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COMMON PRINCIPLES FOR LABOUR INSPECTION IN RELATION TO HEALTH AND SAFETY IN THE WORKPLACE

Committee of Senior Labour Inspectors (SLIC)

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COMMON PRINCIPLES FOR LABOUR INSPECTION IN RELATION TO HEALTH AND SAFETY IN THE WORKPLACE

Aim

[This document has been agreed by the Senior Labour Inspectors Committee (SLIC)]. This new version results from the need to revise the document to take into account the experience of evaluations and other activities relating to enforcement of OSH legislation, and EU social legislation that has an impact on OSH carried out by the SLIC in recent years, and the new Strategic Framework on health and safety at work¹. While responsibility for the enforcement of EU law lies with Member States, SLIC plays a central role in promoting the correct and uniform, or at least equivalent, implementation and enforcement of EU OSH legislation. The aim of this document is to set out a number of Common Principles for health and safety inspection and thereby encourage a common approach to the implementation of legal requirements in the workplace and the adoption of comparable criteria by inspectorates in their enforcement policies and practices. This revision is structured in three main sections:

The Overview, which explains the current context of labour inspection in the European Union,

The Core Principles, whose adoption is vital in all states, and concentrates on the implementation and enforcement of EU legislation. They address the Council and Commission view that “the effective enforcement of EU law is a precondition for improving the quality of the working environment”,

The Developmental Principles, whose adoption is vital if MS are to embrace the broader aims of the EU Strategic Framework.

The evaluation of Labour Inspectorates **will concentrate on the Core Principles**, but will also examine progress towards the Developmental Principles.

The overview

1 Labour inspection operates at the point where law, technology and political, social and economic reality meet. It is now widely recognised as a multidimensional activity that has political, economic, cultural and social contexts as well as those that are technical, medical and legal in nature. Labour Inspection thus finds itself confronted with complex challenges which involve balancing the demands of more traditional industrial health and safety problems against the demands arising from the changing economy and the changing perception of the role of labour inspection. The point of balance differs between Member States (MS) and the Common Principles (CP) need to be expressed in a way which enables MS to relate their differing needs and priorities to these Principles.

2 Acknowledging all of this implies a need for approaches that are more holistic², integrating improvements to the work environment, with methods that seek to ensure

¹ Communication from the commission to the European Parliament, the council, the European Economic and Social Committee and the Committee of the Regions on an EU Strategic Framework on Health and Safety at Work 2014-2020, adopted on 6th June 2014. <http://eur-lex.europa.eu/legal-content/EN/TXT/PDF/?uri=CELEX:52014DC0332>

² "Holistic" is a term which implies a "whole system" approach, whether to an individual, or to an organisation.

a safe and healthy work environment for over 217 million workers Such approaches have as their foundations:

- a) the requirements of existing ILO conventions, notably Convention 81 “Labour inspection” and Convention 187 on “Promotional Framework for Occupational Safety and Health

- b) the Framework Directive and its related directives with their focus on health and safety management systems;

- c) the objectives laid down in EU Strategic Framework on health and safety at work 2014-2020”,
- d) the “ EU strategic priorities, 2013-2020-A submission from SLIC adopted at its plenary held on 7 December 2011, Warsaw
- e) the European Social Charter (revised), Strasbourg, 3 May 1996.

- f) Council conclusions 12765/15 “A new Agenda for Health and Safety at Work to foster better working conditions”
- g) the European Parliament Resolution on effective labour inspections as a strategy to improve working conditions, 14th January 2014³

3 The Framework Directive provides a legislative basis for the scope of labour inspection in the EU as it defines the general application of EU health and safety law. The Directive applies to virtually all sectors of work. The primary interest of SLIC is directed towards the correct and uniform implementation and enforcement of EU directives and these Common Principles support this interest. The Framework Directive does not apply to self-employed persons⁴, nor does it apply to risks to the public, arising from work activities, but in some Member States these two areas are part of mainstream labour inspection. In addition there may be other functions performed by labour inspectors (for example in relation to the environment, or industrial relations) which are not part of the legislative scope of the Framework Directive. The sectorial scope of the Framework Directive goes beyond the scope of ILO Convention 81 “Labour Inspection” and its related conventions, although the topic scope of Convention 81 is wider.

4 ILO Convention 81 has a structural concept that refers to ‘central’ or ‘competent’ authorities with a national oversight of the legal and administrative arrangements and the supervision and control of labour inspection. However, the organisations in many Member States which include the Labour Inspection function also include the development of strategy, the establishment of operational policy, and the planning, monitoring and information gathering functions. As a result, the distinction between a labour inspectorate and a central authority is in many cases largely artificial. Therefore when this revised statement of Common Principles refers to the Labour Inspectorate (LI) this is assumed to include the role of the ILO “Central Authority”, including arrangements within federal systems.

³<http://www.europarl.europa.eu/sides/getDoc.do?pubRef=-//EP//TEXT+TA+P7-TA-2014-0012+0+DOC+XML+V0//EN>

⁴ But see "Council Recommendation of 18 February 2003 concerning the improvement of the protection of the health and safety at work of self-employed workers".

5 The Communication from the Commission on an agenda for new skills and jobs: "a European contribution towards full employment"⁵ included as its third key objective the need for better job quality and working conditions. Working conditions and workers' physical and mental health need to be taken into account to address the demands of today's working careers, which are characterised by more transitions between more intense and demanding jobs and by new forms of work organisation.

6 The EU Strategic Framework on Health and Safety at Work 2014-2020 includes as one of its key strategic objectives a better enforcement of OSH legislation by Member States. It states that it is critical that labour inspectors are seen as facilitating compliance with legislation rather than obstacles to business activity.

In some Member States, labour inspectorates also perform a key role in identifying and deterring undeclared work. That is why inspections, though always compliance-focused, should be supportive and well-targeted to specific risks. The effectiveness of labour inspections depends largely on the expertise of labour inspectors and their capacity to carry out these inspections.

Continuing Professional Development (CPD) for labour inspectors, particularly on emerging risks and new technologies, is needed to properly perform risk-based inspections. Given budgetary constraints, EU funding programmes (including the ESF) could be better used in order to provide labour inspectorates with the necessary resources. Exchange of good practice between labour inspectorates at EU level has been, and should continue to be, an instrument to improve their efficiency and continuous improvement.

7 The European Parliament Resolution of 14 January 2014 on effective labour inspections as a strategy to improve working conditions acknowledges that labour inspection plays an important role in protecting employees' rights, ensuring health and safety risks at the workplace are managed and where it is included in the remit of the labour inspectorate, preventing breaches of employment protection rules and promoting fair and socially responsible economic growth, in as much as it helps to ensure that wages are actually paid and social security contributions are made

- 8 This means that authorities responsible for labour inspection assume the tasks of:
- (i) formulating a clear vision;
 - (ii) re-orientating services towards new goals, while recognising the continuing relevance of many existing goals;
 - (iii) effectively implementing all labour inspection activities; both in private and public sector;
 - (iv) increasing their efficiency; developing new policies and strategies, preventive intervention methods and training;
 - (v) optimising and evaluating their qualitative and quantitative impact; and

⁵ COM(2010) 682 final, adopted on 23.11.2010. http://eur-lex.europa.eu/legal-content/EN/ALL/ELX_SESSIONID=J702JtpQhp1VMFyPvZXVvXh6y4d5V8hIZD6GQQhYFCxJQ9y64GjR!428013619?uri=CELEX:52010DC0682

- (vi) insure human resources and sufficient financial means to reach expected goals.
- 9 This revised Common Principles document has been developed in response to these signposts and as the basis for the evaluation of MS. It can be used:
- (i) as a guide to strategic, administrative and inspection policy, and the organisation, practice and ethics of inspection;
 - (ii) as a tool for encouraging the development of inspection systems and for monitoring a Member State's progress towards a more effective system;
 - (iii) as a measure of efficiency of the different inspection systems in place, partly to help to strengthen the national and regional inspectorates and partly to increase the transparency between MS and the methods of evaluating their performance and impact externally and internally;
 - (iv) as a source of policy reference, reflecting or taking into account international and national standards;
 - (v) as a demonstration of the common purposes and consistency of approach;
 - (vi) as an explanation of how an enforcement policy has to flow from a set of basic principles that reflect the role and responsibilities of labour inspection and the expectations of the world of work.
- 10 The responsibility for the implementation and enforcement of EU laws in relation to occupational health and safety lies with MS. It is important that they work together to develop consistent approaches across the Community. It is an essential pre-condition for the effective exercise of the Labour Inspection function **in relation to the Common Principles** that arrangements are in place in MS to:
- (i) ensure that EU law is properly transposed into national law;
 - (ii) establish their strategies for occupational health and safety within an overall approach to working conditions, indicating what the MS wishes to achieve and over what period. The strategies should be transparent to the social partners and should take into account the EU Strategic Framework, and national and local expectations, needs and priorities;
 - (iii) maintain or develop institutions and mechanisms for the enforcement of EU law, which, in certain cases, may include specialist support services, the police, and the legal and court systems, upon which labour inspectorates depend for the effective and efficient discharge of their responsibilities. These institutions should be sufficiently resourced to discharge the duties expected of them by the national and regional strategies;
 - (iv) establish effective relationships between ministries, organisations and institutions with a direct or indirect involvement in occupational safety and health, to align strategies, share expertise and coordinate action;
 - (v) establish effective relationships with the social partners to draw on their expertise, take account of their priorities and secure their support;
 - (vi) collect, collate, analyse and publish information about health and safety performance gathered at national, regional, sector of activity, and, where appropriate, company and workplace level;

- (vii) encourage employers and workers to take positive action to bring about higher standards of occupational health and safety, to provide appropriate information and guidance to help employers and workers comply with the law;
 - (viii) to develop transparency and consistency between inspectors as a means of encouraging compliance.
- 11 There are a number of other aspects which may be relevant if improvements to health and safety are to progress and move forward **in line with the Strategic Framework and in relation to the Developmental Principles**). To take account of these aspects, among other actions, Member States;
- (i) are invited to consider reviewing their national strategies in light of the new EU-OSH strategic framework, in close consultation with social partners and relevant stakeholders.
 - (ii) should nominate contact points for national strategies (Member States) which will meet regularly to map and exchange good practice
 - (iii) with the support of the European Social Fund, should provide financial and technical support on implementing OIRA and other IT-based tools in Member States, focusing on priority sectors
 - (iv) are invited to promote the exchange of good practice, whereby SMEs will be supported by larger enterprises in the contractor-supplier-purchaser chain in order to improve OSH
 - (v) should continue with awareness raising campaigns
 - (vi) together with the European Commission, should address the ageing of the workforce, emerging new risks, prevention of work-related and occupational diseases
 - (vii) should improve, along with the European Commission, statistical data collection and develop the information base

The core principles

12 The core principles, whose application is vital in all states, concentrate on the implementation and enforcement of EU legislation. They address the Council and Commission view that “the effective enforcement of EU law is a precondition for improving the quality of the working environment”. To ensure that effective implementation and enforcement is delivered at operational level, LIs must:

Planning and monitoring

- (i) prepare annual plans of work setting out the priority areas for action for the year which are grounded on data and evidence, and detailing the inspection and other programmes that will be necessary to deliver the plans⁶;
- (ii) set up systems for monitoring progress against the annual plan, and for establishing the data needed for the SLIC Annual Report;
- (iii) define criteria (indicators) of achievement and evaluation of annual plans;
- (iv) set up systems for monitoring progress against the annual plan, and for establishing the data needed for the SLIC Annual Report;

Inspectors' competencies and independence

- (iii) ensure that men and women are eligible for appointment as inspectors; that inspectors have the appropriate qualifications; that they are competent to undertake their responsibilities; and that they receive the training, instructions and information necessary for them to carry out their work in the safest possible conditions and with professionalism, integrity, consistency and transparency;
- (iv) ensure that inspectors are able to obtain specialist, technical, scientific, legal, methodological and other support to assist them in carrying out their duties;
- (v) ensure that inspectors are impartial, that they are independent of inappropriate external influences and of the companies or organisations which they inspect, and that they do not undertake other duties which may interfere with their primary responsibilities;
- (vi) ensure that inspectors are provided with suitable offices, and transport facilities, and are reimbursed for any necessary expenses they incur in carrying out their duties.

Prevention, protection and assistance for inspectors

- (vi-a) ensure that inspections of workplaces by inspectors can take place in the safest possible conditions. Member States must take all appropriate measures to ensure protection against violence of any kind, especially by prior assessment of risks, and they must make all the necessary legal and administrative arrangements for providing support and follow-up in the case of such events, in terms of both legal assistance and psychological care.

Inspectors' powers

- (vii) ensure that inspectors are given the powers necessary to carry out the duties assigned to them. These should include in particular the powers:
 - of entry to workplaces without notice;
 - to carry out inspections and investigations at the workplace;
 - to require employers and employees to supply information relevant to an inspection or investigation;
 - to examine records and reports relevant to health and safety at the workplace;
 - to apply, or to arrange the application of, sanctions when these are deemed to be necessary;

⁶ The plans should also reflect the needs of the SLIC Annual Report, which will be one of the tools used in the evaluation of the application of these Common Principles.

- to require the immediate stoppage of working activities in the case of serious risk. In some MS this serious risk must also be immediate – in others the serious risk may be delayed, as in the case of latent health effects;

These powers should be exercised taking full account of the confidentiality of personal medical data, economic information, employees' complaints and manufacturing secrecy.

Guidance for inspectors

- (viii) set out in writing the approach to be taken by inspectors at visits to workplaces and indicate the action which should be taken in particular circumstances (see paragraph 11 below);
- (viii-a) ensure that labour inspection findings are accompanied by clear deadlines for action;

Internal communications

- (ix) ensure that good communication links exist to enable issues of good practice and areas for improvement to be brought to the attention of other inspectors, policy makers and legislators, especially through the use of a suitable information system.

External communication

- (x) Ensure effective arrangements for publicizing the outcomes of inspection investigation and enforcement activity, and disseminating health and safety messages to achieve positive image for the inspectorates work.

13 The approach to be taken during an inspection must include a physical examination in the workplace of working practices, standards and conditions, and discussion with representatives of the employer and with workers' representatives. It is important when investigating work-related accidents or cases of ill-health that whenever necessary and possible, the person affected is interviewed. Within the core principles, examination and discussion should be focussed on ensuring compliance with applicable national legislation, including that resulting from the transposition of EU law. Following an inspection, the inspector must be in a position to take appropriate action, based on the legal powers of the inspector within the MS. Such action may include the use of sanctions which the inspector is empowered to use. The priorities for inspection, based upon the structure of the Framework Directive, are:

Ensuring compliance with EU law

- (i) to judge whether the employer's policy for health and safety is directed to ensuring the health and safety of his employees;
- (ii) to judge whether the organisation and arrangements the employer has introduced for securing health and safety are likely to lead to the identification, rectification and prevention of deficiencies. This will include the employer's arrangements for identifying hazards and for assessing risk;
- (iii) in particular to make assessments of the employer's arrangements for:

- the effective planning, organisation, implementation, control, monitoring and review of the protective and preventive measures at the workplace;
- securing expert advice and assistance on health and safety matters;
- dealing with emergencies; providing the employees and/or their representatives with comprehensible and relevant information;
- training the employees in health and safety;
- ensuring consultation with the employees and/or their representatives on matters relevant to health and safety
- ensuring that the arrangements in place effectively protect workers against the identified risk.

Action taken by the inspector as a result of the inspection

With respect to the employer

- (iv) to decide what action is necessary and take the required measures to secure compliance with legal provisions and acceptance of supporting guidance; such action includes advice (both written and verbal); the issue of an order requiring the immediate stoppage of work, or improvements by a specified deadline; the issue of an administrative fine/penalty (either directly or through the appropriate authority); or a referral to the prosecuting authorities.

With respect to the employees

- (v) to ensure that workers representatives are informed about the inspector's conclusions, and that any written reports given to the employer, are made available to the workers representatives, who should also be informed of the responses given by the employer. Such reports should not include information confidential either to the employer or employees (see section 10(vii) above).

With respect to other organisations

- (vi) to decide whether liaison is necessary with other enforcing bodies who may have responsibility under national legislation for matters such as the protection of public health, consumer or environmental protection, or fire safety.

With respect to records kept for internal LI use only

- (vii) to make a written record of the inspector's decisions and action, which may include information on:
- core data, characteristics and identification of the employer and the organisation and arrangements for health and safety in place at the workplace;
 - standards of health, safety and working conditions noted at the workplace and an indication of the level of compliance with the relevant legal provisions;
 - hazards identified by the inspector and an assessment of these risks;
 - advice given or formal enforcement action taken by the inspector
 - an assessment of the scope for improvements in health, safety and working conditions, and whether these improvements that have already been made are likely to be maintained. This may include the measures that the employer has proposed to the workers representatives, to improve and maintain standards of health and safety.

The developmental principles

14 The developmental principles address the broader aims of the EU Strategic Framework. Some will already be a reality in several LIs; some will be aspirational in most LIs. While it is important to maintain the priority for those functions concerned with enforcement of the law, which only labour inspectors can perform, it is also vital to improve worker protection by the application of the developmental principles. It is therefore important that Competent Authorities take the necessary measure/actions both at administrative level and with the administration of justice to:

- (i) engage with those government institutions concerned with the setting of administrative sanctions and with the administration of justice, in line with the above mentioned EP Resolution that *“advocates stiffer penalties for companies that fail to meet their obligations in relation to employees’ basic rights, and considers that such penalties must have a sufficiently deterrent and dissuasive effect to ensure that employers shall by no means profit from circumventing the existing rules on employment and health protection”*, to consider in their sanction-setting systems making the level of fine proportionate to the damage, as well as to ensure that it is above the profit gained from the circumvention;
- (ii) encourage the development of partnership working between the LI, social partners and other stakeholders influence health and safety outcome, better management of risks and compliance of the EU OSH legislation;
- (iii) ensure that work plans and priorities take into account the changing economy, changing patterns of employment and their influence upon health and safety issues and priorities;
- (iv) ensure that inspectors are suitably trained in the emerging issues, and that specialist support is aligned with the changing priorities and perspectives;
- (v) develop systems for monitoring inspection processes, techniques and activities, which take into account international approaches to quality management.

Evaluating the inspection system

15 The EU Strategic Framework calls for effective, equivalent inspection and monitoring of the implementation of legislation in MS, and sees the evaluation of national inspection systems by reference to the Common Principles as an important element in the framework of consistent implementation. SLIC has agreed that a programme of evaluations will be undertaken of all MS; each evaluation will be led by a SLIC member, supported by representatives from other MS. A Protocol which gives useful guidance on the conduct of evaluations is attached as Annex 1. A questionnaire has been prepared, based on the Common Principles, to aid the evaluation process, and this is attached as Annex 2. To minimise duplication and to integrate the responses, the questionnaire emphasises that where information is already provided in the Handbook entry of the MS or in the Annual Report to SLIC, this need not be repeated in responding to the questionnaire, but simply attached to it.

Review of principles

16 It will be appropriate for the Senior Labour Inspectors’ Committee to review the principles set out in this document from time to time, as experience of the enforcement of

European legislation develops and as awareness grows of the longer term aims of the EU Strategic Framework.

December 2014

Annex 1: PROTOCOL

Practical arrangements for carrying out an evaluation under the "Common Principles for labour inspection in relation to health and safety in the workplace"

1 Purpose and general approach to evaluation

1.1 The basic purpose of evaluation is to review the capability of the labour inspection system in the country to be evaluated (the host country) to implement and enforce EU Directives on health and safety at work.

1.2 Besides looking at the adequacy of the systems in place for inspection by amplifying the information given in the answers to the "Common Principles" Questionnaire, the wider purposes of evaluation are to promote exchanges of information, ways of working and experience between Member States, and thereby to promote greater consistency.

1.3 Paragraph 13 (and other sections) of the "Common Principles" set out the need for evaluation and specify what it should involve. It should include, at least, an assessment of: the organisational structure, the administrative and operational procedures, the standards for inspection and their application, the resources available, the personnel and their training and the systems for reporting, record keeping and information collection. It also requires on-site inspection.

1.4 The evaluation exercise is intended to be of benefit to both the country being evaluated and those carrying it out. It should also provide the opportunity, in time, to identify common issues and problems among Member States, which might be debated and progressed as special themes by SLIC as a whole.

1.5 Since the Common Principles were first drawn up in 1994, considerable practical experience of evaluation has been built up, both within EU Member States and what were then the Accession States. All Member States have participated either as host or member of an evaluation team, or both. A consistent methodology has evolved by custom and practice, which has been supported and facilitated by the Commission. This aims to make the most cost-effective use of everyone's time and concentrate the most attention on what inspectors do in practice in real, 'every-day' inspection situations. This is considered to be the most important aspect of evaluation and of the greatest benefit in promoting continuous improvement, the exchange of ideas, information and experience, and consistency.

1.6 This protocol sets out that evolved methodology, and is based upon the revised "Common Principles" *[agreed by SLIC in November 20]*. **It should be emphasised that this protocol is intended as an aid to the conduct of the evaluation; it is not intended to dictate how the evaluation should be carried out. It is open to the evaluation team and the host country to arrange the evaluation week differently if (for reasons of efficiency or to aid understanding) alternative arrangements are appropriate, so long as the evaluation retains the emphasis on practical field visiting described in paragraph 1.5.**

2 Elements of an evaluation

2.1 An evaluation consists of several stages:

2.1.1 Agreement of preparatory details – appointing the leader of the evaluation team, obtaining nominations from other participating Member States, agreeing contact details and dates with the host country and Commission.

2.1.2 The host country completes the answers to the Questionnaire and sends them to the members of the evaluation team and to the Commission. The host country may also send in advance other, supporting documents (and should do so if requested by the leader of the evaluation team) – e.g. copies of their last annual report, the current plan of work, details of the main legislation.

2.1.3 The host country, in discussion with the leader of the evaluation team, proposes a draft plan and timetable for the visit and sends this to the members of the team.

2.1.4 The Commission facilitates one or two preparatory meetings, (if two, they are held immediately one after the other), in Luxembourg:

- in the morning the evaluation team meet together in the afternoon to agree initial impressions, the plans for the visit and to identify issues for clarification and amplification.

2.1.5 The evaluation visit takes place several weeks later. It lasts for a full working week, commencing on Monday morning and finishing on Friday afternoon. It concludes with the team giving informal feedback to the Director of the host Labour Inspectorate on their main findings.

2.1.6 There may be a limited amount of follow-up correspondence between the evaluation team and host country to check facts and understanding or to supply further documents requested at the visit.

2.1.7 The members of the team prepare the report. In order to remain relevant, the final report should be submitted within six months of the date of the visit.

2.1.8 The Commission may also facilitate a wash-up meeting of the team to help in the preparation of the report.

3 Preparation — before the evaluation visit

3.1 Dates

It is important that names of evaluators and dates are agreed well ahead to ensure that all can participate fully and be equally well briefed – it is recommended that the dialogue starts six months before the visit. The leader of the evaluation team should initiate this and all other countries involved should respond promptly.

3.2 Language

Communications between the evaluation team members and between the team and the host country are conducted in English as the common language, unless the evaluation team and the host country agree another language. This possibility needs to be borne in mind when establishing the evaluation team. Essential documents should be provided in English or that other language. The Commission will not provide interpretation or translation. If interpretation is needed during the evaluation preparations and visits, this should be provided by the host country, though members of the team will help where they can. It is important that the evaluation team should be able to understand the main issues before, during and after the visits with the inspectors and the host country should make provision for this.

3.3 Evaluators

The evaluation team should normally comprise six members, including the leader (though slightly more may be needed for the larger countries). The members of the evaluation team should have a background and experience in practical health and safety inspection. The leader may be assisted by a labour inspector from their own country, to help with the organisation, participate in the visits and help with the preparation of the report. It is preferable that the team consists of both men and women.

3.4 Planning: timing

The exercise should be planned with the following timings in mind:

3.4.1 The answers to the Questionnaire should be provided at least 2 - 3 months before the preparatory meeting to allow the evaluators sufficient time to read it, confer, and request any immediate supplementary information (which may need also to be translated).

3.4.2 The evaluation visit should take place ideally within a few weeks of the preparatory meeting, while the information is still current and fresh in the evaluators' minds.

3.4.3 The team should aim to have a first draft of the report completed within three months of the visit — and sooner if possible.

3.5 Planning: visits

The host country should plan the week to enable the evaluation team to see a wide range of representative workplaces, activities and people. The evaluation visit is necessarily a sampling exercise so the basis of the proposed plan should be discussed with the evaluation

team at the preparatory meeting to ensure that they understand, and are content with, the thinking behind it.

The visit plan should bear in mind the following principles:

3.5.1 The team will normally wish to have discussions at the start with the Director and senior officers of the Labour Inspectorate and the Social Partners. Otherwise, the amount of time spent listening to high level presentations should be limited.

3.5.2 Most of the time should be devoted to carrying out joint visits with individual inspectors **to see what inspectors do in practice** in the workplace.

3.5.3 The evaluators will normally wish to include some opportunities for discussions with representative groups of operational inspectors and their immediate managers at a sample of the district offices.

3.5.4 The visits should cover as wide a range of **typical** workplaces as possible, in terms of

- industry or activity,
- size of organisation,
- standards,
- geographical area.

Districts throughout the country should be included, consistent with avoiding a disproportionate amount of travelling or costs in excess of the budgetary limits set by the Commission.

3.5.5 The industries covered at visits should reflect the economic profile of the country but should typically include the following sectors:

- Manufacturing (e.g. food, engineering, wood products, textiles, plastics, chemicals, ship building/repair)
- Construction
- Agriculture
- Health services and social care
- Education
- Public and private administration
- Temporary work agencies, peripatetic work and non-standard forms of employment.

3.5.6 The sizes of enterprises involved in the visits should be wide ranging, reflecting typical inspection priorities and practice. This would encompass both private and public organisations and a range of standards of compliance.

3.5.7 The visits should include:

- accident investigations

- complaint investigations,
- follow-up visits,
- formal enforcement visits, as well as
- preventive inspection visits, both general and targeted, (depending on the nature and development of the inspection systems in place).

3.5.8 The inspection visits should be selected from those which are due for a visit in the normal course of the Inspectorate's operational plans.

3.5.9 The inspectors involved in the exercise should represent a range of experience and length of service. They should be based at various locations in the country.

3.5.10 The evaluation team may wish, in the course of the week, to speak to inspectors about their plans and work recording and reporting systems; they may wish to see examples of these at the offices.

3.6 Additional documents

3.6.1 In addition to the answers to the Questionnaire, the evaluators may wish to see additional information and the host country should be prepared to supply these promptly. Examples are likely to be:

latest annual report; strategic plan; summary of the main legislation; details of imminent reorganisations; personnel statistics; statistical information on inspection and investigation activities, numbers of enterprises, orders issued, penalties awarded, etc.

3.7 Accommodation and travel

3.7.1 The evaluation team should aim to assemble on the Sunday, to allow the visit to commence promptly on the Monday morning.

3.7.2 It is important that the evaluation team is able to confer during the course of the week and members should be co-located. The host country should reserve suitable hotel accommodation, in consultation with the leader of the team and the Commission. The team will require a private meeting room for the final morning, where possible at the hotel to save time. It can also be helpful to have a room available for evening discussions during the week, depending on the locations of individual members of the team.

3.7.3 Evaluators should normally travel with inspectors to site visits. Otherwise, arrangements for travel requirements within the country should be agreed and responsibility for making the arrangements clarified. It is helpful if the host provides internal travel.

3.8 Preparatory meetings in Luxembourg

- 3.8.1 The evaluation team should agree which aspects they wish to clarify and what further information they require and whether they wish to make any adjustments to the proposed visit plan. They should also agree which team member will report on which particular aspects of the common principles, so that members can prepare for the task.
- 3.8.2 The representative delegates from the host country should be kept to very few people – normally to include the Director or other senior manager and the organiser of the visit and any necessary interpreter.
- 3.8.3 The host country should clarify whether other Ministries or agencies (such as the Police) have a major role to play in the statutory inspection or enforcement of health and safety standards at the workplace, where this may not be readily apparent from the answers to the Questionnaire. This will allow the evaluation team the opportunity to request a meeting or visit with those other agencies.

4 Conduct of the evaluation visit

A typical visit should comprise:

4.1 Day 1

4.1.1 Meetings, in which all the evaluators participate, to include:

- Directors, senior managers and heads of functions of the Inspectorate,
- Ministry contacts,
- Employers' confederation
- Trades Unions confederation
- Other bodies involved in the statutory inspection or enforcement of health and safety standards in the workplace.

To establish how the inspectorate is supported, its place within government, its achievements, aims and priorities, current issues, operating environment, political and economic context, relationships, participation by partners, etc.

Also to agree final details of the arrangements for the rest of the week.

4.2 Days 2, 3 and 4

The middle three days of the week should be devoted to the evaluators, alone or in groups of two or (maximum) three, carrying out **joint visits** with inspectors.

- 4.2.1 Inspections, investigations and enforcement actions should be conducted in a manner which is as realistic and representative as possible of how the inspectors act normally. Where it is feasible, visits should be unannounced.
- 4.2.2 Both the host Labour Inspectorate and the evaluators should reassure the inspectors that the evaluators are fellow labour inspectors who understand and have empathy with what the inspectors are doing and that no individuals will be identified in any reports back to the management of the Inspectorate.
- 4.2.3 Only the evaluators and any necessary interpreter should accompany the inspector at the visits; additional officials will inhibit the inspector and will not allow a realistic inspection.
- 4.2.4 The evaluators will not play any part in conducting the inspection. They are there merely to observe the inspector and the inspector's interaction with the people and conditions at the workplace.
- 4.2.5 Evaluators should look especially at:
- The understanding and application of risk assessment and the ability of inspectors to judge the quality and adequacy of employers' risk assessments.
 - The approach to preventing occupational injury and ill health; is the inspector implementing a hierarchy of control measures?
 - Is prevention of occupational disease and ill health being addressed adequately, as well as surveillance to detect early stages of disease?
 - The physical inspection of the workplace.
 - Actual physical standards in the workplace.
 - Investigation practice and the purpose of investigation.
 - Involvement of workers' representatives at visits.
 - Adoption of European Directives into inspection practice
 - The balance of the inspectors' work, e.g. in terms of: inspection of documents and policies and educational discussions, as opposed to inspection of actual working conditions; contact time at workplaces, as opposed to time in the office on administrative procedures; and time spent inspection as opposed to travelling time.
 - The balance between proactive inspection and reactive inspection – that is between preventive inspection and the investigation of complaints, accidents, cases of ill-health and dangerous occurrences.
 - Legal tools and enforcement – both theory and practice; what sanctions are available and evidence of the extent to which these have been pursued. The balance between "soft enforcement" through verbal or written advice and "formal enforcement" through the use of legal or administrative sanctions. Are serious breaches of law and serious injuries being taken to the highest courts, with appropriate penalties?
 - Enforcement policy and operational guidance available to inspectors on actions to take.

- Liaison with other agencies involved in the regulation of health and safety and how well these support the aims of the labour inspectorate.
- Resources available to help the inspectors.
- Training of inspectors in practical aspects of identifying hazards, risk assessment, awareness of precautionary measures, and general professional development.
- Availability of published official guidance.

4.2.6 Where the Police or inspectors working for other Ministries, outside the Labour Inspectorate, are carrying out regulatory functions for health and safety, the Labour inspectorate should arrange meetings with representatives of those organisations and, where appropriate, arrange for a joint visit.

4.2.7 The evaluators will wish to build in opportunities to talk informally to groups of inspectors at their offices about their work and work programmes and to see examples of their information, reporting and work recording systems.

4.2.8 If, despite best efforts, it has not proved possible for at least some of the evaluators to observe an investigation visit, the team will wish to talk in detail with inspectors at the office about recent investigations they have carried out. They may wish to question the inspectors about what they did, their objective, the extent of their responsibility, who they saw, what action did they take in relation to the employer, how did the employer respond, what lessons were learned, what sanctions resulted?

4.3 Day 5

4.3.1 The morning of the final day should be set aside for the evaluation team to compare and discuss their findings and formulate main conclusions, in private. The main conclusions should be formulated in terms of:

- Particular strengths of the labour inspection system, and
- Recommendations and observations that the host country may wish to consider.

4.3.2 The late morning/afternoon is then devoted to a final meeting between the Director of the Labour Inspectorate and the evaluation team, at which the team give informal feedback on their conclusions and recommendations.

4.4 Working relationships during the visit

- 4.4.1 The evaluators should adopt a business-like but friendly approach in their dealings with the host Inspectorate and their staff, as befits an exercise involving fellow labour inspectors and Member States. They should plan their requests well ahead and not call for more documents, especially any requiring translation, than are strictly necessary to make their assessment.
- 4.4.2 The evaluators should be allowed time to talk together in private, and this includes the majority of the evenings during the week.
- 4.4.3 Hospitality and meals provided by the hosts, especially where they help to expedite business during the day, are welcome but should be kept modest.

5 The report

5.1 All members of the evaluation team contribute to the report, in accordance with the agreed plan. They send their contributions, in English (or the agreed alternative language), to the leader, who compiles a first draft of the full report and sends it to the Director of the host Labour Inspectorate for consultation and comment on factual detail.

5.2 The members of the evaluation team agree to any necessary amendments and the leader then sends the final report to the host Director, with an explanation where amendments have not been able to be incorporated. A copy is also to be sent to the Commission and to the rest of the evaluation team.

5.3 The report made by the evaluators should be kept as concise as possible and should generally not exceed 40 pages plus annexes.

5.4 The host country's answers to the Questionnaire should be incorporated into the final document forwarded to the Commission.

5.5 Key issues, both positive and aspects for further consideration, should be clearly highlighted, to facilitate future discussion and identification of wider issues for SLIC in general.

The format of the report should be along the lines of:

- A INTRODUCTION AND ARRANGEMENTS
- B SUMMARY OF OVERALL FINDINGS
- 1 Overall conclusions and recommendations

- 2 Summary of findings – main highlights:
- a) Operating environment
 - b) Legislation
 - c) Organisation and resources
 - d) Planning
 - e) Inspection and enforcement
 - f) Resources available
 - g) Stimulation, information and education for employers and workers
 - h) Role and participation of workers and their representatives.

C DETAILED REPORT

Aims of inspection – compliance verification
Role of Health and Safety Authorities
Action by inspectors carrying out inspections
Organisation for inspection of safety and health
Labour inspection ICT system
Labour inspection means and working conditions

D ANNEXES

Answers to the Questionnaire
Organisation charts
Summary of Acts and laws
Etc

[5.6 The evaluation report and any associated documentation should be considered as confidential between the evaluation team, the host country, and the Commission, until the host country agrees otherwise.]

[Revision:]

Annex 1: QUESTIONNAIRE

Background notes on the questionnaire

The questionnaire for evaluating the policies and practices in occupational health and safety inspection was originally drawn up in 1994 and revised in 1999, in 2004 and in 2006.⁷

The questionnaire is intended to be a tool for checking the extent of the adherence by individual Member States to the Common Principles of Inspection. The first revision focused the questions on each of the Common Principles in turn, and it has now been used in the evaluation of many Member States and all accession states. In practice it has proved to be an effective tool for its purpose and this revision follows the same format. However, in 2003 SLIC asked that the Common Principles be revised to take into account the need firstly to clarify the essential aspects of inspection (**the core principles**), and secondly to reflect the development of the new EU Strategic Framework on health and safety at work, with its emphasis on the constant improvement of well-being at work (**the developmental principles**). The questionnaire has been revised to take these changes into account.

It is worth bearing in mind that the information in the questionnaire is amplified and clarified during the evaluation team's visit to the host country so the questionnaire tries to avoid being all-embracing and generally asks open questions, giving the host country flexibility in responding, while retaining the framework of the Common Principles.

⁷ The 2004 Revision reflected the changes agreed to the Common Principles for Labour Inspection at SLIC Maastricht in November 2004. The 2006 Revision reflects the changes agreed to at the SLIC Plenary in Austria 2006 of the inclusion of 3 additional questions corresponding to § 10 (vi-a). The 2015 revision reflects the need for updating the document as far as new regulations and new strategy e.g.

QUESTIONNAIRE FOR EVALUATING THE POLICIES AND PRACTICES IN OCCUPATIONAL HEALTH AND SAFETY INSPECTION

Introduction

This questionnaire supports the 2004 revision of the 'Common Principles for Labour Inspection in relation to Health and Safety at the Workplace'.

The questionnaire is a tool to assist the evaluation, against the Common Principles, of individual Member States' inspection systems. It should also help provide information about the scope and quality of inspection activities and facilitate comparison between the labour inspection systems of Member States.

A prerequisite to Member States being able to work consistently is a common basis of understanding, since it is well recognised that the inspection systems in the various Member States vary greatly in their field of responsibility and their organisation. The questionnaire is intended to provide a framework for the systematic and consistent analysis of each country's inspection system, policies and practices, in the context within which the Inspectorates operate. The questionnaire will thus support the revision and maintenance of the "Handbook" of inspection systems.

The questionnaire is structured in three parts — the Overview, the Common Principles, and the Developmental Principles. The full text of a Common Principle is placed in a box and precedes the question to which it relates; the numbering corresponds. The questionnaire is not intended to require the repetition or duplication of information found elsewhere, and if up-to-date information is given in the internal annual reports of Member States, or in the annual reports to SLIC, then this material can be referenced and attached to the questionnaire (if this material is available in English or the agreed language of the evaluation). For example, in the Overview section, Member States are asked for background information on relevant social, economic and technological issues and factual information and data, for example employment figures in different sectors, accidents reported, enforcement action taken, number of labour inspectors etc. This is the kind of information which may already be included in annual reports and Member States could provide this data in annexes.

Please note that the information requested in the questionnaire will be amplified and clarified during the evaluation group's visit to the host country. Therefore, the information provided in response to a question should be specific and proportionate. The answer should not be so comprehensive as to place an unwarranted burden on those completing the questionnaire, nor on those reading the answer.

Limits of exercise

1 Essentially, the scope of the Framework Directive — occupational health, safety and welfare. Nevertheless, where the host NLI request it and the evaluation team chair agrees, other activities relating to enforcement of OSH legislation and EU social legislation that has an impact on OSH may be included in the evaluation provided this does not detract attention from the core evaluation of OSH regulation.

2 Applies to state regulatory systems only and consideration of the functions of Labour Inspectorates within the limits of that context, **but** includes the work of bodies other than the labour inspectorate who perform an inspection function.

3 Excludes the work of emergency services (ambulance, fire brigade, police) and environmental protection, occupational and public health services, radiation, electricity, gas

agencies etc, **but** the assessment of the Inspectorate should include the communication and co-operation which takes place with these other agencies.

Overview: Core Principles

8 *The responsibility for the implementation and enforcement of EU laws in relation to occupational health and safety lies with MS. It is important that they work together to develop consistent approaches across the Community. It is an essential pre-condition for the effective exercise of the Labour Inspection function in relation to the Common Principles (see paragraphs 10 and 11) that arrangements are in place in MS to:*

- (i) ensure that EU law is properly transposed into national law;*
- (ii) establish their strategies for occupational health and safety within an overall approach to the subject of working conditions, indicating what the MS wishes to achieve and over what period. The strategies should be transparent to the social partners and should take into account the EU Strategic Framework, and national and local expectations, needs and priorities;*
- (iii) maintain or develop institutions and mechanisms for the enforcement of EU law, which, in certain cases, may include specialist support services, the police, and the legal and court systems, upon which labour inspectorates depend for the effective and efficient discharge of their responsibilities. These institutions should be sufficiently resourced to discharge the duties expected of them by the national and regional strategies;*
- (iv) establish effective relationships between ministries, organisations and institutions with a direct or indirect involvement in occupational safety and health, to align strategies, share expertise and coordinate action;*
- (v) establish effective relationships with the social partners to draw on their expertise, take account of their priorities and secure their support;*
- (vi) collect, collate, analyse and publish information about health and safety performance gathered at national, regional, sector of activity, and, where appropriate, company and workplace level;*
- (vii) encourage employers and workers to take positive action to bring about higher standards of occupational health and safety, and to provide appropriate information and guidance to help employers and workers comply with the law.*

Questions

- 8 Please describe the context in which labour inspection operates in your country. The answer to this question should help an outsider understand the organisation of the labour inspectorate, and its position in the government and in the health and safety system as a whole. Please bear in mind that the philosophies underlying approaches to labour inspection can also vary between Member States, and identify for future discussion any aspects of your own approach which might be considered unusual in other countries. Give background information on any relevant social, economic and technological issues and factual information and data, for example employment figures in different sectors, accidents and cases of ill health reported, enforcement action taken, number of labour inspectors. Please provide an up-to-date organisation chart.
- (i) Explain how European health and safety law has been transposed into national law — particularly the Framework Directive.
 - (ii) Describe the main features of your national and/or regional strategies.

- (iii) Describe the scope of the labour inspectorate, in terms both of its sectoral and functional responsibilities. Explain how the labour inspectorate relates to other parts of the health and safety and legal systems, and how their resources are decided.
- (iv) Explain how the labour inspectorate relates to the wider governmental and health and safety systems and how their activities are co-ordinated.
- (v) Describe the involvement and role of the social partners in establishing the national or regional strategies for health and safety, and how they are involved at sector or workplace level.
- (vi) Describe national health and safety trends, in terms of cases of accidents and ill-health, and the national priorities (sector or topic) derived from these statistics. Mention any known regional variations from the national priorities. Give details of enforcement action taken.
- (vii) Explain the labour inspectorate's role in stimulating action on health and safety; how it assesses the need for information and guidance, how such guidance is made available; and the role of the social partners in this work.
- (viii) Explain how to develop transparency and consistency between inspectors as a means to encouraging compliance.
- (ix) What action have you taken to stimulate social partners to develop a prevention culture?
- (x)

Overview: Developmental Principles

9 *There are a number of other aspects which may be relevant if improvements to health and safety are to progress and move forward **in line with the EU Strategic Framework and in relation to the Developmental Principles** (see paragraph 12). To take account of these aspects, the Competent Authority should:*

- (i) **consider reviewing their national strategies in light of the new EU-OSH strategic framework, in close consultation with social partners and relevant stakeholders.**
- (ii) **should nominate contact points for national strategies (Member States) which will meet regularly to map and exchange good practice**
- (iii) **with the support of the European Social Fund, should provide financial and technical support on implementing OIRA and other IT-based tools in Member States, focusing on priority sectors**
- (iv) **are invited to promote the exchange of good practice, whereby SMEs will be supported by larger enterprises in the contractor-supplier-purchaser chain in order to improve OSH**
- (v) **should continue with awareness raising campaigns**
- (vi) **together with the European Commission, should address the ageing of the workforce, emerging new risks, prevention of work-related and occupational diseases**
- (vii) **should improve, along with the European Commission, statistical data collection and develop the information base**

Questions

- 9 Provide a short description of how your country is already meeting or intends to meet, the expectations of the new EU Strategic Framework, using the individual issues in

paragraph 9 as a framework. Explain your priorities in taking forward the new strategy. Indicate where you see particular opportunities for quick progress and where you see particular challenges or problems.

The core principles

Organisation

10 The core principles, whose application is vital in all states, concentrate on the implementation and enforcement of EU legislation. They address the Council and Commission view that “the effective enforcement of EU law is a precondition for improving the quality of the working environment. To ensure that effective implementation and enforcement is delivered at operational level, LIs must:

Planning and monitoring

- 10(i) *prepare annual plans of work setting out the priority areas for action for the year and detailing the inspection and other programmes that will be necessary to deliver the plans. [Footnote: The plans should also reflect the needs of the SLIC Annual Report, which will be one of the tools used in the evaluation of the application of these Common Principles];*
- 10 (ii) define criteria (indicators) of achievement and evaluation of annual plans;
- 10(iii) *set up systems for monitoring progress against the annual plan, and for establishing the data needed for the SLIC Annual Report;*

Questions

- 10(i) If the current national plan is available in English or the agreed evaluation language, please provide copies. If planning is a regional matter then please provide copies of the regional plans (again if available in English or the agreed evaluation language) for two diverse regions — preferably for regions likely to be visited by the evaluation team. If plans are not available, then please summarise the national/regional priorities and how these will be delivered.
- 10(ii) Explain how progress against plans is monitored, and explain any regional differences if planning is a regional matter.
- 10(i) and (ii) Explain how the plans and data reflect the needs of the SLIC Annual Report.

Inspectors' competencies and independence

- 10(iii) ensure that men and women are eligible for appointment as inspectors; that inspectors have the appropriate qualifications; that they are competent to undertake their responsibilities; and that they receive the training, instructions and information necessary for them to carry out their work;*
- 10(iv) ensure that inspectors are able to obtain specialist, technical, scientific, legal, methodological and other support to assist them in carrying out their duties;*
- 10(v) ensure that inspectors are impartial, that they are independent of inappropriate external influences and of the companies or organisations which they inspect, and that they do not undertake other duties which may interfere with their primary responsibilities;*
- 10(vi) ensure that inspectors are provided with suitable offices, and transport facilities, and are reimbursed for any necessary expenses they incur in carrying out their duties.*

Questions

- 10(iii) Explain how inspectors are appointed and trained and how fairness in terms of gender and race is built into the selection process. Explain the grading of inspectors and give their numbers by grade, and by gender. Include in this answer assistant inspectors, technical officers and 'controllers' and explain their role and their relationship with inspectors.
- 10(iv) Explain how inspectors obtain specialist support, and give similar details to 10(iii) where this support comes from within the labour inspectorate.
- 10(v) Explain how the independence of inspectors is assured, and detail other duties which they undertake, in addition to their health and safety responsibilities.
- 10(vi) Describe the accommodation arrangements for inspectors and how they are expected to travel to undertake their responsibilities. Detail the expenses they may claim and how this is done.

Prevention, protection and assistance for inspectors

10 (vi-a) ensure that inspections of workplaces by inspectors can take place in the safest possible conditions. Member States must take all appropriate measures to ensure protection against violence of any kind, especially by prior assessment of risks, and they must make all the necessary legal and administrative arrangements for providing support and follow-up in the case of such events, in terms of both legal assistance and psychological care.

Questions

10(vi-a)

- Describe the main arrangements you have made to ensure, at national or local level, that inspectors can perform their tasks in the safest possible conditions.
- Describe the risks of violence facing inspectors.
- Describe the measures taken to provide support, follow-up and care should inspectors fall victim to violence.

Inspectors' powers

10(vii) ensure that inspectors are given the powers necessary to carry out the duties assigned to them. These should include in particular the powers:

- *of entry to workplaces without notice;*
- *to carry out inspections and investigations at the workplace;*
- *to require employers and employees to supply information relevant to an inspection or investigation;*
- *to examine records and reports relevant to health and safety at the workplace;*
- *to apply, or to arrange the application of, sanctions when these are deemed to be necessary;*
- *to require the immediate stoppage of working activities in the case of serious risk. In some MS this serious risk must also be immediate – in others the serious risk may be delayed, as in the case of latent health effects;*

These powers should be exercised taking full account of the confidentiality of personal medical data, economic information, employees' complaints and manufacturing secrecy.

Questions

10(vii)

- Summarise the powers of inspectors covering in particular the powers listed above;
- describe any other powers inspectors have which help them carry out their duties;
- what qualifications or exceptions are placed upon the use of inspectors' powers?
- what difficulties do inspectors face in using their powers?
- what sanctions can an inspector use personally, and at what level do these have to be approved? What other sanctions are available to the inspector if proposed through the legal system, or otherwise?

Guidance for inspectors

10(viii) set out in writing the approach to be taken by inspectors at visits to workplaces and indicate the action which should be taken in particular circumstances (see paragraph 11 below);

Questions

10(viii) Explain how guidance for inspections is prepared, administered and quality assured. Describe the range of guidance available on:

- hardware/technical issues;
- techniques of inspection;
- the selection and management of inspections;
- action to be taken in particular circumstances — in particular in relation to the use of sanctions.

Please comment on the overall approach to the use of discretion by inspectors; that is, are inspectors expected to follow closely the guidance they are given, or are they expected to act flexibly and interpret the guidance in particular circumstances? To what extent does the use of discretion vary according to the guidance topic?

Internal communications

10(ix) ensure that good communication links exist to enable issues of good practice and areas for improvement to be brought to the attention of other inspectors, policy makers and legislators, especially through the use of a suitable information system.

Questions

10(ix) Describe the internal communications arrangements in the labour inspectorate. How is information communicated up, down and across the organisation? What influences the use of face-to-face or verbal communications, written communications or electronic communication? How widespread amongst inspectors is the use of e-mail and access to the world wide internet, to a labour inspectorate 'intranet' or other information system?

External communications

10(x) *ensure the good diffusion of LI action and its valorisation. Ensure effective arrangements for publicizing the outcomes of inspection investigation and enforcement activity, and disseminating health and safety messages to achieve positive image for the inspectorates work.*

Questions

10(ix) Describe the external communications possibilities arrangements in the labour inspectorate.

Inspection

11 *The approach to be taken during an inspection must include a physical examination in the workplace of working practices, standards and conditions, and discussion with representatives of the employer and with workers' representatives. It is important when investigating work-related accidents or cases of ill-health that whenever necessary and possible, the person affected is interviewed. Within the core principles, examination and discussion should be focussed on ensuring compliance with applicable national legislation, including that resulting from the transposition of EU law. Following an inspection, the inspector must be in a position to take appropriate action, based on the legal powers of the inspector within the MS. Such action may include the use of sanctions which the inspector is empowered to use. The priorities for inspection, based upon the structure of the Framework Directive, are:*

Questions

11 This section of the Common Principles is concerned with how inspectors go about their work. The answers to the earlier questions about planning, training, competence, powers and guidance will help establish in the framework for inspection visits to the workplace. This section concentrates on inspection to ensure compliance with national law including EU-based law, but if there are other aspects of the approach to inspection which are important in your country, please comment on these.

Ensuring compliance with EU law

11(i) *to judge whether the employer's policy for health and safety is directed to ensuring the health and safety of his employees;*

11(ii) *to judge whether the organisation and arrangements the employer has introduced for securing health and safety are likely to lead to the identification, rectification and prevention of deficiencies. This will include the employer's arrangements for identifying hazards and for assessing risk;*

11(iii) *in particular to make quality assessments of the employer's arrangements for:*

- *the effective planning, organisation, implementation, control, monitoring and review of the protective and preventive measures at the workplace;*
- *securing expert advice and assistance on health and safety matters;*
- *dealing with emergencies; providing the employees and/or their representatives with comprehensible and relevant information;*
- *training the employees in health and safety;*

- *ensuring consultation with the employees and/or their representatives on matters relevant to health and safety;*
- *ensuring that the arrangements in place effectively protect workers against the identified risk.*

Questions

11(i)–(iii) How inspectors ensure compliance with the law will principally be examined and evaluated during the joint visits of the evaluation team members with inspectors. Rather than try to provide preparatory information in the abstract here, it would be helpful if you could simply describe in summary, how it is expected that a typical general inspection of a workplace will be carried out, and how a typical accident or case of ill health will be investigated. It is recognised that few visits are 'typical' but the intention here is to help prepare the evaluation team for what to expect at a visit when the focus is on compliance with the law.

Action taken as a result of the inspection

With respect to the employer

11(iv) *to decide what action is necessary and take the required measures to secure compliance with legal provisions and acceptance of supporting guidance; such action includes advice (both written and verbal); the issue of an order requiring the immediate stoppage of work, or improvements by a specified deadline; the issue of an administrative fine/penalty (either directly or through the appropriate authority); or a referral to the prosecuting authorities.*

With respect to the employees

11(v) *to ensure that workers representatives are informed about the inspector's conclusions, and that any written reports given to the employer, are made available to the workers representatives, who should also be informed of the responses given by the employer. Such reports should not include information confidential either to the employer or employees (see section 10(vii) above).*

With respect to other organisations

11(vi) *to decide whether liaison is necessary with other enforcing bodies who may have responsibility under national legislation for matters such as the protection of public health, consumer or environmental protection, or fire safety.*

Questions

This section is concerned with the action taken as a result of the inspection and how this action is communicated externally to the social partners and other organisations and internally. Please describe:

- 11(iv) the overall pattern of action to ensure compliance e.g. the proportion of visits which result in no action being taken, or which result in advice, issue of orders or notices, prosecution report;
- 11(v) the extent to which worker representatives are present in workplaces during the inspection visits, and the practicalities of communicating with representatives.
- 11(vi) explain typical patterns of communication with other enforcing bodies. Under what circumstances does this take place and how?

With respect to records kept for internal use by inspectors only

11(vii) to make a written record of the inspector's decisions and action, which may include information on:

- core data, characteristics and identification of the employer and the organisation and arrangements for health and safety in place at the workplace;
- standards of health, safety and working conditions noted at the workplace and an indication of the level of compliance with the relevant legal provisions;
- hazards identified by the inspector and an assessment of the extent of the risks linked to these hazards;
- advice given or formal enforcement action taken by the inspector
- an assessment of the scope for improvements in health, safety and working conditions, and whether these improvements that have already been made are likely to be maintained. This may include the measures that the employer has proposed to the workers representatives, to improve and maintain standards of health and safety.

Questions

11(vii) Describe how internal records of inspections are organised and stored.

- How are employer records structured? By company group, by company, by site address?
- By what methods are employers' records stored? On paper; electronically; a mixture of both? How do inspectors get access to these records?
- How are records kept for contractors, who may operate on a number of temporary sites?
- How are records accessed nationally, and across regional boundaries?

Please attach a few representative examples of real inspector records and comment on the extent to which these records meet or exceed the recommendations of paragraph 11(vii).

The developmental principles

12 *The developmental principles address the broader aims of the EU Strategic Framework. Some will already be a reality in several LIs; some will be aspirational in most LIs. While it is important to maintain the priority for those functions concerned with enforcement of the law, which only labour inspectors can perform, it is also vital to improve worker protection by the application of the developmental principles. It is therefore important that the Competent Authority takes action to:*

- (i) engage with those government institutions concerned with the administration of justice, in line with the above mentioned EP Resolution that "advocates stiffer penalties for companies that fail to meet their obligations in relation to employees' basic rights, and considers that such penalties must have a sufficiently deterrent and dissuasive effect to ensure that employers shall by no means profit from circumventing the existing rules on employment and health protection", to consider in their sanction-setting systems making the level of fine proportionate to the damage, as well as to ensure that it is above the profit gained from the circumvention;
- (ii) encourage the development of partnership working between the LI and other stakeholders who can influence better management of risk and compliance of the EU OSH legislation;
- (iii) ensure that work plans and priorities take into account the changing economy, changing patterns of employment and their influence upon health and safety issues and priorities;
- (iv) ensure that inspectors are suitably trained in the emerging issues, and that specialist support is aligned with the changing priorities and perspectives;

develop systems for monitoring inspection processes, techniques and activities, which take into account international approaches to quality management.

Questions

- 12(i) Describe the steps you have taken to ensure sanctions have a sufficient deterrent effect, are proportionate to the harm caused and exceed the profit gained from failure to comply.
- 12(iii) What opportunities do you see for partnership working; that is, for agreeing common aims with other organisations, and developing a shared action plan? How do you encourage the development of partnership working between the LI and other stakeholders who can influence better management of risk and compliance of the EU OSH legislation?
- 12(iv) What are your priorities in relation to the effects of the changing economy? How do you rationalise the impact of new demands upon labour inspectorate resource while continuing to serve current expectations or commitments?
- 12(v) How far have you gone in developing quality assurance of inspector activity? Give examples of any areas you have progressed effectively, and areas where you have found challenges.