



## Governing Body

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Policy Development Section  
*Social Dialogue Segment*

**POL**

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### FOURTH ITEM ON THE AGENDA

## Area of critical importance: Strengthening workplace compliance through labour inspection

#### Purpose of the document

This document presents the main elements of the strategy for the area of critical importance on “Strengthening workplace compliance through labour inspection” (ACI 7) and reports on the progress already made in its implementation.

The Governing Body is invited to provide its views on the strategy, its implementation and the way forward, which will also guide the Office in the implementation of the outcome on “Promoting workplace compliance through labour inspection” of the Programme and Budget for 2016–17 (see draft decision in paragraph 32).

**Relevant strategic objective:** All.

**Policy implications:** The guidance of the Governing Body will inform the final phase of implementation of ACI 7 and it will help shape the future strategic orientation and implementation of activities under the outcome area on workplace compliance through labour inspection for 2016–17.

**Legal implications:** None.

**Financial implications:** None.

**Follow-up action required:** Integration of the guidance provided by the Governing Body in the relevant Office strategies and activities.

**Author unit:** Governance and Tripartism Department (GOVERNANCE).

**Related documents:** Programme and Budget for 2014–15; Programme and Budget for 2016–17; ILO Declaration on Fundamental Principles and Rights at Work and its Follow-up (1998, Annex revised in 2010); ILO Declaration on Social Justice for a Fair Globalization (2008).

## Rationale

1. “Strengthening workplace compliance through labour inspection” was identified as an area of critical importance (ACI 7) in the Programme and Budget for 2014–15.<sup>1</sup> It aimed at developing the capacity of constituents to improve compliance in workplaces with national labour laws and regulation, ratified international labour Conventions and applicable collective agreements.
2. The overall objective was to strengthen the enforcement and preventive functions of labour inspection and to enhance employer and worker collaboration in compliance by providing technical assistance and capacity building to government inspection and enforcement institutions and to social partners; and assisting in the design of labour legislation and effective dispute resolution mechanisms.
3. A major goal for this ACI, as with other ACIs, has been to advance knowledge, understanding and ability to advise constituents on developing effective, contemporary and evidence-based policy. A task team was set up to take stock of what was the state of knowledge we had, what were the gaps in our knowledge and in our policy advice and what new information and capacity-building tools were needed.
4. Another goal was to synergize the different ILO interventions by linking resources and expertise and coordinating technical assistance offered by different ILO units and field offices at the national, sectoral and workplace levels, thereby increasing the impact of interventions at the country level. ACI 7, therefore, aimed at developing comprehensive workplace compliance programmes and possible model interventions that built upon complementary work of several ILO projects and programmes.

## Strategy

5. The ILO action in this area is guided by the provisions of the Labour Inspection Convention, 1947 (No. 81), the Labour Inspection (Agriculture) Convention, 1969 (No. 129), and the Labour Administration Convention, 1978 (No. 150). The following factors were also taken into consideration as elements of ACI 7 strategy:
  - *A differentiated and pragmatic approach.* All member States have their distinctive set of compliance challenges and their specific compliance approaches. A general strategy should be flexible enough to accommodate those differences.
  - *Lack of sufficient human and financial resources.* Labour administrations generally, and in particular labour inspection systems, suffer serious resource shortages that inhibit their efforts and affect the sustainability of any compliance strategy.
  - *Need to clarify the role of actors.* Apart from labour administrations and the social partners, several public and private actors (technical service providers, the media, etc.) have a role in awareness raising, prevention, training and providing advice on labour law implementation. Labour law enforcement, however, is exclusively a public function and cannot be delegated. Private accreditation, auditing or monitoring schemes therefore should not be seen as replacements for public enforcement.

<sup>1</sup> <http://www.ilo.org/public/english/bureau/program/download/pdf/14-15/pbfinalweb.pdf>.

- *Need for greater coordination with the social partners.* Consultation and collaboration with the social partners should be strengthened in the design, regulation and monitoring of compliance initiatives to help promote awareness raising, prevention and voluntary compliance.
- *Sound labour relations and social dialogue, including collective bargaining* are conducive to improving workplace compliance. Workers’ voice within enterprises as well as dialogue and cooperation between workers and employers help safeguard and improve working conditions.
- *Gender equality and non-discrimination*, as well as improving access to justice for both women and men, can be promoted by measures to strengthen labour law compliance in the workplace, if these concerns are taken into consideration in their design and implementation.
- *Comprehensive compliance responses require a systematic approach to compliance.* Collaboration within the broader system of labour administration and with other public organizations, such as social security, health authorities, judiciary and the police, will increase the capacities of compliance authorities in addressing the underlying incentives and information deficits, improve the quality of legislation and enhance enforcement efficiency.
- *Focus on modern approaches.* Compliance authorities, including labour inspectorates, constantly need to analyse trends in the labour market, identify scenarios and adjust strategies and programmes. Recurrent attention is needed to improved planning, upgrading technology and tools, and increasing the capacity of managerial staff to address the needs.
- *Building up ILO knowledge.* More cross-country comparative studies on compliance initiatives and good practices are needed, taking into account differences between developed and developing countries, and considering in particular the problems related to the vulnerable workers.

## Areas of intervention

### Building knowledge

6. In its ongoing pursuit to offer a centre of excellence in the area of workplace compliance, the ILO completed various items of research under ACI 7 that will guide the way its programmes and tools are developed and used. For example, a forthcoming comparative study of national compliance strategies will look at how compliance is pursued strategically in Brazil, Indonesia, China and Colombia against applicable theoretical models of compliance. It posed the question whether the same strategic approach to compliance can be applied to all countries and distinguished features that are replicable and those that tend to be country specific. Another comparative study is under way in cooperation with the ACI on “Formalization of the informal economy” regarding labour inspection practices to reduce undeclared work in Latin America and Europe.
7. Another research project involved a case study on the interaction of Better Work Indonesia, as a hybrid arrangement, with public inspectorate.<sup>2</sup> The case study found no

<sup>2</sup> [http://www.rdw2015.org/uploads/submission/full\\_paper/364/Dupper\\_Fenwick\\_RDW\\_paper\\_June\\_2015.pdf](http://www.rdw2015.org/uploads/submission/full_paper/364/Dupper_Fenwick_RDW_paper_June_2015.pdf).

risk of displacement in the role of public inspection in this case. It also found complementarity and a modest strengthening of the efficiency of public inspection. Results cannot be generalized as there are different types of private and public–private arrangements in different countries and further empirical studies are required. An analytical model is being developed that could be applied to determine complementarity and any risk of displacement in other cases.

8. A working paper<sup>3</sup> was prepared examining the extent of minimum wage violations in the domestic work sector in ten developing economies, using data disaggregated by sex, age and as far as possible ethnic or social origin. It aimed to develop knowledge on minimum wage compliance, including the gender equality and non-discrimination dimension, and to incorporate this in the labour inspection strategies. It includes innovative examples for addressing non-compliance in the domestic work sector.
9. The exchange of experiences within and across regions was also an integral part of the strategy. ACI 7 facilitated the exchange of best practices among pilot countries. For example, the project in Colombia<sup>4</sup> shared tools designed to map supply chains in the mine sector with the project in Turkey. It also shared workplace compliance strategies designed to curb ambiguous and disguised employment relationships in the palm sector with Ghana, and a labour inspector training methodology for new inspectors with Viet Nam. The project in Colombia identified a number of initiatives in development in those countries which were relevant to Colombia and sought information on tools that were produced.

## Building institutional capacity

10. To advance the tangible impact of ILO intervention and advice on the institutional capacity within member States, a policy brief on labour inspection and freedom of association and another on labour inspection and monitoring of child labour have been developed and will soon be published. Briefs on labour inspection strategic planning and on self-assessment as a tool for compliance are planned. A policy brief on extension of social protection through labour inspection is also under preparation, cost-shared with ACI 3. A practical guide for labour inspectors, entitled *Investigation of occupational accidents and diseases*, was prepared. It includes good practices on work accident and occupational disease investigation, and guidance on how to identify and report on work accidents,<sup>5</sup> and is available in English, French, Spanish, Vietnamese, Bosnian, Chinese, Arabic and soon in Portuguese. This tool is already put in practice in Bosnia and Herzegovina, Burkina Faso and the Occupied Palestinian Territory. As a major output, new curricula were also developed for initial training of labour inspectors in eight African countries in collaboration with the International Training Centre of the ILO, Turin (Turin Centre) and the relevant Commission of the West African Economic and Monetary Union (WAEMU).<sup>6</sup> A “labour inspection system application” was developed for Sri Lanka to automate inspection schedules and to enhance accuracy, storage, processing and analysis of data and the application has the capacity to upload evidence and is being adapted for use in other countries.

<sup>3</sup> Oelz, M., and Rani, U., 2015. *Domestic work, wages, and gender equality: Lessons from developing countries*, Working Paper, Gender, Equality and Diversity Branch.

<sup>4</sup> Promoting Compliance with International Labour Standards in Colombia (COL/11/04/USA).

<sup>5</sup> Available at: [http://www.ilo.org/labadmin/info/pubs/WCMS\\_346714/lang--en/index.htm](http://www.ilo.org/labadmin/info/pubs/WCMS_346714/lang--en/index.htm).

<sup>6</sup> The Union économique et monétaire ouest-africaine (UEMOA) is composed of Benin, Burkina Faso, Côte d’Ivoire, Guinea-Bissau, Mali, Niger, Senegal and Togo.

- 11.** Based on a worldwide survey, with 82 member States replying by the time of preparation of this paper, and national studies, interviews and available literature, a working paper was prepared on the use of information and communication technology in labour administrations.<sup>7</sup> Work is also under way on a comparative overview of recent innovations in labour administration. It covers numerous examples and analytical presentation of administrative reforms in planning, coordination, partnerships, use of new technologies and institutional performance management. Work is ongoing in preparation of a publication on theory and practice of strategic planning and performance management in labour inspection. Work is also under way in production of a guide on selected management issues of labour administration which will be in the form of questions and answers and based on ILO standards and international comparative practice. It will cover some 20 major areas, such as mandate and role, internal organization, coordination, human resources, budget, planning and reporting, performance management, administrative reforms, partnerships, new technologies, etc.

### **Focusing on SMEs and informal economy**

- 12.** To achieve better results, priority was given to improvement of workplace compliance in SMEs and the informal economy. A training toolkit on the informal economy for labour inspectors is being prepared to serve a two-day training module based on ILO standards and policies and also good international practice. A toolkit is also under preparation on compliance strategy on undeclared work and the informal economy, including the promotion of registration of businesses, workers' adherence to voluntary social insurance and involvement of social partners. It will be available in multiple languages in printed form and on the Internet. Workshops have been and will be organized on the topic in different countries. The toolkit could be used by labour inspectors for training purposes and also by the trade unions and employers' organizations for training and awareness raising. A methodological tool for labour inspection in the informal economy was developed for francophone Africa and tested in Burkina Faso, Madagascar, Togo and Tunisia.<sup>8</sup> It will be adapted for use in other regions. These efforts have concurrently contributed to ACI 4 on productivity and working conditions in SMEs and ACI 6 on formalization of the informal economy.
- 13.** Training of workers and employers is a major step towards workplace compliance through labour inspection. Leaflets and short videos were produced on prevention of occupational hazards for workers and employers in SMEs separately for agriculture, woodwork and motor vehicle repair. These hazardous sectors exist in all countries and cover a high proportion of small and informal enterprises. These tools were designed for target groups with low or no literacy. They contained messages that can be conveyed rapidly to the user and proposed preventive and control measures easy to implement. They are translated into multiple languages and their impact is being evaluated. A booklet on good practices to promote compliance with OSH standards in SMEs and the informal economy is also being prepared. Good practices and ILO tools are already mapped and all regions are covered by two case studies each. The objective was to provide information on how governments have addressed the particularities of SMEs and the informal economy to provide for safer and healthier working conditions in their legislation, policies and programmes.

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<sup>7</sup> Report on the global survey into the use of information and communication technologies in national labour administration systems, ILO, 2015, forthcoming.

<sup>8</sup> *Guide méthodologique d'Inspection du travail dans l'économie informelle* (forthcoming).

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## Enhancing voice at work and social dialogue for workplace compliance

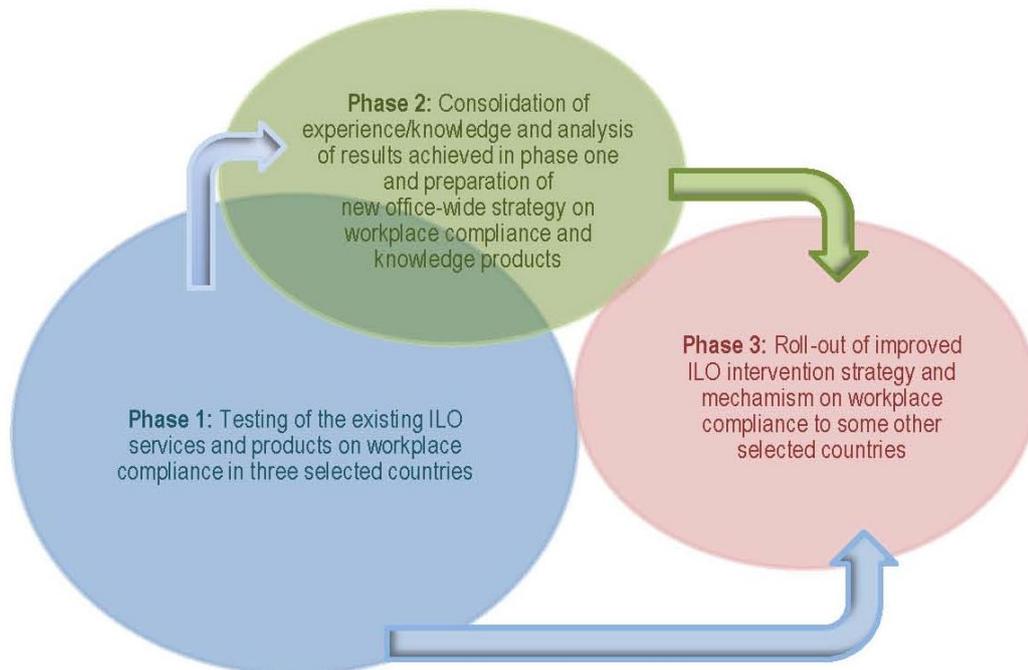
14. A systemic approach to workplace compliance should involve trade unions and employers' organizations as they represent and defend their members' interests and are familiar with workplace realities. The ILO is in the course of reviewing its intervention models and technical cooperation work in relation to fundamental principles and rights at work. A survey is being implemented to assess needs as regards the development of workplace compliance tools on fundamental principles and rights at work. Questionnaires are sent out including to those who had already been trained in the Turin Centre on labour inspection, and replies are being processed. One objective is to develop more vibrant and harmonized modular e-learning courses for labour inspectors on fundamental principles and rights at work. A workshop in October will discuss and validate the strategy and the planned materials. Any output will be tested at country level, documenting lessons learnt, and replicated as appropriate.
15. The Office has worked with the International Association of Economic and Social Councils and Similar Institutions (AICESIS) and the Dutch Economic and Social Council to organize the "International Conference on Promoting Workplace Compliance including in Global Supply Chains: The Role of Economic and Social Councils and Similar Social Dialogue Institutions" at the Hague in October 2015. A survey was carried out by the ILO to document good practices and to identify obstacles facing economic and social councils in taking up the workplace compliance. It served to put workplace compliance high on the agenda of social dialogue institutions. Activities under ACI 7 itself have contributed to the establishment and operations of new tripartite mechanisms in the pilot countries. The tripartite national wage council in Viet Nam is an example.

## Progress made, lessons learned and conclusions

16. The ACI workplan included support for activities in the pilot countries of Burkina Faso, Colombia and Viet Nam. In the second phase, Nicaragua, United Republic of Tanzania, Turkey and Uganda were added to the list. The selection was made on the basis of priorities identified by the tripartite constituents in those countries in their DWCPs. The above elements of strategy and intervention were applied in those countries as much as possible to experiment and learn lessons for designing future interventions of the ILO.

## Area of critical importance – Strengthening workplace compliance through labour inspection

### The three phases 2014–15



17. Phase one included technical assistance in the area of workplace compliance through a system approach. In each case it incorporated a combination of activities and experimenting with innovative approaches to further knowledge. In phase two a global knowledge-sharing workshop took place in the Turin Centre in August 2015 to take stock of the work done under ACI 7. Tripartite delegations from the pilot countries joined together with the relevant Office staff from headquarters and the field as well as the Bureau for Workers' Activities (ACTRAV) and the Bureau for Employers' Activities (ACT/EMP) in this exchange. Phase three is currently under way and is devoted to sharing of experiences and roll-out at four subregional meetings.
18. Workplace compliance through labour inspection has proved to be an area that is of relevance to all regions and of key importance in contributing to the realization of several other P&B outcomes. Conversely, work on ACI 7 has benefited from work under almost all other ACIs. There has been particular synergy as regards ACI 4 on productivity and working conditions in SMEs, ACI 6 on formalization of the informal economy and ACI 8 on protection of workers from unacceptable forms of work. This collaborative work method will be maintained in the next biennium.
19. The value added by ACI 7 is not only in the greater focus and allocation of resources but also in the approach adopted under this ACI which brought together Office knowledge and constituent practice to design strategies that build multiple, innovative and complementary interventions to achieve compliance in all workplaces. Setting the strategy at the global level and planning the activities at the country level, in consultation with the tripartite constituents, encouraged flexibility and innovation.
20. Apart from global products, which are essentially knowledge products, another attainment of this ACI was the expansion of ILO in-country cooperation to cover new areas. In all pilot countries new sectors or aspects were added to the existing ILO work. For example in

Colombia, under the ACI 7, occupational safety and health in the mine sector was added to the existing activities. A module is developed to build the institutional capacity of labour inspection to identify compliance gaps and design a plan of intervention covering both occupational safety and health and the ambiguous and disguised employment relationships in mining. A separate study is under way in Colombia to identify compliance gaps in minimum wage and pay non-discrimination, based on data from the latest household surveys.

- 21.** ACI 7 has also made it possible to give greater visibility and exposure to workplace compliance at higher political levels. It has encouraged major national efforts such as the first labour inspection campaign run by the Government of Viet Nam in 2015 covering 360 enterprises in the garment sector across 12 provinces with 11 tripartite conferences held across the country. The first national law on occupational safety and health in Viet Nam was also adopted in 2015. The ACI helped to direct some of the discussions with donor countries to include funds for compliance.
- 22.** The ACI inspired further joint planning and the development of synergies among the various technical cooperation projects in the pilot countries. In some cases the staff of different projects adopted new methods for coordination as regards their products, methodologies, etc. Knowledge-sharing meetings involving Chief Technical Advisers of various existing projects in Viet Nam and Colombia also proved very useful. This aspect still needs further attention both within single ACIs and among different ACIs.
- 23.** ACI 7 also operated to attain sustainability of impact through transfer of knowledge, creation of durable institutions, national ownership and enhanced relevance of activities. For example the activities in Burkina Faso started with a mapping of occupational hazards across the country. This approach ensured relevance and led to the elaboration of a national plan to prevent occupational accidents and diseases.
- 24.** Strong partnership among national institutions is key to enhancing workplace compliance. The impact of the labour inspectorate is greater when it works through strategic collaborations with other government entities, the social partners, businesses and the wider public. It is vital to establish a broad cooperation and partnership with social partners and all key stakeholders. Experience in Viet Nam demonstrated the value of labour administration working with the social security agency and health authorities.
- 25.** All ACI 7 activities were planned and validated through tripartite discussions. Certain new tools promoted by the ACI 7, such as the new code of conduct against sexual harassment in Viet Nam, were also adopted through tripartite agreement. Collaboration between workers, employers and their representatives is essential at the national level to define policy frameworks to promote compliance, at the sectoral level to gear and optimize efforts to a particular industry, and at enterprise levels to identify, work out and improve compliance issues.
- 26.** There are also good examples of how public–private compliance initiatives have further complemented those efforts and opened new perspectives of collaboration and partnership. Further research is needed on the complementary role of private compliance initiatives.
- 27.** The ILO has demonstrated, through programmes such as Better Work, IPEC and SCORE, that sectoral programmes that involve social partners can help coordinate efforts of private actors with those of the public authority to effectively enhance workplace compliance and improve the profitability and productivity of enterprises.
- 28.** ACI 7 also leveraged activities that addressed the relevant comments of the ILO supervisory bodies as well as promoting the ratification of relevant Conventions. In the

case of Turkey, the ILO rapidly engaged in cooperation with the country following the Soma mining disaster. The ILO facilitated the adoption of a national tripartite plan of action, designed and implemented a short-term occupational safety and health project preparing the ground for a larger project with the EU. The activities integrated follow-up to the supervisory comments and also assistance with new ratifications. Turkey ratified the Promotional Framework for Occupational Safety and Health Convention, 2006 (No. 187), in 2014; and the Safety and Health in Mines Convention, 1995 (No. 176), and the Safety and Health in Construction Convention, 1988 (No. 167), in 2015. Several gap analyses in other pilot countries that led to legislative reforms proposals were also guided by international labour standards.

29. Incorporating a regional or subregional aspect can enhance replicability of activities from one country to another. Collaboration with the WAEMU Commission led to a ministerial meeting on workplace compliance that produced a roadmap for the eight member countries. The WAEMU Commission even financed replication of good practices from Burkina Faso in some other countries.
30. As regards the implementation of the ACI, the challenges included major political changes in two of the pilot countries where the change of government brought along new interlocutors. There was also a challenge in conveying the notion of compliance in some countries and languages. Within the Office also there is the need to rationalize multiple toolkits and products that exist by adjusting and updating them to ensure continued relevance and sustainability. The need for a more systematic and improved cooperation among the ACIs, among the Office departments and units in the field and headquarters and among the projects needs to be addressed on an ongoing basis.
31. The most evident challenge for ILO focus in the future is the need for efficiency of labour inspectorates in the use of their limited financial and human resources and the most challenging area continues to be the informal economy. Looking ahead, ILO work in the area of workplace compliance will need to benefit from stronger programming attention within the ILO, greater focus on the essential roles of ACTRAV, ACT/EMP and the Turin Centre in capacity-building activities, prioritization of political will and action at country levels, and increased use of new technology and communications tools such as smartphone applications.

### **Draft decision**

32. *The Governing Body requests the Director-General to take account of its guidance in further implementing the strategy for the ACI on “Strengthening workplace compliance through labour inspection” and in the implementation of outcome 7 of the Programme and Budget for 2016–17 on “Promoting workplace compliance through labour inspection”.*