

## **Saint Lucia's Final Report**

### ***Information Exchange on Labour Inspections between the U.S. Department of Labour (USDOL), Saint Lucia's Ministry of Labour, and Panama's Ministry of Labour***

Date: 19, January 2011

Presented to:

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From:

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Department of Labour (USDOL), Saint Lucia's Ministry of Labour,  
and Panama's Ministry of Labour***

- Date** : **October 19 – 22, 2010**
- Venue** : **U.S. Department of Labor  
200 Constitution Avenue, NW. Washington DC**
- Purpose** : **To expose participants from St. Lucia to various aspects of labour  
Inspection so they could gain insight on strategies and policies adopted  
by the USDOL to achieve compliance coherent with best labour  
standard practices.**
- Participants** : **Mr. George Melchoir, Mr. Dany Dariah, and Ms. Beverly Dubois  
Ministry of Labour, Information, and Broadcasting - Saint Lucia**

### **Brief description of the activities**

The St. Lucian participants attending the exchange were greeted with warm welcomes from the friendly and professional staff at the Washington Branch of the U.S. Department of Labor before being apprise on best practices for labour inspections which focused on compliance effects in the areas of occupational safety and health, wages, vacation, overtime, bonuses, hours of work, child labour and employment discrimination.

The programme was very informative and was characterized by lively and enjoyable interactive sessions. At the initial introduction, the teams (St. Lucia, U.S.A, and Panama) provided an overview of their respective organizations while briefly describing the organizational functions and activities.

Following the general introduction by representatives of the various labour Departments, the exchange followed a format whereby individual divisions of the USDOL and other US government agencies made presentations to us on their roles, activities, and inspection procedures.

Presentations were delivered by the Federal Mediation and Conciliation Service, DOL's National Contact Center located within the Office of Public Affairs (OPA), Wage and Hour Division, Occupational Safety and Health Administration, National Labour Relations Board, Office of Federal Contract Compliance Programs, and the Equal Employment Opportunity Commission.

Below is a brief summary of the presenters and the areas that they provided feedback on:

**USDOL's National Contact Center (NCC)**

**Presenter:** Ms. Tanya Lowe

**Summary:** NCC manages toll-free lines (11) which provide general information and referrals to other divisions of the USDOL. They are the first point of contact for the USDOL. They may be contacted via phone, e-mail, and voice mail and text messages. Complaints and queries are received from employees, employers, government officials and media representatives etc.

**Federal Mediation and Conciliation Service (FMCS)**

**Presenter:** Eileen B. Hoffman, Commissioner/Project Director

**Summary:** The FMCS assists employers and employees in reaching their own resolution of a dispute. To help these parties avoid disputes, the FMCS has developed a strategy whereby it encourages the establishment of labor-management committees to include both employers and worker's representatives. This practice would alleviate potential problems at an early stage thereby reducing disputes. FMCS is a separate federal government agency, but DOL works closely with FMCS.

**National Labor Relations Board (NLRB)**

**Presenter:** \_Mr. Aaron Karsh, Deputy Assistant General Council, Division of Advice

**Summary:** <http://www.nlr.gov/checkin/>The **National Labor Relations Board** provided information about its initiatives. The NLRB is an independent federal agency vested with the power to safeguard employees' rights to organize and to determine whether to have unions as their bargaining representative. The agency also acts to prevent and remedy unfair labor practices committed by private sector employers and unions. NLRB is a separate federal agency, but DOL works closely with the NLRB.

## **USDOL's Wage and Hour Division**

**Presenters:** Mr. Michael J. Kravitz, Mr. Lemiel A. Pierre, Mr. Montaniel S. Navavro, and other agency representatives

**Topics Covered:** Organisational Structure; Enforcement Strategy; Stages of an investigation; and Fair Labour Standard.

**Summary:** The Wage and Hour Division (WHD), located within USDOL, covers over 130 million workers in more than 7 million work places. There is a minimum wage of \$7.25 per hour in a work week of 40 hours. WHD protects all employees regardless of status and assist in areas such as: Payment of minimum wages and overtime; Standard for employing youth, and Job protection for maternity leave and caring for sick family members.

Concerning child labor, the child labor laws were enacted to ensure a safe working environment and to set standards for the employment of young persons. For example, Youth up to 17 years old are allowed to work in non-hazardous jobs. Those 14 to 15 years old may perform these duties outside of school hours for no more than 3 hours on a school day and 18 hours in a school week. They may also work 8 hours on a non school day or 40 hours in a non-school week.

## **Office of Federal Contract Compliance Programs and Equal Employment Opportunity Commission (EEOC)**

**Presenters/Agency Contact:** Ms. Margaret Kraak (OFCCP) and Mr. Raymond Peeler (EEOC)

Topics Covered: Discrimination and equal opportunity; Investigation procedures.

**Summary:** The OFCCP is responsible for various activities which include: Conducting compliance evaluation and complaint investigation; Offering technical assistance to help contractors; Recommending enforcement actions to the solicitor of labor; creating linkage agreement between contractors; Prohibiting employment discrimination by employers. OFCCP is an agency located within the U.S. Department of Labor.

Additionally, the U.S. Equal Employment Opportunity Commission (EEOC) is responsible for enforcing federal laws that make it illegal to discriminate against a job applicant or an employee because of the person's race, color, religion, sex (including pregnancy), national origin, age (40 or older), disability or genetic information.

It is also illegal to discriminate against a person because the person complained about discrimination, filed a charge of discrimination, or participated in an employment discrimination investigation or lawsuit. EEOC is not located within the U.S. Department of Labor, and is a separate federal agency, but OFCCP and EEOC work together.

### **USDOL Occupational Safety and Health Administration (OSHA)**

**Presenters:** Eduardo Rojo, Jacquelyn Gray, and other OSH representatives

**Topics Covered:** enforcement strategies, Employee/Employer's Responsibilities; Relationship between OSHA and employers; Complaint process; Types of workplace inspection.

**Summary:** OSHA intervenes on matters of Safety and Health to help employers and employees reduce occupational injuries, illnesses and deaths on the job. It focuses on three main strategies to accomplish this mission: strong, fair and effective enforcement techniques; outreach, education and compliance assistance programs; and partnership, alliance and other cooperative and voluntary programs. These strategies help to:

- Reduce workplace hazards and occupational injuries
- Develop mandatory job safety, health and environmental standards
- Enforce record keeping for Injuries and illnesses at the workplace
- Develop Training program

## **Main Results and Findings**

### ***Important lessons:***

After conducting a review of the exchange, we the participants have concluded that the most important lessons are:

1. Labour inspections should not merely be conducted for statistical purposes but more so to ensure compliance with labour legislation or standards and to promote best practices especially in regards to Occupational Safety and Health.
2. Agencies responsible for carrying out these inspections must continue to strive to adapt effective strategies that will induce compliance of OSH standards.

We noted that the USDOL is able to accomplish this through a series of policies and programs including the following that were of paramount interest to us:

- a. The establishment of various branches like OSHA and Wage & Hour which focuses on specific aspects of labour activities and inspections
- b. The development of an inspection program
- c. Comprehensive information dissemination program
- d. Effective enforcement strategies
- e. Professionally trained staff
- f. Effective Litigation procedures

The inspection program is design to direct the activities of each unit and plays a strategic role in resource management. The program identifies priority areas and assists in the prioritization of activities based on available resources. For example, OSHA prioritizes its inspections by targeting and performing sectoral workplaces inspections where violations are prevalent. It was noted that data collection and analysis are critical to the development of an effective program.

We noted that the dissemination of information was important to the USDOL in achieving its goals. Recognizing the fact that it is impossible to inspect ever workplace, the USDOL has developed a comprehensive outreach program to disseminate information and to make it appear much bigger that it really is. The outreach program incorporates various medium such as television and radio programs, lectures, website (on the Internet), booklets etc. Through its Information Dissemination Program, the USDOL developed an innovative way of deterring organizations from violating OSH standards. It exposes companies that violate OSH standards in the media in an attempt to hurt their precious organizational brand names.

We were most impressed with the enforcement strategies and believe they are very effective methods of encouraging compliance. Some strategies used by the Wage & Hour and OSHA Divisions are worth mentioning. Undoubtedly, the primary deterrent strategy is the exorbitant fines levied at violators (bad players) that can reach as high as US\$70,000.00 increasing at intervals of US\$7,000 per day for non-settlement. The Wage and Hour Division's seizure power as a form of punitive action is just as effective in fostering compliance. In some instances, the Wage and Hour Division can petition government to block violators from receiving future federal contracts or from hiring foreign workers. It was interesting to note the tactic use by OSHA that holds a Principle Contractor accountable for violations committed by his sub-contractors.

Finally, we wish to highlight the many contributions of Panama in the area of enforcement strategies and express our admiration of the authority given to the Panama Labour Department to shut down worksites found to be in violation of OSH standards.

USDOL's dedication to developing professionally trained staff and its effective litigation procedures sum up our assessment of lessons learned at the exchange. It was intriguing to learn how well trained the staff were in respect to the duties that they performed particularly in areas of investigations.

Training plays a crucial role in developing officers to deal with highly technical cases like discrimination and sexual harassment in the workplace. Furthermore, each division has qualified legal personnel and the autonomy to litigate cases in court.

The importance of conducting labour inspections was reemphasized by the various units and lessons learned from them also reminded us that our approach to inspections simply for statistical purposes is not resourceful. For example, in the case of OSH, it was clearly demonstrated that effective inspections can result in the early detection of potential hazards, can help in mitigating these problems, and can assist in reducing incidents or accidents caused by occupational hazards. Inspections conducted by Wage and Hour Division promote compliance especially by ensuring that the correct wages (based on the prescribed minimum wage), overtime, holiday pay etc are paid to employees.

### **What can be replicated or adapted in St. Lucia?**

We, the participants, were quite happy for the opportunity to gain some insight on the inspection programs and strategies established by the USDOL. From our own perspectives, we would like to see the adoption of most aspects of these programs within St. Lucia's Department of Labour. However, it is acknowledged that due to certain constraints (political, budgetary, or otherwise) we are unable to implement a great deal of them. Nonetheless, we have identified the activities that are feasible which we hope to adopt in the short to medium term. The four main activities that we expect to pursue are: the development of inspection program; the revival of our outreach program; OSH training for Inspectors; and reviewing of our enforcement strategies.

The Department of Labour in St. Lucia has operated without an inspection program in the past and conducted its affairs in an ad hoc manner. We have noted that this approach must be revisited and that we must put in place a program to better manage our inspection activities and make it more effective. We were assured by the representatives of USDOL that we can replicate components of the USDOL's inspection program to develop our own and that assistance would be forthcoming from them in that regard.

Our once prominent outreach program is now defunct. However, gaining insight on the results and successes of the USDOL to disseminate information through its outreach program, we hope to revive our program and to make adjustment for improving its effectiveness.

We intend to adopt a training policy for labour Inspectors that will include training in the area of inspections, investigations, and litigation procedures. The training program will be less comprehensive than that of the USDOL but sufficient enough to increase the Inspector's capacity in dealing with inspection. We have identified training in "hazards identification" and use of basic inspection equipment among the most pressing areas.

Finally, we hope to replicate some of the strategies used by USDOL after reviewing our own enforcement strategies to improve their usefulness. We should note that a commitment has been made by the government (through the legislation of a new Labour Code) to increase and levy fines for the violation of labour standards and legislations.

## **Next Steps**

We are determined to maximize the benefits of the USDOL exchange on labour inspections and in this regard have given our commitment to persuade and to assist our management team in advancing a more effective labour inspection program for the Department of Labour in St. Lucia.

Our first step is to pass on and share the knowledge that we received from the exchange with our colleagues and superiors. We hope that through a series of meeting and discussions, we will be able to inform them of best practices and some of the most effective compliance mechanisms in relation to workplace labour inspections. Lessons learned from our exposure to the experiences and enforcement practices of both the USDOL and Panama's DOL will be use to highlight the importance of having an effective labour inspection program in St. Lucia.

It is imperative that we develop an inspection program to guide and direct our inspection activities. As our second step, we intend to discuss and develop this program at a departmental level in the first quarter of 2011. After its inception and a trial period, we plan to conduct periodical reviews aimed at improving its usefulness. We hope to seek some support from the USDOL in developing a program that is suited to our needs. The initial inspection program document will serve as a guide and will also include: Basic inspection procedures; Inspection priorities, targets and strategies; basic tools and equipment, resource management plans etc.

Immediately following the inception of the inspection program, we will focus our attention on information dissemination, training, and enforcement. These are considered to be critical components in maintaining an effective labour inspection program.

The Department of labour in St. Lucia will review its information dissemination procedures and develop new strategies coherent with modern trends to edify its stakeholders about labour related issues. The first phase to achieving this may be to revive our defunct outreach program.

In the interim, we will begin the processes of conducting a training needs assessment to identify recipients, and training opportunities available locally, regionally or through international agencies in the area of OSH. A review of the enforcement strategies will be conducted simultaneously to map the way forward in establishing a complete labour inspection program.



## Evaluation of the Activities and Recommendations

The location in which the program was held (U.S. Department of Labor) was very conducive and well placed. We felt comfortable and were able to interact freely with our colleagues whether it was to express our views or to ask questions to the presenters.

The downtown Washington DC area with all its historical sites, museums, and attractions coupled with the amazing view of Capitol Hill which was the backdrop of our meeting room provided the ambiance for a more fulfilling, accommodating and interesting visit.

The program was organized in a very systematic way allowing for each presentation to be done within a reasonable time frame. The discussions were very informative and we wish to acknowledge the resourcefulness and skill of the presenters which were evident in the delivery of their presentations. The valuable information received will most certainly go a long way in helping the St. Lucia Labour Department to review its present Workplace Inspection Program with a view to improve and possibly adopt some of the strategies and planning techniques used by the USDOL and Panama's Ministry of Labour.

The exchange enabled us to gain insight into the policies, best practices, enforcement strategies and legislation that are linked to labour inspection including:

- a) Wage and Hour/ Hours of work, arrangements and calculations; overtime as opposed to St. Lucia
- b) Penal sanctions and fines and the flexible use of them to mitigate violations
- c) Compliance strategies
- d) Strategic planning and educational programs implemented to reach the targeted sector/group

Although we were very satisfied with the outcome of the exchange, we believe that even more value could have been achieved if the execution of the site visits and mock inspections had been conducted.

However, despite these minor limitations, it is our view that the primary objectives and expectations were met. We strongly agree that the program was highly productive and a fruitful one. We envisage that a follow up program to provide training in Occupational Safety and Health will be necessary to help us build on our capacity to provide efficient and professional OSH services to our stakeholders.

Cognizant of the invitation that was extended to us, we are hoping that in the near future we will be able to accept the offer from Jacquelyn DeMesme-Gray (OSHA) for training at the OSHA training institute in Chicago.

## **Comments from the Providing Institution**

DOL is also open to the possibility of exploring follow-up discussions with Saint Lucia via Video Conferences and teleconferences.

## **Acknowledgements**

The St. Lucia Delegation of Messrs. George Melchoir, Dany Dariah and Beverly Dubois wish to take this opportunity to say thanks to the organizers and persons who contributed to make this program a success.

The participants and the Ministry of Labour, Information and Broadcasting-Saint Lucia would like to thanks the Organization of American States (OAS) and the Inter-American Network for Labor Administration (RIAL) for organizing and funding this initiative that will no doubt redound to the “strengthening of our Department’s labour inspection to enforce national labour laws in the workplace.”

We also salute and thank all the hard-working and competent staff of the various branches of the U.S. Department of Labor who donated their time and energy to facilitate the presentations. Special thanks to Ms. Chantenia Gay and her team for a well-coordinated and organized program.

Finally, the participants express gratitude to the Ministry and Department of Labour-Saint Lucia for the opportunity to participate in this valuable exchange. We are confident that the lessons learned will enhance our capacity and competencies in dealing with labour inspection matters.

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