

GUIDING QUESTIONS Canada's Response

Note: These questions will guide the presentations and dialogue sessions during the Workshop. Therefore, we kindly ask all participants to send their answers to the OAS before **October 15** (aangarita@oas.org). Due to the number of questions, we suggest participants to give emphasis to those questions where their country has more experience and lessons learned.

Theme 1- Promotion of safety and health in the workplace and worker protection: guaranteeing decent work

1) Is there a national policy on OHS in your country in line with ILO Conventions 155 and 187?

The federal legislation governing occupational health and safety (OHS), which includes Part II of the *Canada Labour Code* (Code) and the *Canadian Occupational Health and Safety* (COHS) *Regulations*, shares the same basic philosophy as ILO Conventions 155 and 187. For example, the purpose of the federal legislation is "to prevent accidents and injury to health arising out of, linked with, or occurring in the course of employment at federally regulated employers" in order to create healthy and safe workplaces. This is in line with Article 4 of Convention 155 which states that:

"Each member shall...in consultation with the most representative organizations of employers and workers, formulate, implement and periodically review a coherent national policy on occupational safety, occupational health and the working environment. The aim of the policy shall be to prevent accidents and injury to health arising out of, linked with or occurring in the course of work, by minimizing, so far as is reasonably practicable, the causes of hazards inherent in the working environment."

The legislation is also in line with Article 2 of Convention 187 which states that:

"Each member...shall promote continuous improvement of occupational safety and health to prevent occupational injuries, diseases and deaths, by the development, in consultation with the most representative organizations of employers and workers, of a national policy, national system and national programme."

Regarding consultations with representative organizations of employers and workers for the federal jurisdiction, a Regulatory Review Committee meets biannually to discuss the

In collaboration with:

development of and amendments to regulations. Working groups which include representatives from employer and employee organizations are created to develop new regulations or review existing regulations and meet approximately every six weeks over the course of a year during the process. They are consulted on proposed regulations or proposed amendments to existing regulations using a tripartite regulatory review forum. Additionally, the same parties meet biannually for the Labour Operations Practices Committee which handles matters pertaining to the administration of the regulations.

Is there a national strategy/plan of action on OHS in your country?

Division of Responsibility

Under the Canadian constitution, the responsibility for labour legislation is divided between the federal and provincial governments according to industry. With respect to the Yukon, Northwest Territories and Nunavut, the Parliament of Canada has enacted legislation granting them the power to legislate on labour matters not coming under federal jurisdiction. As a result, the territorial governments have virtually the same legislative powers with regard to labour laws as the provinces. This division of responsibility means that approximately 90 percent of the workforce falls under the jurisdiction of the provinces/territories. Regardless of the jurisdiction, the purpose of OHS legislation in Canada is the same in that it is to prevent injuries and improve health and safety in the workplace.

Federal Legislation

Part II of the Code which deals with OHS, and the COHS Regulations apply to approximately 10 percent of the workforce in Canada and are administered by the federal government. Included are the following sectors:

1. certain works and industries such as railways, bus operations, trucking, pipelines, ferries, tunnels, bridges, canals as well as shipping and related services (e.g. longshoring) that have an extra-provincial or international character;
2. air transport, aircraft and airports;
3. telecommunications, such as radio and television broadcasting as well as telephone and cable systems;
4. banks;
5. works that have been declared by Parliament to be for the general advantage of Canada or of two or more provinces, such as grain elevators and uranium mining and processing; and
6. Federal Crown corporations and agencies.

In addition, the OHS provisions of the Code cover the federal public service and the exploration and development of petroleum on lands subject to federal jurisdiction. However, Part II of the Code does not apply to certain undertakings regulated by the *Nuclear Safety and Control Act*.

Intergovernmental OHS Committee

The Canadian Association of Administrators of Labour Legislation Occupational Health and Safety (CAALL-OSH) is a committee consisting of federal-provincial-territorial representatives of OHS regulatory agencies in Canada. It is a forum for jurisdictions to, among other things, discuss and interchange ideas and proposals concerning OHS; identify and exchange experience in programs, problems and issues of concern in OHS; and consult on developing consistent OHS requirements to the greatest extent possible, taking into account international practices.

What are the strengths, challenges and lessons learned of their design, implementation, and enforcement?

Internal Responsibility System

In 2000, amendments were made to Part II of the Code in order to create a better balance between the roles of government, employers and employees in achieving safe and healthy workplaces. This balance allows employers and employees to be more involved in resolving issues and conflicts in their work places, thereby, minimizing the need for government intervention. It has been widely held that the workplace parties (employers and employees) are more knowledgeable and have a greater vested interest regarding hazards that may exist in the work place. This is known as the Internal Responsibility System.

The legislative framework establishes a process that allows for a graduated series of investigations to resolve workplace issues while maintaining employment safety. The process allows for the resolution of workplace health and safety issues in a more timely and efficient manner and reinforces the concept of the internal responsibility system. The process provides the employer/supervisor with the opportunity to address and correct employee concerns without the need to involve the workplace health and safety committee, the health and safety representative or a health and safety officer. Complaints can be made to a health and safety officer at the Labour Program only if the internal resolution process has been followed and has not been successful in resolving the matter.

National Intervention Model

Inspections are strengthening the culture of prevention in the workplace through the National Intervention Model (NIM). The NIM is a process that assesses components of OHS in workplaces and provides the framework to improve any deficiencies identified. It is based on the following principles:

- inspection of worksites is one of the most effective interventions;
- better prevention results are achieved by focusing on employers and worksites at higher risk of work injuries within a given industrial sector; and
- the risk of work injuries is usually defined using indicators such as frequency rate, incidence rate, prevalence rate and severity index associated with workplace injuries.

The Model offers employers and employees another way to work cooperatively to implement the type of work place health and safety policies and procedures that make sense for their workplaces. As such, work place parties can focus all their efforts where the needs and potential benefits are greatest.

Compliance Policy

The Government of Canada, through the Labour Program of Human Resources and Social Development Canada, promotes and regulates fair, safe, healthy and equitable work environments and workplace practices. This policy is designed to support voluntary compliance through education and consultation while ensuring that enforcement, when required, is fair, foreseeable and nationally consistent. This policy presents the fundamental principles upon which compliance activities are based, consistent with current federal government policy on compliance.

In situations of non-compliance other than where there is a danger as defined in Part II of the Code, and where there is a willingness to correct the situation, an employer may sign an Assurance of Voluntary Compliance stipulating that he or she will take corrective measures within a specific time frame. In situations of danger, or where the employer or employee has failed to live up to a commitment to comply voluntarily, a Direction will be issued. Finally, a prosecution may be initiated for failure to comply with the legislation. Prosecutions require the consent of the Minister of Labour and the limitation period for laying charges under Part II of the Code is one year. The Code sets out, depending on the severity of the offence, a fine not exceeding \$1 million dollars or imprisonment for a term not exceeding two years, or both.

- 2) Were situational analyses and/or country profiles used in developing OHS policies/plans of actions and how were they used?**

No.

- 3) Have actions on OHS at the national level (e.g. legislation, policies and programs, technical and promotional activities and training) used existing international guidelines from the ILO, PAHO/WHO or other, as a reference? Please provide examples.**

International guidelines have been used as a reference to guide actions on OHS at the federal level. For example, the Marine Occupational Health and Safety Regulations are currently being updated to bring them in line with requirements of the International Labour Organization (ILO) Maritime Labour Convention, 2006.

- 4) Are you aware of the commitment assumed by ILO member States to comply with decent work in the context of OHS, as outlined in the *Hemispheric Agenda for the Americas 2006-2015*? What are some of the decent work indicators related to OHS that are currently implemented at the country level? How are these indicators evaluating OHS actions and their contribution to policy development?

The Office proposal for a Hemispheric Agenda was "noted" by the participants in the Sixteenth Americas Regional Meeting. As such, there was no commitment assumed by member States.

- 5) Within your country, is there coordination among various Ministries to implement OHS interventions and policies? Is there an institutional mechanism for inter-Ministerial coordination to take place? What are the strengths and challenges of coordination?

Federal Coordination

In the case of OHS in the federal jurisdiction, there is a division of jurisdiction between on-board and off-board transportation. For example, while Part II of the Code applies to on-board Marine OHS, on-board Aviation OHS, and on-board Rail OHS, there are specific regulations for each of the transportation sectors. These are enforced by Transportation Canada Inspectors on behalf of the Minister of Labour rather than Labour Program inspectors of Human Resources and Social Development Canada. As well, OHS for the operation of pipelines is enforced by the National Energy Board.

Memorandums of Understanding (MOUs) have been signed to formalize this arrangement. The MOUs establish a joint administrative arrangement between Human Resources Social Development Canada - Labour Branch and the Department of Transport or the National Energy Board for the application and enforcement of Part II of the Code.

Intergovernmental Coordination

As noted above, CAALL-OSH is a federal-provincial-territorial committee of occupational safety and health regulatory agencies. A part of its mandate is to provide a federal/provincial/territorial forum for discussion of OHS and it also acts as a coordinating body.

- 6) How have employers, workers and their representatives participated in the definition, implementation and/or evaluation of OHS policies?

As noted above, in the federal jurisdiction, a Regulatory Review Committee meets biannually to discuss the development of and amendments to regulations. Working groups which include representatives from employer and employee organizations are created to develop new regulations or review existing regulations and meet approximately every six weeks over the course of a year during the process. They are consulted on proposed regulations or proposed amendments to existing regulations using a tripartite regulatory review forum. Additionally, the same parties meet biannually for the Labour Operations Practices Committee which handles matters pertaining to the administration of the regulations.

Changes to Part II of the Code were last made in 2000 following a similar stakeholder process to the one already mentioned.

- 7) **What successful experiences demonstrate the commitment of employers, workers and their representatives to enhance OHS in the workplace? This may include their participation in national tripartite bodies dealing with this issue, such as OHS National Councils, as well as committees in the workplace and initiatives that promote healthy workplaces.**

Coordination and cooperation between public authorities, employers, workers and others is stipulated in Part II of the Code. In 2000, amendments were made to Part II of the Code which increased the responsibility of work place parties (employers and employees) to address OHS issues jointly in a more efficient and effective manner by involving work place committees and health and safety representatives in the resolution process of these issues.

To ensure that health and safety matters are addressed in the workplace, workplace health and safety committees are required to be established for workplaces with twenty or more employees, while Policy Health and Safety Committees are required for workplaces with 300 or more employees. For workplaces with fewer than twenty employees, the employer is required to have a health and safety representative who is tasked with various duties. The powers of health and safety officers are also listed including the right to inspect workplaces with the presence of an employee member and employer member of the workplace committee or health and safety rep and person designated by the employer (141.1(1)).

1. Workplace health and safety committees must be established in workplaces where there are 20 or more employees. At least half of the committee members must be employees who do not have managerial functions. Each workplace health and safety committee is required to meet 9 times a year, at regular intervals and during regular working hours. The committee may request from an employer any information that it considers necessary to address workplace hazards. It has full access to all government and employer reports, studies and tests relating to the health and safety of employees. It does not have access to an individual's medical records without the individual's consent.

Some powers and duties of the workplace health and safety committee are to consider and expeditiously dispose of health and safety complaints; participate in the implementation and monitoring of programs for the prevention of workplace hazards; participate in the development, implementation and monitoring of programs to prevent workplace hazards, if there is no policy committee in the organization; participate in all of the inquiries, investigations, studies, and inspections pertaining to employee health and safety; participate in the implementation and monitoring of a program for the provision of personal protective equipment, clothing, devices, or materials, and, if there is no policy committee, participate in the development of the program; ensure that adequate records are kept on work accidents, injuries and health hazards; cooperate with health and safety officers; participate in the implementation of changes that may affect OHS, including work processes and procedures, and, if there is no policy committee, participate in the planning of the implementation of those changes; assist the employer in investigating and assessing the exposure of employees to hazardous substances; inspect each month all or part of the workplace, so that every part of the workplace is inspected at least once a year; and participate in the development of health and safety policies and programs, if there is no policy committee.

2. Policy health and safety committees must be established where an employer has 300 or more employees. The intent of this committee is to take a more strategic approach to health and safety in an organization by dealing with global issues. The policy committee consists of at least two members. The employer appoints members in accordance with the following conditions. Half of the members of the committee are to be employees who do not exercise managerial functions. These members are to be selected by the trade union representing the employees. If the employees are not members of a union, then the employees at large will select their representatives on the policy committee. If a collective agreement allows, the membership of a policy committee may include people who are not employees.

Duties of the policy committee include to assist in the development of health and safety policies and programs; deal with matters raised by members and those referred to it by a workplace committee or health and safety representative; participate in the development and monitoring of a program for the prevention of workplace hazards, according to regulations, that also provides for the health and safety education of employees; participate in inquiries, studies, investigations and inspections as it considers necessary; monitor data on work accidents, injuries and health hazards; participate in the development and monitoring of a program, if any, for the provision of personal protective equipment, clothing, devices or materials; and participate in the planning of the implementation, and in the actual implementation, of changes that may affect health and safety, including work processes and procedures.

3. Health and Safety Representative: In workplaces where there are fewer than 20 employees or in workplaces exempted from the committee requirement, there must be a health and safety representative. The employees of the workplace who do not exercise managerial functions select, from among those employees, the person to be appointed health and safety representative. If the employees are represented by a trade union, then the union selects the person to be appointed, after consulting any employees who are not in the union. A health and safety representative may request from an employer any information that the representative considers necessary to identify existing or potential hazards in the workplace. The representative has full access to all government and employer reports, studies and tests relating to the health and safety of employees. The representative does not have access to the medical records of any individual except with the person's consent.

The powers and duties of the health and safety representative include to consider and expeditiously dispose of health and safety complaints; ensure that adequate records of work accidents, health hazards and the disposition of health and safety complaints are kept, and regularly monitor this data; meet with the employer as necessary to address health and safety issues; if there is no policy committee, participate in the development, implementation and monitoring of programs to prevent hazards in the workplace, which also provide for the education of employees in health and safety; participate in all inquiries, investigations, studies, and inspections pertaining to the health and safety of employees; cooperate with health and safety officers; participate in the planning of the implementation of changes that may affect OHS, including work processes and procedures; inspect each month all or part of the workplace, so that every part of the workplace is inspected at least once each year; participate in the development of health and safety policies and programs; assist the employer in investigating and assessing the exposure of employees to hazardous substances; and participate in the implementation and monitoring of a program for the provision of personal protective equipment,

clothing, devices or materials and, where there is no policy committee, participate in the development of the program.

Theme 2 - Expansion and strengthening of schemes to prevent and control occupational hazards

- 1) Describe effective programs and occupational health services in your country designed to prevent and control work-related injuries and diseases. Have these programs been expanded or strengthened during the last 5 years?

Part XIX and Part XX of the COHS Regulations have been created/amended in the last 5 years to ensure the objective of the Code to prevent accidents and injuries to health is met.

The Hazard Prevention Program, which is Part XIX of the COHS Regulations, has been in force since December 2005. It is a work place specific program designed to prevent accidents and injury based on the hazards at that work place. It includes requirements relating to hazard identification, assessment and control as well as education of employees. For this program, the employer is required to analyze the work environment to identify what could cause an unsafe condition and implement measures to prevent this from occurring. Additionally, amendments were made in December 2007 to the Hazard Prevention Program to specifically address ergonomic-related hazards.

Violence Prevention in the Work Place, which is Part XX of the COHS Regulations, has been in force since May 2008. Given that there has been a recognition that work place violence translates into economic and societal costs, Part XX provides a specific instrument to allow for improved prevention programs and enforcement that are specific to work place violence. As well, it includes requirements to develop a work place violence prevention policy; to identify and assess risks related to work place violence; to put preventative controls in place and to provide training for employees.

- 2) What is the role of information systems in these preventative interventions? How effective are they in providing accurate information that allows for the monitoring and assessment of the interventions?

Information systems play a crucial role in directing preventative interventions. Occupational injury and disease statistics are compiled in all jurisdictions at high levels of detail, including the worksite, firm, and industry level. In addition, data showing the number and type of interventions are also maintained. These information systems are effective for targeting preventive interventions since they allow for the identification of high risk work places, firms, and industries. These statistics are highly accurate since they are based on administrative records, i.e. census-type data.

- 3) Which institution(s) have OHS information systems in your country? Do they share or coordinate the exchange of information? What are the characteristics of OHS information systems in your country? Do they focus on work-related injuries, diseases or both? What are the strengths and challenges of the systems?

The federal government and the provincial and territorial workers' compensation authorities all have OHS information systems in place for employment falling under their jurisdiction. Each jurisdiction maintains databases showing proactive and reactive interventions, both at the firm and industry-wide level as well as administrative databases showing the number and characteristics (type and source of injury and event causing that injury) of all accepted workers' compensation claims by occupation, industry, age and gender. National-level

statistics are compiled through the National Work Injuries Statistics Program (NWISP), which is administered by the Association of Workers' Compensation Boards of Canada (AWCBC). The primary purpose of NWISP is to collect workers' compensation data from all jurisdictions and maintain a national database of occupational injury and disease statistics. The focus is on both work-related injury and disease.

4) How is labor inspection helping strengthen a culture of prevention and control of occupational hazards in your country?

Inspections are strengthening the culture of prevention in the workplace through the compliance policy as well as the National Intervention Model (NIM). The compliance policy is assisting employers and employees through the voluntary process in understanding the legislative requirements they have to meet. The process has demonstrated that there is a high level of voluntary compliance.

The NIM is a process that assesses components of OHS in workplaces and provides the framework to improve any deficiencies identified. It is based on the following principles:

- inspection of worksites is one of the most effective interventions;
- better prevention results are achieved by focusing on employers and worksites at higher risk of work injuries within a given industrial sector; and
- the risk of work injuries is usually defined using indicators such as frequency rate, incidence rate, prevalence rate and severity index associated with workplace injuries.

The Model offers employers and employees another way to work cooperatively to implement the type of work place health and safety policies and procedures that make sense for their workplaces. As such, work place parties can focus all their efforts where the needs and potential benefits are greatest.

5) How can the quality and sustainability of information systems be maximized for the use in OHS interventions and programs?

They are already maximized.

Theme 3- HIV/AIDS in the workplace¹

1) Is there a specific legislation, policy or strategy in your country that addresses the issue of HIV/AIDS in the workplace?

There is not a national specific legislation, policy or strategy in Canada that addresses the issue of HIV/AIDS in the workplace. Some employers have however developed such policies. For example, Treasury Board of Canada has developed an HIV/AIDS policy for federal government employees.

Canada has adopted an integrated approach to HIV/AIDS in the workplace as opposed to stand alone policy, legislation, and/or guidelines. People living with HIV/AIDS rights are protected under equal opportunity legislation both federally under the Canadian Chart of Rights and Freedoms and provincially by respective Human Rights Codes. HIV positive status or a diagnosed AIDS is viewed as a disability and discrimination in a number of activities, including employment, on the basis of physical or mental disability is prohibited. Under this legislation, employers are also required to reasonably accommodate special needs.

In addition, while it is clear that HIV/AIDS and its effects are carried through to the world of work and that it has extensive social and economic implications, it is viewed that it is primarily a health issue. Canadian health ministries and their related institutions have been leaders in multi-stakeholder initiatives to address HIV/AIDS issues. Government financed social assistance programs have also played a role in mitigating the impact of HIV/AIDS by providing assistance to persons with HIV/AIDS, and their families who are in financial need or require employment support. Part II of the Canadian Labour Code also provides provisions for Health and Occupation Safety, which holistically but not specifically address HIV/AIDS issues in the workplace.

In 1990 Canada initiated the *Canadian Strategy on HIV/AIDS*, which was lead by the Health Canada and the Public Health Agency of Canada. The National AIDS Strategy provided a vehicle and a framework for federal leadership on this new and complex challenge to the health of Canadians and enabled a wide spectrum of activities and initiatives to be undertaken. One of the important innovations of the Strategy is the creation of a Ministerial Council on HIV/AIDS which brings together expertise that encompasses all aspects of HIV/AIDS in Canada, including a strong voice of people living with HIV/AIDS. There is general consensus that the benefits of the investment in the National AIDS Strategy far outweighed the financial outlay. Stakeholders agree that the National AIDS Strategy played a central role, not only in saving thousands of lives and billions of dollars in long-term costs to the economy, but also in ensuring that the situation did not become many times worse than it is today.

This strategy was recently replaced by the *Federal Initiative to Address HIV/AIDS in Canada* launched in 2005. The goals of this initiative are to: prevent transmission of new infections; slow disease progression and improve quality of life; reduce the social and economic impact of HIV/AIDS; and contribute to the global effort to reduce the spread of HIV and mitigate the impact of the disease. The initiative aims to implement the *Leading Together: Canada Takes Action on HIV/AIDS (2005 - 2010)* action plan. The document calls for consolidated action on

¹ Due to time constraints and the Canadian Labour Program's limited direct involvement in relation to HIV/AIDS issues, the answers for this section result from the gathering of information from various sources (references bellow) and were not reviewed by the competent authorities. Thus we would request that the information provided be used to facilitate the workshop discussions, but not be quoted or used for official purposes.

all fronts, including governments, community, researchers, individuals and others involved in Canada's response to HIV/AIDS.

Through the Federal Initiative, the Public Health Agency of Canada, Health Canada, the Canadian Institutes of Health Research and Correctional Service Canada collaborate with other federal government departments, provincial and territorial governments, non-governmental organizations, researchers, health care professionals and people living with and vulnerable to HIV/AIDS in five areas of federal action: program and policy interventions; knowledge development; communications and social marketing; coordination, planning, evaluation and reporting; and global engagement.

The Ministerial council, federal/provincial/territorial Advisory Committee on AIDS, and the The National Aboriginal Council on HIV/AIDS have also been created to advise Health Canada and the Public Health Agency of Canada on HIV/AIDS issues and facilitate coordination.

If so,

- how was it designed? Was it based on a diagnostic of the labor, social and economic conditions of people living with HIV/AIDS? Is it a national or a sectoral response? Has it been agreed upon by various sectors, public and private institutions?
- how is it being implemented? Are there any programs directly implemented by employers, workers and their representatives, or are they just participating through the national policy or strategy?
- Are there any mechanisms in place to measure the cost effectiveness of interventions in the workplace that respond to HIV/AIDS?

As mentioned above, Canada has adopted a more integrated approach and national legislation has not been adopted to specifically address the issue of HIV/AIDS in the workplace. Some employers have however developed such policies.

2) How are the *ILO Code of Practice on HIV/AIDS and the World of Work* and the *ILO/WHO Guidelines on HIV/AIDS* currently implemented in your country?

The *ILO Code of Practice on HIV/AIDS and the World of Work* and the *ILO/WHO Guidelines on HIV/AIDS* are not directly being implemented, however several of their recommendations are consistent with current Canadian practices and professionals do refer to these documents.

3) What are some of the challenges that your organization/country have faced in implementing the aforementioned Code and Guidelines? What are potential solutions to address these challenges?

A few factors present challenges to their implementation, such as the primacy of Canadian policies and laws. Also, in Canada, responsibility for regulating labour matters is constitutionally divided between the federal and provincial/territorial governments. Each jurisdiction has authority to adopt its own labour laws. Approximately 10% of Canadian workforce is under federal jurisdiction. Most employees are subject to the labour laws of the province/territory in which they work. Thus their effective implementation requires the buy-in of several actors.

Also, the fact that in Canada HIV/AIDS is largely viewed as a public health issue and not an occupational health and safety issue can influence implementation. As mentioned in the previous answer, the Canadian Government is engaged but has tackled the issue primarily from a human rights and public health perspective.

There is no doubt that HIV/AIDS imposes hardship on individuals and families in Canada and it is clear the world is interlinked, however HIV/AIDS has not had the same extensive and devastating effects in Canada as it has had in other parts of the world. This potentially can influence the perceived need for quick implementation in the context of competing priorities. Approximately 60,000 people have tested positive for HIV since 1985.² This figure represents approximately 0.002% of the Canadian population. From this group, 20,000 people have been diagnosed with AIDS since 1979. The number of new HIV cases identified on a yearly basis is relatively constant, but the number of AIDS cases diagnosed per year has been diminishing since 1995 due to progress in medical treatments. On a long term-basis however the condition remains incurable and fatal. The median age of infection has dropped from 32 years in 1982-1983 to 23 years in 1986-1990³ and certain segments of the Canadian population are much more vulnerable to HIV infection such as injection drug users, women living in poverty, Aboriginal peoples, young gay men and prison inmates.

4) In your experience, what are some effective interventions to reduce discrimination/ stigmatization in the workplace for people living with HIV/AIDS?

Stigma and discrimination often comes from fear and misunderstanding and steps can be taken at the workplace to emphasize the ways in which HIV is transmitted.

Also, in almost all circumstances HIV/AIDS testing should be voluntary and confidential.

The Canadian Charter of Rights and Freedoms and Provincial Human Rights Codes prohibit discrimination in employment on the basis of physical or mental disability. Persons with HIV/AIDS are protected from discrimination in employment under this ground. Employers also have the duty to reasonably accommodate special needs which are based on protected characteristics. The Codes do not permit termination of the employment of a worker on the ground of disability or illness where reasonable accommodation of such worker is possible and will not pose undue hardship to the employer.

Employment should be encouraged for as long as possible, and opportunities for skills development should be considered.

Some have noted however that although a number of complaints alleging discrimination on the basis of AIDS/HIV infection have been successful, potential complainants may be reluctant to come forward due to ongoing fear and prejudice surrounding HIV/AIDS.

Increasingly, human rights agencies recognize the intersectionality of human rights protections. Discrimination on the basis of AIDS/HIV infection may also intersect with discrimination on the basis of other protected grounds, such as national origin and sexual orientation. Anti-discrimination efforts should include gay, lesbian, bisexual and transgender persons as belonging to parts of the population perceived to be at a greater risk of HIV infection.

² HIV and AIDS in Canada, Selected Tables to June 30, 2007

³ Canadian Strategy on HIV/AIDS : Moving Forward Together

5) In your experience, what are some effective preventative interventions to protect workers at elevated risk of contracting HIV/AIDS due to the nature of their work?

HIV is first and foremost a preventable disease. Communities most vulnerable to HIV need targeted programs that use culture/gender sensitive and age-appropriate prevention strategies. Prevention is of critical importance.

From a Workplace Safety and Health perspective, it is essential to focus on work-related risks for workers. Reasonable precautions should be taken at all times in the workplace to prevent infection where the nature of the work does put a worker at risk of infection. For example, Canadian governments have workplace safety and health regulatory requirements for employers to identify chemical and biological hazards (including HIV/AIDS) and to control them via infection control, hygiene and appropriate use of personal protective equipment including masks and gloves.

There should be a focus on prevention through the implementation of universal precautions against HIV transmission (and other bloodborne pathogens) in all workplaces. Moreover, this should be undertaken with a particular view to enhance the protection of employees with a potential risk; for example healthcare workers, emergency and rescue personnel and law enforcement personnel.

Governments also work proactively with social partners (employer and worker groups) and civil society on to address HIV/AIDS issues in the workplace.

Targeted initiatives can also be undertaken. For example, the National HIV/AIDS Capacity Building Fund funded a project by an organization called Stella to complete the national distribution of two guides made for and by sextrade workers. The guides are entitled "Guide XXX" and "ConStellation Special Striptease" and were distributed to organizations that work with sextrade workers across Canada. In addition, Stella provided training to 12 organizations on the use of the two guides and on intervention strategies for social workers working with this population. ConStellation and the Guide XXX are easy-to-use manuals created to inform sextrade workers on a variety of social and health topics (including HIV/AIDS) and to provide them with a list of organizations and resources available to them within their own communities.

6) In your experience, what are some effective interventions to prevent HIV/AIDS in the workplace and to promote healthy workplaces in relation to HIV/AIDS?

Awareness of HIV/AIDS and of possible safety measures to prevent infections is key.

Bellow is an extract of the HIV/AIDS policy the Treasury Board of Canada has adopted for federal government employees:

Precautions for employees with a potential risk of exposure

As indicated in the policy, departments must ensure that the safety and health of employees who have a potential risk of exposure to a causative agent are protected.

(a) Where a potential risk of exposure to HIV as well as to other bloodborne infectious agents exists, departments must establish and enforce infection control procedures recommended by Health Canada. Departments must also provide appropriate protective clothing and equipment in

accordance with the Treasury Board Personal Protective Equipment and Clothing directive and the Canada Labour Code, Part II.

(b) Workplace exposure to blood or other body fluids that are potentially contaminated with HIV shall be reported in accordance with Treasury Board Procedures for Accident Investigation and Reporting.

(c) In addition, ongoing education and training in infection control must be provided for these potential risk employees in accordance with the Treasury Board Occupational Safety and Health policy and the Canada Labour Code, Part II.

This extract illustrates the type of policies and measures employers can adopt to help promote healthy workplaces.

References for theme 3 - HIV/AIDS in the workplace:

Canada Labour Congress (fall 2008), Response to ILO HIV-AIDS questionnaire

Government of Canada (1999), Treasury Board Policy Suite, Human Immunodeficiency Virus (HIV) and Acquired Immunodeficiency Syndrome (AIDS):

<http://www.tbs-sct.gc.ca/pol/doc-eng.aspx?id=12094§ion=text>

ILO (2001), An ILO code of practice on HIV/AIDS and the world of work:

<http://www.ilo.org/wcmsp5/groups/public/---dgreports/---dcomm/documents/normativeinstrument/kd00015.pdf>

ILO (2005), Joint ILO/WHO guidelines on health services and HIV/AIDS:

<http://www.ilo.org/wcmsp5/groups/public/---dgreports/---dcomm/---webdev/documents/publication/kd00016.pdf>

Labour Program (fall 2008), Canada Response to ILO HIV-AIDS questionnaire

Leading Together: Canada Takes Action on HIV/AIDS (2005 - 2010):

<http://www.leadingtogether.ca/>

Public Health Agency of Canada (2007-09-25), Federal Initiative to Address HIV/AIDS in Canada : <http://www.phac-aspc.gc.ca/aids-sida/fi-if/index-eng.php>

Public Health Agency of Canada (2006-09-19), Canadian Strategy on HIV/AIDS : “Canadian Strategy on HIV/AIDS : Moving Forward Together” http://www.phac-aspc.gc.ca/aids-sida/fi-if/monitoring/can_strat-eng.php

Public Health Agency of Canada (2005-01-13), State Of The HIV/AIDS Pandemic:

http://www.phac-aspc.gc.ca/media/nr-rp/2005/2005_1bk2-eng.php

Public Health Agency of Canada, Backgrounder: What is HIV/AIDS?

<http://www.phac-aspc.gc.ca/aids-sida/publication/mon-surv/index-eng.php>

Public Health Agency of Canada, National HIV/AIDS Capacity Building Fund: Projects Funded for 2003-2004: http://www.phac-aspc.gc.ca/aids-sida/funding/rfp/capacity_building-eng.php