, especially in strategizing inspection actions related to global supply chains.
- Include other relevant stakeholders (as appropriate) in the strategic planning process as well as the design and delivery of certain compliance interventions. In particular, engaging workers' and employers' organizations through dialogue can help prioritize targets and issues as well as analyse drivers of non-compliance. Through such tripartite dialogue, the inspectorate will benefit from a better understanding of enterprise- and industry-level practices, particularly in global supply chains, which in turn will help to prioritize and design interventions.
- Broaden the labour inspectorate's understanding of compliance issues through improved study of priority global supply chain business models and practices, trends and developments. This will also help the inspectorate expand its partnerships and consider other possible interventions to complement its enforcement measures.
- Pursue a more whole-of-government approach to compliance, including initiatives that provide incentives or grant licenses or other services and benefits to compliant global supply chains, the sharing of relevant information, joint trainings and joint enforcement action, among others.
- Seek to improve both the quantity and quality of data and information relevant to SCP for global supply chains. This could include not just data from previous inspection work but also qualitative data from complaints, the provision of technical advisory and education services and private compliance initiatives. Other alternative sources of information should also be considered as appropriate, including media sources and NGO reports.
- Engage with private compliance initiatives, such as social auditors or membership organizations (ethical trade organizations), to help them properly understand national labour laws. This can then influence the conduct of private audits. Private compliance initiatives also present opportunities for partnership with the inspectorate, including the sharing of information and good practices, referral systems or reporting protocols for serious violations.

- Ensure that effective enforcement of labour standards remains a primary function of the labour inspectorate. Strategic, effective and consistent use of an inspectorate's enforcement powers, along with other strategic interventions, broadens the scope of the labour inspectorate's impact on improving working conditions within the global supply chain while also supporting industry engagement on labour law compliance and the sustainability of decent jobs in these industries.

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