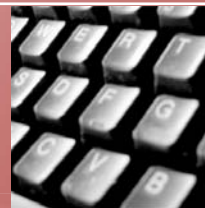
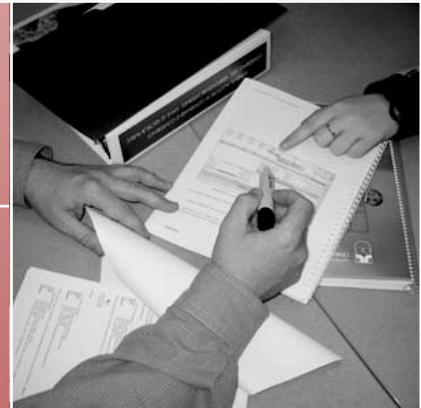


Audit of Labour Program Part III of the *Canada Labour Code*



Audit of Labour Program

Part III of the *Canada Labour Code*

Project No: 6515/02

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TABLE OF CONTENTS

EXECUTIVE SUMMARY	i
1. INTRODUCTION.....	1
2. AUDIT FINDINGS	3
2.1 Program Mandate/Strategy	3
2.2 Accountability for Results	8
2.3 Program Monitoring.....	13
2.4 Supporting People’s Capabilities.....	14
3. CONCLUSION	17
APPENDIX A: AUDIT OBJECTIVES, CRITERIA AND METHODOLOGY...	19
APPENDIX B: MANAGEMENT ACTION PLAN.....	21

EXECUTIVE SUMMARY

The audit of the Labour Program – Part III of the *Canada Labour Code*, was included in the July 2002 – June 2003 Internal Audit and Risk Management Services (IARMS) Resource Utilization Plan. The audit was subsequent to the approval of the Departmental Standards for Labour Program – Part III of the *Canada Labour Code* by the Audit and Evaluation Committee on July 4, 2002, which formed the basis for the audit objective and criteria for this audit.

Part III of the *Canada Labour Code*'s primary objective is to establish and protect the work place partners' right to fair and equitable conditions of employment. The provisions in Part III establish minimum requirements concerning the working conditions of employees in federal jurisdiction. It deals with issues such as: hours of work, minimum wage, termination and severance pay, unjust dismissals, and various types of leave such as vacation, maternity, bereavement or illness. Part III applies only to employment under federal jurisdiction, which includes more than one million Canadians and 40,000 work sites in key sectors of the economy.

The audit's objective was to assess the management of Part III of the *Canada Labour Code* program activities to ensure that the provisions of the Code are respected in the workplace. Appendix A provides more details on the Audit objectives, criteria and methodology.

Management framework and operational processes for the administration of Part III of the *Canada Labour Code* activities were the focus of the audit. The assessment of compliance with the requirements of the Code has been limited to a review of plans, strategies and information to achieve compliance. As well, the quality of service to Canadians has not been covered by this audit, given that a national client service satisfaction survey was undertaken by the National Headquarters (NHQ) Labour Operations Directorate.

The audit was conducted both at NHQ and in four regions comprising Ontario, Saskatchewan, Alberta/NWT and Nunavut, and Quebec. The management framework and operational processes were initially assessed by reviewing documentation on program activities and information collected during the development of the Departmental Standards for Labour Program Part III. This review was followed by interviews and further analysis of program information. Certain aspects of the program could not at times be examined exclusively for Part III as the information was only available for the Labour program as a whole.

This internal audit was conducted in accordance with both the Treasury Board Policy on Internal Audit and the Institute of Internal Auditors Standards for the Professional Practice of Internal Auditing.

We conclude that based on the evidence examined in support of the audit criteria Part III of the Canada Labour Code program activities are appropriately managed.

While overall assurance is given with respect to the audit objective, the following recommendations for improvement are made:

1. Reassess the rationale for A-base funding distribution among NHQ and regions and if needed develop an appropriate resource allocation model.
2. Determine which Operations Program Directives (OPDs) and Interpretation Policies and Guidelines (IPGs) should be re-examined and clarified, and plan for revisions within a reasonable timeframe.
3. If the legislative review of Part III of the *Canada Labour Code* is further delayed, conduct a review of the prosecution and collection practices to better assist the clients in recovering their wages.
4. Develop and implement a national quality assurance framework to ensure sound and consistent approaches to quality management across the regions.

1. INTRODUCTION

The audit of the *Canada Labour Code – Part III* was included in the July 2002 – June 2003 Internal Audit and Risk Management Services (IARMS) Resource Utilization Plan. The Departmental Standards for Labour Program – Part III of the *Canada Labour Code* formed the basis for the audit objective and criteria, which were approved by the Audit and Evaluation Committee on July 4, 2002.

Part III of the *Canada Labour Code*

The primary objective of Part III of the *Canada Labour Code* is to establish and protect employees' and employers' right to fair and equitable conditions of employment. The provisions in Part III establish minimum requirements concerning the working conditions of employees under federal jurisdiction. It addresses issues such as: hours of work, minimum wage, termination and severance pay, unjust dismissals, and various types of leave such as vacation, maternity, bereavement or illness. Part III applies only to employment under federal jurisdiction. Laws and regulations affecting 90% of the Canadian workforce and concerning most employment in Canada are provided by provincial legislation. However, Part III applies to more than one million Canadians and 40,000 work sites in key sectors of the economy.

The Labour Program has developed a compliance policy for Part III of the *Canada Labour Code* to influence employers and employees within federal jurisdiction to act consistently with the intent of Part III. The Labour Program's role, in implementing a regulatory statute such as Part III has been defined as to:

- encourage compliance;
- facilitate compliance;
- monitor compliance and non-compliance; and
- respond to non-compliance.

Part III of the *Canada Labour Code* is managed and delivered regionally with functional direction provided by the NHQ Labour Operations Directorate. In 2002/03, 5250 complaint investigations dealing with Part III labour standards were finalized. Complaints are handled in the local and regional offices across the country by Labour Affairs Officers (LAOs) who are responsible for ensuring the application of Part III of the *Canada Labour Code*. There are also Early Resolution Officers (EROs) who attempt to resolve cases at first contact by fostering employers and employees to have a self-assessment approach to resolve their cases, and promoting a common understanding among all affected parties. Program expenditures in 2002/03 were \$ 8.9 million.

Audit Objective

The audit's objective was to assess the management of Part III of the *Canada Labour Code* program activities to ensure that the provisions of the Code are respected in the workplace.

Scope and Methodology

The audit was conducted during the period of February to April 2003 and the project's methodology included:

- Review of studies, previous internal audits, program evaluations and minutes from various committees to understand program issues, constraints and progress;
- Review documentation on program activities and program results;
- Flowcharting processes;
- Interviews with Labour Management and staff in National Headquarters (NHQ) responsible for the administration of Part III of Canada Labour Code;
- Interviews with Regional Labour Directors/Managers and staff;
- Documentation review to supplement interview information;
- Data analysis on program activities.

Management framework and operational processes for the administration of Part III of the *Canada Labour Code* activities were the focus of the audit. The assessment of compliance with the requirements of the Code has been limited to a review of plans, strategies and information to achieve compliance. As well, the quality of service to Canadians has not been covered by this audit, given that a national client service satisfaction survey was undertaken by the National Headquarters (NHQ) Labour Operations Directorate.

The examination of certain aspects within this audit was not limited to Part III due to the fact that the Labour Program often operates as a whole and information at times cannot be segregated into separate parts of the program (e.g. resourcing).

This internal audit was conducted in accordance with both the Treasury Board Policy on Internal Audit and the Institute of Internal Auditors Standards for the Professional Practice of Internal Auditing.

Further detail of the audit objective, criteria, and methodology can be found in Appendix A.

2. AUDIT FINDINGS

All significant audit findings are presented in this section in accordance with the audit objective and criteria, which are described in detail within Appendix A Audit Objective, Criteria and Methodology. They include assurance statements on all of the criteria regardless of whether or not the performance expectations have been met.

Audit Objective

The objective of this audit was to assess the management of Part III of the *Canada Labour Code* program activities to ensure that the provisions of the Code are respected in the workplace.

Audit Criteria

2.1 Program Mandate/Strategy

Audit Criterion No. 2.1.1:

The mission, priorities, and objectives for the administration of Part III of the *Canada Labour Code* are clearly stated and understood

The Labour mission statement, priorities, and objectives are well documented and are available through a variety of sources, such as the Labour internet and intranet sites, Operations Program Directives (OPDs), and the HRDC Report on Plans and Priorities.

Objectives and priorities are discussed regularly at the National Labour Operations Committee (NLOC) meetings and conference calls. All staff have access to the NLOC minutes that are available via the intranet. NLOC, and more precisely its Strategic Planning sub-committee (composed of NHQ and regional managers), has been strengthened in recent years to include a structure whereby priorities and objectives are developed in collaboration with regional representatives. The regions then develop their priorities based upon the national priorities. This process allows for more regional and national coordination.

Interviews with the field staff indicated that they were often able to contribute to their region's work plans during planning sessions, which has provided them with a more in-depth knowledge of the priorities and objectives. It was identified by most of those interviewed that the mission, priorities, and objectives were clearly stated and understood.

However, given that operational priorities are established at the regional level, there is a concern that HRDC regional priorities may adversely affect the ability of the Labour staff to achieve the objectives set for the Labour Program, especially if the Labour Program resources are reallocated to other regional priorities.

Audit Criterion No. 2.1.2:

Planning and resourcing exercises are regularly undertaken to ensure that objectives are met

In our view, the Labour Program has significantly improved its planning and resourcing process in the last two years. The NLOC Strategic Planning sub-committee was created in November 2001 to develop a three-year Strategic Plan for Labour Operations. The goals of this plan were to ensure effective and consistent delivery, clear accountability for results, and a sound and productive relationship between NHQ and the regions. Parallel to this three-year plan, a one-year plan outlining immediate steps was also to be prepared.

At the February 2003 NLOC meeting, all the regions reported that they used the NLOC Strategic Planning Committee Operational Planning Document – 2003-04, as a guide to help them develop their own work plans. The regions then prepared their work plan reports in May 2003 using the Regional Operational Forecast and Work plan Report template, which will formalize and ensure consistency of reporting. In addition to the May report, regions will be required to report quarterly using the template.

The Part III sources of funding include A-base, B-base (Treasury Board (TB) submission and supplementary funding from the regions). For the 2002-2003 fiscal year, 131 full-time equivalents (FTEs) were used to deliver Labour Standards activities including 12 FTEs at NHQ, with a total spending of \$8.9 million. Regional staff interviewed in the regions indicated that they were under resourced and were sometimes seeking ‘top-ups’ from the region. A-base allocation was questioned and most of the regional managers interviewed mentioned there was a need for an A-base review to distribute resources more equitably or to substantiate the basis for resource allocation to NHQ and the regions. There were also concerns about repeated departmental cuts and the temporary nature of the B-base funding from the Treasury Board which accounts for approximately 23% of the Labour Program’s overall resources. Labour management has stated that the adequate delivery of the program may be compromised if funding is not continued following the expiration in 2005 of the 5-year Action Plan for additional funding from the Treasury Board. Also noted, it is HRDC’s position that any reallocations of funds, including a proportion of the funding provided under the TB decision, have not severely affected the Labour Program’s core mandate.

Despite noted concerns with regards to resourcing, we observed that the Labour program has established adequate resource planning to ensure the appropriate delivery of the program. However, the A base funding logic is not clearly articulated and there is a need to demonstrate equitable distribution of resources among regions and among NHQ and regions.

Recommendation # 1:

We recommend that the Labour Operations Directorate reassess the rationale for A-base funding distribution among NHQ and regions and if needed develop an appropriate resource allocation model.

Audit Criterion No. 2.1.3:

A human resource plan is in place supporting the availability and development of a knowledgeable workforce

NLOC's Strategic Planning Committee Operational Planning Document – 2002-03 includes the objective of ensuring “sufficient, professional, and trained staff to deliver effective and efficient services to Labour Operations clients”. Furthermore, the document references the need for a “comprehensive HR plan for Labour Operations including components for retention, recruitment, training, and diversity”. The Labour NHQ Branch has since developed a Recruitment and Retention plan that covers a four year period from April 1, 2002 to March 31, 2006. This plan details the objectives, actions, accountabilities, timeframes, expected outcomes, and also provides status reports. The Labour NHQ Branch has also created an Employment Equity Plan for the period April 1, 2002 to March 31, 2006 that outlines the goals of attracting, hiring, developing, retaining designated group employees, monitoring progress and creating an organizational culture that embraces employment equity. We also noted from NLOC minutes that Human Resources (HR) issues, including employment equity, officer classifications and job descriptions have been discussed at this forum.

In the regions visited, HR impacts were often considered during the development of their work plans to ensure an available workforce. Within NHQ however, there was a concern regarding the attrition of one entire unit within the next four to seven years and the lack of resourcing to prepare for the transfer of knowledge and acquisition of experience.

Although in many of the areas visited there was no specific HR Plan, we observed that due to the small size of the Labour Program, managers were aware of their HR issues, such as attrition rates, operational pressures, and demographics. While there is room for improvement, we conclude that the HR planning activities were adequate to support the availability and development of a knowledgeable workforce.

Audit Criterion No. 2.1.4:

An adequate strategy/plan is in place for integrating technology into business lines

The LA2000 system was implemented in December 2000 to replace the aging Labour Operations Information System (LOIS). The system plan included communication strategies, deadlines, and objectives. The system has also been through continued improvements, Systems Branch in 2001/2002 invested over \$1 million into LA2000. The transition has not been without its share of problems and in order to prioritize system enhancement requests, a Prioritization Committee, an NLOC sub-committee, was created in March 2003. This committee, which is composed of representatives from Systems Branch and NHQ and regions, was tasked to deal with changes and software improvements requirements. The Systems Branch releases two system changes per year.

Staff interviewed within the regions stated that although LA2000 has improved since its implementation there are some remaining concerns such as the fact that the templates from the Complaints Handling OPD (700-10) do not work (these templates are held

within LA2000), the system is not user friendly, and there are data integrity concerns (this will be addressed in 2.3.1).

The continued development and implementation of technical support systems for all business lines is a priority for the Labour Program. Although there are no specific plans for short, medium, or long term activities, technological requirements are more sophisticated for the Labour Program due to the mobile nature of the Labour Affairs Officer position. Technology is considered within the planning process of the Systems Branch, NHQ Labour Branch (and NLOC), and in the regions.

We observed that continued enhancements have been made to the LA 2000 system. Although there is still room for improvement, overall, the activities supporting the integration of technology for program delivery are adequate.

Audit Criterion No. 2.1.5:

Part III policies, procedures and guidelines are clear, timely and appropriate

Most procedures and guidelines regarding the administration of the Part III legislation are communicated through the OPDs and Interpretation Policies and Guidelines (IPGs). As evidenced throughout our interviews with regional and local staff, OPDs and IPGs are considered valuable tools to guide staff in the administration and enforcement of legislation and regulations. However, staff interviewed said that some OPDs and IPGs are complex, that some leave room for interpretation and that revisions take too long. Some regions have developed their own policies or procedures in order to clarify the OPDs. There was also a concern at the time of the audit that the OPDs (specifically the Complaints Handling OPD), were not being applied consistently across the country as some regions were using the new OPD and some were not. Several regional Labour staff interviewed also indicated that the generic letters to employers and employees included within the Complaints Handling OPD (OPD 700-10) often do not reflect the situation accurately or are not appropriate. In some cases officers will change the generic letters to employers and employees to clarify the information despite direction from NHQ that the letters are not to be altered to ensure consistency.

Labour management informed us that the Labour Program was experiencing serious technical difficulty with LA 2000 at the time of the audit and this caused the on again off again approach of the regions to the new complaints handling OPD 700-10, which resulted in a temporary inconsistency. They said this problem was also the cause of the templates not working for this OPD as mentioned in 2.1.4.

The Labour Program has established a review list for OPDs and IPGs and the updating of OPDs and IPGs is an item under the Strategic Operational Plan.

A number of staff interviewed also said that some areas of the code are not clearly described within the existing policies and guidelines. These areas included jurisdiction, retroactivity, employee-employer relationships and general holiday pay.

Furthermore, most of the managers and staff interviewed mentioned that there is a need for a legislative review to make it simpler, to adapt it to today's workforce and to include more enforcement tools. The HRDC 2003-2004 Report on Plans and Priorities (RPP)

provides for a review of the *Canada Labour Code*. This review has been proposed since 2000 and the Labour Program has begun the examination of areas such as current working conditions, workplace practices, and the needs of employers and employees. This review will support the further development of "... programs and policies to enhance labour standards and ensure a fair and equitable workplace". Currently there are few incentives for the employer to respect the legislation and staff have concerns regarding Labour's capacity to collect funds.

While the OPDs and IPGs were indicated by those interviewed as being considered valuable tools for the administration of Part III of the *Canada Labour Code*, there is room for improvement.

Recommendation # 2:

We recommend that the Labour Operations Directorate consult with regions and local offices to determine which OPDs and IPGs should be re-examined and clarified, and plan for revisions within a reasonable timeframe.

Recommendation # 3:

If the legislative review of Part III of the Canada Labour Code is further delayed, we recommend that the Labour Branch conduct a review of the prosecution and collection practices to better assist the clients in recovering their wages.

Audit Criterion No. 2.1.6:

An understanding of business risks is evident and appropriate strategies are developed to set priorities and mitigate risks

In our view the Labour Program at NHQ has made significant progress in developing a more systematic and integrated approach to risk management in its operations. For example, the Labour Program has adopted a tiering approach focused on sectors more at risk to plan their activity (e.g. trucking industry, repeat offenders).

A protocol was established at the beginning of 2001 between Labour Program and Internal Audit and Risk Management Services (IARMS) for collaborative work on risk management. The Labour Branch identifies on an annual basis the key corporate risks to achieving the Labour objectives and mitigation strategies are developed and monitored.

Managers and staff within NHQ and the regions feel confident that they understand the risks associated with Labour Standards. The major risks to the achievement of Part III objectives are the potential for delays in resolving complaints and inability to continue to implement proactive activities due to limited resources. Labour mitigates its risks through close monitoring of operational plans and controls over the complaints resolution processes.

We conclude that the Labour Program has a good understanding of the business risks and appropriate strategies have been developed to set priorities and mitigate risks.

2.2 Accountability for Results

Audit Criterion No. 2.2.1:

Roles, responsibilities, authorities and accountabilities are clearly defined, understood and transparent

Overall our interviews indicated that staff understood their roles and responsibilities, and most had job descriptions. The roles and responsibilities of individuals involved in administering Part III of the Labour Code are defined within the Operational Program Directives (OPDs). For example, the Complaints Handling OPD (OPD 700-10) clearly outlines LAOs tasks and business processes.

The mandate and roles of the various Labour Committees, such as NLOC, the Technical Advisors' Committee, Service Delivery Management Committee, Labour Operations Renewal Working Committee and the NLOC Strategic Planning Sub-Committee, are also clearly defined within written documents. These committees provide a forum for consultation and a means for strengthening the decision-making process within the Labour Program.

In recent years, the structure and reporting relationships between NHQ and the regions have been examined and at least three reports have been produced (Kent, Kushner, and the IBM Review Reports). Issues and options around the service delivery model, and authority and accountabilities between NHQ and regions are being examined within the HRDC Program Management Renewal. At the June 2003 NLOC meeting, organizational changes were discussed and a working committee composed of NLOC representatives was tasked with completing some research and analysis on issues pertaining to the proposed renewed Labour Program structure. The working committee is to deliver a report by fall 2003.

Based on interviews and documentation reviewed, we conclude that at the time of the audit roles and responsibilities were clearly defined, understood and transparent. It is expected that the Program Management Renewal Initiative will address the area of authorities and accountabilities.

Audit Criterion No. 2.2.2:

Relevant performance indicators are in place and used at all levels of the organization

In the past, the performance of Part III of the *Canada Labour Code* was measured using two indicators. The first measured the percentage of unjust dismissal complaints (75% target) settled by inspectors and the second measured the percentage of complaints settled within 120 days. Labour Program management recognized the ineffectiveness of the second indicator and decided to discontinue reporting the data to departmental management and to the public during the fiscal year 2000-2001.

The Unjust Dismissal indicator was found to be useful but only deals with 20% of the business. An analysis of performance indicators identifies that occasionally regions have difficulty in meeting the 75% target. In the fiscal year 2002-2003, 71.1% of unjust dismissal complaints were settled by inspectors versus a settlement rate of 75.6% in 2001-2002. Reported reasons for not achieving the target include the impact of one large

employer with an influx of complaints on the overall results as experienced during 2002-2003, changes of a policy or practice by an employer, or a group of employers requesting that the Minister appoint an adjudicator. Another reason is that when a region has a low number of unjust dismissal cases, it only takes one or two complainants requesting that the Minister appoints an adjudicator for the region to miss the target.

The Labour Program is introducing a new voluntary compliance with founded complaints indicator that is expected to measure 80% of the reactive workload. This new measure will include the intervention activity of EROs in the early resolution process. The indicator will measure the number of founded interventions and complaints and the dollar value amounts owing to complainants assessed in comparison to the number of interventions and complaints resolved and the amount collected without resorting to the use of enforcement tools.

A pilot project starting in July 2003 will develop a baseline necessary to track the levels of voluntary compliance and the effectiveness of Labour's enforcement tools. Once Labour Program management is satisfied with the database of information, then reporting to departmental management and the public on performance against the new indicators and the respective targets could begin in fiscal year 2004-2005.

Regions visited also established regional targets for employees based on the number of files completed per LAO per year with targets ranging from 80 – 120 files. In our view these indicators allow for regional planning, evaluation of LAOs, and comparison of budgeted versus actual resources utilized.

The Labour Program has also set timelines for the complaints handling process steps and there is a national service standard for one of these steps. The standard is to acknowledge the receipt of unjust dismissal complaints within two working days. For the 2002-2003 period, the standard was achieved at 99.2%. Although this is not an official performance indicator, this information is useful for monitoring and reporting on response times to complainants.

We expect that with the implementation of the new performance indicator, management will have an adequate set of operational indicators to measure the results in the delivery of Part III of the *Canada Labour Code*. However, we think that although the 120-day indicator has been discontinued, delays in processing files should continue to be monitored closely.

Audit Criterion No. 2.2.3:

Information on program results is timely, relevant, accurate and available for reporting and decision making

Information on program results is maintained within the LA 2000 system and the Corporate Management System (for financial information). National Headquarters managers and staff felt they had access to the information they need.

Based on our interviews at the regional level, we observed that information is available to monitor the workload as well as for reporting on performance indicators and/or targets (further discussed in section 2.2.4). During the interviews, difficulty in extracting information from the system and the quality of the information provided by the system

were identified as issues. Data integrity is at risk as violations reports are not updated, there is duplication of employers in the database and there are access points all across the country. The quality of data will be discussed further in section 2.3.1.

Although there is room for improvement, we observed that program results information is timely and available, and can be used for decision making. With respect to accuracy of the information within the LA 2000 data base, the Labour Program has begun to resolve this matter. The NLOC Prioritization Sub-Committee has begun working with the Systems Branch to correct the issue on a priority basis.

Audit Criterion No. 2.2.4:

Adequate controls are in place to ensure that operational targets, time frames, and expected results are met

All of the regions visited have work plans establishing targets, goals, objectives, and expectations of the program and of employees. LAOs interviewed said they know what is expected of them and how they will be measured. Regular reporting is in place to keep track of results. These reports vary from annual statistical reports to monthly status reports from LA2000 regarding LAO performance as well as the status of their workload.

The LA2000 reporting system provides information related to the status of the files, the number and list of files opened, ERO activities, and districts' and employees' activities. Periodic and ad hoc reports on performance information are produced. In our view, however, additional standardized reporting on agreed upon operational measures would be useful to monitor plans and results on a consistent and comparable basis.

For the financial aspect of Part III, the controls in place include allotment controls (flags), coding requirements, and regular reporting regarding forecasts and expenses for salaries as well as for operations and maintenance costs (O&M). Labour managers work with finance officers to keep in line with allocated budgets.

National Headquarters has implemented a follow-up system, Correspondence Issues Management System (CIMS), to keep track of activities and timeframes. Regular reports are useful in ensuring that the questions and issues from the regions are addressed in a timely manner. Other than the extended delays often associated with requests for legal opinions, overall, regional staff interviewed were satisfied with the NHQ response times.

Overall, we conclude that the controls in place are adequate to ensure that operational targets, time frames, and expected results are met.

Audit Criterion No. 2.2.5:

An appropriate mix of proactive and reactive activities is in place to encourage compliance with labour standards

The importance of proactive work has been acknowledged and is part of the Labour Program's planning and reporting processes. However, we have found no basis to determine what an appropriate mix of proactive and reactive activities is. There are no

regional and national targets for proactive activities. We have noted that resources have been allocated from the Treasury Board submission to complete additional proactive activities. In the year 2000-01, proactive activities totalled 12% of primary officer work time, 9% in year 2001-02 and 11% in year 2002-03.

The first priority of LAOs is to respond to complaints and the regions visited said that they could not do more proactive activities because of the high number of complaints received and their limited resources. Increases in complaints workload have been noted but appear to have stabilized (4,794 in 2000-01, 5,476 in 2001-02, and 5,250 in 2002-03). The Detailed Assessment Report of Key Activities to Treasury Board Secretariat indicates that in the remaining two years covered by the submission, Part III resources will continue to be used to implement a proactive inspection program and client education activities. We observed that the Labour Branch is developing proactive programs which are targeting industries which generate the most complaints, such as the National Client Education Strategy & Partnership Initiative and the First Nations' Pilot Project. In our view, however, the setting of national targets or minimum level of activities would be useful in establishing a base for analyzing results, to establish accountability for targeting high risk employers on a priority basis and generally to support consistent program activities across the regions.

While we cannot conclude on whether appropriate mixes of proactive and reactive activities are being conducted, we observed that plans include a mix of activities targeted to high risk employers. Given the priorities of Part III of the CLC and the existing level of resources, we find that the Labour Branch is conducting a reasonable level of proactive activities.

Audit Criterion No. 2.2.6:

Partnerships are developed with employers, unions, employees, other departments and other parties affected by the application of Part III of the *Canada Labour Code*

Many partnerships with stakeholders have been developed by the Labour Program in an effort to be proactive through “partnered education and prevention initiatives”. For example, Labour has entered into numerous partnerships including: Department of Justice; Federally Regulated Employers – Transportation and Communication Union (FETCO); Canadian Bankers Association; and Statistics Canada. Furthermore, it is planned that partners will be consulted as part of the Part III review. We also noted that the regions visited have also developed relationships with national and provincial stakeholders.

In our view the Labour Program works effectively at developing partnerships and at maintaining those already existing for the benefit of all parties, including employers, unions, employees, and other departments affected by the application of Part III of the *Canada Labour Code*.

Audit Criterion No. 2.2.7:

An effective communication strategy is in place to inform employers and employees of their rights and obligations in relation to Part III of the *Canada Labour Code*

As part of the Program Integrity funding received from the Treasury Board, resources were allocated to the Client Education and Training Directorate to implement a client education strategy to complement the Labour Program's Prevention Program based on a sectoral intervention strategy for both Parts II and III of the *Canada Labour Code*. A National Client Education Strategy has been developed for the Road Transport Industry and was released in 2002 and will be extended in 2003/2004 to include working with national and provincial based community colleges and provincial ministries of education.

A lot of information on the Labour Program is available via the Labour internet site. The site includes information on legislation and operational program directives, as well as a series of pamphlets and references to provincial Labour codes. As well, there is an informational CD-ROM available to clients, which is produced semi-annually by the Client Education and Training Division to promote and facilitate compliance with the *Canada Labour Code*.

The Labour Program also created ERO positions as a first contact for employees and employers. The EROs provide information to employees and employers on alternative measures to resolve their problems and on processes.

The regions visited also communicate rights and obligations to employees and employers when dealing with clients who contact the department to obtain information or to submit a complaint. None of the regions visited have a formal communication / promotional strategy for Labour Standards. This communication often occurs informally via the LAOs who either bring/discuss Part III information during Part II Inspections or counselling sessions.

Other informal communications about Labour Standards occur while attending events/conferences, providing information sessions for employers, sending packages to specific industry associations (ex. trucking) and developing partnership with schools and first nations associations. The Client Education and Training Directorate has developed a product development protocol with a goal of ensuring national consistency of the products and information being delivered.

Labour management has acknowledged that tracking of clients is a known challenge and the preferred approach to reach clients is through associations or other known groups of employers.

Although there is no official communication strategy and while more can be done to reach employees and employers, we conclude that communication activities are adequate to inform employers and employees of their rights and obligations in relation to Part III of the *Canada Labour Code*.

2.3 Program Monitoring

Audit Criterion No. 2.3.1:

Quality assurance mechanisms are in place to monitor activities, outcomes and data integrity

Regions visited during the audit had developed their own regional Quality Assurance (QA) models or process for the review of complaint files. Two of the regions visited had implemented a QA model/process. Another region delayed implementation of its QA model and the other has yet to develop a QA process, although other processes were established to ensure quality, such as the review of files by compliance managers and the technical advisor. In our view the numerous versions of regional QA models or processes demonstrate the need for a coherent and consistent approach to QA across the regions. A national quality assurance program is identified as a program priority within the 2003-2004 NLOC Strategic Operational Plan but there are no planned activities and the status is unknown.

We noted that data integrity is a component or discussed within some of the QA models reviewed. Although at the time of the audit, quality check of the data contained within LA2000 was minimal. Data integrity is at risk and, in our view, more should be done to protect and control the quality of the data. We observed that both the NLOC Prioritization Committee and the Labour Operations Directorate have identified the need for adjustments to the LA 2000 system beginning with the issue of duplication of employers.

Recommendation # 4:

We recommend the development and implementation of a national quality assurance framework to ensure sound and consistent approaches to quality management across the regions.

Audit Criterion No. 2.3.2:

Analysis of non-compliance issues and trends is carried-out and used to improve program management

The analysis of non-compliance issues and trends is done on an ad hoc basis in the regions and at NHQ. In our view, given the relatively small size of the organization and the hands-on type of management, managers should be able to detect non-compliance issues. We were told that evolving issues are also discussed during meetings. In addition, the Operations Directorate at NHQ conducts bi-weekly conference calls with regions where problems and issues are shared. As well, a Top 100 list of repeat offenders from NHQ helps managers prioritize their inspection activities during their planning process.

We conclude that the existing approach to identify and analyze non-compliance issues and trends is adequate.

Audit Criterion No. 2.3.3:

Follow-up activities are in place to ensure that international commitments are respected

Part III of the CLC applies only to employment under federal jurisdiction. However, the Labour Program represents the views of Canada abroad on policy matters concerning working conditions, labour relations, labour standards, and occupational safety and health. A large amount of the Labour Program's international work takes place in the context of its ongoing participation in the International Labour Organization (ILO) and the Organization of American States (OAS), as well as in North American, Canada-Chile, and Canada-Costa Rica Labour Cooperation Agreements.

The Strategic Policy and International Labour Affairs Directorate (SPILA) is responsible to provide information to the International Labour Organization on Canadian labour law and practice; monitors, assesses, and reports on Canadian compliance with ratified and unratified ILO conventions; and ensures that federal and provincial government responses to ILO supervisory bodies are provided in a timely manner.

Part III activities are therefore limited to providing information to SPILA. SPILA confirmed that information received was generally adequate and timely. As we recognized that the responsibility for follow-up activities on international commitments does not arise from the administration of Part III of the CLC, this criterion became irrelevant to the audit conclusion.

2.4 Supporting People's Capabilities

Audit Criterion 2.4.1:

Staff have the necessary knowledge, skills and tools to support the achievement of Part III of the Canada Labour Code's objectives

The responsibility for the development and delivery of most of the LAO training resides with the Client Education and Training Directorate at NHQ. When hired, staff initially receive mandatory training for three weeks. Furthermore, during their first few months, most of the staff are paired with an experienced officer who acts as their mentor. Also, the technical advisors and managers focus their quality assurance activities on new employees to ensure that any weaknesses or training needs are identified.

Most of the staff interviewed felt that they have the necessary knowledge, skills and tools to support the achievement of Part III, but many mentioned the need for refresher training. At the time of the audit, the Client Education and Training Directorate had identified refresher training as an area to be addressed and was using part of the initial training for new employees as a refresher session. This initiative may be expanded if successful. Mediation, Alternative Dispute Resolution and Bankruptcy training were also identified as being very helpful to the LAOs. However, technical advisors interviewed identified the lack of specialized training for their position as an area for improvement.

The majority of employees stated that they either have learning plans or were encouraged to have one. The training needs of LAOs are also identified during performance reviews and meetings.

In terms of support and tools, staff mentioned that they receive good support from their technical advisors. Also, the OPDs and IPGs were identified as good tools despite concerns that some are outdated and do not reflect the current workforce environment, as previously stated in section 2.1.5 of this report.

We conclude that overall, staff has the necessary knowledge, skills, and tools to support the achievement of Part III of the *Canada Labour Code's* objectives.

Audit Criterion No. 2.4.2:

Internal communication processes support Part III of the *Canada Labour Code's* values and the achievement of its objectives

Overall, staff interviewed found that the internal communication processes were effective. Internal communication was mainly done through meetings, emails, national and regional committees, informal discussions, and NLOC. LAOs and EROs felt that they had easy access to technical advisors and their managers. Technical advisors and regional managers interviewed were both pleased with the improvement in communications with NHQ. We observed openness to greater collaboration and transparency between regions and NHQ on national issues.

In our view, the Labour Program has sufficient internal communication processes to support Part III of the *Canada Labour Code's* values and to achieve its objectives.

3. CONCLUSION

Based on our audit work and with the successful implementation of management’s action plan to address the issues identified in this report, we conclude that Part III of the *Canada Labour Code* program activities are appropriately managed.

In our professional judgment, sufficient and appropriate audit procedures have been conducted and evidence gathered to support the accuracy of the conclusions reached and contained in this report. The conclusions were based on a comparison of the situations as they existed at the time against the audit criteria. The conclusions are only applicable for the administration of Part III of the *Canada Labour Code*.

This internal audit was conducted in accordance with the Treasury Board Policy on Internal Audit and the Institute of Internal Auditors Standards for the Professional Practice of Internal Auditing.

APPENDIX A: AUDIT OBJECTIVES, CRITERIA AND METHODOLOGY

AUDIT OBJECTIVE

The objective of this audit was to assess the management of Part III of the *Canada Labour Code* program activities to ensure that the provisions of the Code are respected in the workplace.

AUDIT CRITERIA:

1.1 Program Mandate/Strategy

- 1.1.1 The mission, priorities, and objectives for the administration of Part III of the *Canada Labour Code* are clearly stated and understood;
- 1.1.2 Planning and resourcing exercises are regularly undertaken to ensure that objectives are met;
- 1.1.3 A human resource plan is in place supporting the availability and development of a knowledgeable workforce;
- 1.1.4 An adequate strategy/plan is in place for integrating technology into business lines;
- 1.1.5 Part III policies, procedures and guidelines are clear, timely and appropriate; and
- 1.1.6 An understanding of business risks is evident and appropriate strategies are developed to set priorities and mitigate risks.

1.2 Accountability for Results

- 1.2.1 Roles, responsibilities, authorities and accountabilities are clearly defined, understood and transparent;
- 1.2.2 Relevant performance indicators are in place and used at all levels of the organization;
- 1.2.3 Information on program results is timely, relevant, accurate and available for reporting and decision making;
- 1.2.4 Adequate controls are in place to ensure that operational targets, time frames, and expected results are met;
- 1.2.5 An appropriate mix of proactive and reactive activities is in place to encourage compliance with labour standards;
- 1.2.6 Partnerships are developed with employers, unions, employees, other departments and other parties affected by the application of Part III of the *Canada Labour Code*; and

- 1.2.7 An effective communication strategy is in place to inform employers and employees of their rights and obligations in relation to Part III of the *Canada Labour Code*.

1.3 Program Monitoring

- 1.3.1 Quality assurance mechanisms are in place to monitor activities, outcomes and data integrity;
- 1.3.2 Analysis of non-compliance issues and trends is carried-out and used to improve program management; and
- 1.3.3 Follow-up activities are in place to ensure that international commitments are respected.

1.4 Supporting People’s Capabilities

- 1.4.1 Staff have the necessary knowledge, skills and tools to support the achievement of Part III of the *Canada Labour Code’s* objectives; and
- 1.4.2 Internal communication processes support Part III of the *Canada Labour Code’s* values and the achievement of its objectives.

The assessment of compliance with the requirements of the *Code* was limited to a review of plans, strategies and information to achieve compliance. As well, the quality of service to Canadians was not covered by this audit, given that a national client service satisfaction survey was undertaken by the NHQ Operations Directorate in early 2003.

This audit was conducted in NHQ and at the regional level. The following regions were selected for examination: Ontario, Saskatchewan, Alberta/NWT and Nunavut, and Quebec.

AUDIT METHODOLOGY:

The audit approach for this project included:

- Review of studies, internal audits, program evaluations and various committees’ minutes to understand program issues, constraints and progress;
- Review documentation on program activities and program results;
- Flowcharting Processes;
- Interviews with Labour Management and staff in National Headquarters responsible for the administration of Part III of *Canada Labour Code*;
- Interviews with Regional Labour Directors/Managers and staff;
- Documentation review to supplement interview information; and
- Data analysis on program activities.

APPENDIX B: MANAGEMENT ACTION PLAN

This appendix provides the details of management’s response to IARMS’ recommendations.

IARMS RECOMMENDATIONS	MANAGEMENT PLAN	EXPECTED COMPLETED DATE	RESPONSIBILITY
<p>1. Reassess the rationale for A-Base funding distribution among NHQ and regions and if needed to develop an appropriate resource allocation model.</p>	<p>The Labour Program recognizes the need to assess the A-Base resources both at headquarters and in the regions and to determine if they are sufficient to ensure program delivery. A report for departmental review and action will be produced for December 2004.</p>	<p>December 31, 2004</p>	<p>ADM Labour ADM FAS</p>
<p>2. Determine which Operations Program Directives (OPDs) and Interpretation Policies and Guidelines (IPGs) should be re-examined and clarified, and plan for revisions within a reasonable timeframe.</p>	<p>The regions have been contacted to ascertain what priorities exist for field delivery and these will be combined with the requirements of headquarters to determine a timeframe for review and revision of existing OPDs and IPGs as well as the creation of new OPDs and IPGs. The list will be included in the National Strategic Plan. A work plan is being developed for approval under the new governance structure.</p>	<p>A timetable will be established with the technical advisors by the first week of June 2004. The problem described at 2.1.5 and 2.1.4 concerning the operation of the templates in LA2000 has been eliminated and all of our templates are now functioning properly</p>	<p>Director, Labour Standards & Workplace Equity</p>
<p>3. If the legislative review of Part III of the <i>Canada Labour Code</i> is further delayed, conduct a review of the prosecution and collection practices to better assist the clients in recovering their wages.</p>	<p>Authority has been received to conduct a legislative review of Part III of the Code. The consultation phase of this review has commenced in the last quarter of 2003-04 and will continue through fiscal year 2004-05 with final recommendations for legislative reform to the Minister.</p>	<p>It is anticipated that legislative change proposals will be ready by during the fiscal year 2005-06.</p>	<p>Director, Labour Standards & Workplace Equity</p>
<p>4. Develop and implement a national quality assurance framework to ensure sound and consistent approaches to quality management across the regions.</p>	<p>Several of the regions of the Labour Program have initiated quality assurance programs. The Labour Program recognizes the need for consistency in all regions and the Operations Managers Sub Committee to NLOC has been tasked with the responsibility to develop a national quality assurance program for all business lines of the organization.</p>	<p>A proposal was submitted to NLOC and approved. Detailed work will be completed by the end of the fiscal year 2004-2005.</p>	<p>Director General Operations</p>