

RIAL WORKSHOP ON

“STRATEGIES TO IMPROVE COMPLIANCE WITH LABOR LEGISLATION”

DESCRIPTION AND DRAFT AGENDA

PLACE AND DATE: San José, Costa Rica – December 6 and 7, 2018

BRIEF DESCRIPTION AND BACKGROUND

The Workshop on "Strategies to improve compliance with labor legislation" is part of the Work Plan 2018-2020 of the OAS Inter-American Conference of Ministers of Labor (IACML). As such, it responds to one of the labor regional priority actions set by the Ministers of Labor and follows up on commitments of the Declaration and Plan of Action of Bridgetown, approved during the XX IACML in December 2017. The specific mandates are included under the "Mandates" section of this document.

The Ministries of Labor have recognized that the region has wide and extensive labor legislation, within which are the fundamental principles and rights at work; namely: the elimination of discrimination in respect of employment and occupation, freedom of association and collective bargaining, the elimination of forced labor and the effective abolition of child labor. However, the Ministries themselves acknowledge that there is a large deficit in the enforcement of labor legislation, which attempts, among others, against the effective exercise of these fundamental principles and rights.

During recent discussions of the Ministries of Labor on the subject, contained in the Report of the IACML Working Group 2 of 2017, it is noted that Labor inspection is the quintessential mechanism for ensuring compliance with labor legislation and international labor standards and, as such, should continue to be strengthened. This report also indicates that the effectiveness of labor inspection depends, to a great extent, on the speed of labor justice. What happens in the administrative sphere is strongly linked to what happens in the judicial sphere. It also highlights the creation of tripartite bodies for dispute resolution and the incorporation of procedures such as mediation and conciliation in recent labor reforms.

The Ministries of Labor have also recognized that ensuring the protection of workers' rights, compliance with legislation and effective enforcement of fundamental principles and rights at work, involves many institutions and actors, including labor justice institutions and sectoral ministries. In addition, they agree that labor inspection should be complemented by strategies that promote education, awareness raising and cooperation among the different actors of the world of work.

The deficit on labor legislation compliance is manifested in multiple fronts, such as occupational health and safety and working hours or remuneration, but it has been recognized as particularly serious in regards to freedom of association and collective bargaining. The universal rights of freedom of association and collective bargaining of workers and employers are fundamental to face the challenge of achieving decent working conditions, including fair wages, reasonable working hours and safe working conditions. This is why it is crucial to strengthen their protection, through for example, the identification of improper practices that affect the autonomy and independence of unions, alter the power relationship between workers and employers and undermine labor relations through the use of inappropriate contractual forms. The foregoing requires that the Ministries of Labor respond to current challenges with substantive solutions through effective participation in legislative initiatives aimed at guaranteeing the effective exercise of these universal rights.

Additionally, existing trends of automation and robotization, as well as the emergence of new forms of economic interaction - such as the so-called "gig" economy and collaborative economy - impose new challenges on Ministries of Labor to ensure compliance with legislation. Therefore, this Workshop will address the future of work, as a cross-cutting issue.

MANDATES - COMMITMENTS AT THE HEMISPHERIC LEVEL

The Declaration and Plan of Action of Bridgetown, approved during the XX IACML in 2017, set important commitments and priorities that guide this Workshop. Below are the most important ones.

- “We are committed to strengthening our systems of labor inspection and administration, ensuring independence and professionalism in their operations as we strive towards the effective enforcement of our national labor laws and the promotion of international labor standards. We recognize that effective enforcement must go beyond labor inspection, and therefore we will reinforce strategies to promote a culture of compliance through cooperation and collaboration, as well as programs of sensitization, education and promotion of labor rights. At the same time, it is necessary to maintain and strengthen processes for sanctions in cases of noncompliance with existing laws.” Declaration of Bridgetown, Art. 25.
- “We recognize the universal principles and rights of freedom of association and collective bargaining for both workers and employers as key to addressing, inter alia, the challenges of decent working conditions, including fair wages, reasonable working hours, and safe working conditions. We reaffirm our commitment to promoting and protecting the functioning of appropriate and effective mechanisms

through which respect for these principles and rights are guaranteed, taking into consideration the ILO fundamental conventions and the 1998 ILO Declaration on Fundamental Principles and Rights at Work” Declaration of Bridgetown, Art. 20.

- “Strengthen labor inspection in both urban and rural areas, incorporating innovative approaches to expand the scope of inspections carried out on an ex officio basis or following the presentation of a complaint, such as by using technology to conduct inspections remotely or to identify workplaces according to their potential risk of noncompliance in order to target preventive inspections; and providing labor inspectors with the training and resources needed for them to perform their duties effectively, along with the modernization of process management systems.” Plan of Action of Bridgetown, Art. 9, a.
- “Ensure that sanctions or fines imposed for labor rights violations are effectively and efficiently enforced to guarantee their deterrent effect.” Plan of Action of Bridgetown, Art. 9, b.
- “Protect workers’ and employers’ fundamental rights to freedom of association and collective bargaining, for example by establishing measures to eliminate unfair and improper practices that affect trade-union autonomy and independence that may cause imbalances in labor relations. “ Plan of Action of Bridgetown, Art. 9, c.
- “Develop and implement appropriate strategies to guarantee workers the effective exercise of their labor rights, for example through timely access to justice, prompt investigations, and restitution of their rights.” Plan of Action of Bridgetown, Art. 9, d.
- “Continue developing strategies for education, awareness-raising, and cooperation regarding labor rights and obligations, including through the use of social media and the promotion of those subjects in school study programs.” Plan of Action of Bridgetown, Art. 9, e.
- “Combine efforts with other government bodies, such as ministries of agriculture, mining, infrastructure, and others, and work in coordination with them to achieve greater compliance with labor laws and effective protection of workers’ rights.” Plan of Action of Bridgetown, Art 9, f.
- “Exchange experiences and continue technical cooperation through RIAL on innovative approaches to ensure compliance with labor laws and effective observance of fundamental principles and rights at work, with particular emphasis on strategies that aim to protect the rights of groups that face the greatest challenges at work.” Plan of Action of Bridgetown, Art. 9, h.

TOPICS TO BE ADDRESSED

The discussions and presentations during the Workshop, will focus on the following topics:

1. Labor inspection, with emphasis on innovative approaches including the collection and analysis of data that allow for the preparation of evidence-based legislation or public policies proposals; as well as emphasis on protection of the rights of freedom of association and collective bargaining.
2. Coordination between Ministries of Labor and other public institutions, including labor justice, to achieve greater compliance with labor legislation.
3. Strategies for the alternative resolution of individual and collective labor disputes.

The challenges and opportunities posed by the future of work will be cross-cutting to each of these topics.

OBJECTIVES

General objective: Increase knowledge and strengthen the capacity of the Ministries of Labor to improve compliance with labor legislation, and generate public policies that guarantee the effective exercise of labor rights.

Specific objectives:

- To exchange and analyze experiences –policies and programs- from the Ministries of Labor for:
 - Strengthening labor inspection, especially with the inclusion of innovative approaches, and with regards to the protection of the rights of freedom of association and collective bargaining;
 - Coordinating their actions with other public institutions, including labor justice, in favor of greater compliance with labor legislation;
 - Promoting alternative resolution of individual and collective labor disputes.
- Identify lessons learned and policy recommendations from the experiences analyzed.

PARTICIPANTS:

- Authorities and officers of Ministries of Labor working specifically on ensuring compliance with labor legislation (labor inspection, among others).
- Representatives of workers and employers grouped in the Trade Union Technical Advisory Council (COSATE) and the Business Technical Advisory Committee on Labor Matters (CEATAL), as permanent consultative bodies of the Inter-American Conference of Ministers of Labor (IACML/OAS).
- International Organizations.

STRUCTURE:

2 days of work that combine presentations from Ministries of Labor on concrete initiatives and spaces for open dialogue among all attendees. In addition, it will have sub-groups discussions in order to facilitate the identification of lessons learned and recommendations.

All participants should answer, prior to the event, the “Guiding Questions” set for each panel. These Questions will be the basis of the presentations and open dialogue; thus, responding them in advance will facilitate a more active interaction during the Workshop.

FINANCING:

- Canada’s Project for the Inter-American Network for Labor Administration (RIAL) will cover logistics costs, simultaneous interpretation and travel expenses of representatives of Ministries of Labor from smaller economies, COSATE and CEATAL.
- The International Labor Organization has offered to finance travel expenses for some participants from Central America and is exploring the possibility of covering some other costs of the event.
- Government of Costa Rica or other partners may supplement some logistics or hospitality costs.

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DRAFT AGENDA

December 6 & 7, 2018 – San Jose, Costa Rica

Note on Guiding Questions: Participants are kindly requested to send their responses to the “Guiding Questions” –which are the bases for presentations and open dialogue- no later than November 15, 2018 to trabajo@oas.org. Thank you for your collaboration.

THURSDAY, December 6th, 2018

8:00 – 9:00 Registration of participants

9:00 – 9:45 **OPENING AND INTRODUCTION OF THE MEETING**

- Welcoming remarks: Authorities of the Ministry of Labor and Social Security of Costa Rica, OAS and ILO
- Introduction to the meeting: Ministries of Labor of Barbados and Argentina, as Chairs of the IACML and Working Group 2

9:45 – 13:00 **PANEL 1 – STRENGTHENING LABOR INSPECTION: INNOVATIVE APPROACHES AND ACTIONS FOR THE PROTECTION OF FUNDAMENTAL RIGHTS WITH EMPHASIS ON FREEDOM OF ASSOCIATION AND COLLECTIVE BARGAINING**

Moderator: Chair or Vice-Chair of Working Group 2

(Coffee break from 10:40 to 11:00)

- Introductory presentation by ILO (15 minutes)
- Presentations from 3 Ministries of Labor (15 minutes each) on national experiences
- Interventions from COSATE and CEATAL (15 minutes each)
- Open dialogue among all participants (1 hour and 15 minutes)

Guiding questions for dialogue and presentations:

1. What actions does your Ministry undertake to improve the targeting, management and effectiveness of labor inspection in urban and rural areas? Please indicate the use of innovative approaches –such as the use of technology- within those actions, and describe main characteristics and lessons learned.
2. How is labor inspection protecting the rights of freedom of association and collective bargaining?

13:00 – 14:30 **Lunch**

14:30 – 17:30 **PANEL 2 – ALTERNATIVE RESOLUTION OF INDIVIDUAL AND COLLECTIVE LABOR DISPUTES**

Moderator: Chair or Vice-Chair of Working Group 2

(Coffee break from 15:45 to 16:00)

- Introductory presentation by moderator, independent expert or international organization (15 minutes)
- Presentations from 3 Ministries of Labor (15 minutes each) on national experiences
- Open dialogue among all participants(1 hour and 45 minutes)

Guiding questions for dialogue and presentations:

3. What are the alternative mechanisms to solve individual and collective labor disputes in your country? Please indicate their main characteristics, as well as the successes, challenges and lessons learned that have arisen from their implementation.

FRIDAY, December 7, 2018

9:00 – 12:30 **PANEL 3 – COORDINATION BETWEEN MINISTRIES OF LABOR AND OTHER PUBLIC INSTITUTIONS TO IMPROVE COMPLIANCE WITH LABOR LEGISLATION**

Moderator: Chair or Vice-Chair of Working Group 2

(Coffee break from 10:30 to 11:00)

- Introductory presentation by moderator, independent expert or international organization (15 minutes)
- Presentations from 3 Ministries of Labor (15 minutes each) on national experiences
- Open dialogue among all participants (2 hours)

Guiding questions for dialogue and presentations:

4. What coordination or collaboration strategies does your Ministry have with other public institutions –like other sectorial Ministries and labor justice- to improve compliance with labor legislation? Please describe what kind of institutional arrangements exist for this collaboration and how are they working, including successes, challenges and lessons learned.

- 12:30 – 14:00 **Lunch**
- 14:00 – 16:00 **WORK IN SUB-GROUPS** – Participants will be divided into 3 sub-groups, which will appoint a moderator and a rapporteur
- Objective: Exchange experiences, hold technical discussions and identify lessons learned, challenges and policy recommendations arising from the initiatives undertaken by the Ministries of Labor to strengthen labor inspection, alternative dispute resolution and inter-sectoral coordination, with the objective of strengthening compliance with labor legislation.
- 16:00 – 16:30 Coffee break
- 16:30 – 17:30 **PLENARY AND CLOSING SESSION**
- Presentation by sub-groups moderators / rapporteurs and general debate on challenges, lessons learned and policy recommendations
 - Closing remarks: Authorities of the Ministry of Labor and Social Security of Costa Rica, OAS and ILO