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## Assessement of Ethiopia's Labor Inspection System

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## Assesment of Ethiopia's Labor Inspection System

### Abstract

[Excerpt] This assessment of Ethiopia's labor inspection system was conducted at the request of the Ministry of Labor and Social Affairs (MOLSA). MOLSA and the city and regional labor inspectorates may use it to develop and implement plans to increase labor compliance by improving their efficiency and effectiveness. Worker and employer organizations may also use it to help inform their dialogue on national OSH policy, clarify their roles, and improve representation of their members.

### Keywords

Ethiopia, working conditions, labor inspection, compliance

### Comments

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2013

# ASSESSMENT OF ETHIOPIA'S LABOR INSPECTION SYSTEM



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Bureau of International Labor Affairs  
U.S. Department of Labor  
March 2013

# **Assessment of Ethiopia's Labor Inspection System**

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March 2013

*Conducted at the request of*

Ministry of Labor and Social Affairs (MOLSA)  
Addis Ababa, Ethiopia

## EXECUTIVE SUMMARY

This assessment of Ethiopia's labor inspection system was conducted at the request of the Ministry of Labor and Social Affairs (MOLSA). MOLSA and the city and regional labor inspectorates may use it to develop and implement plans to increase labor compliance by improving their efficiency and effectiveness. Worker and employer organizations may also use it to help inform their dialogue on national OSH policy, clarify their roles, and improve representation of their members.

The Assessment poses the following questions to determine how the labor inspection system's efficiency and effectiveness may be improved:

- **What is the inspectorates' mandate?** Mandate sources determine the standards to be promoted, the rights to be enforced, and the inspectorates' structure, authority, duties and responsibilities and reporting requirements.
- **What are the characteristics of a well-functioning labor inspectorate?** A well-functioning labor inspection system is guided by key principles and has certain characteristics that make it efficient and effective.
- **What are the characteristics of Ethiopia's labor inspectorates?** The current operations of the inspectorates will help determine the needs and establish baselines to measure improvements.
- **What actions may the inspectorates take to improve labor compliance?** Given the mandate and the existing characteristics of Ethiopia's labor inspectorates compared to the common characteristics of a well-functioning labor inspectorate, the Assessment makes recommendations in these three broad areas with desired outcomes listed below them:

### 1. Inspection planning, management and resources:

- a. A comprehensive strategic plan with effective management objectives is established;
- b. An optimal level of efficiency and effectiveness of the management of labor inspection system is established and maintained; and
- c. An appropriate level of resources and staffing is obtained enabling the labor inspectorates to fulfill their mandate.

### 2. Education and outreach:

- a. Employer and worker organizations have established roles in promoting compliance and best practices among their members; and

- b. Enhanced employer and worker knowledge and engagement results in measurably improved compliance with labor/OSH laws and regulations and labor/OSH best practices.

### 3. Enforcement:

- a. Effective application of penalties discourages violations industry-wide and appropriate remedies are provided to workers;
- b. An efficient enforcement process ensures inspection orders are enforced and verified; and
- c. A sustainable system of training provides inspectors with the required knowledge and skills.

Each of these outcomes is necessary to achieve the overarching labor compliance goal. Education and enforcement are mutually supportive; more and better education will result in greater employer and worker knowledge of the law and safe OSH practices. However, it may not give them an incentive to comply. In some cases, compliance will obviously be in an employer's financial self-interest but in others, the employer may choose to not comply to save money in the short term, shifting the burden of loss on workers, their communities and the Ethiopian government. Indeed, an employer's undercutting of safety standards may hurt an entire industry. For example, if a construction contractor submits low bids by engaging in cheap unsafe practices, they may undercut compliant competitors who, in turn, may be forced to reduce their standards to compete for future contracts. With proper education and enforcement, investors will be reassured by the predictability of the system and attracted to a safer environment.

While the Assessment suggests a wide range of activities that may support achieving these outcomes, some of them may not be essential and others may be a higher priority either in sequence or in importance. Indeed, other activities not identified in the Assessment may also support the outcomes. Because the Assessment is based largely on information gathered by the USDOL team in Ethiopia in September 2011 supplemented by updates provided as late as January 2013, the particular facts may have changed or some key facts may have been missed. However, the Assessment's framework for analyzing and evaluating the labor inspection system remains the same.

Moreover, while the Assessment's coverage is comprehensive, inspectorates may introduce changes in small steps and stages, understanding that each change should support a long-term vision and strategy. MOLSA and the city and regional labor inspectorates may consider using two types of development strategies:

- **The building block strategy:** choose a broad area and engage in activities that support one or more of the listed outcomes. For example, finalize a plan or set of plans that could include the overall strategic plan down to each inspectorate's office plan. This outcome may serve as a building block to achieve results in the other broad areas. Similarly, Part Three suggests that MOLSA and other labor inspectorates identify relatively small, short-term objectives to serve as building

blocks for achieving larger long-term objectives, such as establishing a national OSH laboratory.

- **The piloting of a “rapid response” strategy:** choose a particular problem and address it from start to finish. For example, focus on a specific goal, such as reducing construction scaffolding accidents in Addis Ababa, and establish a new targeted process, checklists and forms and test them over a relatively short period of time (perhaps 3-6 months). At the end of the test period, determine to what extent the new approach has improved verified hazard abatement of this particular hazard alone. The value of this strategy is that within a short time period hurdles can be quickly discovered. As a result, implementers may overcome them before rolling the approach out system-wide, thus saving time and money. Achieving short term gains can also improve the staff’s confidence and create momentum for greater change.

A summary of the three broad areas, their goals, challenges and potential solutions are set forth in the chart below.

<b>INSPECTION PLANNING, MANAGEMENT &amp; RESOURCES</b>		
<i>Goals</i>	<i>Challenges</i>	<i>Potential Solutions</i>
Comprehensive strategic plan established	<ul style="list-style-type: none"> <li>• Limited definition of goals and objectives</li> <li>• Limited coordination between inspectorates</li> </ul>	<ul style="list-style-type: none"> <li>• Develop plan with specific management objectives</li> <li>• Finalize OSH policy</li> <li>• Establish formal and informal coordination &amp; sharing among inspectorates</li> </ul>
Efficient & effective inspectorate management	<ul style="list-style-type: none"> <li>• Limited data system</li> <li>• Imprecise indicators</li> <li>• No complaint forms or initial review process</li> <li>• Few or no internal reviews</li> <li>• Irregular tripartism</li> <li>• Little compliance verification</li> </ul>	<ul style="list-style-type: none"> <li>• Develop data collection with basic system that can be expanded</li> <li>• Improve target indicators to measure impact</li> <li>• Develop/revise inspection forms</li> <li>• Tap into inspectors’ expertise</li> <li>• Develop internet tools for information &amp; reporting</li> <li>• Integrate solutions from start to finish</li> </ul>
Resources matched to needs	Very limited resources & staff for rapidly expanding need	<ul style="list-style-type: none"> <li>• Identify more precisely the needs and targets</li> <li>• Show measurable success with current resources</li> <li>• Use results to build support for more resources</li> </ul>

<b>EDUCATION AND OUTREACH</b>		
<i>Goals</i>	<i>Challenges</i>	<i>Potential Solutions</i>
Employers/workers effectively promote compliance & best practices	Irregular tripartite engagement and limited in scope	<ul style="list-style-type: none"> <li>• Review and define roles and responsibilities under the law &amp; ILO Conventions for stakeholder action</li> <li>• Engage the tripartite process to promote cooperation and test areas of collaboration</li> </ul>
Educational system with optimal levels of employer/worker knowledge & engagement	<ul style="list-style-type: none"> <li>• Limited stakeholder staff, training and resources</li> <li>• Limited resources and few inspectors &amp; support staff</li> </ul>	<ul style="list-style-type: none"> <li>• Provide advisory services to employers</li> <li>• Develop tools to educate on key OSH topics, with examples from the US and other countries</li> <li>• Establish process for regular updates &amp; information share</li> <li>• Target OSH education &amp; enforcement</li> <li>• Implement cost-effective, creative new approaches with media outreach and public recognition of success stories</li> </ul>

<b>ENFORCEMENT</b>		
<i>Goals</i>	<i>Challenges</i>	<i>Potential Solutions</i>
Effective penalties & remedies applied	Weak penalties in law infrequently ordered	<ul style="list-style-type: none"> <li>• Maximize application of existing penalties</li> <li>• Streamline process for quicker penalties &amp; correction</li> <li>• Publically name violators to discourage violations</li> <li>• Increase penalties &amp; better define worker remedies</li> </ul>
Enforcement process at optimal level with verified compliance	<ul style="list-style-type: none"> <li>• Courts often reject cases</li> <li>• Slow labor-intensive process</li> <li>• Inspectorates lack training &amp; support</li> </ul>	<ul style="list-style-type: none"> <li>• Establish inspectorate's role &amp; authority through test case and agreement with Ministry of Justice</li> <li>• Establish standard templates for court enforcement</li> <li>• Develop training for inspectors to bring court cases</li> <li>• Provide inspectors with incentives &amp; support</li> </ul>
Sustainable training system for inspector knowledge & skills	<ul style="list-style-type: none"> <li>• Gaps in knowledge, skills &amp; training</li> <li>• Lack regular process for updating</li> </ul>	<ul style="list-style-type: none"> <li>• Establish training system for key knowledge &amp; skills</li> <li>• Establish mentoring support</li> <li>• Develop an inspector handbook &amp; manual</li> <li>• Provide inspectors with protective equipment as noted</li> </ul>



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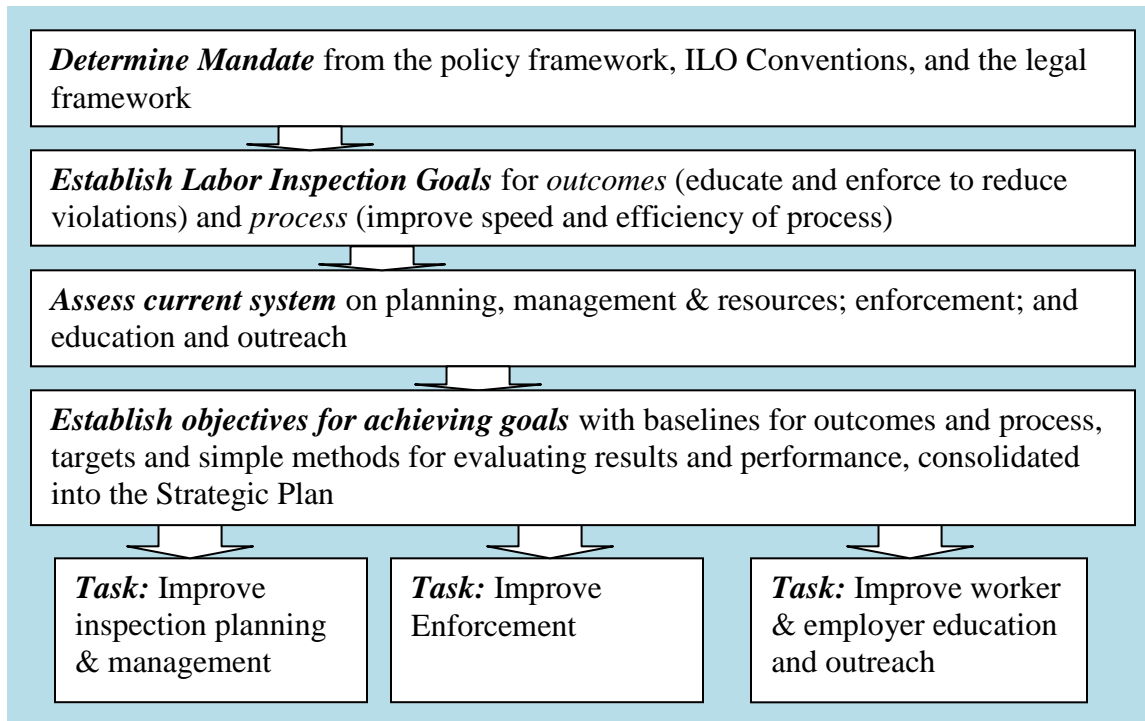
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# INTRODUCTION

The government of Ethiopia (GoE) has an ambitious plan for promoting economic development and employment growth. To achieve its development goals, it is critical for GoE to improve compliance with international and domestic labor standards, which in turn depends on building capacity in the labor inspectorates. Labor inspectorates help ensure that worker rights are respected, workplace injuries and deaths are reduced, and businesses' costs from lost man-hours and unsafe practices are reduced. With a safer environment and more efficient labor administration, investors will view Ethiopia as an even more promising country for long-term investment. Employers will have a stable environment and worker lives will be measurably improved. A primary challenge for Ethiopia's labor inspectorates is to prepare for and keep pace with the expected growth.

A strategic plan with a clear roadmap is required for effectively improving a labor inspectorate system. Figure 1 provides steps for success to guide strategic planning. With its relatively detailed policy and legal frameworks, the greatest challenge for Ethiopian labor inspections is to bridge the gap between what they are mandated to do and what they are capable of doing with their staff and resources. Plans, goals, and processes must be developed with consideration of the inspectorates' strengths and limitations, as well as those of employers and workers. A danger to avoid is developing a plan with a list of abstract, unrealistic goals that discourages or prevents effective implementation (“we can't do all of that, so why should we try?!”).

**Figure 1: STEPS FOR INSPECTORATE SUCCESS**



# **PART ONE: THE MANDATE, THE WELL-FUNCTIONING INSPECTORATE AND ETHIOPIA’S LABOR INSPECTION SYSTEM**

Part One answers these three questions:

1. What is the Ethiopian labor inspectorates’ mandate?
2. What are the characteristics of a well-functioning labor inspectorate?
3. What are the characteristics of Ethiopia’s labor inspectorates?

The labor inspectorates’ mandate is derived from Ethiopia’s policy framework with its definition of national objectives and goals (I); the ILO Conventions with their definition of standards (II); and Ethiopia’s legal framework with its laws, proclamations and directives (III).

## **I. THE ETHIOPIAN LABOR INSPECTORATES’ POLICY MANDATE**

### **A. The Economic and Social Development Policy Framework**

*“Strengthening institutional capacity is critical to implement the Growth and Transformation Plan policies, strategies and programs and thereby achieve satisfactory results.”—Ethiopian Ministry of Finance and Economic Development<sup>1</sup>*

The Government of Ethiopia’s key objective is to achieve “broad-based, accelerated and sustained economic growth so as to eradicate poverty.”<sup>2</sup> The plans for achieving this and related objectives are found in the Government’s five-year Plan for Accelerated and Sustained Development to End Poverty (PASDEP) and its five-year Growth and Transformation Plan (GTP). PASDEP’s main objectives are to provide directions for accelerated, sustained, and people-centered economic development and to achieve the Millennium Development Goals (MDGs).<sup>3</sup>

Ethiopia aims to build “an economy which has a modern and productive agricultural sector with enhanced technology and an industrial sector that plays a leading role in the economy, sustaining economic development and securing social justice and increasing per capita income of the citizens so as to reach the level of those in middle-income countries.”<sup>4</sup>

PASDEP’s eight strategic pillars, which depend heavily on labor and employment, include the following:

1. Building all-inclusive implementation capacity;
2. Accelerating economic growth;
3. Creating the balance between economic development and population growth;

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<sup>1</sup> Growth and Transformation Plan, Ministry of Finance and Economic Development, November 2010 (“GTP”), p. 26.

<sup>2</sup> GTP, p. 9.

<sup>3</sup> The UN’s MDGs have eight goals, such as eradicating extreme poverty and hunger, with 21 targets measured by 60 indicators. See <http://www.undp.org/mdg/basics.shtml>.

<sup>4</sup> GTP, p. 21.

4. Unleashing the potential of Ethiopia's women;
5. Strengthening the country's infrastructure;
6. Strengthening human resource development;
7. Improving management of risk and volatility; and
8. Creating employment opportunities.

The GTP aims to implement an ambitious five-year plan with projected Gross Domestic Product (GDP) growth of 11-15% per year from 2010 to 2015. The total cost is estimated at US \$75-79 billion. It also aims to develop basic infrastructure in four industrial cluster zones; expand and ensure the quality of education and health services; establish favorable conditions for sustainable state building; and develop a stable macroeconomic framework.

Ethiopia's strategy for sustaining rapid and broad-based growth hinges on seven pillars, which include:

1. **Sustaining rapid and equitable economic growth** to dramatically expand employment opportunities and help transform Ethiopia into a middle income country.
2. **Maintaining agricultural as a major source of economic growth** by supporting intensified production of marketable farm products for domestic and export markets.
3. **Creating conditions for industry to play a key role in the economy** with the expansion and diversification of the industrial sector, particularly for export and import substituting industries.
4. **Enhancing expansion and quality of infrastructure development** by expanding and ensuring quality infrastructure for roads, railway, energy, irrigation, and telecommunication for job growth and industrial development.
5. **Expanding quality social development** to improve citizens' living standards and develop their potential by improving their health, productivity and skills.
6. **Building good governance** by improving the capacity of civil servants at federal, regional and local levels to ensure efficiency, effectiveness, transparency and accountability at all levels with concerted efforts to improve information and communications systems. This goal will be achieved by improving civil servants' knowledge, skill and access to appropriate channels to peacefully resolve disputes.
7. **Promoting gender and youth empowerment and equity** by ensuring equitable socio-economic and political participation by, and benefits directly for, women and youth, and supporting and protecting the rights and safety of vulnerable children.

## **B. The Essential Role of Collecting Data to Evaluate Policies**

The Ethiopian Government has declared that achieving its poverty reduction goals requires "clear and systematic measurement, monitoring and evaluation of the achievement of outputs,

outcomes and the impact of development policies and plan targets.”<sup>5</sup> To achieve this goal, the Central Statistics Agency (CSA) has developed the National Statistical Development Strategy and the Data Quality Assessment Framework (DQAF). The CSA has identified the following major hurdles to quality data collection: lack of capacity, suitable methodology, and accurate source data.

The report noted that GoE has strong political will to improve data and results management but challenges include: an inability to keep their statistical approaches up to date to meet the evolving needs of the modern economy; low user participation and consultation to address growing statistical demands; the failure of statistics to enable GoE to tackle new policy priorities; and the lack of institutional knowledge in the national statistical system.<sup>6</sup>

### **C. Linking International Labor Standards (ILS) to National Policy**

Labor standards may serve as an instrument to help achieve GoE’s goals of promoting broad-based economic growth and social justice supported by good governance and proper risk management and improving living standards and health. In particular, these labor standards can help to:

- Attract investment by reducing businesses risk and OSH-related losses by establishing a predictable regulatory environment that promotes better practices;
- Promote good governance by improving labor inspection services; and
- Promote sustainable, equitable growth and social development by improving worker incomes, living standards, health, productivity and skills.

In short, the national policy and strategy provides excellent support for the proposition that promoting effective labor administration with enforced OSH standards will support the kind of development sought by the government of Ethiopia. MOLSA’s challenge will be to keep pace with other ministries in terms of allocation of resources to ensure that it can achieve its mission and properly support the broad policy objectives.

## **II. ILO CONVENTIONS**

ILO Conventions define worker rights and standards and provide useful guidance for labor inspectorates. A government’s ratification of ILO Conventions is a formal commitment to adopt their principles in law and policy and implement them. Even when not ratified, they provide an important framework for law and policy and practical guidance.

### **A. Ratified and Model Conventions**

Ethiopia has ratified 22 ILO Conventions. Twenty-one are still in force, including 8 Fundamental Conventions that protect freedom of association and the right to organize and prohibit forced labor, child labor, the worst forms of child labor and discrimination. The country has also ratified a Governance (Priority) Convention on tripartite consultations (C. 144), and 12 Technical Conventions, including a convention on occupational safety and health (C. 155).

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<sup>5</sup> The National Statistical Development Strategy (NSDS) for Ethiopia (2009-2014).

<sup>6</sup> NSDS at pp. 45-46.

Ethiopia's Labor Proclamation is partly modeled on the ILO's Convention on Labor Inspections (No. 81), which provides a useful overview of the government's commitment on labor inspections. The relevant ILO Conventions are discussed in more detail in Appendix A.

## **B. The OSH Convention**

The OSH Convention (No. 155) sets forth principles for action at the national level. It provides definitions, establishes requirements for national policy and specifies the responsibilities of governments, employers and workers. It also provides guidance for developing a well-functioning labor inspectorate, as discussed below.

## **III. ETHIOPIA'S LEGAL FRAMEWORK**

Ethiopia's legal framework and mandate for labor inspections may be found in Labor Proclamation (No. 377/2003 (amended)) and the Occupational Safety & Health Directive ("OSH Directive"). The Labor Proclamation provides guidance through general provisions; specific provisions on OSH and the working environment, labor inspection roles and responsibilities, the labor inspection process, penalties and remedies; and court and labor board adjudications. The OSH Directive provides detailed guidance on OSH matters. A draft national OSH policy is scheduled to be finalized in 2012.

Key provisions in the Labor Proclamation and the OSH Directive are outlined in Appendix B and summarized below. Figure 2 provides a flow chart for the inspection process, from the filing of a complaint and planning of an inspection, through court enforcement.

This outline of labor law and regulations may guide development of the following:

- A national policy on labor inspections and OSH;
- Regulations and guidelines that better define the responsibilities for enforcement and application of remedies and penalties;
- Procedures and practices to:
  - Receive, evaluate and process complaints;
  - Plan inspections and target enforcement efforts;
  - Conduct inspections, and
  - Collect and report data on inspections;
- Materials that will assist inspectors in performing their jobs, such as checklists and handbooks;
- Better-defined employer and worker responsibilities and roles; and
- Focused educational and outreach efforts.

### **A. Constitutionally Protected Labor Rights**

The Ethiopian Constitution (adopted in 1994) enshrines the protection of certain worker rights. It protects freedom of association and collective bargaining for workers (Articles 42(1)(a) and (3)) and all citizens (Article 31) and the right of women to equal pay (Article 42(1)(d)). It also states that "[w]orkers shall have the right to appropriately defined working hours, breaks, leisure,

periodic leave with pay, paid public holidays, and a safe and healthy working environment” (Article 42(2)). It further prohibits forced and compulsory labor (Article 18(3)).

## **B. The Labor Proclamation**

The Labor Proclamation is comprehensive legislation with provisions on rights, administration and dispute resolution processes notable for its strong emphasis on the creation and enforcement of OSH standards. It sets forth a range of general provisions on contracts, termination, wages, hours of work and rest, leave, working conditions, OSH, collective relations, period of limitations and priority of claims, enforcement, and penalties.

### **1. OSH and Working Environment**

*Chapter I on Preventative Measures* states that employers are required to “take the necessary measures to safeguard adequately the health and safety of the workers” and workers are required to obey all OSH rules and instructions and report hazards that need to be remedied.

*Chapter II on Employment Injuries* provides that the employer is liable, irrespective of fault, for employment “injuries” sustained by their workers, which include “employment accidents” and “occupational deceases,” unless the worker “intentionally” caused it (i.e., through “non-obedience” of express instructions or intoxication). It also defines four degrees of disablement: temporary, permanent partial, permanent total and death. It appears to establish a process with a shifting burden of proof to determine whether the occupation caused the disease or death.

*Chapter III on Benefits in the Case of Employment Injuries* establishes the employer’s duty to provide aid and assistance to injured workers, defines the kinds of medical benefits that the employer must provide and defines the kinds of cash benefits that the employer must provide.

### **2. Labor Inspection Roles & Responsibilities**

The Proclamation provides that the Labor Inspectorate is *authorized and directed* to ensure implementation of the Proclamation and its regulations and directives, other labor laws, registered collective agreements, and decisions and orders given by authorities. It also requires that the inspectorate conduct research on working conditions and OSH, collect statistics, provide training and prepare a list of occupational diseases and schedules or degrees of disablement (Sec. 177). It also provides that the labor inspectors *have the power* to conduct on-site inspections without prior notice, question managers and workers, review documents, and take samples to test conditions, among other powers (Sec. 178).

### **3. The Labor Inspection Process**

The Proclamation establishes a labor inspection process for inspectors and employers to follow (Sec. 179), which is outlined in Figure 2 and detailed in Appendix A. If the employer does not appeal the inspector’s order within the time-limit, then the order *shall* be executed by the appellate court. An improved labor inspection process, with data collection fields and inspection and court application templates, is suggested in Figure 6 in Part II.



#### **4. Penalties**

Proclamation Chapter I of Part XII establishes penalties to be assessed against employers and trade unions. It sets forth maximum penalties for different types of violations, ranging from 300 Birr (US \$17) to 1,000 Birr (US \$58) (Secs 184-185).

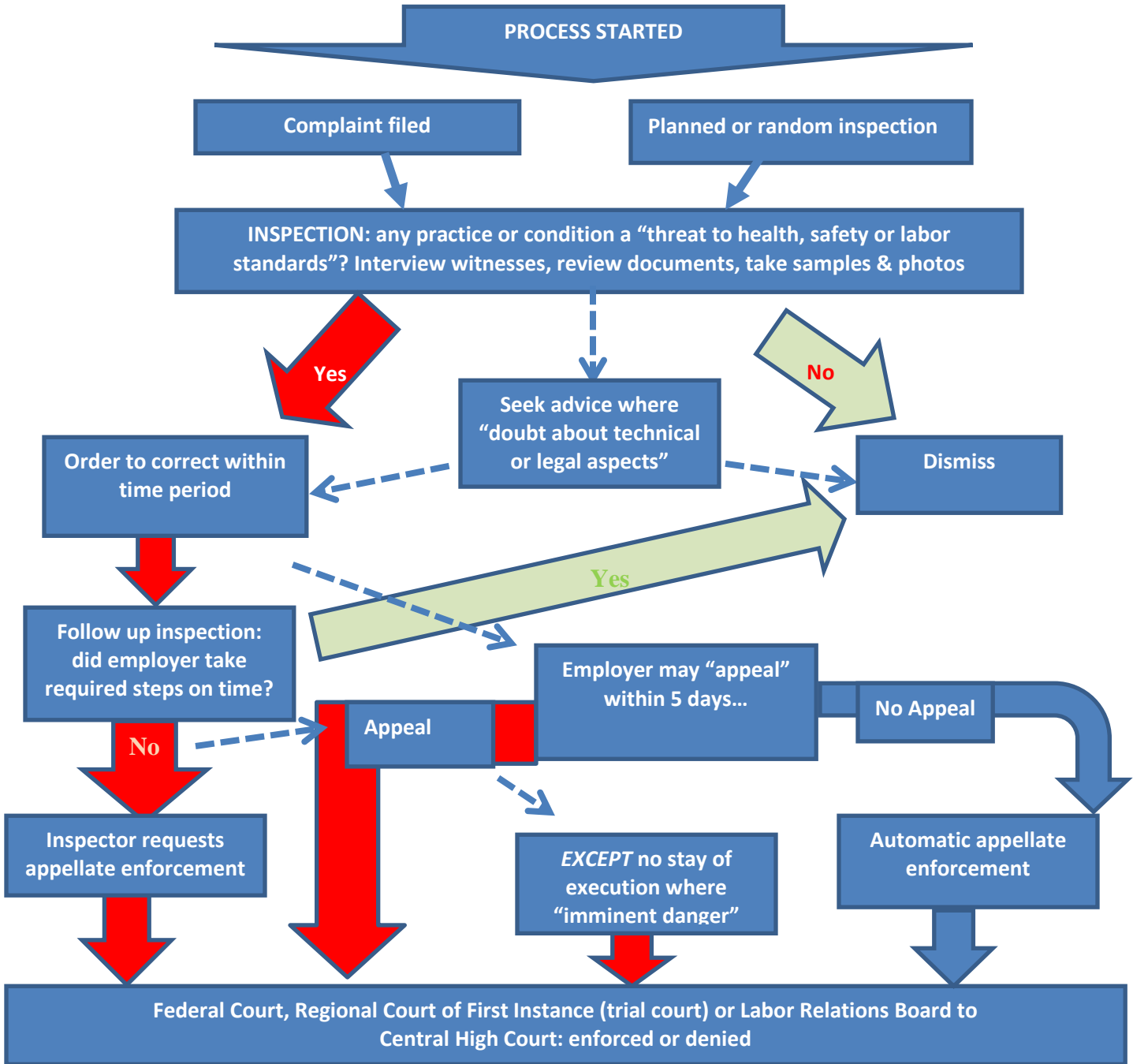
#### **5. Court and Labor Board Roles & Responsibilities**

The Proclamation authorizes the establishment of labor divisions in regional first instance courts, regional courts hearing appeals, and the Central High Court (Sec. 137), which has subject matter jurisdiction over “individual disputes,” such as claims concerning employment-related injuries (Sec. 138). It establishes timelines for the issuance of decisions and the filing of appeals (Secs. 139-140). The Proclamation also provides for the establishment of Labor Relations Boards (LRB’s), composed of a chair, as well as worker and employer members (sec. 144-145), which hear a range of disputes (Secs. 142 & 147). There are a total of 9 LRB’s, including 2 in Oromia, 1 in Tigray, 4 in SNNPR, and 2 in Amhara.

#### **C. The Occupational Safety and Health Directive**

The OSH Directive, issued by the MOLSA Minister, establishes the duties of employers, rights and duties of workers, responsibilities of the labor inspectorate, and mandatory conditions on overcrowding, sanitation, fire safety, and preparedness. Part II provides guidance on mandatory employer responsibilities; Part III details provisions for ambient working conditions and certain hazards; and Part IV describes specific and general hazards by work practices or types of manufacturing processes, machinery operation or job performance procedures. Part V covers OSH in construction and Part VII covers the agricultural sector and the duties of authorities.

**Figure 2: THE LABOR INSPECTION PROCESS (Labor Proclamation, Sec. 179-185)**



#### **IV. A WELL-FUNCTIONING LABOR INSPECTORATE**

Well-functioning labor inspectorates follow certain principles and have characteristics that enable them to effectively and efficiently protect labor rights and promote best practices. An inspection process is ineffective if the inspectorate finds a violation and orders remediation, but the employer does not comply. To be effective, an inspectorate must have a commitment to enforcement from start to finish; it must identify violations, issue orders, process cases, and ensure that orders are followed and results, verified.

##### **A. Principles of a Well-Functioning Labor Inspectorate** include the following:

1. *Enforces* laws protecting the full range of worker rights and regulating conditions of work using the following:
  - a. Adequate remedies and penalties;
  - b. Timely enforcement;
  - c. Inspectors who are well-trained, independent, properly equipped and credentialed;
  - d. An inspectorate that has the power to take steps to remedy violations; and
  - e. A central inspection authority that coordinates with workers and employer representatives and other government offices to implement the law.
2. *Educates, conducts outreach and supports* employers and workers with technical information and advice on the most effective means of compliance (“advisory services”).
3. *Improves* the law’s coverage by identifying defects and abuses not covered in existing laws/regulations; and
4. *Reports* on the inspectorate’s performance on at least an annual basis related to ministry goals and strategies and showing implementation methods and results.

##### **B. Effective Implementation of These Principles** requires the following:

1. *Enforcement with:*
  - a. Clear mandates with stakeholder-communicated goals, objectives and criteria for evaluating and improving performance;
  - b. Motivated and supported inspectors with an ethical code;
  - c. Good management: effective direction, two-way vertical (supervisor-inspector) and horizontal (inspector-inspector) communication, and coordination; and
  - d. Commitment to ensuring proper and timely treatment throughout the process to final resolution/remediation of violations.
2. *Education and training, with workers and employers educated on:*
  - a. The law’s requirements;
  - b. Ways to prevent violations and mitigate hazards;
  - c. How to respond to investigations and constructively engage in the investigation/enforcement process; and

d. Stakeholder communication of ministry implementation strategies.

3. *Continuous improvement with:*

Processes established both internally (within the ministry) and externally (with worker and employer stakeholders) to review compliance gaps and inspectorate performance and make changes.

Timely data collection is essential to ensure efficient and effective enforcement, identify gaps and needs in training, improve the quality of inspections, improve management of inspections, develop appropriate educational and training programs, and enable continued enforcement, and reporting.

In sum, a well-functioning labor inspectorate has a balanced approach to its use of resources and personnel to enforce, educate, and engage in collaborative work with employers and trade unions. It should maintain a strategic approach to enforcement, which involves the use of resources consistent with four approaches:

- **Prioritizing** by determining which industries and workplaces should be inspected;
- **Deterring** violations by encouraging employers to voluntarily comply because they will likely face serious sanctions;
- **Sustaining** improvements by helping to ensure that employers once found out of compliance, are encourage to achieve and stay in compliance; and
- **Amplifying** effects by ensuring that inspection efforts promote compliance broadly through an industry and not just with individual workplaces that are inspected.<sup>7</sup>

## V. ETHIOPIA'S LABOR INSPECTORATES

### A. Mission and Structure

The Ministry of Labor & Social Affairs' (MOLSA) mission is to promote effective, healthy and peaceful industrial relations through social dialogue and good labor administration with quality occupational safety and health services at both national and regional levels.<sup>8</sup> Per the Labor Proclamation, it has a very broad mandate and, per the OSH Directive, a strong focus on OSH. The current MOLSA structure is forth in Figure 3 below. MOLSA's jurisdiction covers all business sectors. Labor inspectors total about 123 (16 females and 107 males).<sup>9</sup>

At the Regional level, the Bureaus of Labor and Social Affairs (BOLSAs) oversee labor inspections under the direction of regional governments. The BOLSAs oversee zone and district

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<sup>7</sup> See Weil, David, "A Strategic Approach to Labor Inspections," Boston University School of Management Research Paper Series, No. 2009-4 (2008), at [http://papers.ssrn.com/sol3/papers.cfm?abstract\\_id=1131386](http://papers.ssrn.com/sol3/papers.cfm?abstract_id=1131386). See also Weil, David, "Improving Workplace Conditions through Strategic Enforcement: A Report to the Wage and Hour Division," May 2010, at <http://www.dol.gov/whd/resources/strategicEnforcement.pdf>

<sup>8</sup> Occupational Safety and Health Profile for Ethiopia, MOLSA, Oct. 2006, page 19.

<sup>9</sup> The Assessment is based largely on information gathered by the USDOL team in Ethiopia in September 2011, supplemented by updates provided as late as January 2013. Some aspects of the structure, staffing and operations may have changed since then.

offices, which conduct inspections. In Addis Ababa and Dere Dawa, the city governments oversee labor inspection units. The regional and city labor inspectorates submit annual reports to their respective authorities, with the primary focus on monthly targets for numbers of inspections. The Addis Ababa office has two trainers who provide training to inspectors, workers, and employers and oversee a case database. The organizational structures of the regional and city labor inspectorates are set forth in Figure 4 below. Support staff assists at some levels, including city and regional levels, where secretaries manage paperwork and filing.

The recent organizational changes in MOLSA and the BOLSAs were partially initiated by structural reforms in the Federal and Regional Civil Service using Business Process Re-engineering (BPR) methods to ensure the delivery of high quality and efficient public services to “customers.” The BPR group concluded that the labor inspection services were too reactive and not sufficiently preventive, with an excessive reliance on administrative procedures covering only the formal sector. In response, in the regional BOLSAs level, all technical heads of services were designated as “Process Owners.”<sup>10</sup>

The Addis Ababa city inspectorate reports that the probability of small employers complying with recommendations and orders is low, with a somewhat greater chance of compliance with large employers. The city has two inspectors who conduct OSH training and oversee the case database. Inspectors and secretaries manage the files. The inspectorate reports that they have tried only two cases in court in the past eight years, winning one after a year-long labor-intensive effort that resulted in a 102,000 Burr (US \$5,906) penalty. During the same period, they filed about 20 cases in court, in what are also very labor-intensive efforts. They report that they only provide recommendations and do not assess penalties. They lack data on compliance rates. At times, officials from other ministries, such as the Ministry of Trade and Industry, become involved in cases pending in court, asserting that the inspectorate should withdraw charges because public knowledge of the alleged violations may interfere with investment strategies.

The Oromia Regional Labor Inspectorate has about 50 inspectors with different backgrounds. They receive their mandate from Proclamation 377/2003 and their accreditation from the regional government. Their inspectors inspect employers of various sizes: employers with 800 or more employees are inspected at the regional level, while those with 500-800 employees are inspected at the zone level, and those with fewer than 500 employees are inspected at the local level. One challenge is that, while employment has increasingly shifted from agriculture to industry, the inspectors’ ability to conduct effective industrial inspections has not improved. The inspectors report that they need inspection training, vibration equipment, noise and ergonomic skills and testing equipment, and improved skills to diagnosis occupational diseases. They also report that they “advise” employers but do not enforce the law. A particular challenge is following up to determine whether employers comply, given the lack of resources, incentives and established strategy. The Regional Labor Inspectorate litigates about three cases per year in court. Its officials report that judges lack awareness of labor laws and the role of labor inspectors.

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<sup>10</sup> See “Technical Memorandum: Ethiopia Labour Inspection Audit,” published by the ILO’s Lab/Admin program (2005).

## **B. Inspector Qualifications**

Most labor inspectors have college degrees in areas such as chemistry, biology, physics and other sciences. They are encouraged to take OSH courses at the University of Gondar, the completion of which qualifies them for a higher salary scale. Inspector turnover is relatively high because there are better paying jobs in the private sector. The labor inspectors have a duty to bring cases to court if employers do not comply with their orders; however, they have no training to do so. The Oromia regional labor office reports that they have one lawyer at the regional level, one at zone levels (18 zones) and the local level.

## **C. Inspection Reports**

The inspectorate uses the following forms/reports:

- Integrated Labor Inspection Checklist (Routine Inspection form) with these Parts:
  - I. (A) Establishment Profile, (B) Employer Details, (C) Employee Profile, (D) Workplace Structures, and (E) Gender Composition;
  - II. (A) Contract of Employment, Wage Payment, (C) Hours of Work, (D) Weekly Rest & Public Holidays, and (E) Leave Entitlements;
  - III. (A) Women’s Working Conditions, (B) Young Workers Working Conditions;
  - IV. (A) OSH Preventative Measures, (B) Labor-Management Relations
  - V. (A) Completion of Onsite Inspection, (B) Routine Inspection Report with results (“good” or unsatisfactory (requiring review)).
- Follow-up Inspection Report, with verification of compliance with labor inspection orders.
- Warnings are provided by some offices, including in the Oromia region. The warnings are limited to requests that hazards be addressed. They do not assess penalties against employers for violations.

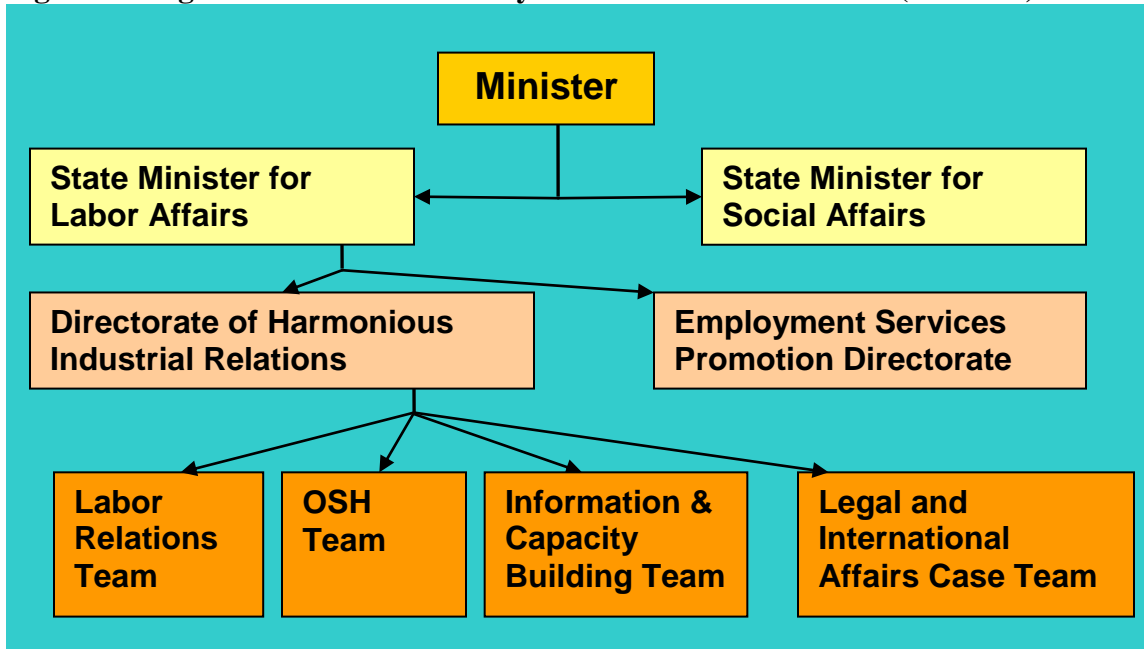
The inspectorates issue the following reports:

- Annual Reports – labor inspectorates submit annual reports to appropriate authorities, including city, regional or federal governments. On request, city and regional inspectorates provide reports to MOLSA.
- Quarterly Reports - the Oromia regional labor inspectorate provides quarterly reports to MOLSA, identifying plans, results, and notable problems.
- Workplace Injuries Report Form – labor inspectorates complete this form, which includes: the following:
  - Data fields with enterprise numbers and workforce size, number of non-fatal accidents (with and without rest days), fatal accidents, number of rest days; amount of money paid for the rest days.

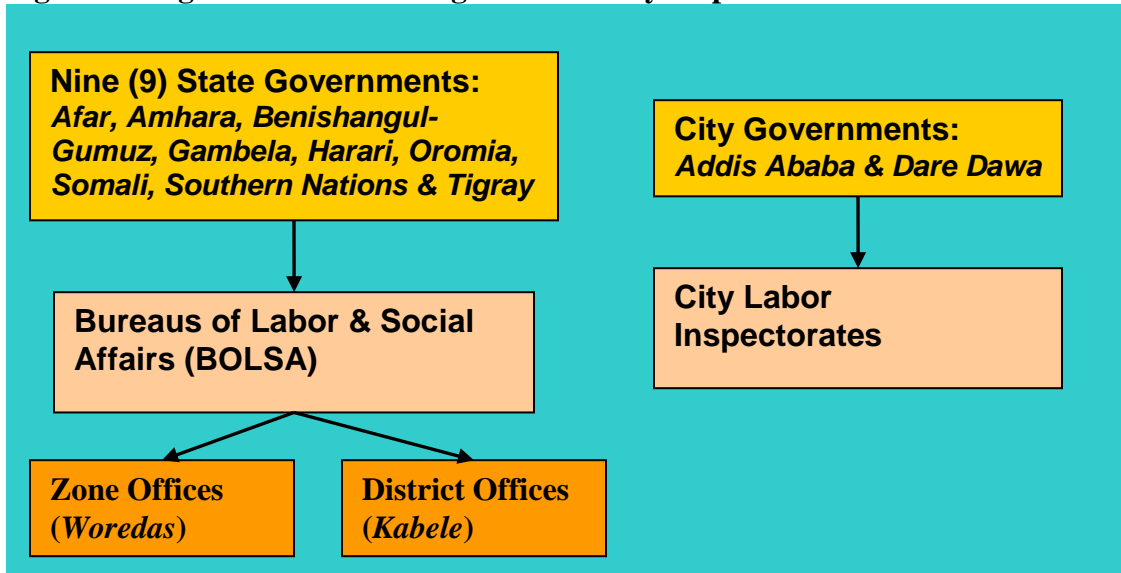
- Data fields by industry with a numerical code identifying the type of employer, including agriculture, manufacturing, electricity, gas and water; construction; and transportation, finance & insurance industries.

They use inspector checklists in these areas: Minimum Conditions of Employment and OSH.

**Figure 3: Organization of the Ministry of Labor & Social Affairs (MOLSA)**



**Figure 4: Organization of the Regional and City Inspectorates**



#### **D. Worker and Employer Organizations**

The Ethiopian Employers Federation (EEF) has 14 member associations in industries, including hotels, leather, floriculture and others, and maintains 9 branch offices in areas of high labor concentration. The EEF provides legal services to employers and training on industrial relations and collective bargaining. Individual employers are also members of the EEF. The EEF reports that some employers have advanced OSH policy and practices, most notably Ethiopian Airlines and Midroc, which has companies in mining, construction, agro-industries and steel. The EEF members are primarily Ethiopian with some from India and Pakistan. EEF is seeking Chinese companies to join.

The Congress of Ethiopian Trade Unions (CETU) is an alliance of trade unions with more than 200,000 members. The CETU has two trainers – one is an OSH trainer and the other serves as a training coordinator. They conduct OSH training, at times with labor inspectorate officials, on worksites for one day or half day sessions and three day sessions for leaders. They report that OSH hazards and violations are common in the private sector. They recently conducted a study that found a significant level of OSH deaths and injuries in construction.



## **PART TWO: FINDINGS FOR THE LABOR INSPECTION SYSTEM: CHALLENGES & RECOMMENDATIONS**

With Part I of this report having analyzed 1) the labor inspection mandate, 2) key inspection principles, and 3) characteristics of Ethiopia's labor inspection system, the next question is:

### **4. What actions may the inspectorates take to improve labor compliance?**

Accordingly, Part II discusses challenges and recommendations for Ethiopia's system in three areas: 1) effective inspection planning, management and resources; 2) education and outreach and 3) enforcement. Part II also suggests a range of potential solutions for the problems in each of these areas. MOLSA and other stakeholders may review them, identify which ones should be pursued and whether they should be modified, establish priorities and the sequence for their implementation, and draft a workplan. Part III provides more technical depth on OSH issues.

During ILAB's visit to Ethiopia, labor inspectorate officials and the ILAB team identified a number of challenges faced by inspectors and the inspection system. In brief, the OSH Directive defines and describes the general requirements for maintaining safe and healthy workplaces well and the Labor Proclamation's issuing authority is clear (see art. 98 (3) and 102 (1) (a-e)). However, the OSH Directive could be further clarified by referencing the Labor Proclamation's articles on enforcement; this would show employers and worker representatives that they are linked. In addition, inspectorates must exercise their enforcement power to demonstrate their role in compliance to employers and workers.

As stakeholders explained to the ILAB team, employers appear to have little incentive to comply with inspectors' recommendations and orders. This lack of initial compliance places a greater administrative burden on the inspectors; it requires them to conduct multiple follow-up inspections, which may also fail to convince employers to comply. Indeed, the issuance of a warning letter at the second level does not appear to induce compliance. The seeking of judicial review at the third level also appears to be ineffective; very few violations are addressed with enforcement orders. A balanced approach to capacity building should focus on improving the effectiveness of the inspectorate planning and management processes, enforcement capabilities, and educational tools and services.

## **I. EFFECTIVE INSPECTION PLANNING, MANAGEMENT AND RESOURCES**

### **A. *Goals***

The overarching goals of promoting compliance with labor law, regulations and policy and promoting best practices in labor relations and OSH are supported by achieving these outcomes:

- 1. A comprehensive strategic plan with effective management objectives is established;**
- 2. An optimal level of efficiency and effectiveness of the management of labor inspection system is established and maintained; and**

- 3. An appropriate level of resources and staffing is obtained enabling the labor inspectorates to fulfill their mandate.**

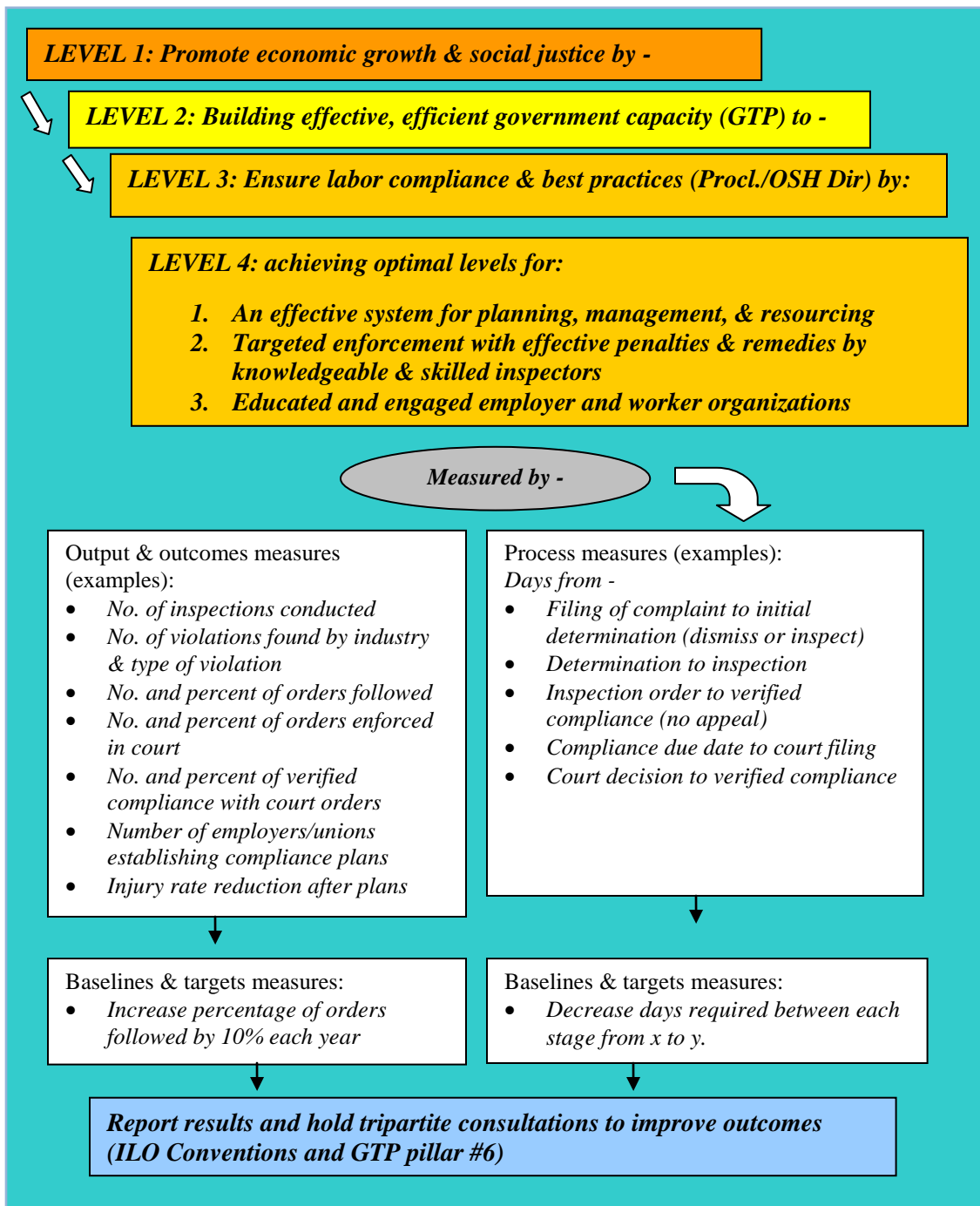
**B. *Challenges***

The amount of resources and number of staff in Ethiopia devoted to labor inspections is very limited compared to the scope of their responsibilities, the increasing number of employers and workers, and the hazards workers face. It is difficult for labor inspectorates to focus their efforts because they have limited and incomplete data collection systems and face hurdles in sharing information and coordinating efforts within and among the inspectorates. They lack the direction that a strategic plan can provide in terms of goals, objectives and indicators of performance.

**C. *Potential solutions***

- 1. Develop a strategic plan with specific management objectives.** In brief, key aspects of the strategic plan may be drawn from the mandate, defined broadly by national policy, ILO OSH and other Conventions, law and the Directive. The strategic plan should define a process, with goals, objectives and indicators. See Figure 5 below for an example. The plan should define its strategic enforcement approach with data supporting the targeting and prioritizing of inspections. The strategic plan may include a set of documents, including a national OSH policy and inspectorate-specific plans at various levels.

**Figure 5: GOALS, OBJECTIVES AND INDICATORS**



## 2. Improve the management efficiency and effectiveness of the labor inspectorates by:

- a. Improving the data collection system.** Data collection systems can and should be tailored for effective implementation in developing countries.<sup>11</sup> Labor inspection resources will be used more efficiently and effectively if data management systems are improved. If the ministry knows which types of violations are common in which industries, then it will be better able to respond to them. The timely collection of data supports better planning; focuses ministry resources; helps identify strengths and weaknesses in the labor inspection system; captures information on new and evolving problems in labor compliance; identifies areas of training for labor inspectors and targets educational outreach; and helps build a case for why a government should fully fund and support labor inspections. The data can be shared with worker and employer organizations to better educate them and better engage them to address the problems and find solutions.

The Addis Ababa labor inspection office maintains a database with information on employers and the results of inspections, allowing them to identify which employers require follow-up visits. However, this database is not current; the limited number of staff and the amount and complexity of the data have made it difficult to update the database. The inspection office has been attempting to use it to reduce a backlog of old cases. MOLSA and the regional offices collect information on workplace injuries and aggregate them in a workplace injuries report. However, the individual forms could be improved for easier data collection and sharing, and the process could be streamlined to be more efficient.

A committee could be established with members from MOLSA and the regional and city offices and persons skilled in database software design to assess the current system and develop a simple database to be implemented on a trial basis in the near future and expanded over time (a “scalable” system). The committee could develop terms of reference and have a designated Chair directly reporting to the Minister and senior ministry officials. They would identify what could be done with existing and additional resources.

- b. Improving the target indicators for measuring labor inspections success.** In Addis Ababa, the city government has required each inspector to conduct 14 inspections a month. The regional and city governments’ chief target indicator, *the number of inspections conducted*, if used alone, does not establish whether labor compliance was achieved.

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<sup>11</sup> For example, the small Eastern European country of Latvia developed an effective internal information system for communication and data exchange between the central and regional offices. The data gave direction to the ministry’s strategic plan, annual action plans and regional quarterly and monthly inspection plans. See *Good Practices for Business Inspections: Guidelines for Reformers*, Small and Medium Enterprise Department, World Bank Group, pp. 100-114, available at <http://rru.worldbank.org/Documents/PapersLinks/6943.pdf>. Similarly, the Malawi Ministry of Labor revised its labor inspection forms for data collection with the assistance of an ILO program funded by ILAB/USDOL.

The labor inspectors' indicators should be revised and their data collection system improved to collect data that will better measure the extent of labor compliance and the efficacy of inspections. The indicators could include, for example:

- The number of inspections conducted;
- The number of violations found (disaggregated by industry and type of violation); and
- The number and percentage of violations remedied.

The last indicator - *the number of violations remedied* - may be the most important measurement because it shows the effectiveness of the labor inspection process. For example, an inspector who conducts 8 inspections, finds 8 violations, and remedies all them, should be deemed more effective (controlling for other issues, like type of violation) than an inspector who conduct 20 inspections, finds 20 violations and remedies none of them. While much of this information is already collected, it is often not aggregated in a timely and cost-effective manner. The data collection system needs to be modified to ensure that this data is accurate, efficiently collected, and aggregated and assessed in a timely manner. The labor inspection forms could be revised to do so.

**c. Revising the labor inspection forms.**

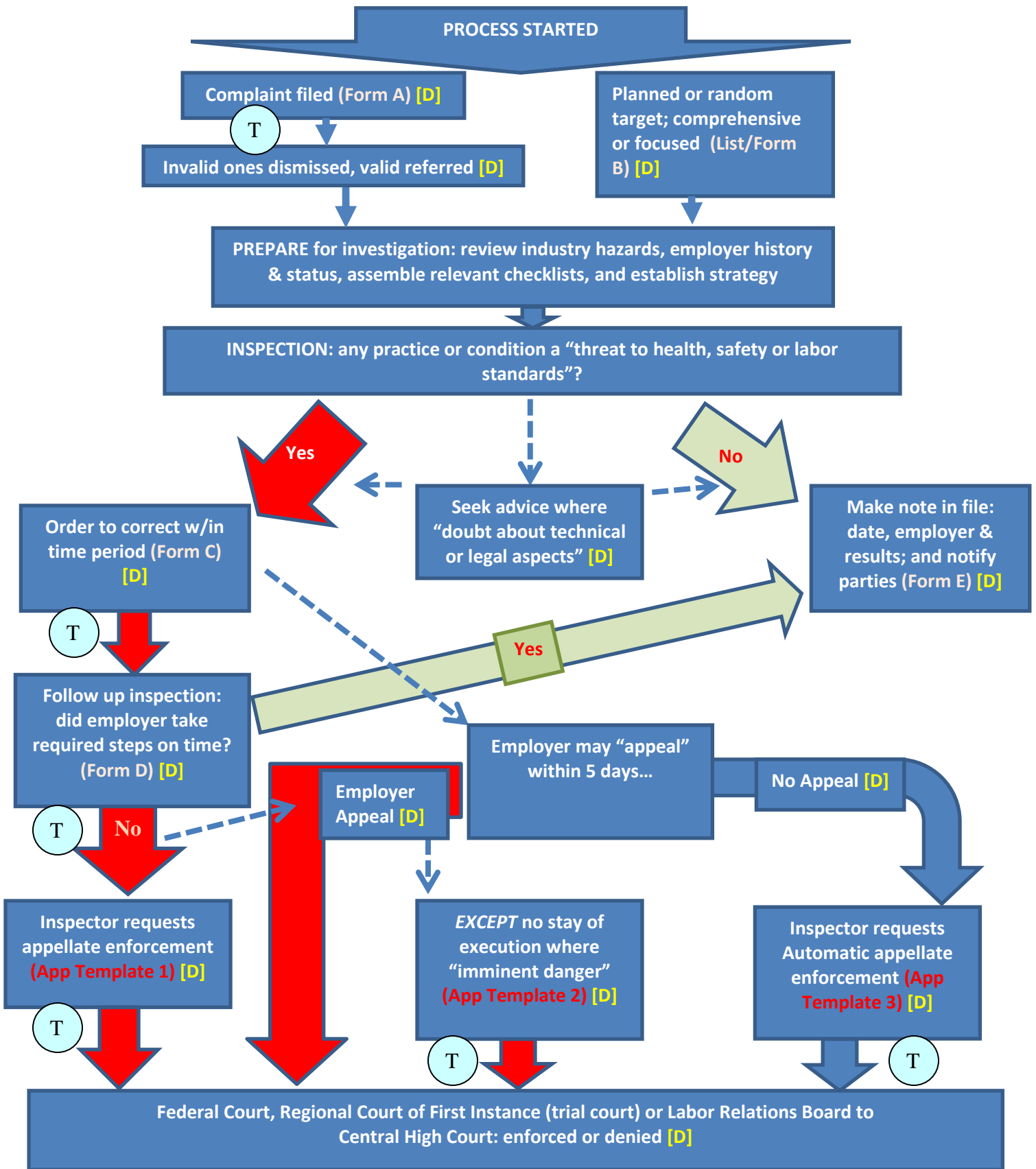
New labor inspection forms should be developed and existing forms should be revised to allow for easier data collection of an improved range of indicators and to better conform to the labor inspectorate's mandate, inspection principles and strategic plan. This approach could be implemented by:

- Developing a standard complaint form for all inspectorates. Ideally, the form would be supported by an easy-to-use, computerized system allowing inspectors and staff to classify, prioritize and process complaints (dismiss or pass on to the next stage) and, eventually, file them online. The complexity of the system currently ranges from filing paper forms and circulating summary memos of them among staff; entering data into the computer database from paper forms; entering complaint data directly into the computer without forms (at inspectorates); to filing complaints online (this is supported by an informational tool to prevent unnecessary complaint filings).
- Reviewing existing report forms and revising them for easier data collection. For example, the Integrated Labor Inspection Checklist has numerous parts requiring handwritten narrative that are hard to track, record, and research.
- Forming a committee of inspectors to review the current forms, develop new drafts, discuss them, and help finalize final drafts. They could develop a simple, stand-alone, scalable (meaning it starts out basic and can be expanded) database to compile data and support regular reporting.

**d. Develop systems of continuous improvement.** Two systems of review should be sustained: 1) tripartite consultations, in which worker and employer representatives provide their feedback about the inspection process with recommendations, and report on their roles in improving compliance; and 2) an internal system of evaluation, in which labor inspectors and other staff provide their feedback and recommendations.

- e. Develop internet based applications for enterprise information & reporting.** The web provides a great opportunity to reach a large number of enterprises with relatively little expense. A website may be used to provide information on laws and regulations, educate on best practices, and enable electronic filing and easier sharing of information among inspectors. As a practical matter, it would be best to start with a basic, web-based application with a limited focus and test it on a trial basis. The government of Ethiopia may have other offices, such as the Central Statistics Agency, working on IT modernization and centralization of information management systems. In this case, MOLSA could align its data collection and reporting with the overall government’s strategy for telecommunication networking, hardware and software.
  
- f. Review processes and integrate the solutions.** A flow chart for the inspection case process, with suggested modifications to better implement the Labor Proclamation’s mandate (sec. 179-185) is provided in Figure 6. In the chart, “form” identifies where the inspectorate should have/has a standard form at a given stage. “D” identifies data points for which the inspectorate should aggregate data to show total numbers, results, and time elapsed between each stage. “T” identifies steps in which the amount of time elapsed should be measured to establish a baseline for time targets and set targets for reducing processing times. “App template” refers to a standard template that could be developed for each type of court action/appeals. The templates could have standard language that meets statutory requirements, such as jurisdiction and assertions of law and fact. Such templates would make filing much easier for inspectors, more consistent, and more likely to result in enforcement orders.

**Figure 6: AN IMPROVED LABOR INSPECTION PROCESS (Labor Proclamation)**



### **3. Assessing and increasing the inspectorates' staff and resources to better meet their mandates.**

The level of inspectorates' staffing and resources should be adequate to achieve an appropriate level of labor compliance. ILO Convention No. 81 calls for a "sufficient number" of inspectors to do the work required (Art. 10). There is no official definition for a "sufficient" number because each country has different enforcement priorities for its inspectors. Factors to be considered include the number and size of establishments; the total size of the workforce; the scope of laws enforced by the inspectors; separation of inspection functions based on labor, employment, health and safety, pension, etc.; the geographical concentration of employers; and the access to high technology tools for education, investigation and enforcement. No single measure is sufficient and in many countries the available data sources on these measures are weak.

In its policy and technical advisory services, the ILO has estimated that the ratio of labor inspectors to workers should be about 1/10,000 in industrial market economies; 1/15,000 in industrializing economies; 1/20,000 in transition economies; and 1/40,000 in less developed countries. (Source: ILO, GB.297/ESP/3).

In 2007, Ethiopia's labor force was an estimated 37.9 million people and it is growing rapidly, with most workers in agriculture. If the formula for less developed countries is applied (the lowest threshold), then about 848 inspectors would be required to cover all sectors in Ethiopia. MOLSA has 123 labor inspectors and Ethiopia's largest state, Oromia, has about 50 labor inspectors. No clear figures were provided on staffing levels in other inspectorates. A rough estimate suggests that there are fewer than 250 total inspectors in the country.

In short, it appears that Ethiopia has far fewer inspectors than needed to fulfill its mandate. The argument for devoting more resources to labor inspectorates would be strengthened by showing the nature and extent of non-compliance with labor laws using data collected through targeted inspections, surveys, and studies. Moreover, if the inspectorates show measurable success in the limited areas in which they operate, then the argument that devoting more resources to inspections leads to increased compliance would be strengthened.



## II. EDUCATION AND OUTREACH

The education of employers and workers is an important and basic goal for every labor inspectorate. In developing an effective educational program, consideration should be given to *why* education is needed, *which* topics should be covered, *who* should do the education, and *how* will it be done. The focus of this section is primarily on OSH.

A great opportunity exists in Ethiopia to improve national OSH awareness using the promulgation of OSH National Policy. A communication strategy that uses public service announcements and tripartite seminars to communicate the benefits and OSH policy requirements for specific industries could raise awareness about the value of promoting safe practices, reduce apprehension, and encourage employer and worker involvement to improve practices. Some large enterprises in Ethiopia have stepped forward and supported open communication as a mechanism for improving competitiveness. Elements of a balanced program include: enabling legislation, education and enforcement. Recognition for excellent performance and progressive action for non-compliance has been proven to help build OSH programs in environments where economic considerations have priority over worker protections.

### A. Goals

The overarching goal of promoting labor compliance and best practices through education and outreach can be achieved by achieving these outcomes:

- 1. Employer and worker organizations have establish roles in promoting compliance and best practices among their members; and**
- 2. Enhanced employer and worker knowledge and engagement results in measurably improved compliance with OSH laws and regulations and OSH best practices.**

### B. Challenges

The challenges to educating employers and workers include limited staff and resources in the labor inspectorates and employer and worker organizations, as well as limited depth, quality and range of information currently available to labor inspectorates on how to identify and prevent hazards, particularly in construction, leather, garments and manufacturing industries.

The main challenge that labor inspectors who periodically train workers at the request of employers face, is very limited staff time (in Addis Ababa, there are only two trainers, and they also have other responsibilities). The Ethiopian Employers Federation (EEF) and the Confederation of Ethiopian Trade Unions (CETU) have provided educational support on OSH to their members. The CETU recently conducted a survey of employers with hazardous jobs, finding a high rate of injuries and deaths.

A challenge is for these organizations to improve the quality of their materials and expand their activities. The CETU has only one OSH trainer and relatively few members (about

400,000), and EEF does not have members from some of the more hazardous industries. MOLSA’s tripartite engagement with them, however, could better define their roles and help improve their reach. On their own, or with assistance, CETU and EEF could use their increased focus on OSH to attract new members.

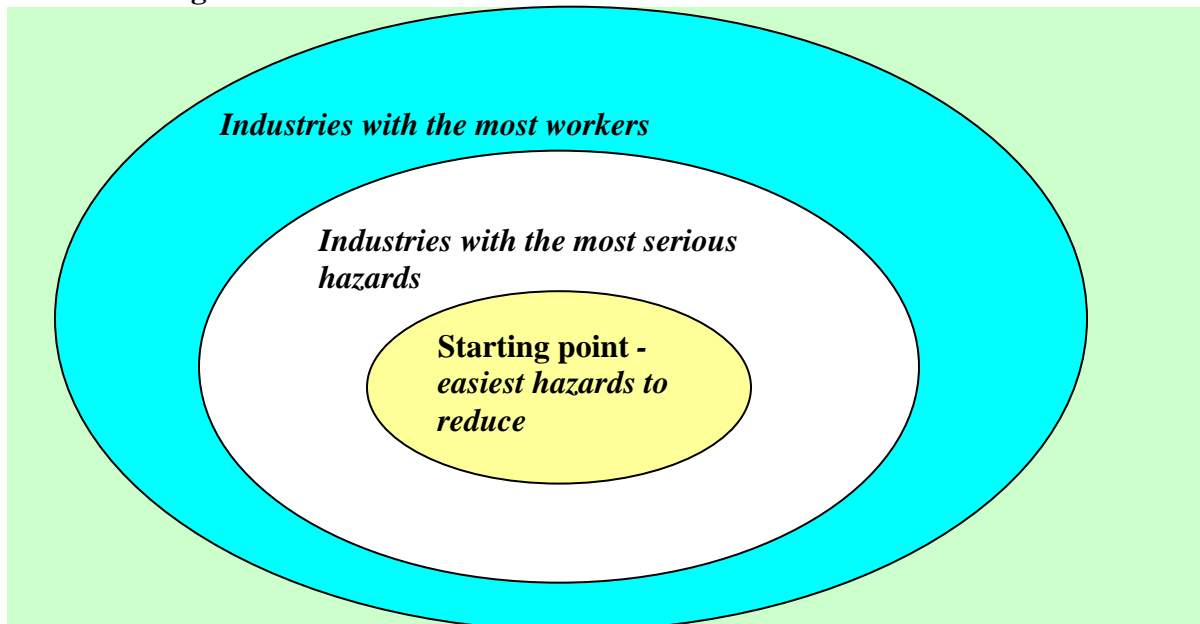
### *C. Potential solutions*

**Take an integrated approach to the three goals by:**

- a. Engaging the tripartite process to establish cooperative roles and to test areas of collaboration on specific hazards.** Tripartite engagement, most likely through the Tripartite Labor Advisory Board, may improve the quality, coordination and reach of OSH education. A simple framework on broad goals, roles and process for interaction could be followed by testing an approach with a very specific cooperative effort. For example, the stakeholders could collaborate on drafting a simple safety pamphlet and coordinate how they provide education and for groups. The first month could focus on “First Aid in Construction” and the second on “Reducing Exposure to Toxic Chemicals in Leather Production in Five Steps.” Each cooperative effort could focus on a specific set of hazards and solutions.

Targets for OSH education could be established by identifying the most important industries in terms of the following: 1) the numbers of workers; 2) the nature of hazards; and 3) the ease of providing education. Inspectorates may also use this approach to determine enforcement targets. See Figure 7.

**Figure 7: TARGETS FOR OSH EDUCATION & ENFORCEMENT**



A potential approach to tripartite engagement could include MOLSA taking the lead on the following:

1. MOLSA identifies key stakeholders in each industry and announces a series of regional tripartite stakeholder seminars to launch the OSH Policy, possibly including judges and Labor Board members. Breakout sessions could be held by sector, depending on registration and demand. An advisory committee could meet periodically for regional and sector feedback on implementation.
2. Provide an overview of the OSH National Policy and describe how MOLSA envisions implementation.
3. Provide an analysis of the law and policy requirements, explain how MOLSA intends to implement them, and develop a finer level of instructions for inspectors based on the OSH Directive.
4. Internalize the strategy by educating inspectors on the requirements, develop approaches applicable in all regions, and select teams to talk to stakeholders at the seminars.
5. Identify a core group of MOLSA trainers, educate them in the roll out strategy and law and policy requirements, and have them lead breakout sessions.
6. Establish a grace period for employer education and outreach before implementing enforcement.
7. Establish a process for free consultation (“advisory services”) where selected non-enforcement inspectors conduct site visits and respond to employer request for OSH assistance.
8. Prepare a list of FAQ’s resulting from the seminars.
9. Identify key provisions in the OSH policy and publish outreach material explaining the importance of compliance. For example, MOLSA officials could be interviewed on radio and TV to roll out the key provisions and posters could be produced with stakeholders’ signatures.

**b. Providing advisory services to employers on a voluntary basis, tested with a pilot.** The inspectorate could provide advisory services to employers seeking assistance. Such a function could be tested with a pilot - the inspectorate would develop its ability to remediate a particular hazard and provide assistance to a particular employer or group of employers in an area. These services could be “demand driven,” with businesses actively seeking the advisors’ help. As the inspectorates deepen and expand their technical knowledge, consideration to be given to whether a (relatively small) fee could be charged.

**c. Developing tools on key OSH topics to educate on:**

1. Why it is in the employer’s (and workers’) self-interest to comply with OSH law and follow good practices;
2. What is required by the law and regulations;
3. How to comply with the law and regulations;
4. How to promote best practices on how to:
  - a. Identify potential hazards;

- b. Develop a job safety & health program;
- c. Establish and manage workplace OSH committees;
- d. Train workers to engage in safe practices; and
- e. Document and report injuries.

The U.S. Occupational Safety & Health Administration (OSHA) has publications and online tools that may provide a useful starting point for Ethiopia’s educational approach.<sup>12</sup> It has a set of tools for “Compliance Assistance Quick Start,” which suggests the following steps for employers and unions to assess and address workplace hazards:

- Step 1:** Requirements That Apply to Most General Industry Employers
- Step 2:** Requirements That May Apply to Your Workplace
- Step 3:** Survey Your Workplace for Additional Hazards
- Step 4:** Develop a Comprehensive Jobsite Safety and Health Program
- Step 5:** Train Your Employees
- Step 6:** Recordkeeping, Reporting and Posting
- Step 7:** Find Additional Compliance Assistance Information

In addition, the Small Business Handbook<sup>13</sup> outlines a four point program on compliance, which addresses the following: 1) management commitment and employee involvement, 2) worksite analysis; 3) hazard prevention and control; 4) training for employees, supervisors and managers. It also provides a self-inspection checklist for a range of common hazards. Another useful approach is to develop and provide information on identifying and preventing hazards at work. For example, the OSHA’s booklet, *Job Hazard Analysis*,<sup>14</sup> provides advice on how employers and workers may establish and follow a process to make workplaces safer.

**d. Implementing cost-effective and creative new approaches.** The most cost-effective approach is to develop on-line educational resources and tools that all employers and workers could access. Links could be added to other websites in English that have practical information and advice. Other approaches include:

1. Developing a poster with a summary of workplace rights and description on how to report and fix hazards. Ideally, law or regulation would require employers (at least large and medium ones) to post them.
2. Developing one-sheet pamphlets on key topics that inspectors may provide at worksites.
3. Directing inspectors to conduct a large number of quick informational visits to worksites with the aim of providing information rather than conducting full inspections.

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<sup>12</sup> See [http://www.osha.gov/dcsp/compliance\\_assistance/quickstarts/general\\_industry/gi\\_step3.html](http://www.osha.gov/dcsp/compliance_assistance/quickstarts/general_industry/gi_step3.html) . The website also provides information for specific industries, such as construction.

<sup>13</sup> Available at <http://www.osha.gov/Publications/smallbusiness/small-business.pdf>

<sup>14</sup> Available at <http://www.osha.gov/Publications/osha3071.pdf> . See also, the *OSHA Hazard Awareness Advisor* at <http://www.osha.gov/dts/osta/oshasoft/hazexp.html>.

4. Considering ways of engaging the media to reach a broad audience through, for example, a monthly radio or TV interview, a radio drama, and/or regular newspaper advice column.
5. Giving public recognition for successful efforts, for example, provide a labor-management partnership award for those showing great improvements in OSH practices.

### III. ENFORCEMENT

#### A. Goals

The overarching goal of promoting compliance with labor law, regulations and policy is supported by achieving these outcomes:

1. **Effective application of penalties discourages violations industry-wide and appropriate remedies are provided to workers;**
2. **An efficient enforcement process that ensures inspection orders are enforced and verified; and**
3. **A sustainable system of training provides inspectors with the required knowledge and skills.**

To ensure labor compliance, the enforcement system requires: 1) appropriate remedies and penalties that sufficiently discourage future violations and make injured parties whole; 2) well-trained, professional inspectors who work with protection from inappropriate outside interference; 3) a good management system for the inspectorate with the timely, effective and fair processing of cases; and 4) advanced outreach to inform stakeholders what the law requires and to target the correction of specific hazards.

Three factors should be considered in ensuring enforcement: *strength of penalty, speed of resolution, and chances of violators being caught*. These factors depend in part on employers knowing what the law requires them to do. Enforcement can provide them with an incentive to learn. Where processes are slow, the chances of being caught are low, the penalties are weak, and the abatement expectations unclear, then many more violations are likely to occur. In comparison, if the penalties are high, but chances of being caught are relatively low, employers are more likely to comply. Similarly, if the processes are quick and the chances of being caught are high, even though penalties are relatively weak, then employers are more likely to comply. Of course, the ideal situation is one in which processes are relatively fast, chances of being caught are high, and penalties strong. Upholding abatement violations is more successful where the inspectorate makes its expectations clear and shows that it has the power to enforce the law.

#### B. Challenges

The challenges of labor law enforcement in Ethiopia include legal and structure hurdles, as well as limitations in inspector skills and areas of knowledge. Few cases are brought before the courts for a number of reasons: 1) inspectors have no training in bringing cases to trial, 2) preparing for litigation is very time-intensive, 3) inspectors have little incentive to file such cases

(since the key indicator is the number of inspections conducted) and 4) courts commonly reject such cases, finding that the inspectors do not have the authority and the cases should be filed by public prosecutors. Moreover, the low penalties for violations--the Labor Proclamation established maximums penalties ranging from 300 to 1,000 Birr (US \$17-58)—are unlikely to discourage them. As a result, the inspectorates have a very difficult time in fulfilling the mandate required by law and policy.

### *C. Potential solutions*

- 1. Improve the application of penalties and remedies to effectively discourage violations and ensure that workers receive appropriate remedies by:**
  - a. Developing guidelines for the application of penalties that maximizes their application.** For example, one violation could be considered multiple violations, with penalties given for each violation (e.g., working hours *and* record keeping); failure to obey inspector orders could be more aggressively applied (repeated violations could result in additional penalties for each violation); and identified “serious” dangers could be addressed outside of the penalty limitations with more serious consequences.
  - b. Streamlining the process for quicker application of the penalties.** Criteria and a management process could be developed to allow aggressive, fast-track enforcement of serious hazards.
  - c. Publicly name violators.** Even with low penalties, employers may view the public identification of their violations as a strong incentive to comply with an order. Perhaps, employers who have engaged in serious violations could be publically named when they have failed to comply with an inspector’s order.
  - d. Evaluating the technical feasibility and cost/ benefit and scope of abatement findings to improve compliance.**
  - e. Amending the Labor Proclamation to provide for higher penalties and better define worker remedies.** Ideally, the Proclamation would be amended to provide for substantially higher penalties, which could be addressed in more detail through a directive. The Proclamation could provide a list of penalty “units” with the value of each unit periodically determined by MOLSA, after consultation with stakeholders and in consideration of certain criteria, such as the inflation and rate of non-compliance with inspector orders.
- 2. Improve the enforcement process by:**
  - a. Establishing the inspectorate’s authority to enforce the law in court.** MOLSA could prepare a test case filing to establish, by court decision, the labor inspectors’ authority to file labor cases. It appears that, per Proclamation 454/2005, the courts’ decisions on a matter of law can have binding effect on later cases, per the doctrine

of *stare decisis* (binding precedent by prior court decision on matters of law). MOLSA could also develop an enforcement strategy in coordination with the Ministry of Justice to better define the role and responsibility of each ministry. An agreement could be reached with the public prosecutor about what kinds of cases each office would have in their jurisdiction. Because it is so time-intensive, the inspectorates could determine which kinds of cases should be filed in court.

- b. Developing standard templates for court enforcement.** Standard templates could be developed for enforcement applications. For example, they could be developed for 1) automatic enforcement when an employer fails to file an appeal within 5 days of an inspector's order; 2) enforcement when an employer contests an order; and 3) rejection of an employer's appeal and enforcement of an order. See "App templates" in Figure 6.

Each template should have proper legal language stating the inspectorate's statutory jurisdiction over the matter; introductory language summarizing the administrative process; and a selection of choices for requested penalties. The template should also have a fixed structure, for example:

- Case caption
- Statement of authority/jurisdiction
- Statement of the issue(s)
- Summary of the law
- Discussion of the facts
- Application of the law to the facts
- Formal request for penalty/remedy

Inspectorates would complete the application with information particular to their case and, ideally, an attorney would review and approve prior to court submission.

- c. Informing employer and worker organizations through outreach to explain how the inspectorates will implement the law and engage them in enforcement.**
- d. Establishing an ethical code with a system that protects inspectors from inappropriate influence and ensures that they comply with the code.** All labor inspectorates should have an ethical code to help ensure that inspectors act with professionalism, respect, neutrality and integrity and to protect them from inappropriate pressure. The code should define acceptable conduct, promote high standards of practice, provide a benchmark for evaluation, and establish a framework for official and private responsibilities. As noted by the International Association of Labor Inspections (IALI), the code should promote six values: 1) knowledge and competence; 2) honesty and integrity; 3) courtesy and respect; 4) objectivity, neutrality and fairness; 5) commitment and responsiveness; and 6) consistency between personal and professional behavior.<sup>15</sup>

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<sup>15</sup> See "The Global Code of Integrity for Labour Inspection," available at <http://www.iali-aiit.org/en/index.htm>.

### 3. Improve inspector knowledge and skills by:

- a. Developing training curricula for inspectors to receive skills and knowledge training in a range of key areas. After training, inspectors should understand the following:** 1) basic theories of the field (usually from college), whether in public administration, business, law, engineering, chemistry or other similar areas; 2) labor law and relations; 3) inspectorate procedures, guidelines and forms; and 4) specialized technical areas, such as industry-specific OSH hazards. Inspectors should also attain the following skills: 1) how to prepare for, conduct and report on an inspection (e.g., how to interview workers and employers, review payroll, etc.); 2) how to identify and correct specific OSH hazards; and 3) how to prepare a case for litigation and present it in court.

Currently, the gaps in labor inspection training in Ethiopia include: general labor inspection skills; knowledge and skills for identifying and preventing specific OSH hazards; and preparing and presenting a case in court. Separate units or positions specializing in OSH, wage, child labor and other areas, could be developed to address these gaps, before or in conjunction with this training.

- b. Drafting an inspector handbook and manual.** The handbook could be relatively short, and include a summary of the law and procedures, useful checklists, “quick answers,” and educational points for workers and employers. The manual could be in a loose-leaf binder, which would allow for easy updating and expansion. A labor inspection manual committee could be authorized for drafting and periodically reviewing and revising the manual. The outline in Appendix B may serve as one source for these documents.

The manual (and to a lesser extent the handbook) could provide:

- Brief summaries of key provisions in the Labor Proclamation, other relevant laws, and the OSH Directive;
  - An outline of basic labor inspection skills, including how to prepare for, conduct and report on inspections;
  - Inspection checklists and guidelines by issue and industry and quick answers with references to other source material. Also, what type of information and document should be obtained;
  - Forms for labor inspectors to complete (inspection and incident forms, monthly tally sheets, etc.); sample forms for employers and workers to use;
  - The labor inspection ethical code; and
  - Educational materials that may be given to employers and workers.
- c. Developing a training plan with the training-of-trainers,** in consultation with the University of Gondar and employers with advanced OSH practices (such as Ethiopian Airlines). For example, MOLSA could develop a short training class limited to basic inspection skills and the OSH faculty could expand training in new



technical areas and help the inspectorates develop their tools for identifying and preventing hazards. A Training Committee could be established to develop the training plan, with members from MOLSA, the Addis Ababa city and regional inspectorates, and academics. The committee could focus on answering the following questions:

- How should the existing training be improved?
- Where are the gaps in training? Who should fill these gaps, and how?
- How to establish training programs that the inspectorates could sustain over time through their own funding, supplemented by external assistance?
- What practical tools could be developed for training labor inspectors (including handbook and manual)?
- How should the curricula be periodically reviewed and updated?

- d. Tapping into the labor inspectors' skills and expertise.** For example: 1) senior inspectors could mentor newer ones through a formal mentoring program; 2) inspectors could be surveyed to find ways to improve inspections, better determine their training and resource needs, and increase inspectors' job satisfaction; 3) facilitate communication (oral, writing and/or email) between inspectors in different offices about employers' inspection histories, inspection skills and tips, research sources, and technical OSH matters; and 4) conduct periodic inspector meetings to share lessons learned and discuss best practices.
- e. Providing inspectors with their own personal protective equipment and training on how to use it.** An evaluation should be conducted to determine practical needs.

## **PART THREE: TECHNICAL OSH ISSUES AND PRACTICAL STEPS**

Ethiopia's labor inspectorates have a broad mandate to establish, enforce, and promote compliance with OSH and working environment standards. However, there are not enough administrative resources available to implement it. The preferred development approach is to define the policy objectives and establish precise plans for achieving them, step by step. Studies have shown that capacity building efforts are more likely to succeed when short-term objectives are used as building blocks for achieving long term objectives. For example, the establishment of a National OSH laboratory is an expensive and technically complex objective that may not be achievable in the immediate future. MOLSA may, however, identify short-term objectives that will show results in the near future, build confidence in the inspectorates, and lead to the establishment of a laboratory.

As noted in Part One, the most serious, common and easiest hazards to prevent or remediate should be identified. After identifying these hazards, the inspectorate, with employer and worker organizations, should identify which cost-effective equipment, skills, techniques, and strategies are required. Some steps may be relatively easy and cheap to take, for example, purchasing and wearing masks, providing equipment for common basic hazards, and receiving technical support and training locally or internationally. Appendix C provides a menu of potential OSH training seminars.

### **I. LABORATORY CAPABILITIES**

The typical capabilities of an industrial hygiene laboratory include: metals detection and analysis, inorganic analysis, organic analysis, silica analysis and dust analysis.

#### **A. Laboratory Accreditation**

A few organizations in the world have established criteria for accreditation and a number of organizations, primarily at the national level, accredit laboratories. The international standard ISO 17025: 2005, "General Requirements for the Competence of Testing and Calibration Laboratories" is used to ensure that testing and calibration laboratories operate quality systems, are technically competent, and are able to generate technically valid results. It is the leading international laboratory quality management system (QMS) standard.

At the international level, the International Laboratory Accreditation Cooperation Arrangement (ILAC) is a mutual recognition agreement used to ensure that testing laboratories accredited by different countries' accrediting bodies can be relied on to provide accurate data. To become a signatory, an intensive evaluation of each accrediting body is carried out to ensure compliance with relevant rules and procedures.

At the national level, the American Industrial Hygiene Association (AIHA) audits laboratories under the protocols of the Industrial Hygiene Accreditation Program (IHLAP). AIHA has adopted ISO 17025. The U.S. Occupational Health & Safety Organization (OSHA) conducts Proficiency Analytical Testing (PAT) for metals in air. The U.S. Environmental Protection

Agency (EPA) and the National Institute of Occupational Safety & Health (NIOSH) have approved methods for hot plate and microwave digestion techniques, among others.

Accreditation involves the analysis of many different substances, with the most common OSH-related hazards involving the following:

1. Metals analysis: Flame Atomic Absorption Spectrometry (FLAA), Graphite Furnace Atomic Absorption (GFAA) and Inductively Coupled Plasma Spectrometry (ICP).
2. Organics analysis: PAT certified methods for detecting solvents, PCB's, Aldehydes, Ketones, Amines and Alcohol. Gas Chromatography (GC) and High performance Liquid Chromatography (HPLC) can be used to customize special project analysis.
3. Dust / Particulate analysis: Silica analysis accreditation by AIHA for analysis of silica using PAT testing for samples prepared and analyzed by X-ray diffraction according to NIOSH methods to quantitatively and qualitatively report quartz, cristobalite and tridymite in air and dust samples.
4. Other methods: Dust / Particulate, benzene-soluble fraction, oil mist and gas chromatography-mass spectrometry (GC-MS).
5. Anion analysis: For detection of acids, ozone, NO<sub>x</sub>, SO<sub>x</sub>, and fluorides by ion chromatography.

## **B. Related Laboratory Efforts in Ethiopia**

In Ethiopia, efforts have been made to promote laboratory testing standards, including ISO 17025: 2005, to help ensure the quality and safety of medicines essential to treat malaria, HIV/AIDS and tuberculosis through USAID's Promoting the Quality of Medicines (PQM) program. The question is whether PQM and related efforts can help in any way in the development of OSH standard setting and testing. In 2011, Ethiopia agreed to participate in U.S. Pharmacopeia's (USP) pilot PQM program and its Technical Assistance Program (TAP), with USP donating reference standards and documentary standards to drug control laboratories that are less able to afford them to help increase the labs' abilities to produce quality results. In 2011, USP established a PQM office in Addis Ababa and officials from Ethiopia's Food, Medicine, and Health Care Administration Control Authority visited USP headquarters. USP promotes laboratory compliance with ISO 17025: 2005, although they have not established a laboratory in Ethiopia.<sup>16</sup>

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<sup>16</sup> See <http://www.usp.org/around-world/regional-activities/sub-saharan-africa>.

## II. KEY INDUSTRIES RELATED TO LABOR PROCLAMATION Secs. 6(c), 1(a)-(c)

Rapidly expanding manufacturing industries in developing economies create hazards from environmental pollution, unsafe workplaces and an unhealthy atmosphere in and around industries. Such hazards create a need for continuous monitoring and periodic evaluation of workplaces through a program of frequency sampling and workplace inspection for compliance with regulated exposure limits. Industrial hygiene methods are available to limit the risk of over-exposure to hazardous chemicals. Several steps have been proven to limit hazardous exposure; these include the establishment of an industrial hygiene unit with qualified, trained staff to gather samples and evaluate workplaces for overexposures; establishment of a list of chemicals with Threshold Limit Value (TLV) hazardous to the workers and the community; establishment of an laboratory where samples can be analyzed; and identification of a medical officer capable of diagnosing and evaluating occupational diseases and exposures.

## III. FUNCTIONS OF AN INDUSTRIAL HYGIENE UNIT

1. Monitoring of workplace conditions by understanding when and what measurements to take of air samples with different contaminants, like gas, fumes vapor and dust.

Gases	Chlorine, Sulphur Dioxide, Nitrogen oxide, carbon monoxide, ammonia	Chemicals
Fumes and vapors	Solvents like methylene chloride, methanol, toluene, benzene, parathion, malathion	Pesticides Solvents Adhesives
*Dust collected from air sampling	Cotton, silica, asbestos, coal and combustible dust.	Textile, pottery, glass, cement, asbestos sheets, thermal power and mining.
Oxygen deficiency	Confined spaces, tanks, CO2 fire protection, spray booths.	All Industries

\*A major issue that needs to be addressed is the availability of an accredited laboratory that could analyze filter media from air sampling pumps. MOLSA should **determine whether it should outsource this critical, complex function or make a substantial resource commitment to doing it in-house.**

2. Sampling for physical exposures

Heat Stress	Agriculture, foundries, rolling mills, chemical manufacture, thermal power.
Noise exposures	Textile spinning and weaving, rolling mills, saw mills, machining and metal stamping operations, power generators, refineries, manufacturing.
Falls and slippery surfaces	Construction, all industries, including meat processing
Ventilation and oxygen deficiency	All industries
Illumination	Applicable where visual activities required.

3. Equipment required for basic industrial hygiene monitoring

Multi gas detector	NO <sub>2</sub> , HCL, NH <sub>3</sub> , H <sub>2</sub> S, CO, combustible gases, O <sub>2</sub> , HS
Direct reading instrument for SO <sub>2</sub>	SO <sub>2</sub> , HS
Direct Reading instrument for CL <sub>2</sub>	CL <sub>2</sub>
Respirable dust sampler	Silica, coal, asbestos
Noise meter	Noise levels
Lux meter	Lighting levels
Wet bulb thermometer	To measure humidity and heat conditions
Alnor Velometer	To measure air velocity
Personal sampling by spectrometer	To measure gas and vapor fumes and workplace contaminants

An initial step forward would be **to focus on purchasing direct reading instruments that do not require laboratory sample analysis**. MOLSA's should determine the scope of the procurement and training of inspectors in the appropriate use of the equipment. This determination may be made based on industry sector locations, hazard and proximity to regional MOLSA offices.

A worker medical examination plan must accompany a successful inspection sampling strategy. MOLSA could **seek a cooperative relationship with the Ministry of health to provide some form of regional worker clinical examinations for occupational diseases**. In larger enterprises where clinics are available, records should be maintained on individual worker diagnosis and periodic reviews conducted to eliminate the hazards of exposures.

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## APPENDIX A

### ILO CONVENTIONS: LABOR RIGHTS AND ADMINISTRATION

#### I. Ratified Conventions

The ILO Conventions protect rights and provide useful guidance for labor inspectorates. Ethiopia has ratified 22 ILO Conventions with 21 still in force, including 8 Fundamental Conventions, one Governance (Priority) Convention, and 12 Technical Conventions. The most notable include:

- Forced Labor Convention (No. 29);
- Freedom of Association and Protection of the Right to Organize Convention (No. 87);
- Right to Organize and Collective Bargaining Convention (No. 98);
- Equal Remuneration Convention (No. 100);
- Abolition of Forced Labor Convention (No. 105);
- Discrimination (Employment and Occupation) Convention (No. 111);
- Minimum Age Convention (No. 138);
- Tripartite Consultation (International Labor Standards) Convention (No. 144);
- Occupational Safety and Health Convention (No. 155); and
- Worst Forms of Child Labor Convention, 1999 (No. 182).

The engagement with worker and employer organizations to improve labor compliance and inspection performance is supported specifically by C. 144 and 155 and generally by C. 87 and 98. Ethiopia's Labor Proclamation is partly modeled on the ILO's Convention on Labor Inspections (No. 81), which provides a useful overview of the government's commitment regard labor inspections.

#### II. The OSH Convention

OSH rights and responsibilities are broadly addressed in C. 155 and, regarding children and youth, in C. 111 and 182. The OSH Convention C. 155 requires:

##### A. A national policy on OSH and the working environment<sup>17</sup>:

1. Drafted, implemented, and periodically reviewed to improve it, in consultation with worker and employer organizations (Arts. 4, 7, 8 & 15);
2. Purpose: to prevent accidents and injuries at work, by minimizing hazards (Art. 4).
3. Addressing:
  - a. *The design, testing, choice, substitution, installation, arrangement, use and maintenance* of the material elements of work (workplaces, working environment, tools, machinery and equipment, chemical, physical and biological substances and agents, work processes);

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<sup>17</sup> A draft national OSH policy is scheduled to be finalized soon.

- b. *Relationships between the elements of work and the persons* who carry out or supervise the work, and adaptation of machinery, equipment, working time, organization of work and work processes;
  - c. *Training, qualifications and motivations* of persons involved in achieving adequate levels of safety and health;
  - d. *Communication and co-operation* at the levels of the working group and the undertaking and at all other appropriate levels; and
  - e. *Protection of workers and their representatives from disciplinary measures* as a result of actions properly taken by them (Art. 5).
4. Defining the functions and responsibilities: of public authorities, employers, workers and others to implement it (Art. 6).
  5. System & penalties: enforcement “secured by an adequate and appropriate system of inspection” with “adequate penalties for violations” (Art. 9).

**B. Government must provide guidance** to employers and workers to comply (Art.10).

**C. Government shall ensure that the following functions are carried out:**

1. Determination of conditions on the design, construction and layout of undertakings;
2. Determination of work processes and of substances and agents the exposure to which is to be prohibited, limited or made subject to authorization, considering hazards due to the simultaneous exposure;
3. Establishment and application of procedures for employers to report OSH accidents and diseases and, when appropriate, insurance institutions and others directly concerned, and the production of annual statistics on OSH accidents and diseases;
4. Hold inquiries into cases of OSH accidents and diseases;
5. Publish, at least annually, information on how the policy has been implemented; and
6. Introduce or extend systems to examine chemical, physical and biological agents in respect of the risk to the health of workers (Art. 11).

**D. Employers shall be required to:**

1. Ensure that, so far as is reasonably practicable, the workplaces, machinery, equipment and processes under their control are safe and without risk to health; and that the chemical, physical and biological substances are without risk to health when appropriate measures are taken.
2. Provide adequate protective clothing and protective equipment to prevent, so far as is reasonably practicable, risk of accidents or of adverse effects on health.
3. Provide for measures to deal with emergencies and accidents, including adequate first-aid arrangements (Art. 19).

**E. Regarding workers, the following arrangements are required:**

1. Workers cooperate to fulfill their OSH obligations;
2. Worker representatives cooperate with the employer on OSH;
3. Employers give worker representatives adequate information on measures taken by the employer to secure OSH;
4. Workers and their representatives are given appropriate OSH training;



5. Workers or their representatives are enabled to enquire into, and are consulted by the employer on, all aspects of OSH; and
6. An employer cannot require workers to return to a work situation where there is a continuing imminent and serious danger to life or health a worker (Art. 19).

## APPENDIX B

### ETHIOPIA'S LABOR LAWS & REGULATIONS

#### I. Labor Proclamation Overview

The Ethiopian Labor Proclamation (No. 42, 1993) is comprehensive legislation with provisions on rights, administration and dispute resolution processes. It covers private and parastatal organizations, broadly defining “employer” to include a person or entity employing one or more persons in an employment contract, which is formed when a person agrees, either directly or indirectly to perform work under the authority of an employer for a definite or indefinite period for remuneration (secs. 2 & 4). The Proclamation is notable for its strong emphasis on the creation and enforcement of OSH standards.

The Proclamation is divided into these parts:

- I. General (purpose and definitions)
- II. Employment Relations (contracts, termination and special contracts)
- III. Wages (determination and mode of payments)
- IV. Hours of Work, Weekly Rest and Holidays
- V. Leave (annual, special and sick leave)
- VI. Working Conditions of Women and Young Workers
- VII. Occupational Health, Safety and Working Environment
- VIII. Collective Relations
- IX. Labor Dispute
- X. Period of Limitations and Priority of Claims
- XI. Enforcement of Labor Laws
- XII. Penalty and Transitory Provisions

#### II. Labor Proclamation Provisions on OSH and Working Environment

The MOLSA Minister is authorized to issue directives on occupational safety and health; standards of working conditions; classification of hazardous jobs; and types of works which are particularly arduous or dangerous to the health and to the reproductive systems of women workers (in consultation with the concerned organizations/offices) and youth, among others (see sec. 170 for authority, sec. 87 for women and sec. 89 for youth).

Part VII on OSH and the Working Environment has three relatively brief chapters on preventative measures, injuries and benefits.

**A. Chapter I on Preventative Measures** provides that employers are required to “take the necessary measures to safeguard adequately the health and safety of the workers” by:

4. Taking appropriate steps to ensure that workers are properly instructed and notified concerning the hazards and precautions necessary to avoid accident and injury to health;

5. Providing workers with personal protective equipment, clothing and materials and instructing them in their use;
6. Registering employment accident and occupational diseases and notify the labor inspectorate of it;
7. Arranging, according to the nature of the work, at his own expenses for the medical examination of new workers and those engaged in hazardous work;
8. Ensuring that the workplace do not cause danger to workers health and safety;
9. Taking appropriate precautions to ensure that all work processes do not cause physical, chemical, biological, ergonomic and psychological hazards; and
10. Obeying the directives issued by the appropriate authority in accordance with the Proclamation (sec. 92).

Workers are required to:

1. Cooperate with the employer in forming and implementing OSH work rules;
2. Inform the employer any defect in equipment and any injury caused by it;
3. Report to the employer any situation that he has reason to believe could present a hazard and which he cannot remedy on his own;
4. Properly use of all safeguards, safety devices and other equipment; and
5. Obey all OSH instructions issued by the employer or competent authority (sec. 93).

Workers are prohibited from: interfering with or damaging any safety devices or other equipment; and obstructing any method or process aimed at minimizing OSH hazards.

**B. Chapter II on Employment Injuries** provides that the employer is liable, irrespective of fault, for employment “injuries” sustained by his worker, which include “employment accidents” and “occupational deceases,” unless the worker “intentionally” caused it (“non-obedience” of express instructions or intoxication) (sec. 96). It provides that the Minister shall issue directives that contain schedules listing diseases to be of occupational origin, which shall be revised at least every five years. It also defines different degrees of disablement including temporary, permanent partial, permanent total and death (secs. 99-102).

It appears to establish a process with a shifting burden of proof to determine whether the occupation caused the decease and death:

1. Where a worker has a decease that is listed on the MOLSA schedule and has been engaged in the corresponding type of work, it is presumed that the work caused it.
2. This presumption of causation may be rebutted by the employer (or inspector) when the injuries “manifest themselves under conditions different from those establishing a presumption of their occupational origin.” This rebuttal would include a showing that the injury was “intentional.”
3. In the absence of proof to the contrary, any disease which occurs frequently only to persons employed in certain occupations shall be presumed to be of an occupational origin where the worker suffering from such a disease was engaged in such an occupation and the existence of the disease is determined by a doctor.

**C. Chapter III on Benefits in the Case of Employment Injuries** establishes the employer's duty to provide aid and assistance to injured workers (sec. 104), defines the kinds of medical benefits that the employer must provide (sec. 105) and defines the kinds of cash benefits that the employer must provide (sec. 107).

### **III. The Occupational Safety and Health Directive**

The MOLSA Minister, by powers vested in him under Article 98(3), 102(1), 170(10 (a-e) of the Proclamation, issued the Occupational Safety and Health Directive, applying to all employers and workers. Part I provides definitions and establishes the duties of employers, general rights and duties of workers and responsibilities of the labor inspectorate, as well as required conditions related to overcrowding, sanitation and fire safety provisions, response and preparedness.

Part II provides guidance on mandatory employer responsibilities, including written safety and health policies, hazard assessments, personal protective devices, fall protection and other preventive and protective measures employers. Part III has provisions for ambient working conditions related to the use of chemicals, radiation sources, heat, noise and vibration hazards. Part IV describes specific and general hazards by work practices or types of manufacturing processes, machinery operation or job performance procedures. Part V sets provisions related to occupational safety and health issues in the construction sector. Part VI details provisions of specific occupations and procedures related to wood working, foundries, and boilers and first aid. Part VII has provisions on the agricultural sector and duties of the competent authority and responsibilities of employers.

### **IV. Labor Proclamation: Labor Inspection Roles & Responsibilities**

#### **A. Per Sec. 177, the Labor Inspection Service is *authorized and directed* to:**

1. Ensure implementation of the Proclamation and its regulations and directives, other labor laws, registered collective agreements, and decisions and orders given by the authorities responsible for settling labor disputes;
2. Supervise, execute, educate, study and conduct research on working conditions, occupational safety, health and standards of work, in accordance with the Proclamation and other laws;
3. Prepare the list of occupational diseases and schedules or degrees of disablement;
4. Classify dangerous trades or undertakings;
5. Prepare training programs to prevent employment injuries;
6. Supervise and ensure that where undertakings are constructed, expanded, renovated or their appliances installed, they are not dangerous to the safety and health of workers;
7. Conduct studies and compile statistics data relating to working conditions; take administrative measures in order to implement this Proclamation and regulations and directives issued in accordance with this Proclamation; and
8. Seek in the courts and/or other dispute resolution bodies to enforce the Proclamation and apply their ordered sanctions.

**B. Per Sec. 178, labor inspectors *have the power to*** enter, during working hours and without prior notice, any workplace to examine, test or inquire to determine compliance with labor law and regulations. In particular, the inspectors have the power to:

- Question any person alone or in the presence of witnesses;
- Review and copy any documents;
- Ensure that the relevant notices are posted at work;
- Take samples of any matter in a workplace and test it to ensure that it does not cause injury to workers (with employer advanced notice); and
- Take photographs of any worker and measure, draw or test buildings, rooms, factories, tools and goods to ensure safe and healthy workings conditions.

## **V. Labor Proclamation: The Labor Inspection Process**

Sec. 179 establishes a process for the inspector and employer to follow:

### **A. The inspector conducts an inspection;**

> *Where* the inspector observes that there is a method, equipment or machinery that create conditions that “constitute a threat to the health, safety or welfare of the workers of such undertakings,” the inspector shall “instruct the employer to correct such conditions within a given period of time.”

### **B. The inspector determines whether the employer has corrected the condition(s).**

1. > *Where* the inspector determines that the employer has failed to take such steps within the given time, the inspector shall issue to the employer an order requiring:
  - Alteration in existing conditions that may be necessary to remove the threat to the health, safety or wellbeing of the workers be completed within a stated period of time; and
  - Measures that may be necessary to prevent imminent danger to the safety or health of the workers be “taken immediately.”
2. When the inspector is “in doubt about the technical or legal aspects” of any particular case, he shall report to the Minister requesting that appropriate decision be given and orders issued accordingly.
3. Appeals: Sec. 180 establishes a process for the employer to “appeal” an order to the “authority responsible to determine labor disputes or to the court within five working days, provided, however, that there shall not be a stay of execution where the order is given to avert an imminent danger....”
4. A “final” decision is issued on appeal. Where the employer does not appeal within the time-limit, the decision *shall* be executed by the appellate court.

## **VI. Labor Proclamation: Penalties**

Chapter I of Part XII sets forth the penalties to be assessed against employers and trade unions. It does not, however, set forth the remedies available to workers whose rights have been violated. It sets forth maximum penalties for differing types of violations:

- Employer violations of provisions on working hours, rest days, public holidays, leave and failure to provide proper notice for a suspension are subject to a fine not exceeding 500 Birr (US \$29) (Sec. 184(1)).
- Employer violations of provisions on OSH, record-keeping, workers' union activity, gender discrimination, and unlawful terminations under sec. 26(2) (e.g., union activity) are subject to a fine not exceeding 1,000 Birr (US \$58) or where the offence is committed by a worker or employer representative, a fine not exceeding 300 Birr (US \$17) (Sec. 185).

Employer or trade union violations of OSH provisions that expose workers to “serious” dangers; not providing “special protection” to women and young workers; failing to bargain collectively; engaging in an unlawful strike or lockout; failing to comply with labor inspector orders; and providing intentionally false information to the authorities, are subject to a fine not exceeding 300 Birr or where the offence is committed by a worker or employer representative, a fine not exceeding 300 Birr (Sec. 185)

The labor inspection process, as mandated by the Labor Proclamation (secs. 177-185) is set forth in Figure 2. (An improved labor inspection process, with data collection fields and inspection and court application templates, is set forth in Figure 6 in Part II).

## **VII. Court and Labor Board Roles & Responsibilities**

The Labor Proclamation also authorizes the establishment of labor divisions (in addition to civil and criminal divisions) in regional first instance courts, each regional court that hears appeals from them, and at the Central High Court (Sec. 137). The MOLSA minister shall submit the number of labor divisions to be established “to be determined by the appropriate authority” (Sec. 137(2)).

In Sec. 138, it defines the subject matter jurisdiction of the labor division of the regional first instance court to include the following “individual disputes”:

- i. disciplinary measures including dismissal;
- ii. claims related to the termination or cancellation of employment contracts;
- iii. questions related to hours of work, remuneration, leave and rest day;
- iv. questions related to the issuance of certificate of employment;
- v. claims related to employment injury;
- vi. Criminal and petty offences under the Proclamation.

The Labor Division of the court is required to issue a decision within 60 days from the date on which the claim is lodged. A party may file, within 30 days, an appeal to the regional court. An appellate court may hear these claims and an appeal of an employer “who is affected by the instruction or order of a labor inspector” (sec. 139). The labor division of the Central High Court

has jurisdiction to hear and decide on appeals against the decision of the Board on questions of law (sec. 140). A party has 30 days to file an appeal to the Central High Court.

In practice, the Federal High Courts and First Instance Courts sit in Addis Ababa and Dire Dawa.<sup>18</sup> Federal High Courts have also been established in five states because of inherent weakness and critical incapacity of those particular state judicial systems. The Proclamation also provides for the establishment of a Labor Relations Board (LRB's) in each national and regional self-government, with each composed of a chair and worker and employer members (sec. 144-145). The boards hear disputes involving wages, collective agreements, conditions of work, redundancies and other similar matters (secs. 142 & 147). There is an LRB in Addis Ababa but not Dire Dawa.

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<sup>18</sup> *Ethiopia: Legal and Judicial Sector Assessment*, published by the Legal Vice Presidency, World Bank, 2004, pp.10-11. See <http://siteresources.worldbank.org/INTLAWJUSTINST/Resources/EthiopiaSA.pdf>

## APPENDIX C

### OCCUPATIONAL SAFETY AND HEALTH TRAINING SEMINARS

This appendix is a menu of seminars that could immediately build stakeholder and inspector capacity to better interact with employers and workers by increasing their technical knowledge in hazard awareness, recognition and feasible abatement practices. The seminars suggested in this proposal would improve the MOLSA inspector best practices training in the prevention of accidents and injuries in general industry and construction. These suggestions are based on practices for dealing with hazards and exposures that are the leading causes of illness, injury and accidents in general industry and construction.

Currently OSHA has several authorized education/training centers that specialize in the type of train the trainer programs that would sustain the long term improvement of OSH. Many of these centers are run by universities that have been selected through a competitive process and authorized by OSHA through a quality control system of course audits and evaluations. USDOL will select the participating Education Centers based on availability cost and subject matter identified in this report.

#### **Section A: General Industry and Construction**

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##### **Seminar: Principles of Scaffolding**

Goal: To share information on modern scaffolding design and use in construction. This is one of the leading causes of falls and accidents in construction and would improve knowledge of best industry practices.

Description: This course focuses on the safety aspects of scaffolding and current OSHA requirements. The student is introduced to the basics of scaffolding operations from installation to dismantling. Topics include supported and suspended scaffolds, aerial lifts, and the interpretation of related standards. Installation and dismantling methods are demonstrated. *This is a Blended Learning Course, requiring that students must complete up to 10 hours seat time on a web-based portion of the course prior to attending the resident portion.*

##### **Seminar: Fall Arrest Systems**

Goal: Falls are one of the leading causes of occupational injuries and deaths and accidents in construction and would improve stakeholder and inspector knowledge of best practices.



Description: This course provides an overview of state-of-the-art technology for fall protection and current OSHA requirements. Topics covered include the principles of fall protection, the components of the arrest systems, the limitations of fall arrest equipment, and OSHA policies regarding fall protection. Course features a field exercise demonstrating fall protection equipment. *This is a Blended Learning Course, requiring students to complete up to 5 hours seat time on web-based portions prior to attending the resident portion.*

### **Seminar/Site Visits: Concrete, Forms, and Shoring**

Goal: To introduce modern construction work practices and techniques for safe design, engineering and prevention of occupational injuries and accidents.

Description: This course introduces the student to principles of forms and shoring and the quality of concrete, hot and cold weather placing practices, and inspection procedures. Topics include relevant OSHA standards, curing of concrete, form removal, and ASTM standards on sampling concrete. The session includes laboratories on making concrete, testing hardened concrete, reinforced concrete, pre- and post-stressing of concrete, lift-slab construction, and reading concrete construction blueprints and shoring plans. *This is a Blended Learning Course, requiring students to complete up to 7 hours seat time on web-based portions prior to attending the resident portion.*

### **Seminar/Site Visits: Excavation, Trenching and Soil Mechanics**

Goal: To introduce modern excavation work practices and techniques for safe design, for engineering, and for the prevention of occupational injuries in this highly hazardous area.

Description: This course focuses on OSHA standards and on the safety aspects of excavation and trenching. Students are introduced to practical soil mechanics and its relationship to the stability of shored and unshored slopes and walls of excavations. Various types of shoring (wood timbers and hydraulic) are covered. Soil classification testing methods are demonstrated, allowing students to use instruments such as penetrometers, torvane shears, and engineering rods. *This is a Blended Learning Course, requiring students to complete up to 5 hours seat time on web-based portions prior to attending the resident portion.*

### **Seminar/Site Visits: Cranes in Construction**

Goal: To introduce modern crane inspection techniques for safe assembly use and disassembly to prevent and reduce the incidence of occupational injuries and accidents.

Description: This course introduces the student to the various types of mobile cranes and tower cranes used in construction operations. Students are provided with intermediate information concerning crane operations, crane inspection and maintenance, rigging inspection, reading load charts, and corresponding OSHA and consensus standards. Exercises in applying OSHA and ANSI standards, reading load charts and rigging tables, and preventing accidents are conducted.

### **Seminar: Machinery and Machine Guarding Standards**

Goal: To increase awareness of machine guarding hazards related to amputations. Modernization of training to match industrial processes is required to meet the demands of increasing employee exposures in manufacturing industries.

Description: This course introduces the student to machinery processes and the related safety standards. The course focuses on the hazards associated with various primary types of machinery and the control of hazardous energy sources (lockout/tagout). The course focuses on hazards created by mechanical motions and actions, points of operation, and other machinery processes. Hands-on-training in the Institute's laboratories and plant tours provide opportunities to see equipment in operation. *This is a Blended Learning Course, requiring students to complete up to 5 hours seat time on web-based portions prior to attending the resident portion.*

### **Seminar: Power Press Guarding**

Goal: To increase awareness of machine guarding hazards related to amputations. Modernization of training to match industrial processes is required to meet the demands of employee exposures in manufacturing industries.

Description: This course focuses on the specific requirements of 29 CFR 1910.217, Mechanical Power Presses. Part revolution and full revolution clutch mechanisms are discussed in detail, with related hazards and guarding methods. Students operate presses in the Institute laboratory, determine appropriate safeguards and analyze press operations. The student will examine the application of OSHA Directive CPL 03-00-003. National Emphasis Program on Amputations, October 27, 2008 as it applies to power presses.

### **Seminar: Cranes and Materials Handling for General Industry**

Goal: To introduce modern crane inspection techniques for safe assembly use and disassembly to prevent and reduce the high incidence of occupational injuries.

Description: This course prepares students to inspect various types of overhead cranes, hoists, and powered industrial trucks used in general industry. Students learn to apply basic information

concerning overhead and gantry cranes, wire rope, slings, and crane inspection and maintenance procedures, according to appropriate OSHA and ANSI standards and related requirements. Operation and maintenance of powered industrial trucks is also covered. The course features a one-day, hands on inspection of overhead cranes and hoists.

### **Seminar: Electrical Seminar**

Goal: To raise hazard awareness and knowledge of injury prevention techniques of inspection staff and safety and health officers that have jurisdiction for carrying out inspections in general industry and construction.

Description: This seminar provides a broad overview of common electrical hazards found in the workplace, and primary methods of preventing or controlling employee exposure.

## **Section B: Train the Trainer**

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### **Background**

These two seminars will help bolster the curriculum of the MOLSA and help equip the staff with outreach tools to share experiences in private industry. Concerns about the ability of the institutes to keep pace with the modernization and rapid expansion of industry and construction led to the suggestion of developing a train the trainer model.

### **Seminar: Train the Trainer Course in OSHA Standards for Construction**

Goal: To develop trainers in construction safety and health to address the need for increased hazard awareness and accident prevention techniques in this sector.

Description: This course is designed for personnel in the private sector interested in teaching the 10- and 30- hour construction safety and health outreach program to their employees and other interested groups. In addition to the core 10- and 30- hour programs special emphasis is placed on the most hazardous topics, using OSHA standards as a guide. Course participants are briefed on effective instructional approaches and the effective use of visual aids and handouts. This course allows the student to become a trainer in the OSHA Outreach Training Program and to conduct both 10- and 30-hour construction safety and health courses and to issue cards to participants after verifying course completion. Minimum contact hours: 26.

### **Seminar: Train the Trainer Course in OSHA Standards for General Industry**

Goal: To develop trainers in general industry safety and health to address the need for increased hazard awareness and prevention techniques in this sector

Description: This course is designed to enable personnel in the private sector interested in teaching the 10- and 30- hour general industry safety and health outreach program to their employees and other interested groups. Special emphasis is placed on those topics that are required in the 10- and 30- hour programs as well as on those that are the most hazardous, using OSHA standards as a guide. Course participants are briefed on effective instructional approaches and the effective use of visual aids and handouts. This course allows the student to become a trainer in the OSHA Outreach Training Program and to conduct both 10- and 30- hour general industry safety and health courses and to issue cards to participants after verifying course completion. Minimum contact hours: 26.

### **Section C: Ergonomics, Safety and Health Management Systems and Globally Harmonized Hazard Communication System**

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#### **Seminar: Ergonomics**

Goal: To increase awareness of ergonomic hazards for call center employees. As this industry continues to expand, off-set work hours and fatigue are becoming a major problem.

Description: This seminar provides a broad overview of ergonomics principles, with a focus on how these are applied to workstations in an office environment.

#### **Seminar: Safety and Health Management Systems Seminar**

Goal: To provide a systems approach to address rapidly changing environment and technological challenges in the area of occupational safety and health.

Description: This seminar provides an overview of the critical elements and the application of safety and health management systems (SHMS) to the workplace environment. This is based on OSHA Voluntary Guidelines published in the Federal Register in 1989.

#### **Seminar: Globally Harmonized Hazard Communication System (GHS)**

The Globally Harmonized System (GHS) of Classification and Labeling of Chemicals is a worldwide initiative to promote standard criteria for classifying chemicals according to their health, physical and environmental hazards. It uses [pictograms](#), [hazard statements](#), and the [signal words](#) “Danger” and “Warning” to communicate hazard information on product labels and safety data sheets in a logical and comprehensive way. The primary goal of GHS is better protection of human health and the environment by providing chemical users and handlers with enhanced and consistent information on chemical hazards.

**Elements of GHS:**

[Glossary of Label Elements Included in GHS](#)

[Pictograms and their Benefits](#)

[Chemical Hazard Classes](#)

[Elements that GHS Does Not Affect](#)

[Resources for More Information](#)

**Implementation of GHS:**

[Anticipated Benefits of Adopting GHS](#)

[GHS Implementation at EPA](#)

[GHS Implementation at Other U.S. Agencies](#)

[Summary of the Development of GHS](#)

**The Benefits of GHS:**

Enhance the protection of human health and the environment: Consistent and widespread use of GHS will enhance protection of human health and the environment by providing an internationally comprehensible system for hazard communication. GHS will help ensure more consistency in the classification and labeling of all chemicals, thereby improving and simplifying hazard communication. This improved communication system will alert the user to the presence of a hazard and the need to minimize exposure and risk, resulting in safer transportation, handling and use of chemicals.

Promote sound management of chemicals worldwide: GHS will provide a harmonized basis for the first step in the sound management of chemicals, identifying hazards, and communicating them. This will be particularly useful for countries without well-developed regulatory systems.

Facilitate Trade: GHS will reduce costly and time-consuming activities needed to comply with multiple classification and labeling systems, promoting more consistency in regulation and reducing non-tariff barriers to trade.