

Arbeidsinspectie



## Long-term strategy of the Labour Inspectorate 2008 – 2011



Clip from photo 260

**‘For safe, healthy and fair work’** (text transparent on bottom of photo)

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Note on the motto on the front page: **'For safe, healthy and fair work'**

*The motto 'For safe, healthy and fair work' refers to the Labour Inspectorate's core tasks. Through supervision and enforcement, the Labour Inspectorate helps to make working in the Netherlands safe and without danger to the health of workers. The Labour Inspectorate believes that work should in fact contribute to health!*

*'A bit of hard work never killed anyone' is a well-known saying, but the statistics tell another, more tragic story unfortunately. In 2004 more than 80 people died as the result of an industrial accident, and there were 1,850 deaths registered as the result of exposure to harmful substances.*

*Another important aim of the government is that the Dutch labour market be fair. That is to say, employers must not engage in unfair competition by using workers who are not entitled to work in the Netherlands, for instance, or by refusing to pay the legally stipulated minimum wage.*

## Foreword

The Labour Inspectorate is in amongst society everyday with the deployment of almost 500 inspectors. Society is changing, the demands put on government actions are changing and the government itself is changing.

Changes in society lead to new and different risks to which workers may be exposed. For example, because society is becoming increasingly brutal, workers are more often the target of aggression and violent behaviour. Other examples of change are the growing share of the services sector in the economy and the fast pace of technological developments.

A shrinking percentage of workers is carrying out dangerous work, like that in the construction and industry sectors. Since technology is constantly developing, ever better solutions are becoming available to eradicate the dangers. Another effect is that we are gaining better and better insight into the long-term health risks for workers.

It is the Labour Inspectorate's task to use enforcement to contribute to safe and healthy work with fair conditions for competition.

High demands are put on the Labour Inspectorate's actions. Enforcement may not, for instance, cause unnecessary nuisance to businesses. We can achieve this by inspecting only the area at that company where there are actual problems.

The inspector must act professionally and adapt his approach to the concrete situation at hand.

The Labour Inspectorate wants to account for its actions and in doing so make clear what the added value of enforcement is with regard to the policy objectives that have been set.

The fact that the government itself is changing can be seen from the many initiatives in the area of cooperation between inspection services and the task-setting cutbacks of 20%, which are given form under the motto "public service renovation".

The Labour Inspectorate will respond to these changes as it fleshes out its tasks in the coming years. This will lead to changes in working method and in the size of the service.

The ambition that the Labour Inspectorate has set as part of this is described in this long-term strategy document, which therefore forms the calibration point for the coming 4 years.

*Jaap Uijlenbroek*  
*Managing director of the Labour Inspectorate*

## 1. Aim and function of the long-term strategy

*The long term strategy shows the general outline of the aims, ambitions, working method and activities of the Labour Inspectorate.* The LI adheres to both a four-yearly and a yearly planning cycle. The year plan is drawn up on the basis of the mission and vision that have been formulated, the periodical risk analyses, the experiences in the field and the contributions and wishes of the political and official leadership and policy departments. Every four years a long-term strategy is formulated for the perspective on the medium to long term. The first year of this is worked out concretely in the first subsequent year plan.

The long-term strategy sketches a comprehensive picture of the Labour Inspectorate's vision and aims for the coming four years. The long-term strategy gives the general outlines of the decisions regarding the sector approaches and the themes. This is important to LI because the available capacity must be deployed as effectively as possible towards achieving the goals that have been set.

The framework for the strategy is partly formed by the SZW policy framework for enforcement and the enforcement programme derived from it. That enforcement programme aims to improve compliance with all laws for which the ministry is responsible. The programme brings cohesion to the policy activities and supervision activities.

The long-term strategy is determined under the leadership of the Minister of Social Affairs and Employment and presented to Parliament.

## 2. Vision, Mission and Priorities

The Labour Inspectorate bases its planning on the vision and mission to which it adheres. This chapter summarises this.

### *Supervision and enforcement are essential for tackling unacceptable risks*

The LI is a supervisory inspectorate service that operates in the areas of 'work protection' and 'the labour market.' This is a broad area of activity, encompassing more than 700,000 businesses and institutions. Fully voluntary compliance with all legislation and regulation in the area of labour is an illusion. Even if great efforts are undertaken using government instruments like information campaigns, subsidies and covenants, there continue to be sectors and businesses that neglect their duties if not directly supervised. Supervision and enforcement via inspections and investigations therefore continue to be necessary for realising the compliance targets set by politics and administration.

It is very important to deploy the – limited – inspection capacity in areas where the risks are highest, i.e. where there is substantial threat to the health and safety of workers and where fair competition on the labour market is being undermined. The inspection pressure must, after all, be applied where it is most needed.

And, where there is a high level of compliance with the law, unnecessary nuisance from supervision must be prevented.

### *Addressing serious violations has priority*

In its approach, the Labour Inspectorate gives priority to situations regarded as unacceptable from both an administrative and social perspective. That requires adequate knowledge of the risks as such and the areas where they can occur. It also involves good communication with politics and social organisations.

#### **What does the LI mean by serious violations and unacceptable situations?**

- (serious) violations of legislation and regulations which can give rise to unacceptable risks to the safety or health of persons, like exposure of workers to dangerous substances;
- systematic (repeated) violation of legislation and regulations, resulting in damage to society's sense of justice;
- systematic violation of labour protection laws, resulting in legal workers being elbowed out, disturbing the conditions of fair competition between market parties or putting the government at a financial disadvantage. This may also include the exploitation of weak groups of workers (in illegal labour, for instance);
- types of (potential) risks or exploitation that demand measures or political or social attention when regulations are lacking or not having the desired effect.

### *The Labour Inspectorate contributes to values deemed important by society*

By its choice of priorities and the resulting enforcement activities, the Labour Inspectorate contributes to values deemed important by society, like: being able to work safely and in good health and the protection of the legal labour market. What matters in the end is not so much the effort, but the result: contributing to better compliance with laws that aim to protect these social values.

The citizen must be able to trust that supervision on these matters is in good hands with the government. More and more the LI is being asked to contribute beyond the bounds of its own policy area and primary tasks. Examples of this are the tackling of 'problem neighbourhoods' and 'youth.' Within the competencies and available expertise at the Labour Inspectorate there have been positive responses to these kinds of requests.

### *Sector approach as a means of promoting self-motivation in compliance*

Compliance with the legal regulations – and achieving the aims that are envisioned as part of them – is largely the responsibility of the businesses themselves and is increasingly a responsibility shared by the social partners in the sectors and branches. The Ministry anticipates this by analysing the risks and problems in general and in separate sectors and branches and by acting in line with the outcome using various instruments suited to these situations. This creates cohesion between the policy instruments and the instruments of enforcement. Consultation and information campaigns are used to stimulate the social partners to actually take on their responsibility. The great advantage of this for the sectors is that they can apply more suitable and feasible solutions (than in the past) to address the problems in their own branch. The LI's inspection practices contribute to this from the core philosophy of being '*hard where necessary and soft where possible.*' This means that the inspector takes the situation at the company into account when carrying out an inspection: if it is a company that generally ignores the regulations in all sorts of ways, the inspector takes hard action. With regard to a company that shows good compliance with the law and labour policy, the inspector can be more flexible. However: the inspector always takes enforcing action if serious violations are ascertained. In short: 'good' companies have little (inspection) trouble from the LI. And it also means that the LI's inspections are increasingly focused on the 'bottom of the market.'

### *LI actively monitors and reports on the developments*

In carrying out supervision tasks, LI actively monitors the developments with regard to compliance with labour protection law and the risks occurring in this area. The LI reports its findings and views to society and policymakers via publications. Publications also play a role in stimulating citizens to work on improving their own (labour) situation. This concerns citizens in their capacity as employer, employee, service provider or consumer. This means of addressing the labour market is called *horizontal supervision*. In a society of competent citizens who are able to speak up for themselves, this angle of approach is becoming more important.

Experiences and insight gained from enforcement practice are linked back to policy and administration. The degree to which a policy is actually having the desired effect can be determined, for instance. Policy, the use of enforcement instruments and regulation can thereby be re-examined and adapted where necessary. The LI thus contributes impulses for the adjustments or improvements needed to policy.

### *Supervision is deployed efficiently*

The Labour Inspectorate works closely with local governments and other inspectorate services to realise a consistent, but also efficient form of supervision (efficient for supervisory bodies, businesses and organisations alike). The starting point in this is that businesses, institutions and organisations are faced wherever possible with uniform government action. It is also important that unnecessary nuisance from supervision be avoided, especially for companies and organisations that satisfy their legal obligations adequately.

The so-called chain approach – the cooperation between agencies that follow or complement each other in the chain of prevention, enforcement, supervision, detection and prosecution – is seen as a logical form of cooperation that should be strived for. Intervening in case of non-compliance where possible should be general practice.

### *Priorities are determined by risks and compliance behaviour*

The Labour Inspectorate has a broad field of attention. The total area in which it is active involves more than 800,000 businesses (or business locations) and institutions – also called the 'objects of

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supervision,' with new ones joining and others leaving this group each year – and a total of more than 7 million employees. The number of workers is expected to approach 8 million during the period covered by this plan.

Because of the limited capacity of inspectors that can be deployed and the aim not to subject companies that are doing a good job to unnecessary supervision, priorities must be set. These priorities determine to a large degree which sectors and businesses are inspected. With a total of 500 inspectors for the number of businesses and workers reported above, the average ratio of inspectors to businesses and to 100,000 workers is relatively low compared to the European average. It must be kept in mind here though that in comparison to many other European countries, the Netherlands has a strong 'private infrastructure' of sector organisations, health and safety services and knowledge institutes. The activities undertaken by the Ministry aimed at prevention have the goal of quelling the need for inspection on the level of the individual business.

As mentioned earlier, in enforcement priority is given to tackling serious risks. In order to identify serious risks in the area of working conditions, the LI uses the in-house developed '*Labour Inspectorate Risk Analysis Model for Working Conditions*' (AIRA). This gives the LI insight into the most common risks and the sectors in which these occur.

The risk analysis instrument developed for the approach to illegal labour is based, among other things, on a (mix of) empirical data, comparison of files, data on characteristics of repeat offenders and sector-related factors, such as the common occurrence of short-term or seasonal unskilled labour. For the approach to major hazards, there is a good view on the working area, partly because this sector is systematically inspected<sup>1</sup>. This is set down in the Major Accident (Risk) Decree.

### *Every sector and every business gets the attention it deserves*

The LI's risk approach firstly focuses on sectors and secondly on individual businesses. The chance of inspection for individual businesses is partly determined by the data on compliance behaviour. In addition to information from its own sources, more and more use will be made of the information that arises from cooperation between the national inspectorate services and other sources. A better selection can be made within the sectors, for example, of the businesses with the highest risks and the lowest level of compliance behaviour ('fishing where the fish are').

Businesses that do comply with the law are therefore inspected less frequently as a result. The trust that the LI has in the various sectors and businesses also plays a role in this approach. Supervision will be structured more on this 'trust principle' in future.

This risk approach also highlights sectors where no inspection projects are carried out because there is a combination of low risk and high degree of compliance. Reports of industrial accidents, occupational illnesses, complaints or tips from other agencies, for example, tips on illegal labour or abuses with regard to working times or working conditions, can prompt LI to launch an investigation in these sectors anyway. If there seems to be a case of non-compliance with the law, these reports are either investigated individually or included in an inspection project. If an investigation or inspection gives rise to suspicion that an abuse or serious violation is taking place, action will be taken with the necessary urgency. The frequency of these kinds of reports, complaints and tips within a sector can be an important indicator of non or poor compliance in a broader sense.

In investigating reports of industrial accidents, it is crucial to trace the cause and look into the violation and the sanctions provided for. These investigations also often yield lessons which contribute to better insight into the cause, and consequently help in the prevention of such accidents in the future. These insights are also communicated to the target groups.

In the approach to businesses that are obligated to file reports, so-called BRZO-obligated businesses (major hazard), this is a permanent component of the investigation and the report.

### *Priority is given to tackling violations with serious consequences for safe, healthy and legal work*

Both in the sector and branch approach and during inspections, the themes that the Labour Inspectorate addresses with priority also arise from the risk analysis. Priority is given to high risks to workers' health and safety that occur in the sectors: risks that could cause long-term absence due to illness and labour incapacity. This prioritising also takes into account themes which are perceived as a

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<sup>1</sup> There are two categories of BRZO-obligated companies: so-called VR companies (Highest risk) and the PBZO companies (Less high risk). The BRZO stipulates that VR companies must be inspected annually, unless an analysis of the dangers justifies a different (higher or lower) frequency of inspection. For both categories systematic and planned inspection must be carried out.

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problem by society as a whole and for which inspection and enforcement are deemed helpful towards solving or limiting the problem. Government attention and intervention is seen as justified in those kinds of situations.

During inspections extra attention is paid to the working conditions for vulnerable groups of workers (like young people, pregnant women, and workers who are hired for dirty or dangerous work).

### **Top 5 topics in working conditions \***

- Hazardous substances
- Physical work strain / working posture
- Dangerous machines & means of transport
- Objects that could fall or fall over/danger of fall
- Psycho-social work strain

*\* the priorities may vary per sector*

### ***The vision above expressed in a concise mission:***

**The Labour Inspectorate promotes compliance with legislation regarding health and safety at work and combats illegal labour and unfair competition by means of consultation, enforcement communication, supervision and enforcement interventions. Priority is given in this to tackling serious violations of the law.**

**The way in which individual sectors and businesses flesh out the aspects for which they are responsible plays a role in the inspectorate's approach: 'hard where necessary, soft where possible'.**

**The LI provides relevant information on compliance in these areas and thereby contributes insight into how effective government policy is and how it can be improved.**



Full page clip from photo 079 or 080

Text on bottom of photo:  
"Employers and employees flesh out the policy on working conditions together"

### 3. General and strategic developments

*Change legislation and regulations: more latitude for own determination of how to meet standards*

Major changes have been put into motion recently in the area of labour protection. These largely come down to the fact that employers and employees have been given more responsibility and opportunity to – together – flesh out the details of the policy on working conditions in their sector or business. The legislator assumes in this that the aim of legislation (guaranteeing the health and safety of workers) can be better served if there is more scope to customise health and safety policy.

This vision was given shape in the amendment of the Working Conditions Act (as of 1 January 2007) and in the amendment and ‘simplification’ of the regulations in the Working Times Act (as of 1 April 2007). This additional leeway for businesses is paired with stricter supervision and higher fines from the Labour Inspectorate if violations of the legal limits are ascertained.

*Supervision: hard where necessary and soft where possible*

The aforementioned changes to the law not only have consequences for the LI with regard to carrying out its legal duties, they also demand a different way of approaching businesses, institutions and organisations. A new sector approach and inspection approach (new way of inspecting) is being introduced at the LI under the motto ‘**hard where necessary and soft where possible**’.

This will allow more customised enforcement measures, in which the specific conditions at a company or institution and the fundamental attitude of the employers in pursuing an acceptable health and safety policy will have to be taken into consideration.

For the approach to labour market fraud and illegal labour, the opening of the borders to workers from the new EU countries in Central and Eastern Europe is an important factor. In addition to this, the LI has been charged since May 2007 with the administrative enforcement of the Minimum Wage and Holiday Allowance Act, which until recently fell under private law enforcement. This now involves not only tackling illegal labour, but also the promotion of fair working conditions and the prevention of the exploitation of – generally – weak groups of workers.

*Cooperation with other inspectorate services and local governments is being stepped up: businesses must see the government as a single organisation*

During the Balkenende II and III governments, form and content was given to strengthening the cooperation between the state inspectorate services. The aim of this is not only more effective and efficient government supervision, but also more uniform government supervision, as well as the reduction of unnecessary nuisance from supervision. To this end inspection portals (collaborations between inspectorate services) have been prepared in the various supervision domains. In each portal, one of the inspectorate services is in charge of the government supervision of a particular domain.

In the coming years these inspection portals must actually yield results in the form of a reduction in the hassle from inspectorates perceived by businesses. In addition they must be further expanded: both in number and in terms of participation from other local governments, like municipalities.

These portals could lead to harmonisation and even transfer of tasks between the various supervisory bodies, like what is already happening - on a limited scale –between the LI and the Food and Consumer Product Safety Authority (VWA). Compliance with the Working Conditions Act and the Working Times Act in the mining industry has long been supervised by the State Supervision on Mines.

The approach to labour market fraud is also already successfully combined with other forms of supervision on fraud and premium evasion in so called ‘intervention teams.’ These kinds of collaborative activities are being stepped up in other partnerships as well, like the approach undertaken by the Tax Authority and municipalities to tackle so-called ‘lawless areas,’ where laws and regulations are not enforced, or not stringently enough, in some residential caravan parks for example.

*Cooperation in front offices: domains where a single inspection portal for businesses has been or will be introduced*

**The Labour Inspectorate participates in the following inspection portals:**

- Catering industry (led by the Food and Consumer Product Safety Authority)
- Recreation (led by the Food and Consumer Product Safety Authority)
- Primary sector and Meat chain (led by the General Inspection Service/VWA)

- Childcare (led by the Education Inspectorate)
- Hospitals (led by the Healthcare Inspectorate)
- Care sector (nursing homes, care for the disabled, home care, led by the Healthcare Inspectorate)
- Youth care (led by Youth care inspectorate)
- Chemicals Industry (led by VROM inspectorate (inspectorate of the ministry for housing, spatial planning and the environment))
- Waste (led by VROM inspectorate)
- Road transport (led by Transport and Water Management Inspectorate)
- Water transport (led by Transport and Water Management Inspectorate)
- Schiphol (led by Transport and Water Management Inspectorate)
- Education (led by the Education Inspectorate)
- Correctional institutions (led by Inspectorate for the Implementation of Sanctions)
- Nuclear industry (led by VROM inspectorate)

**The Labour Inspectorate itself leads the following inspection portals:**

- Construction sector
- Wood and furniture industry
- Metal industry
- Other Industries  
(5 or 6 inspection portals are expected to be set up in the 'Other Industries' sector)

*Cutback task-setting is also an investment in the public service renovation*

One of the objectives of the Balkenende IV government is: more effective, smaller and better government. The number of officials will substantially be reduced (so-called task setting). The Labour Inspectorate's supervision will also have to become more efficient. This is in contrast to the widely held conviction that important themes like tackling labour market fraud and combating serious risks to workers' health and safety must not come under pressure. This can be realised partly by working more efficiently and partly through investment in other resources and instruments. The starting point is that output should remain the same in terms of quality and size. The primary process can, however, not be spared due to the size of this operation. That means priorities will have to be set even more stringently.

This will affect the activities in the 2008-2011 period – especially towards the end of this period, since at that point the task-setting must have been effectuated. Part of the objective will also have to be achieved by a relative shift from inspections and enforcement in individual businesses, to stimulation and legal compliance by means of information campaigns and consultation directed at sectors and branches (in this case, the LI's new sector-oriented policy). The promotion of 'self-motivation' on the part of employers and employees, the functioning of so-called 'horizontal supervision' and the granting of trust where possible will become very important in this process.

*'Horizontal supervision' is understood to mean: forms of self control, market forces and internal supervision which prompt businesses and institutions to comply with legal regulations of their own accord because it is in the best interest of the company. For example: in order for the company to enter the market, survive in the market, be attractive on the labour market, or prevent damage to its reputation.*

*Certification systems are an example of horizontal supervision.*

*In the area of labour protection, the active involvement of works councils in companies' health and safety policy and compliance with collective employment agreements is an important form of horizontal supervision.*

An important tool in striving for smaller and better government is more prevalent use of information and communication technology (ICT). Far-reaching digitalisation of information and work processes can contribute to increasing the efficiency of government services and promoting better and easier public access to that government, and vice versa. The use of ICT can also help reduce some of the administrative burden that accompanies supervision (in the case of obligatory reporting or applications for permits and exemptions, for instance). This holds true for the Labour Inspectorate too. Moreover, digitalisation and ICT use can support and strengthen the exchange of information between inspectorate services and other levels of government. The LI actively contributes to this development under the auspices of the Inspection Council.

*Economic growth versus reducing chances of inspection*

The economic growth of the last few years and growing participation on the labour market, together with the growth expected for the coming years, lead to an increase in the number of 'objects of supervision' for the Labour Inspectorate. Against the backdrop of the cutback task-setting, the result will be that the average chance of a business being inspected will decrease. This underlines once again the importance of thorough risk analysis and selection (see also chapter 2).

## 4. Long-term approach to working conditions

### 4.0 Introduction

This chapter outlines the developments and the Labour Inspectorate's proposed activities for the task area of 'working conditions.'

### 4.1 Developments

#### *New regulations on working conditions introduced successively in 3 years' time*

The revised Working Conditions Act came into effect on 1 January 2007. The law (Working Conditions Act and Working Conditions Directive) primarily contains target regulations, with concrete standards wherever possible. The social partners are left to determine how they will flesh this out in the various sectors and branches. Employers and employees incorporate the detailed measures they have agreed upon in so-called 'working conditions catalogues' which they then present to the Labour Inspectorate for evaluation. If the LI gives a positive evaluation, the policy regulations for that sector or branch are revoked. In any event, all policy regulations will be revoked as of 1 January 2010. Working conditions catalogues will then serve as an important reference framework for enforcement by the Labour Inspectorate.

#### *The Labour Inspectorate's working method adapted to changing regulations*

The revised policy and legislation in the area of working conditions requires that the LI adapt its approach and inspection approach to businesses within the framework of the SZW enforcement programme 2007-2010. The enforcement programme emphasises, among other things, an integrated approach from the Ministry, both in the use of policy instruments and with supervision and enforcement. This cohesive approach, based on a joint analysis of what is going well and what is going badly with regard to these themes in the Netherlands, is aimed at improving compliance with the legal regulations.

The sector-oriented policy maintained by the LI – to inspect mainly by sector and involve the sector parties in the process – will have to fit in with the new working conditions policy. The LI will thus have to determine which branches/sectors deserve extra attention and which sectors can manage without a permanent 'watchful eye' or 'strong arm' of the government.

In further working out the policy, the Labour Inspectorate will consult with the social partners to decide which forms of attention and supervision are appropriate in the given situations: the focused provision of information to businesses; the selection of the inspection themes; the manner and timing of inspections; and the way findings are incorporated into adaptation or improvement to the policy. This communication is also sometimes called 'enforcement communication.' All of this aims to contribute to better compliance. Compliance with regulations is seen as an essential condition for achieving the social goals.

The LI's approach starts with the way in which priorities are set. Not only the risks as such are important in this, but also the question of whether the social partners are shouldering their responsibility, with what intensity they are doing so, and whether their actions are expected to lead to results. To the extent that a positive answer can be given to these questions, the LI can be expected to be more reluctant about launching inspections. In this context it also becomes increasingly important to make a distinction within branches between businesses that actively pursue working conditions policy with a positive attitude and those that do not. The last category is in the LI's view the 'bottom of the market.'

Indications for making this distinction can be found in whether/how businesses apply quality and certification systems. One condition, however, is that these systems prove to be reliable and that businesses that have a quality system or certificate distinguish themselves essentially from businesses that do not. The LI must also be able to obtain this information – if it is to play a role in the pre-selection of businesses eligible for inspection. These conditions are not yet optimally met. The ministry is, however, making preparations in the area of working conditions to be able to provide for this. The aim is to achieve this within the plan period.

Another means for separating the 'sheep from the goats' is by reviewing compliance behaviour in other areas of regulation, like the environment and food safety. The more that the exchange between inspectorate services of information on individual businesses improves, and the legal obstacles in this area are removed, the more selective an inspection policy in favour of the 'good' companies can be pursued.

The LI will emphatically indicate which themes are important in the various branches and devote specific attention to these in inspection projects. These themes are also described in the 'working conditions sector brochures' developed and to be developed by the LI. The Labour Inspectorate will develop specific sector brochures for each (high risk) sector and send it to all businesses in that particular sector. This also increases the predictability of the LI's actions.

During inspections, inspectors are given more latitude in deciding whether to use enforcement instruments, which means actions can be tailored to the situation and more suitable interventions applied. The inspection and enforcement principle adhered to here: '*Hard where necessary and soft where possible*' mainly applies to inspections at individual businesses. An important consideration in this approach is to investigate to what degree companies systematically pursue policy to manage risks and improve working conditions.

This way of inspection is also expected to make businesses and sectors more receptive to the LI's supervisory actions. It must be noted here that the starting point 'what's good for the goose is good for the gander' remains in place. This principle is supported by a thorough preparation of inspections in the individual branches, by the mutual exchange and peer evaluation within the inspection teams and by the internal supervision exercised by the team leaders of the inspection teams.

### *Health and safety at work are given attention, but are not yet taken for granted*

The Labour Inspectorate's approach traditionally devoted a great deal of attention to what we call 'traditional safety.' This concerns the risk of serious injury as a result of accidents or incidents. The immediate causes of such risks are often clearly visible, like: dangerous machines that are not screened off, the acute danger of a fall because of faulty scaffolding, or the failure to use personal protection equipment. For the most part good results have been achieved in this area, though there are still too many accidents each year. This trend is on the decline, however, since solutions for many of these problems are available and well-known and better safety-promoting resources are being developed and brought on the market as time goes on.

This situation is more difficult when it comes to the less visible risks and those that do not usually give immediate rise to problems. Like problems that develop over time or contact with various substances and products that can become a threat to health 'surreptitiously' in the long term, such as: asbestos and other carcinogens, solvents, a structurally harmful work posture, excessive physical strain, and so forth.

It is also sometimes difficult to chart out and address risks associated with psychological strain at work, like exposure to aggression and violence, sexual intimidation, bullying, excessive workload and other forms of psycho-social stress. For the approach to these kinds of risks there are sometimes, but often not, ready solutions at hand. These usually require a tailored solution on the level of the sector or business.

In the past years the LI has included these kinds of themes in more depth in its inspection projects and enforcement. The LI will continue to do so in the coming period.

### *'Europe' strives to increase the level of health and safety at work*

The European strategy for health and safety at work 2007-2012 puts the European working conditions policy, including supervision, in the context of the Lisbon strategy<sup>2</sup>. Increasing the level of safety, health and hygiene at work supports the aim of higher quality employment and higher productivity of European workers. The strategy therefore fits in well with the Dutch working conditions policy. Europe's main points for supervision in the area of health and safety are psycho-social stress, illnesses of the 'locomotor apparatus,' hazardous substances, substances that endanger reproductive health and multiple stresses. These main points are also included in the Dutch Labour Inspectorate's long-term strategy.

In enforcement strategy, the member states put the emphasis on prevention by promoting safe and healthy behaviour by workers and a structural approach to health in management by employers. These are starting points which seem to fit in with the Dutch Labour Inspectorate's new way of inspecting.

The details of the supervisory policy in the area of health and safety are mainly a concern for the member states. The Netherlands is of the opinion that the 'subsidiarity principle' should continue to apply when it comes to supervision on compliance with European working conditions law. Every country focuses its own supervision on the area of health and safety in such a way that fits with its

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<sup>2</sup> The strategy that aims to bring the EU to the highest economic achievements while holding on to social objectives (work and income and social security and such for all inhabitants of the EU).

national objectives and the national situation. At a minimum, every member state should exercise adequate supervision on the full breadth of European 'health and safety law.' It cannot be the case that parts of European health and safety law are '*de jure*' transposed into national law in a country, but that because of lack of control or enforcement capacity this law becomes a '*de facto*' dead letter. The Dutch Labour Inspectorate also wants to work in the coming years on cooperation in cross-border enforcement, annual joint inspection campaigns and mutual assessment of national labour inspection systems via the Senior Labour Inspection Committee (SLIC) of the EU.

### 4.2 A view on working conditions in the Netherlands

#### *Working conditions are also an economic factor*

Good working conditions are regarded as an important factor in preventing and reducing absence due to illness and labour incapacity. As such they are increasingly recognised as an economic factor as well. In a period of economic boom and increasing shortage of workers, not only salary level but also working conditions – and the impression that (potential) employees have of them – can be decisive for competitive strength on the labour market. Consequently, a question that often arises, both for policymakers and supervisory bodies like the LI, is: "what is the situation of working conditions in the Netherlands?" In comparisons among the EU<sup>3</sup> countries, Dutch figures on the quality of working conditions are usually among the 'top of the sub top.' On the more traditional themes (see chapter 4.1, fourth paragraph) the Netherlands scores well. On aspects like exposure to noise in the work place, handling hazardous substances, painful postures, lifting and standing work the Netherlands even tops the table. On other aspects, like absenteeism due to the work and aggression at the work place, the Netherlands does not score highly in comparison with the top in Europe.

#### *Compliance with the labour protective regulations leaves something to be desired in a number of areas*

The figures on compliance still show that virtually every inspection project uncovers violations, some of a serious nature. Although the selection of sectors and inspection themes is guided as much as possible by the principle of 'fishing where the fish are' – and as such is not always representative of the whole sector – it does indicate that there is still much room for improvement in compliance with legislation. The reasons for these violations vary. In many cases there is ignorance or inability. In many other cases there is clearly obstinacy, or a case of a cultural or behavioural problem, for example when it comes to the danger of falling in the Construction sector. Despite the presence of a sector institute paving the way, we must still note that construction companies cut corners on necessary safety provisions. The organisational and technical setting and the temporariness and dynamics of building sites complicate both compliance with and supervision of the regulations. Subcontracting on various 'levels' and the fact that various companies may work alongside each other on a single site make it difficult to figure out who is responsible for safety.

There are sectors in which much is being done to develop standards and information, but where daily practice is still characterised by irresponsible risks. The dangers are known, but people do not act accordingly, or not to an adequate degree at least. This is partly due to competitive considerations which lead to deliberate cutbacks on health and safety measures, but there could also be other underlying motives. In these cases it emerges that working conditions are not a leading concern in the company policy.

Other sectors however show positive results of the policy to put the market parties themselves to work on the matter. Precisely as envisioned by the revised Working Conditions Act and the LI's sector-oriented policy. A good example is the metal industry, where the *5 x better* programme aims to tackle health and safety problems that have existed for some time. In many cases, however, strong government pressure and the proverbial 'big stick' in the form of substantial inspection pressure and the threat of sanctions are needed in order for changes to be realised on the work floor.

#### *Occupational Safety and Health Report*

The Ministry of Social Affairs and Employment publishes the 'Occupational Health and Safety Report' annually. This is largely based on data from TNO Arbeid (Netherlands Working Conditions Survey) and from the Labour Inspectorate (the 'Arbo in bedrijf' monitor). The Occupational Health and Safety Report sketches out the current situation of working conditions in the Netherlands. Some important information and conclusions from the most recent edition of the report are listed below:

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<sup>3</sup> European Working Conditions Survey 2006

**Table: Labour risks at businesses 1998-2005 (in % of the total number of companies)<sup>1)</sup>**

	1998	1999	2000	2001	2002	2003	2004	2005
Lifting or carrying (more than 25 kg)	13%	14%						11%
Lifting or carrying (more than 25 kg) <sup>2)</sup>			7%	6%	5%	6%	6%	
RSI/CANS			42%	40%	58%	54%	41%	47%
Psycho-social work strain			23%	18%	22%	18%	14%	15%
Harmful noise	23%	17%	22%	22%	23%	25%	21%	22%
Hazardous substances		19%	37%	30%	38%	39%	33%	30%
Working at a height				12%	12%	13%	12%	13%
Working with dangerous machines				39%		49%		38%
Vibrations					11%		10%	
Biological agents					8%		12%	

<sup>1)</sup> The percentages in the table indicate what percentage of the total number of businesses reports that workers are regularly exposed to the relevant work risk (source: LI OSH monitor).

<sup>2)</sup> There is a break here in the trend with the series reported above because of a different/more stringent formulation of the question.

*Absence due to illness and labour incapacity are on the decline and less often work-related*  
Absence and entry into the labour incapacity benefits system WAO (replaced with the WIA from December 2005) in both the private sector and the government show a declining trend.<sup>4</sup> This decline is linked to, among other things, changes in the economy, the Gatekeeper Improvement Act and the coming into effect of covenants on working conditions. A quarter of the absence is entirely or largely work-related. In a third of the cases of work-related absence, work pressure and work stress were the most important causes. In a fifth of the cases excessive physical strain at work was reported as the primary cause of work-related absence.

*Exposure to health and safety risks generally stable*

Exposure to excessive work pressure, too fast a work pace, emotional stress and cognitive stress seems relatively stable, while time pressure fell slightly. The 'possibilities for making one's own arrangements' at work have increased slightly, which is a favourable development. Forms of discrimination on the work floor have been stable for years. Violence and (sexual) intimidation at work by clients and other non-colleagues seem to be stabilising after an increase between 2000 and 2003. There is however a slight increase in the phenomenon of bullying at work. About 11% report having been bullied by colleagues at one point or other. Systematic bullying affects 1.5% of all workers, which still comes to about 100,000 workers on an annual basis. Excessive physical strain, like having to use a lot of strength, exposure to harmful noise, exposure to hazardous substances and dangerous work as such, have been reasonably stable for several years. The average dose of harmful radiation to which workers in the relevant industry are exposed has even fallen in the last decade. An exception is the exposure to biological agents. The number of workers exposed to such substances rose from 8% in 2002 to 12% in 2004. Despite stabilisation of various work risks, workers are less satisfied with their working conditions. In 2005 about 70% said they were satisfied or very satisfied with their working conditions. This is down from 76% in 2003. This is possibly the result of workers having higher expectations for working conditions.

*Number of reports of occupational illness falls, but there is 'under-reporting'*

Another important source of information is the Dutch Centre for Occupational Illnesses, which registers reports on occupational illnesses from company doctors. The most recent detection report included the following table on reports of occupational illnesses in certain sectors.

**Table: Reports of occupational illnesses according to sector in 2006<sup>5</sup>**

Sector	Number of	In %
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<sup>4</sup> Source: Occupational Health and Safety Report 2005, Ministry of SZW

<sup>5</sup> Source: Dutch Centre for Occupational Illnesses

	reports	
Construction	2,571	47
Industry	717	13
Healthcare and welfare	409	7
Public administration, government services, nursing/ care	383	7
Transport, storage and communication	329	6
Repair to consumer articles and trade	223	4
Rental and trade in moveable and immoveable property, professional services	204	4
Education	173	3
Financial institutions	122	2
Environmental services, culture, recreation and other services	115	2
Other sectors and unspecified	234	5
<b>Total</b>	<b>5,480</b>	<b>100</b>

The total number of reports shows a slight decline compared to 2005 (5,740).

The picture that the categorisation per sector shows is largely in agreement with that of 2005.

The NCvB's own research indicates that the reliability and relevance of information on occupational illnesses can be improved. In addition to the existing registration systems, a new *Peilstation Intensieve Melding* (Measuring station for intensive reporting) will be started up in 2008, which will use a representative group of reporters to yield a more reliable view on preventing occupational illnesses in the Netherlands.

The NCvB also reports the following:

*'The declining trend in the number of reports of occupational illnesses as a result of improved working conditions continues. Still the NCvB detects at the bottom of the labour market serious occupational illnesses resulting from working conditions which, in view of the current regulations, should no longer be occurring. This involves for example health complaints from certain cleaning and spraying activities. Many businesses and organisations still lack a policy for intimidation and violence, while it has been scientifically proven that a 'zero tolerance policy' is essential for successful prevention'.*

On the basis of reports from the RIVM it is estimated that there are about 1,850 deaths annually as a result of exposure to hazardous substances.

In line with the European strategy, the Labour Inspectorate will strengthen its information position in this area in the coming years.

#### *Industrial accidents show a downward trend<sup>6</sup>*

The ongoing downward trend in the number of industrial accidents registered also continued to the end of 2004. Between 2000 and 2004 the number of industrial accidents fell by 17%. In 2000 there were just over 13 industrial accidents per 1,000 workers and in 2004 there were just under 11 per 1,000 workers. The total number of fatalities registered fell in this period from 119 to 83 on an annual basis.

#### **Overview: number of serious industrial accidents per sector**

*The average chance of a serious accident<sup>7</sup> (subject to reporting obligation) varies per sector:*

- In the sector *Service provision* there were 817 accidents per 5,595,700 workers (= 1.5 workers in 10,000);
- In the sector *Construction* there were 598 accidents per 575,500 workers (= 10.4 workers in 10,000);
- In the sector *Industry* there were 778 accidents per 1,116,800 workers (= 7 workers in 10,000).

This overview shows that the chance of a serious accident in the Service provision sector – measured according to the scope of the number of working years – is considerably less than in the Construction and Industry sectors. Further division into sectors within Service provision shows, however, that this must be put in perspective. It emerges for example that in a number of services sectors the chance of a serious accident is reasonably high.

<sup>6</sup> Source: Occupational Health and Safety Report 2005, Ministry of SZW

<sup>7</sup> According to the definition used by the Labour Inspectorate, an industrial accident is subject to a *reporting obligation* if the victim dies as a result of the consequences, sustains permanent injuries, or must be admitted to hospital.

*Permanent injuries* include but are not limited to: amputation, blindness, or long-term/chronic physical or traumatic ailments.

*Hospital admission* means that a victim was actually admitted to hospital. Outpatient treatment at a clinic would therefore not be regarded as hospital admission.

## Long-term strategy of the Labour Inspectorate 2008-2011

Especially in (preparation activities for) waste processing it emerges that the chance of a serious accident is considerable: 30.8 workers in 10,000.

Investigation and development work (22.2 workers in 10,000), transport services (7.7 workers in 10,000), agriculture (7.3 workers in 10,000) and rental companies (7 workers in 10,000) show high chances of serious accidents. In many cases these involve activities of an 'industrial nature,' like working with machines and means of transport.

TABEL 3.5 – ARBEIDSONGEVALLEN NAAR BEDRIJFSTAK							
Gevolgen	Werkenden	Letsel en verzuim			Dodelijke afloop*		
		Aantal	%	Aantal per 100.000	Aantal	%	Aantal per 100.000
Landbouw en visserij	244.000	4.100	5	1.700	16	19	6,6
Industrie en delfstofwinning	1.060.000	19.000	22	1.800	11	13	
Bouwnijverheid	468.000	13.000	16	2.800	24	29	5,1
Handel	1.077.000	8.100	10	750	4	5	
Horeca	308.000	6.200	7	2.000	-	-	-
Vervoer, opslag en communicatie	493.000	7.300	9	1.500	10	12	2,0
Financiële instellingen	261.000	450	<1	170			
Openbaar bestuur	555.000	4.300	5	780	1	1,2	0,18
Onderwijs	518.000	1.800	2	360			
Gezondheids- en welzijnszorg	1.147.000	8.200	10	710			
Overig	1.247.000	6.000	7	480	15	18	
Onbekend	438.000	6.100	7		2	2	
<b>TOTAAL</b>	<b>7.817.000</b>	<b>85.000</b>	<b>100</b>	<b>1.100</b>	<b>83</b>	<b>100</b>	<b>1,1</b>

**BRON:** MONITOR ARBEIDSONGEVALLEN 2004, op basis van: EBB 2004, CBS; Statistiek Niet-natuurlijke Dood 2004, CBS; Arbeidsinspectie.

\* De beschikbare bedrijfstakgegevens over arbeidsongevallen met dodelijke afloop wijken dit jaar af van de standaardindeling, vandaar dat het berekenen van het aantal arbeidsongevallen per 100.000 werkenden voor een aantal te afwijkende bedrijfstakken achterwege is gelaten.

Table 3.5 – Industrial accidents according to sector

Results	Workers	Injury and absence			Fatal result*		
		Number	%	Number per 100,000	Number	%	Number per 100,000
Agriculture and fishery	244,000	4,100	5	1,700	16	19	6.6
Industry and mining	1,060,000	19,000	22	1,800	11	13	
Construction	468,000	13,000	16	2,800	24	29	5.1
Trade	1,077,000	8,100	10	750	4	5	
Catering industry	308,000	6,200	7	2,000	-	-	
Transport, storage and communication	493,000	7,300	9	1,500	10	12	2.0
Financial institutions	261,000	450	<1	170			
Public administration	555,000	4,300	5	780	1	1.2	0.18
Education	518,000	1,800	2	360			
Healthcare and welfare	1,147,000	8,200	10	710			
Other	1,247,000	6,000	7	480	15	18	
Unspecified	438,000	6,100	7		2	2	
Total	7,817,000	85,000	100	1,100	83	100	1.1

## Long-term strategy of the Labour Inspectorate 2008-2011

Source: Industrial accidents monitor 2004, based on:  
EBB 2004, CBS; Statistics on non-natural deaths 2004; Labour Inspectorate

\* The available sector data on industrial accidents with fatal results deviate this year from the standard categorisation. That is why the calculation of the number of industrial accidents per 100,000 workers has been left out for a number of sectors that deviated too much.

The information above on the situation of working conditions (and their consequences) in the Netherlands is used by the Labour Inspectorate to determine what themes and sectors of society will be designated as priorities for its inspection and enforcement activities.



Full page clip from photo 125

Text on the bottom of the photo:

“Risk analysis for determining priorities in supervision”

### 4.3 Risk analysis

#### *Application of a risk model for determining the priorities of the approach*

A risk analysis is one of the several instruments used to determine what the major risks are and where/in which business sectors they most commonly occur. To tackle risks in the area of working conditions, the LI uses a model developed in-house specifically for this purpose: the *Labour Inspectorate Risk Analysis Model for Working Conditions (AIRA)*.

On the basis of the analysis of actually available data, supplemented with the experiences and insights of the Labour Inspectorate's experts, the picture of the labour risks is created as shown below (making use of the equation: risk = chance x effect).

The 'population at risk' is also taken into account.

The effect of the risk is expressed in 'number of weeks of lost labour.' For practical purposes, fatal accidents represent 2 years of lost labour.

The effect values are, also for practical purposes, summarised in four groups, which illustrate the difference in effect among these dangers.

<b>National</b>			
	Total number of workers	7,288,000	
<b>Health and safety risk</b>	<b>Effect value</b>	<b>Number of potentially exposed workers</b>	<b>Risk value</b>
Work pressure	52	3,005,778	2,144.6
Physical strain	52	2,413,008	1,721.7
Flammable and explosive substances	52	1,309,140	934.1
Biological agents	52	1,082,348	772.3
Carcinogens	104	506,500	722.8
Harmful noise	52	678,580	484.2
Dangerous substances	52	660,918	471.6
General working time	13	2,603,540	464.4
Work station not set up properly	13	2,564,540	457.5
Danger of being trapped, squashed or cut	52	625,847	446.5
Aggression and violence	13	2,348,832	419.0
Moving objects	52	569,250	406.2
Work posture	13	2,263,416	403.7
Computer monitor work	13	2,249,055	401.2
Danger of collision	52	413,108	294.8
Projectiles	52	359,262	256.3
Repetitive actions	13	1,310,668	233.8
Sexual intimidation	13	1,296,985	231.4
Danger of falling	52	318,467	227.2
Hand, arm and body vibrations	13	439,830	78.5
Danger of suffocation	52	80,949	57.8
Cold and/or hot surfaces	13	242,232	43.2
High voltage	104	22,420	32.0
Ionizing radiation	52	43,391	31.0
Low voltage	13	74,360	13.3
Extreme heat	13	28,415	5.1
Caisson and diving work	104	2,373	3.4
Harmful non-ionising radiation	0.5	264,935	1.8
Extreme cold	0.5	2,970	0.0

#### *Introduction:*

The picture for the Netherlands as a whole is given above. The picture per individual sector or branch may prompt a different ranking of the risks.

A comparison of the sectors – on the basis of the sum of the risk values for the individual sectors - can show which sectors deserve attention from the point of view of risk value. These outcomes must, however, be set in the broader perspective of the (average) level of compliance with the law by businesses within the relevant sector and the attention and support which the sector itself devotes to tackling the risks (as was pointed out earlier in chapter 4.1 on the LI's sector approach).

In the coming years, the Labour Inspectorate will work with the policy department for Working conditions to evaluate and where necessary adjust the model and the information it provides. This can further shape a joint approach to the field.

#### 4.4 General approach

*The starting point of the approach is that sectors and businesses shoulder their own responsibility*

The Labour Inspectorate's approach in the various sectors is, as expressed earlier, based on an analysis of the circumstances in which the trends in existing risks, the degree of compliance and activities by the sector are taken into account. The LI also looks at the experiences it has had with the particular sector in the past.

A specific point of attention is the presence of 'vulnerable groups of workers' in certain sectors (young people, pregnant women, workers with low-paid, dirty and dangerous work), the specific risks they face and the specific attention that the sector devotes to these vulnerable groups.

The new Working Conditions Act charges employers and employees more than ever before with the responsibility of working out the details of the entire set of adequate working conditions. In order for the government to play its role here, it must have a view on the (working conditions) initiatives and the ongoing (working conditions-related) programmes in the various sectors. That means *supporting* and *stimulating* where possible, and *spurring on* reluctant parties where necessary by conducting inspections and holding up a mirror to employers.

The LI's role is changing. By putting more stock in instruments like enforcement communication, a sector can also be stimulated in other ways - in conjunction with the activities deployed by the policy departments and social partners and that fit in with the general SZW strategy. Enforcement communication can be implemented in many ways: to increase the transparency of regulations, to clarify how the LI takes action, to increase the perception of the chance of being inspected and sanctioned, etc.

Ideally inspections would be the last resort to deal with parties in a sector that are lagging behind or reluctant to take action (the bottom of the market).

*Supervision based on trust and intervention where necessary*

These days the supervisory body is expected to give trust where possible and intervene where necessary. This demands different skills from inspectors: the ability to evaluate in a situation-dependent/nuanced way, clarify, stimulate, advise and provide direction.

Cooperation with other supervisory bodies will be further stepped up with the efforts towards *Uniform supervision* by inspectorate services and the desire to reduce the supervisory burden at employers by 25%. Creating front offices in inspection domains, carrying out joint risk analyses and exchanging information will all increase the *selectiveness* of the inspections. Ultimately, in many sectors the inspection programmes will be embedded in domain-oriented inspection programmes, in which one of the participating inspectorate services is given the leadership. Where a service other than the LI is in charge of a domain, there will be a need for close coordination of the strategy to be pursued with regard to the themes of working conditions and working times.

*The LI uses the following matrix when it comes to 'attention' for branches:*

<b>Sector with:</b>	<b>Low compliance level</b>	<b>High compliance level</b>
<b>High risk</b>	<i>A lot of attention: consultation with and stimulation of sector partners and active enforcement in as large a population as possible</i>	Medium amount of attention: consultation with and stimulation of sector partners. Inspections and enforcement primarily targeting the 'bottom of the market'
<b>Low risk</b>	Reactive inspections, if necessary supplemented with themes targeting the 'bottom of the market'	<i>Exclusively reactive inspections in individual businesses on the basis of signals and reports which indicate a (serious) violation or abuse</i>

If there is reason to do so, the so-called 'company approach' will be used in the inspection projects. This is applied to businesses with a head office and various locations. This way of working yields benefits both from the point of view of effectiveness (the working conditions policy is usually determined by the head office) and efficiency (not all locations need to be inspected in order to get a representative picture of the working conditions issues at the company).

*Investigations of accidents and incidents are important to tackling abuses and the sector approach*

Investigating serious industrial accidents (those subject to the reporting obligation) and incidents is very important. This not only serves the interests of the victims, or that of censuring (fining) the violators, but accidents can also give rise to lessons that can help prevent future accidents. Moreover, scientific research shows that an accident often occurs in a context where a much greater number of unsafe situations are present.

By analysing accidents in the coming years, the LI will attempt to chart out the factors which, in a particular concurrence, can lead to dangerous situations. This information can be used to educate the sectors and their workers about situations that could give rise to danger and how to prevent them. The accident reports to be analysed will be carefully selected, however, so as to serve a clear aim of learning and detection. That is not always the case in current investigation practices.

### **4.5 Sector approach, sector objectives and inspection programme**

*Points of attention for the realisation of successful sector strategies:*

Since every sector has its own specific characteristics, it is necessary to work out the further details of the long term strategy 2008-2011 for each sector. The general outline of the direction described above will also be translated to the various (sub) sectors.

The risk analysis results in an overview of sectors and branches, which, on the basis of the risks detected, the magnitude of the risks and the compliance behaviour of the sectors, must get more or less attention from the LI. The way in which these factors are concretely determined, the timeline adhered to, and the intensity of the attention from the LI depends on many factors:

- whether the LI has taken action in this sector recently and what the findings were;
- what the expectation is with regard to the self-motivation in a sector (with regard to working conditions);
- how large the group of 'forerunners' is in the area of working conditions, and how large the group of those 'lagging behind' is (the top and bottom of the market);
- what the risk is if limited or no supervision takes place;
- the anticipated level of receptiveness to stimulation, or inspections and sanctions of the sector;
- the desire from politics and society to address more specifically a certain problem or certain sector;
- etc.

These additional analyses per sector ultimately determine the concrete form of any activities.

Alongside this, there can or will be a phase difference between activities more generally aimed at the sector and the actual inspections. In a smaller number of cases sector-focused activities may also take place, without concrete resolutions in place for inspections in the particular sector or branch.

The *Labour Inspectorate year plan 2008* gives the concrete details of the activities for the first year of the plan period. The sector strategies discuss the objectives that the LI wants to achieve in the individual (priority) sectors and branches, including the 4 year programme drawn up to realise these goals.

*The general tenor of the objectives is: to increase self-motivation in the relevant branch; to increase compliance with the relevant legislation and regulations; to reduce the number of incidents that can cause loss of labour.*

In the 2008 year plan and the subsequent year plans, the priorities will be converted into active projects, which will incorporate not only inspections but also other activities aimed at compliance in the sector. The LI has realised or will realise and disseminate working conditions sector brochures for all priority attention areas.

During the coming 4-year period covered by the plan, the Labour Inspectorate plans to take structured actions in the following sectors and themes.

**Overview of the LI's active attention areas with high priority in the 2008-2011 planning period:**

**Sectors**

- All industrial sectors (Metal, Woodworking, Food and Commodities, etc.)
- All branches and sectors in Construction
- Waste collection, processing and recycling
- Sheltered employment schemes
- Public administration implementation services (in any event Fire brigade, Police and Social services)
- Logistical support for transport
- Agriculture
- Cleaning
- Healthcare
- Retail (some sub-sectors in connection with problems of aggression and violence)

**Overview of the LI's non-active attention areas in the 2008-2011 planning period:**

From this same analyses, the following sectors emerge as eligible for a cautious inspection approach. (That is to say: no active inspection projects in the coming years unless there are signals that inspection is warranted.)

**Sectors**

- Financial institutions
- Insurance/pension funds
- Social organisations
- Extraterritorial organisations
- Private households with personnel
- Retail (with the exception of some sub-sectors in connection with problems of aggression and violence)

*Introduction:*

The non-active operation in certain sectors does not mean that no attention whatsoever will be devoted to these sectors. In addition to the investigation of complaints, accidents, tips and other reports, an annual review will be undertaken to determine whether the situation warrants active inspection. A small part of the available capacity will be reserved for this.

**4.6 Specific themes**

For various reasons, a number of the themes do not lend themselves conveniently to a sector-based approach, yet come in high on the list of priorities because of the nature of the risks and/or because of social or political interest. Targeted enforcement activities are undertaken for these themes.

**Hours of work and of rest**

The Labour Inspectorate's attention in supervising and enforcing the Working Times Act is mainly focused on the sectors and situations in which workers systematically work too many hours or where the necessary breaks are not enough or are lacking altogether. The main concern is situations that involve irregular working times and dangerous or physically demanding labour. These situations occur primarily in sectors that fall outside of the 'nine to five' pattern, such as: Healthcare, Rail and road construction, shift work and nightshifts in Industry and Security, Police and the transport sector. In the transport sector, where the combination of traffic safety and excessively long working hours clearly poses a danger, checks are carried out in a European context on an annual basis in cooperation with other authorities. The LI's role in this centres on administrative checks of businesses with their 'own transport.' The Transport and Water Management Inspectorate focuses on professional transport and roadside checks. In other sectors, extra risks associated with hours of work and of rest are identified in combination with other themes in the area of working conditions. Where that is the case, the theme 'hours of work and of rest' becomes an additional inspection theme.

The investigation of complaints and tips from workers and professional organisations guarantees that any serious violations of legal regulations on hours of work and of rest at businesses and sectors not subject to ongoing inspection projects also get the attention of the LI.

**Child and youth labour**

The LI devotes specific attention to the combination of school and work by young people and children. The phenomenon of holiday work is central to the LI's holiday work inspection project every year. The LI determines each year which sectors should get specific attention. Work that is dangerous or prohibited for children is also looked into. Retail, Agriculture and the Catering industry are usually sectors in which a lot of holiday work takes place.

Artistic or media activities by children (on radio, television and in other sorts of performances) in the commercial sphere are subject to a regime of exemptions, for which official applications must be submitted. This makes it possible for children to do these kinds of performances under certain conditions. Setting limits in this area prevents children from being given too heavy a workload, coming under too much (media) pressure or endangering their attention to school.

### **Asbestos**

There has regularly been a call for a so-called 'chain approach' since 2000. This approach envisions clear positioning of supervision, good information exchange and reduced administrative burden for citizens and the business sector. Various pilot projects have been carried out in this area, which are followed up on in the approach to this theme.

A part of the estimated 30,000 asbestos reports that the LI receives each year are subjected to random inspections in order to keep a view on asbestos demolition activities. There are also inspection projects aimed at strengthening supervision in the chain. This approach involves close cooperation with the other supervisory bodies and with the public prosecution department. Administrative enforcement is possible in most cases. Agreements are made with the public prosecution department in order to tackle in criminal court the companies that systematically violate the regulations.

### **Diving work**

Diving work is by definition dangerous work because of the conditions under which diving activities are carried out: often in murky water, with consequently poor visibility, in cold conditions and under (sometimes considerable) overpressure. The LI has noticed that many businesses still fail to report diving activities to the LI in advance of the work. An inspection project will therefore be carried out focusing specifically on the non-reporters and riskiest situations.

### **Biological agents**

The LI has noticed that it does not always receive advance report of close contact with biological agents of categories 2, 3 and 4 (agents that harm human health) in diagnostic laboratories and research institutions, as stipulated by law. At the end of 2007 institutions and businesses were once again given the opportunity to inform the LI of these kinds of activities. The LI is going to check whether these institutions and businesses are taking the proper precautions to prevent exposure of workers to these agents and/or the possibility of unintentional spreading and infection.

### **Company emergency services**

Extra inspection activities in correctional institutions were already undertaken immediately in response to the Dutch Safety Board's report on the Schiphol fire. These inspections looked into whether the organisation of company emergency services at these institutions adequately took into account the risks and vulnerability of detainees in fending for themselves in emergency situations. It was promised to Parliament that extra attention would also be devoted to other sectors where vulnerable groups of residents and workers are found, like in nursing and convalescent homes. During the period covered by the plan, specific attention will be devoted to these problems in a number of these sectors.

### **Residual gases in sea containers**

Containers used for import are known to regularly contain concentrations of residual gases that are harmful to health when they arrive in the Netherlands. Entering these containers is therefore dangerous. The LI published a so-called sector brochure with regard to this problem in 2007 and sent it to stevedores, distribution centres, transport companies and recipients of containers in wholesale and retail. The LI is going to check at companies that load and unload these containers whether they carry out measurements in advance to ascertain whether the containers contain residual gases and whether these are adequately ventilated so that they can be entered safely.

### **Ionising radiation/ Nuclear Energy Act**

In supervising businesses that use radiation sources and equipment, a closer look will be taken at the specific dangers and risks associated with this work. To this end, in connection with the Nuclear

Energy Act (KEW) the LI's categorisation of so-called KEW applications has been re-evaluated. The various applications are ranked from highest risk to lowest risk on the basis of this evaluation. A 'potential risk' is the sum of the compliance level and the type of KEW application.

In the coming 4 years, the LI will carry out projects that are focused on high risk applications. The KEW supervision will also concentrate on applications of so-called *Non-destructive testing (NDT)* at locations.

### **REACH**

The Reach legislation came into effect on 1 June 2007. It is a new European Directive that replaces older regulations, like the Dutch Environmentally Hazardous Substances Act. Almost all companies that deal with chemical substances will be affected by REACH. The directive sets regulations for dealing with substances, preparations and substances in objects. The companies are given the responsibility of charting out the risks of these products and must, if necessary, take measures to protect man and the environment. This applies for manufacturers of substances and preparations like paint and cleaning solutions, but also for importers, distributors and professional users like painting companies, the wood industry and producers of products like ink cartridges. The Labour Inspectorate, VWA and VROM inspectorate will together supervise compliance with the REACH directive as of 1 January 2008. The starting point of enforcement is that the business sector suffer as little nuisance as possible from supervision. The inspectorates will therefore adhere to a single portal approach: a single inspectorate service is assigned as the first point of address and implementer of supervision for each target group. The inspectorates hope that this enforcement approach will help companies understand what exactly they must comply with, what happens if they fail to do so, and how they can satisfy their obligations. In 2009 the inspectorates hope to have more insight into the areas where compliance is struggling.

### **Market supervision (Decrees based on the Commodities Act)**

The Labour Inspectorate is co-responsible with the Food and Consumer Safety Authority for supervising compliance with a number of decrees based on the Commodities Act. These decrees set regulations with regard to commercially available products that are also used in professional work situations, like machines and tools, pressure equipment and personal protection equipment. The Labour Inspectorate's approach is mainly focused on enforcing this law in situations where workers may be at risk in using the products or equipment. Efforts are being made to strengthen cooperation and re-examine the allocation of duties between the supervisory bodies in the context of the renewal of supervision.

### **Supervisory projects of the Work and Income Inspectorate (IWI)**

The Work and Income Inspectorate supervises, among other things, the quality of certification and qualification institutions in the area of working conditions (like the certification and inspection agencies that issue certificates for 'occupational health and safety services' or certificates for lifts, and such) on behalf of the Minister of Social Affairs and Employment. In this context the Labour Inspectorate lends services in the form of expert assistance in preparing and carrying out inspection projects and shares the information it has about the service provision by certified institutions. The aim of this cooperation is to contribute to certification systems that work well, because this can increase the self-motivation of businesses and branches. A certification system that successfully serves its purpose also allows the LI to revise its priorities. The cooperation with IWI in this area will be stepped up in the coming years.



Full page clip from photo 337 (right hand side with text left out)

Text on the bottom of the photo:

“Large and small companies differ in policy and compliance behaviour”

## 5. Major Hazard Control

### 5.1 Introduction

*Business activities involving hazardous substances require special attention for people and the environment*

Business activities involving large quantities of hazardous substances take place at various locations in the Netherlands. If a disaster were to occur in which hazardous substances were released, these activities could cause fire, explosions or toxic clouds capable of serious damage to people (both workers and nearby residents), the environment, the infrastructure and the economy. The consequences of such a disaster could vary in magnitude from an 'insignificant incident' to a major disaster (including social disruption). The management of the company in question is primarily responsible for setting up operations in such a way that limits as much as possible the chance of a calamity and the magnitude of the resulting damage. The government also has its own responsibility with regard to protecting workers, nearby residents, flora, fauna, infrastructure and the environment. The government has passed specific legislation for these kinds of companies in light of the far-reaching social and political repercussions such disasters could have.

*An area with many supervisory bodies*

Various national, regional and local governments, supervisory and inspectorate services and emergency service agencies are involved in the supervision on the potential major hazard industry. The specific legislation that applies here includes:

- the Dutch implementation of the European Directive on preventing the danger of major accidents involving hazardous substances (Seveso II directive) in the *Major Accident (Risk) Decree* (BRZO) and the accompanying *Major Accident Hazards Regulations* (RRZO).
- The *Supplementary Risk Inventory and Evaluation* (ARIE) decree.

The BRZO legally charges the first line of supervisory bodies to jointly prepare implementation, carry it out and communicate it to the public and the company or institution. These supervisory bodies are: the Labour Inspectorate, the authority authorised by the Environmental Management Act [in this case the Provinces and Municipalities] and the Fire brigade.

The ARIE decree stipulates that the supervisory bodies must share information with each other.

Supervision in this field requires a qualitatively high level of specialisation of the inspectors involved and an adapted method of working. For this reason this supervision is the responsibility of a separate, specialised department at the LI, the Major Hazard Control department.

### 5.2 The companies

*Large and small companies differ in policy and compliance behaviour*

The essence of the specific regulations for the area of Major Hazard Control is that companies are required to formulate a prevention policy and set up a safety management system. In doing so they must achieve the safety policy objectives and at the same time reach the right level of management measures in a structured way.

A considerable share of the businesses that fall under the Major Accident (Risk) Decree (BRZO) and some of the companies that fall under the ARIE decree are large companies. They are usually multinationals that often have several locations throughout the country. They are companies that, due to internal management considerations, are accustomed to working with permanent, usually certified, systems of risk management in areas like: continuity, finances, reputation, material damage, liability, safety, working conditions, and the environment. These kinds of companies have amassed a great deal of expertise in this area within the company, both at the management level and among the personnel. The legally prescribed system requirements related to the management of safety risks, which apply for both technical, organisational and management aspects, are more or less 'organically' included in these companies' operations. The interests of legislation largely run parallel to the company's own interests with regard to uninterrupted operations. This category of businesses includes refineries and (chemical) process industries.

On the other side of the spectrum there are smaller, less complex companies that also fall under the scope of the BRZO and/or ARIE, for example because they store, handle or process large quantities of hazardous substances. These include, among others, storage and transshipment companies, tank storage companies, fireworks storage companies, gas storage, gas packers and gas distribution

companies and yards. The system requirements stipulated by law do not always form an 'organic part' of the business operations and are therefore more difficult to implement.

*Failing maintenance and maintenance management are the most important factors in the occurrence of accidents and incidents*

The number of accidents and incidents investigated in this category each year is subject to fluctuations, but certainly not negligible.

### Investigated accidents and incidents in Major Hazards

2002	32
2003	56
2004	20
2005	30
2006	39

The Labour Inspectorate reports annually on these kinds of incidents. These reports also contain further analysis of the underlying causes and possible trends. Especially factors like failing maintenance, maintenance management and internal company supervision on the process play an important role in this. This is in line with a study carried out in 2004 into the 'status' and quality of maintenance management systems at companies that are 'required to report on safety.' This study showed that only 12% of the companies had a comprehensive and adequately functioning maintenance management system. The LI has looked further into whether there is a correlation between trends like reduction of core activities (outsourcing of inspection and maintenance), autonomy of business entities, cutbacks, etc. and failing maintenance management. The conclusion was that it can be asserted that the safety situation in the chemicals process industry will most likely deteriorate rather than improve in the coming decades. This implies that the supervision on these companies will focus increasingly in the coming years on concrete working situations that have been encountered. A relationship will be established here with the safety management systems and formulated policy objectives maintained by companies. Aspects like (maintenance) management and internal company supervision will become increasingly central.

### 5.3 The government and its performance

*The Major Accident (Risk) Decree has a positive effect on safety around hazardous substances*

An evaluation report on the effects of the BRZO was published in 2004. This study was commissioned by the departments involved. According to the report, both the business sector and the government organisations involved found that the BRZO had a positive effect on work safety, external safety and combating disasters. Other effects included: improvement to cooperation and knowledge exchange and increase to the sense of safety. Insight into the risks has also increased and organisational and technical measures have been taken to further manage risks.

*The government's supervision on the Major Accident (Risk) Decree can and must be improved*

The study mentioned above also indicated that the government's performance in implementing the BRZO leaves a great deal to be desired. Legally prescribed time limits are not being met, the quality and quantity of the inspections and enforcement must still be improved considerably, the quality of the inspectors leaves something to be desired at various locations, the effectiveness and efficiency of the government supervision is far from optimal, the supervision and cost burden for companies is unnecessarily high and governments are not cooperating adequately.

The underlying causes for these shortcomings were the 'administrative busyness' in this area and the fragmentation in the implementation of the BRZO by the public service. There are just under a hundred government organisations involved in this nationally.

*The BeteRZO programme makes a significant contribution to improvement of supervision*

The 'Programme for improved implementation of the BRZO' (*BeteRZO*) was launched by the ministry of VROM in 2004. This programme was aimed at bringing about substantial improvement in the performance of the governments involved, without intervening in administrative responsibilities.

The *BeteRZO* programme was completed in July 2006. This programme achieved instrumental and methodological changes, on the one hand, that are combined in the 'BRZO Manual' (see: [www.brzo99.nl](http://www.brzo99.nl)). On the other hand the programme set up and agreed quality criteria for the supervisory organisations, inspectors and supervisory teams with regard to 'critical mass', continuity,

expertise and composition of the inspection teams. The results of this improvement programme will have to be implemented in the coming years. Aspects like increasing the official scale of implementation, coordination, the single portal principle, structured and uniform joint inspections, use of ICT facilities, etc., must become common practice. A facilitating structure has been created for this: the National Coordination Team (LAT). The state secretary of VROM has – also on behalf of his colleagues at SZW and BZK – commissioned the regional and local leaders to enter new partnerships so that they satisfy the quality criteria that have been set. In addition new administrative inspection programmes must be set up. These will facilitate further joint implementation agreements.

### *A new inspection method promotes quality and professionalism of the inspections*

One of the most important projects resulting from the Improvement programme BeteRZO is the development of a new, uniform and joint inspection methodology (NIM). This method was developed to achieve the supervisory objective of tracing connections between common problems arising in practice and the functioning of the security management system and the company policy. In the meantime the first operational version of this methodology has been prepared and tested and just under 200 supervisors have been trained in using it. An ICT application to support the use of the method 'Communal Inspection Scope' (GIR) has also been put into use.

### *A picture of the changes to the administrative structure of the BRZO approach*

As part of the government's 'Different Government' programme, the implementation of the Major Accident (Risk) Decree was re-examined by the Mixed Commission on Administrative Coordination (the De Grave Commission). In contrast to the 'BeteRZO' programme (which seeks improvements in the current structure), the De Grave Commission argues for changes to the administrative structure. The government has taken the recommendations from the commission on board and requested that the departments further work them out in detail and implement them. As part of the Inspection Council's working plan and the 'Renewing Supervision' project, 20 inspection domains have been defined and a front office for Chemicals has been set up. In the development of the various domains grateful use has been made of the working methods, products and descriptions stemming from the BeteRZO programme. Further attention is required to the positioning of the BRZO approach in this new setting of domains – the BRZO companies are spread across a wide spectrum of business areas.

## **5.4 Professionalism**

### *The LI is making further efforts to improve the quality of BRZO supervision*

In the past few years the Major Hazard Control department has made efforts to increase the professionalism of the organisation even further, in order to become an organisation that is authoritative in its working area – both internally and externally, that plays a leading role in the improvement to government performance in the supervision on major hazard companies and that has a high quality organisation and management. In retrospect it can be said that this has been abundantly achieved, underlined by the fact that the LI's MHC department was certified for *ISO 9001:2000* in December 2004. The certificate was continued after audits in 2005 and 2006.

## **5.5 Long-term developments**

The years 2008-2011 will be characterised by changes, both at the businesses under supervision and within the government. The following tendencies can be distinguished:

### *Cooperation with other supervisory bodies continues*

The tendency for more cooperation between the various governments and the subsequent achievement of quality improvement and increased efficiency will continue (implementation BeteRZO/LAT, development of inspection domains and Chemicals front office). The development is aimed at a coordinated approach with high quality supervisory bodies. The LI must continue to play an important role in these processes by drawing on its significant expertise in the field and well-developed quality awareness.

### *Supervision must be increasingly efficient and uniform*

Cooperation must also lead to a more uniform inspection approach, and operations will be more in line with companies' expectations regarding the structure and approach of supervision (when, why, the outcome). For the time being the cooperation process is expected to culminate in companies being provided with joint inspection reports.

The next anticipated step in the development is the realisation of an integrated approach to

enforcement by the supervisory partners.

In the context of the task-setting imposed by the government and following on the report from the De Grave Commission, possibilities of further-reaching forms of cooperation or – in the most extreme case – the creation of a single national supervisory authority for the BRZO are being explored.

### *The supervisory burden for companies must be reduced*

The 'BeteRZO products' will be used to achieve a supervision that within the limits of the law allows companies that have (and keep) their policy, management system and safety measures in order to experience less supervisory burden than companies that fail to do so. The long-term inspection plans to flesh this out, on the basis of the supervisory model that has been developed, will be drawn up on the basis of the administrative inspection programmes that have been or are being set up in the various regional partnerships. Incorporating inspection results in these plans ensures that they are up-to-date and responsive to the current situation.

### *More substantive reports on trends*

The LI has set itself the goal of generating more substantive trend information using its inspection and research reports. The aim of this is to give politics insight into the problems in an authoritative way and to be able to exercise more influence in the direction of the business sector.

The first initiative towards this goal is the annual incident reporting. Another example is the 'Inspection report on Refineries' recently published by the LI, which was 'translated' for the Dutch market after an incident in a large refinery in the US state of Texas. The latter is a good example of pro-active supervisory policy. Uniform application will also ensure that the joint inspection method to be enforced with other supervisory bodies and the database associated with it will become an instrument for analysing safety performance.