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Working Paper

Social Dialogue in Panama: the road towards democracy

Marleen Rueda Catry

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Preface

The promotion and strengthening of social dialogue is one of ILO's strategic objectives. In pursuit of that objective, the Infocus Programme on Social Dialogue, Labour Law and Labour Administration has developed a project to study the institutions, mechanisms and processes in ten countries, promote social dialogue and provide technical assistance to Member States interested in strengthening social dialogue. This report, which represents a part of that project, seeks to analyse the mechanisms and institutions for social dialogue in Panama, focusing on their strengths and weaknesses.

Panama has a wealth of experience in the field of social dialogue, having for the most part been accumulated during the past ten years, which have seen major social dialogue processes on issues as fundamental as the transition to democracy and the handing over of the Panama Canal from the United States to Panama. This study looks at these and other processes, such as the negotiations aimed at establishing the minimum wage and those relating to the reform of the Social Security Fund, which were taking place as this report was going to print. It also looks at the workings of the Labour Foundation (FUNTRAB), which has been in existence for ten years and is one of the few examples of bipartite forums to be found in Latin America.

The study also reflects the way in which the social players perceive the mechanics and results of the various processes, which are not without conflict, in an attempt to identify strengths and weaknesses. It should be pointed out that the social players have demonstrated a high level of maturity in assuming their responsibilities, despite the divisions that are to be found in the trade union movement and the employer sector.

I would like to record my appreciation to the social actors in Panama the Philippines who generously shared their experience and expertise with us and to Marleen Rueda, Social Dialogue Specialist in the Infocus Programme on Social Dialogue, Labour Law and Labour Administration, who was responsible for undertaking this country study.

May, 2002

Patricia O'Donovan
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I would like to thank in particular the social partners in Panama for the time invested in transmitting their vision and evaluation of the processes, to the Labour Foundation, CONATO, CONEP and the various officers in the Ministry of Labour and Labour Development; to the United Nations Programme for Development (UNDP), and in particular to Isabel Saint-Malo, whose direct experience in the processes organised by UNDP enriched this study. The excellent material published by the organization (the different Record of the Bambitos and the book “Cuando los Políticos Cumplen”,¹ by Mario Solórzano Martínez) served as basic material to describe and evaluate these processes. I would also like to thank the help provided by the ILO correspondence in Panama and to Rolando Murgas for sharing with us his extraordinary experience in the field of labour relations and contributing his comments to the study.

Finally, I would like to highlight the excellent cooperation established between the Infocus Programme on Social Dialogue, Labour Law and Labour Administration, ILO, Geneva, and the technical cooperation programme on Strengthening Social Dialogue in Central America (PRODIAC) in the ILO Multi-Disciplinary Team in San Jose, Costa Rica, that resulted in the elaboration of this report.

Sole responsibility for the opinions expressed in this text lies with the author.

¹ When politicians fulfil.

List of Abbreviations

ADOC	Alianza Democrática de Oposición Civilista/Democratic Civil Opposition Alliance
APEDE	Asociación Panameña de Ejecutivos de Empresa/Panamanian Association of Business Executives
APEMEP	Asociación para la Pequeña y Mediana Empresa/Association for Small and Medium-Sized Enterprises
ARI	Autoridad de la Región Interoceánica/Interoceanic Region Authority
CATI	Central Auténtica de Trabajadores Independientes/Authentic Central of Independent Workers
CCIAP	Cámara de Comercio, Industrias y Agricultura de Panamá/Panamanian Chamber of Commerce, Industry and Agriculture
CGTP	Central General de Trabajadores de Panamá/General Union of Workers of Panama
CNTP	Central Nacional de Trabajadores de la República de Panamá/Association of Workers of Panama
COCENTRA	Coordinadora Centroamericana de Trabajadores/Central American Workers' Coordinator
COMENENAL	Comisión Médica Negociadora Nacional/National Medical Negotiating Commission
CONATO	Consejo Nacional de Trabajadores Organizados/Panamanian Council of Organized Workers
CONEP	Consejo Nacional de la Empresa Privada/National Council of Private Enterprise
CONUSI	Confederación Nacional de Unidad Sindical Independiente/Independent National Confederation of Labour Union Unity
CPUSTAL	Congreso Permanente para la Unidad Sindical de los Trabajadores de America Latina/Permanent Congress for Trade Union Unity in Latin America
CSS	Caja del Seguro Social/Social Security Fund
CTRP	Confederación de Trabajadores de la República de Panamá/Confederation of Workers of the Republic of Panama
CUT	Central Unitaria de Trabajadores/Single General Union of Workers
FAD	Fondo de Ayuda al Desarrollo/Development Aid Fund
FDN	Fuerzas de Defensa Nacional/National Defence Forces
FENASEP	Federación Nacional de Servidores Públicos/National Federation of Public Servants
FSP	Federación Sindical Panameña/Panamanian Trade Union Federation
FUNTRAB	Fundación del Trabajo/Labour Foundation
ICFTU	International Confederation of Free Trade Unions
IDB	Inter-American Development Bank
IEO	International Employers' Organization
INAFORP	Instituto Nacional para la Formación Profesional/National Vocational Training Institute
IPEL	Instituto Panameño de Estudios Laborales/Panamanian Institute for Labour Studies
MONADESO	Movimiento Nacional de Rescate de la Soberanía/National Movement for the Recovery of Sovereignty
ORIT	Organización Regional Interamericana de Trabajadores/Inter-American Regional Organisation of Workers
PASCA	Proyecto Acción SIDA de Centroamérica/Central American AIDS Action Project
PRD	Partido Revolucionario Democrático/Democratic Revolutionary Party
PROALCA	Proyecto de Apoyo a la Participación de Centroamérica en Tratados de Libre Comercio/Program Supporting Central American Participation in the Free Trade Area of the Americas
SANTRAICO	Sindicato Auténtico Nacional de Trabajadores de la Construcción y Similares/National Authentic Union of Construction Industry and Related Workers
SIECA	Secretaría de Integración Económica Centroamericana/Secretariat for Central American Economic Integration

SUNCTRACS	Sindicato Único de Trabajadores de la Construcción y Similares/National Union of Workers of the Construction Industry and Related Occupations
UNDP	United Nations Development Programme
UNPYME	Unión Nacional de la Pequeñas y Medianas Empresas/National Union of Small and Medium-Sized Enterprises
USAID	United States Agency for International Development
USMA	Universidad de Santa María la Antigua/University of Santa María la Antigua

Chapter 1 - Introduction: An overview

Situated on the isthmus which links the northern and southern parts of the American continent, Panama is a country whose twentieth-century history was strongly marked by its strategic location and influenced to a considerable degree by the United States of America. Having gained its independence from Spain in 1821, Panama remained under Colombian rule until 1903, when it proclaimed itself an independent republic.

During its first year of independence, Panama signed a treaty with the United States under which the latter acquired the right to construct a canal and enjoy sovereignty over a strip of land - the Panama Canal Zone - on either side of it. The 50-mile long canal was constructed between 1904 and 1914, linking the Caribbean Sea and Pacific Ocean. The project represented one of the major engineering works of the twentieth century.

The first ship to travel the length of the Panama Canal did so on 7 January 1914. The canal can accommodate ships with a draught of 12 metres, which means that ninety per cent of the world's cargo ships can pass through it.

Until the end of the Second World War, Panama was controlled by a handful of families. After the war, however, the country's politics were increasingly dominated by anti-American feelings stemming from dissatisfaction over the United States' control of the canal and its exclusive jurisdiction over the Canal Zone.

In 1964, nationalist discontent in Panama boiled over into anti-American protests which led to a temporary break in diplomatic relations between the two countries. Despite an undertaking to renegotiate the treaty, the protests continued.

A limited commercial oligarchy dominated the political scene until 1968, with popular political figures such as Arnulfo Arias Madrid, who was elected president four times between 1940 and 1968. In October 1968, the Arias Government fell after eleven days of military rule, heralding the start of a new era in Panamanian politics after two years of conflict at the top, with the emergence of Colonel - and subsequently General - Omar Torrijos as the new strong man. In 1972, General Torrijos introduced a new constitution which outlawed political parties and gave him extraordinary powers for a period of six years. The year 1977 saw the culmination of 13 years of negotiations with the signing of a number of agreements with the then United States President, Jimmy Carter, for the handing over of the canal and United States bases to Panama on 31 December 1999. General Torrijos allowed the re-establishment of political parties in 1978 and the creation of the Democratic Revolutionary Party (PRD) to organize social support for the Government. As Commander of the National Guard, General Torrijos effectively controlled the country until his death in a plane crash in July 1981.

In 1984, following a series of constitutional changes, the first democratic elections were held and were won by Artito Barletta at the head of the PRD. However, it was still the military that wielded the power, and General Manuel Antonio Noriega, who in August 1983 had taken over as Chief of the National Defence Forces (FDN), forced Barletta to resign in 1985. A series of presidents then came and went, during which time the United States accused Noriega of engaging in illegal activities, including drug trafficking and money laundering. Similar accusations also began to be heard within the country, giving rise in 1987 to a civil crusade to demand the General's resignation and the holding of elections.

In the presidential and legislative elections held in May 1989, international observers ascribed victory to Guillermo Endara Galimany, the candidate for the Democratic Civil Opposition Alliance (ADOC), an opposition party. However, the results of the election were annulled, thereby souring diplomatic relations with the United States and other countries. A series of incidents between Panamanian and United States soldiers led the Legislative Assembly to declare, in mid-December 1989,

that Panama was at war with the United States, whereupon the latter announced that thousands of its citizens living in Panama were in danger and invaded the country on 20 December. The invading troops captured General Noriega and transported him back to the United States, where he was judged and condemned to a prison term of 40 years.

Guillermo Endara was declared President, but his administration was repeatedly accused of corruption and incompetence, leading to splits in the coalition he headed. This enabled the PRD to return to power in May 1994, its candidate, Pérez Balladares, winning the presidency with 33 per cent of the vote in what were considered to be fair elections.

Balladares pushed forward a package of economic reforms with the support of minority parties in the General Assembly. The most serious challenge he faced came in mid-1995 with a violent trade union protest against reforms in the Labour Code which left nine people dead. Pérez Balladares announced his intention to stand again in the 1999 elections, but in a referendum held in August 1998 voters decided to maintain the ban on immediate re-election. The PRD therefore selected Martín Torrijos, son of the party's founder, as its candidate. However, the general dissatisfaction with the economic reforms helped Mireya Moscoso of the opposition coalition Union for Panama to win the presidential elections held on 22 May 1999, thus making her, as from 1 September 1999, the country's first woman President.

Population

According to the census taken in May 2000, Panama has a population of 2.81 million, whose ethnic diversity has much to do with the mass immigration that took place during the years in which the canal was constructed. Indigenous groups form eight per cent of the population.

Economy and labour force

The Panama Canal, the Colón Free Zone and the International Banking Centre are the reasons why the Panamanian economy is heavily dominated by the services sector, which represented 76 per cent of GDP in 1999.¹ These sectors have helped to ensure that Panama has a relatively high per capita income by comparison with other countries of the sub-region (USD 2 548 in 1999)², but have also led to the distribution of that income being very unequal on account of their comparatively small contribution to the employment market. According to United Nations poverty indicators, the 20 per cent of the population at the top end of the wealth scale takes in 54 per cent of the income, while the figure for the poorest 20 per cent is only 4.5 per cent. The distribution of wealth is also unequal between urban and rural areas, with 75 per cent of the economic activity concentrated in the metropolitan areas of Panama City and Colón. By contrast with the situation in Panama's Central American neighbours, agriculture and livestock account for only some eight per cent of GDP.³

Of a labour force totalling 1 089 000 in 1999, the number of persons in employment was 962 300, making the unemployment rate 11.7 per cent. The proportion of women in employment has increased in recent years, although the 43.3 per cent participation rate in 1999 is still very much lower than the 79.9 per cent in that year.

¹ Panama: EIU Country Profile 2000, The Economist Intelligence Unit, p. 17.

² At constant 1982 prices.

³ Ibid, p. 18.

Tripartism and social dialogue

Tripartism is a relatively recent phenomenon in Panama, having come into being only in the early 1970s with the adoption of a new Labour Code. With trade unionism having previously been shunned for reasons that were basically cultural, the new Code sought to establish the bases for collective labour relations, improving support for trade unionism, promoting collective bargaining and legalizing strike action, until then formally recognized but illegal in practice. These reforms increased the tensions between the worker and employer sectors, the latter being highly critical of the changes. The three traditional currents within the trade union movement, which had thus far not engaged in any dialogue, supported the reform of the Code and established, thanks to the emergence of the new dialogue, the Panamanian Council of Organized Workers (CONATO).

The new Code brought with it a new and ambitious model for tripartite councils, with the establishment of the Committee on Freedom of Association, the Maritime Labour Commission and the Minimum Wage Commission. However, the actors paid little attention to these tripartite bodies, according greater significance to collective bargaining. Whereas some 70 collective agreements had been signed in the period 1948 to 1971, for the most part on a renewal basis, more agreements were signed in a single year under the new Code than in the whole of the aforementioned period. Although trade unionism by branch of activity had been created, collective bargaining took place basically at the company level.

With the crisis of the 1970s, the easy credit facilities previously made available by the banking sector contracted, giving rise to a problem of company liquidity and a serious economic crisis. Against this background, the year 1976 saw the approval of a labour reform which, in the eyes of certain sectors, was a "tough" one which demonstrated that the Government had lost interest in fostering good collective relations and social dialogue.

It was not until 1981 that the Government displayed renewed interest with the establishment of the Labour Council in the interests of counteracting the reform of 1976, some of whose provisions were cancelled. An attempt was made at concertation, although using a more direct model, there being no political interest in using the existing social dialogue entities. Nor were those mechanisms used in the latter part of the 1980s, at the height of the economic crisis, even though in those years too there was talk of concertation.

It was only in the early 1990s that the phenomenon of social dialogue came fully into its own at widely differing levels and in different forms, giving rise to processes of national consultation that were strongly linked to the political changes taking place within the country: the first democratic elections after over two decades of dictatorship and the return of the Panama Canal and adjacent areas, those events having together given rise to two key social dialogue processes, known as the "Bambitos" and the "Coronados", which in turn resulted in fundamental political undertakings between the social forces.

The first major encounter between the social actors, known as "Bambito I", took place in 1993 with the aim of establishing the main lines of State action and the priority areas of concern for the country in the run-up to the first democratic elections to be held since the dictatorship of General Noriega. During this process and the two Bambito meetings which followed later, all of the political parties which presented themselves for the presidential elections pledged to include in their government programme those areas of concern deemed by the social actors to have priority status.

Following the "Bambitos", there was a second major social dialogue process aimed at addressing the handover from the United States to Panama of the Panama Canal and Canal Zone. The so-called "Coronados" resulted in the unanimous approval by the Legislative Assembly of the Panama Canal Authority Bill, the Draft General Plan for the Use, Conservation and Development of the Canal Zone, and the Draft Regional Plan for the Development of the Interoceanic Region.

The successful "Coronados" were followed by other national social dialogue processes aimed at developing a long-term vision for the country (National Vision 2020) and operational goals and objectives for achieving it, and at agreeing upon the action that needed to be taken in order to strengthen and deepen democracy and contribute to common and sustainable human development (Forum on Governance and State Policies).

Aside from these key processes, which are described in detail at a later stage, there exists within Panama a mechanism for bipartite dialogue: known as the Labour Foundation, it is one of the few examples of institutionalized bipartite dialogue in Latin America. Since its creation in 1992, it has participated in its own right in most of the country's social dialogue processes.

Other forums for dialogue with government participation were established several decades ago, as has already been mentioned. The National Minimum Wage Commission, for example, already figured in the Labour Code of 1945. The purpose of this Commission is to submit a recommendation to the Presidency every two years regarding the increase to be made in the minimum wage. However, its workings have been very irregular, and only on one occasion (in the 1998 negotiations) was agreement reached on the increase to be applied, the corresponding recommendation having been assumed by the Presidency, although not in its entirety.

Other tripartite forums for social dialogue established under the Constitutional Law of 1970, such as the National Council on Freedom of Association and the Maritime Labour Commission, have never been convened. One body that is active is the Trade Union Education Commission created in 1971,⁴ which includes government, workers' and employers' representatives. Furthermore, some institutions include workers' and employers' representatives in their managing bodies. This is so in the case of the National Vocational Training Institute (INAFORP), where workers and employers participate in decisions that have a bearing on the institution's policy and strategy.

Another interesting case is to be seen in the participation of workers and employers in the Boards of Conciliation and Decision, which are tripartite labour justice tribunals with exclusive competence where certain types of dispute are concerned.

The social actors likewise participate in the Interoceanic Region Authority (ARI), the purpose of which is to have custody over, make good use of and administer the property which reverted to the Panamanian State under the Panama Canal Treaty of 1977.

The effective participation of workers and employers has been facilitated by the existence of workers' and employers' confederations, namely CONATO and the National Council of Private Enterprise (CONEP), respectively. It is through these organizations that representatives from the two productive sectors are normally elected to the various participative bodies.

During the aforementioned social dialogue processes, the social actors participated with a high level of maturity and responsibility, although it is true that there were breakdowns in the dialogue on issues as crucial as raising the minimum wage and the Labour Reform of 1995, the effect of this having been to weaken the strength and unity of action of the actors.

Throughout this study we shall be analysing the workings of the various participative bodies that exist for the social actors, as well as the various mechanisms and processes, pointing out their strengths and weaknesses so that the study can serve as a basis for discussion among those same actors, who will be able to put forward measures for their improvement.

⁴ Ministerial decree 168 of 1971.

Chapter 2 - Social dialogue - the actors

There are no generally accepted data regarding the rate of affiliation, although estimates by the workers' confederations themselves put the number of organized workers in Panama at 230 000, which, out of an economically active population of 1 075 000, gives an affiliation rate of around 21 per cent - one of the highest in the sub-region. Other sources put the rate at between 9 and 12 percent.

As is the case in the other countries of the sub-region, Panama has a large number of trade union organizations covering all sectors of the economy. Whereas in 1993 there were four general unions, that number has now risen to seven, making it difficult to achieve the coordination that is required in order to defend common positions at the negotiating table. The major workers' confederations are *Convergencia Sindical* (CS), the *Confederation of Workers of the Republic of Panama* (CTRP), both of which are affiliated to *ICFTU/ORIT* (International Confederation of Free Trade Unions / Inter-American Regional Organisation of Workers); the *Association of Workers of Panama* (CNTP), affiliated to *WFTU/CPUSTAL* (World Federation of Trade Unions / Permanent Congress for Trade Union Unity in Latin America); and the *General Union of Workers of Panama* (CGTP), which is Christian-based.

A particularly diverse and representative union is the recently created *Convergencia Sindical*,⁵ which encompasses the *National Federation of Public Servants* (FENASEP), the body representing public sector workers (some 135 000 declared members). According to membership figures provided by the confederations themselves, numbers vary from the 40 000 claimed by CGTP to the 130 000 claimed by *Convergencia Sindical*. Aside from these figures, there seems to be no disputing the representativeness of the general unions that come under the umbrella of CONATO in the country's various participative forums.

Despite the trade union dispersal referred to above, efforts have for several years been under way to coordinate the trade union movement. The clearest expression of this is to be seen in CONATO. Established in 1983, CONATO comprises six general unions and two federations, namely FENASEP and the independent Panamanian Trade Union Federation (FSP). CONATO has a consultative character and is financed by means of contributions from its members and a contribution from the Education Insurance through the State. Attention should also be drawn to the efforts being made by a group of trade union organizations to achieve organizational unity.⁶ These organizations are CTRP, *Convergencia Sindical*, CNTP (affiliated to WFTU/CPUSTAL) and FSP (independent). This process began in 1999 and first came into public view with the holding of the "Declarative Congress", at which a target period of three years was set for final constitution as the *Single General Union of Workers* (CUT).

Another experiment in organizational unity undertaken in 1994 was the one that gave rise to the *Independent National Confederation of Labour Union Unity* (CONUSI),⁷ which initially brought together the former *Authentic Central of Independent Workers* (CATI) (now defunct), the *National Union of Workers of the Construction Industry and Related Occupations* (SUNCTRACS) and a rural workers' sector. The membership also currently includes the telephone and electricity workers' unions.

⁵ *Convergencia Sindical* held its constitutive congress in 1995.

⁶ Mission report, ILO, May 2001.

⁷ Its first Ordinary Congress took place in November 2000.

At the international level they are members of the Central American Workers' Coordinator (COCENTRA). In certain quarters they are considered to be under the control of "Trotskyist" sectors.⁸

Despite these organizational unity and coordination efforts being made through CONATO, no quantitative or qualitative improvement would appear to be taking place in the trade union movement. The establishment of new general unions is inversely proportional to the establishment of new grass-roots unions. The appearance of a new general union⁹ does not necessarily signify the formation of new sectors of organized workers, since it is made up of existing unions in a situation which often gives rise to serious conflicts between the general unions themselves, which compete in order to bring those existing unions under their wing.

These divisions in the trade union movement have come to the fore in extremely important bargaining processes, as happened during the latest round of minimum wage negotiations. A number of confederations accused the radical wing of CONATO, made up of CONUSI and SUNCTRACS, of having bombarded the social dialogue processes by taking inflexible positions during the talks.

Recently too there has been a split within SUNCTRACS, giving rise to a new construction workers' union in the form of the National Authentic Union of Construction Industry and related Workers (SANTRAICO). This new union has come under strong attack from SUNCTRACS, which accuses it of pandering to government and employer interests. SANTRAICO has pledged to pursue its objectives by means of dialogue.

So far as employers' organizations are concerned, the vast majority are grouped together within CONEP, which was founded on 3 July 1964 and which currently represents the interests of 26 employers' associations and national and provincial chambers of commerce.

CONEP too has had its share of internal conflicts. In 2000, the Panamanian Chamber of Commerce, Industry and Agriculture (CCIAP) decided to renounce its membership of CONEP, which had, it alleged, lost touch with the functions for which it had been created, namely to serve as the political arm of the private sector, a function which saw its greatest expression during the final years of the military dictatorship. According to CCIAP, once that situation had ceased to obtain, CONEP's significance waned.

A number of workers and employers who were interviewed for this study acknowledged that their organizations suffered a degree of institutional weakness. Insufficient resources meant that they could employ only a handful of people on a full-time basis. This results in a lack of preparedness and technical capacity when it comes to participating in the various forums for dialogue and in efforts focusing on the burning issues of the moment, such as the minimum wage, labour reform and the social security system. The institutional weakness is also to be seen in the excessive part that is played in the functioning of the various organizations by their leaders, resulting in a breakdown in continuity whenever there is a leadership change.

⁸ Mission report, ILO, May 2001.

⁹ Forty workers are needed in order to organize a union; two unions (i.e. a minimum of 80 workers) are needed to form a federation; and two federations are required for a general union. A general union can therefore represent 160 workers.

Chapter 3 - Forums for social dialogue and their functioning

3.1 Social dialogue processes in a context of political change

The Bambito meetings: Panama and the 1980s crisis

Panama, with its tertiary- and export-based economy, exploits the comparative advantage of its geographic location and of the services it is thus able to provide to the world trading system, and this gives rise to the country's own particular process of internal socio-economic, and perhaps also political, structuring. The country's productive structure is characterized by the predominance of its trading activities and services linked to international trade, and by a high degree of geographic concentration along the Panama-Colón corridor.

This strength, maintained over decades, has enabled Panama to benefit from the growth cycles in the global economy, generating employment for a large part of the population. It was this which helped to keep social pressures deriving from structural adjustment policies at a low level when in other latitudes those pressures were a breeding ground for internal conflict. Structural poverty remained for the most part in rural areas, where a subsistence economy prevailed.

It could be said that the “crisis” came to Panama through the political sphere before becoming economic and, to a lesser extent, social, this being precisely the opposite to what happened in other countries of the region.

These particular features of the Panamanian context also had a bearing on the way in which the “menu” of “structural adjustment programmes” was applied, i.e. with less orthodoxy and firmness than was seen in other countries (although it was implemented in other areas such as fiscal policy, labour reforms, or most recently, external openness) in relation to monetary and exchange policies. As a result, the country did not have to deal with the harshness of the effects that such policies unleash on populations already suffering the results of the previous model, which gave rise to the crisis. By the same token, the demand made on compensation benefit schemes was not such as to jeopardize the economic and political spheres, as was the case in other countries of the region.

Despite this, and as the United Nations Development Programme (UNDP) explained in the report on Bambito III,¹⁰ the continuing social imbalances, together with the social unrest that stems from corruption within the very institutions that are supposed to resolve citizens' problems, bore witness to the persistence of a social crisis and to the emergence of another crisis, this time institutional, namely the governance crisis.

These crises, which jeopardized the achievements made in other spheres, had to be overcome as a matter of urgency. To this end it was necessary, on the one hand, to draw up and successfully apply State policies aimed at reducing poverty and social exclusion, while on the other hand re-introducing transparency at the institutional level.

¹⁰ Report of the Second National Human Unity and Development Meeting, Bambito II, page 7.

The underlying idea was that, although governments were ultimately responsible for the success or failure of the formulation and application of such policies, their drawing up should not be a matter of indifference to political parties, employers' and workers' organizations or universities. It was not merely a matter of applying government policies in an attempt to reduce poverty and reintroduce institutional transparency: these were State policies involving every member of society. In this context, it was social dialogue and political consultation that proved to be the most appropriate strategy for achieving basic consensus vis-à-vis the goals of well-being and transparency and the policies to be applied in order to achieve them.

With these aims in view, and at the initiative of UNDP, the United Nations office in Panama in 1993 invited the leaders of the country's political and social organizations to enter into discussions for the purpose of reaching basic agreements with respect to the nature of the high-priority and urgent matters which the Panamanian State and society had to address, and the general approach to be taken with respect to those matters.

The invitation met with a favourable response from the various political and social organizations and gave rise to the first "National Human Unity and Development Meeting" in the town of Bambito in August 1993, where the participants identified, by consensus, six priority topics to be considered within the context of State policies. A second and third meeting were held in April and December 1994, on each occasion under the auspices of UNDP. These processes are described below.

First National Human Unity and Development Meeting: Bambito I

In 1994, Panama held its first democratic elections following 21 years of dictatorship. This process, already complex enough, was made all the more delicate by the fact that it coincided with the implementation of the transitional arrangements necessitated by the handover of the Panama Canal in 2000.

It was against this backdrop, and under the auspices of UNDP, that the First National Human Unity and Development Meeting was held. It was attended by members of all of the political parties belonging to the government alliance, labour and trade union organizations, the Church, the university sector and, by special invitation, Belisario Betancur, ex-President of Colombia, and Julio María Sanguinetti, ex-President of Uruguay, who together led the discussions.

The objective of the meeting was to establish a commitment to dialogue and governance, and to foster among the participants an open dialogue focusing on the priority areas of concern arising from the political, economic and institutional transition that Panama would be facing in the years ahead.

In this remote location in the province of Chiriquí, without any means of communication, with no direct participation from the transitional government and with an agenda designed to facilitate personal communication between the participants, the latter shared information on the country's situation, basing themselves on a number of documents prepared by United Nations staff who had previously held conversations with each participant.

Several working groups were formed and each of them was asked to identify the main problems which should form an essential part of the next government's working agenda. The groups succeeded in identifying and establishing the State programmes that would be the minimum required in order to carry through an institutional, social, political and economic reform within the country. The main subject areas identified were unemployment and poverty, education and health, the reverted land areas and industrial modernization.

From the presentations made by each group it became clear that there were many areas in which all the participants were in agreement. The result of this was the "Bambito Declaration", in which, by general consensus, the leaders and representatives of the participating organizations pledged to include specific topics as the basis of the respective programmes of the political parties; in other words, irrespective of who won the elections, everyone undertook to formulate government programmes that were in line with the priorities decided by the participants, on behalf of Panamanian society.

The State agenda called for by all the participants focused on the following six priority objectives:

- strengthening of national independence and democracy;
- achievement of political agreements conducive to the successful administration and operation of the Panama Canal;
- economic and social development geared towards quality of human life, through combating unemployment and poverty;
- modernization of the education and health services;
- coordination of national energies to achieve the genuine integration of the land areas recovered and to be recovered, as part of the strategy for the economic and social development of the Republic of Panama;
- improving administrative efficiency and strengthening judicial independence.

For the political parties, this implied the adoption of a general policy to be followed in the programmes they would be putting forward with a view to the elections to be held the following year.

The result of the meeting was the commencement of a dialogue which revealed the common conviction that Panama was facing a decisive moment in its history that transcended the electoral period. Furthermore, the participants undertook to leave open a space for dialogue and concertation. It was agreed at the meeting that the dialogue would take place under the auspices of the United Nations and participating universities, and that it was to focus first and foremost on certain topics to be incorporated into the programmes of the political parties.

The meeting also had the effect of raising the level of trust among the social actors, bringing together national political leaders in an environment which afforded them an opportunity to discuss matters away from public pressures and everyday stress. The informal agenda enabled the political elite to meet and to hold discussions aimed at boosting confidence in the process and in the electoral result.

Second National Human Unity and Development Meeting: Bambito II

Bambito II was another highly significant meeting for Panama. As a preamble to the national elections of 8 May 1994, the presidential candidates and the most senior representatives of Panamanian civil society came together on the morning of 4 April to reiterate their commitment to the Bambito Declaration of August 1993.

The meeting was attended by five presidential candidates, the Labour Foundation, the Catholic Church, the rectors of the country's universities, special guests from Panama and elsewhere, and officials from the United Nations office in Panama. Among those who did not participate were Ms Mireya Moscoso, candidate for the Arnulfista party, and Rubén Blades of the Papá Egoró party, who were to take second and third place in the elections held on 8 May of that year.

The various presidential candidates¹¹ ratified the Bambito I agreements in Panama City and put forward programme proposals relating to each of the priority topics identified by the participants in the previous Bambito meeting. The meeting was also significant by virtue of the fact that Panama's political and social organizations once again expressed their interest in pursuing the search for consensus-based responses to the major challenges and problems facing the country. The then president, Eduardo Vallarino, described the meeting as a "tremendous success", observing that the spirit of Bambito was to be found in the approach adopted by every single presidential candidate, and that that was the sign of a mission fulfilled with tremendous success.¹²

During the same meeting, CONEP President Dario Selles and CONATO representative Aniano Pinzón Real, both co-presidents of the Labour Foundation, presented a discussion document entitled "Bases of a coordinated strategy for national development", which would be of great importance in the third meeting. The document sought to advance a common platform with respect to the topics that had been discussed within the Foundation, in view of the urgency of creating a strategy that was independent from the political debate and free from the influence of interests that were unconcerned with the well-being of the Nation, and that was formulated by both the worker and employer sectors. In his speech, Mr Pinzón declared that within the Labour Foundation, workers and employers were making a major effort in favour of the country's development, overcoming their traditional positions of defending sectoral interests and expressing their ability to reach agreement on a series of issues which in previous years had been regarded as insoluble. The Labour Foundation wished to share that preliminary proposal and to place its energies at the disposal of the new government, once elected.

While not having the weight or significance of its predecessor, Bambito II served to confirm the spirit of political detente and boost confidence in the process, while enabling the presidential candidates to reiterate their commitment to the agreements signed in Bambito I. In other words, it put the finishing touches to the climate of calm and confidence within which the elections took place.

The success achieved by the Bambito I and II initiatives was to be seen in the reduction in political tensions, the holding of model elections and the broad acceptance of the results of those elections by national and international public opinion.¹³

Third National Human Unity and Development Meeting: Bambito III

Once again under the auspices of UNDP and of the Universities of Panama and Santa María la Antigua, the third National Human Unity and Development Meeting - Bambito III - was held in the town of Bambito on 4, 5 and 6 December 1994. However, this meeting took place at a different political juncture. The potential threat to governance that could be sensed just prior to the elections had disappeared once they had taken place. The country therefore now had a democratically elected government whose actions were supported and had the backing of a majority of the legislature.

In the national and international climate of the moment and from the standpoint of the political parties and Government there was no perceived need to call for national dialogue. Nevertheless, plans

¹¹ The presidential candidates were Rubén Dario Carles (Alliance for Change '94), Samuel Lewis Galindo (Alliance for National Concertation), José Salvador Muñoz (Doctrinarian Party of Panama), Ernesto Pérez Balladares (United People's Alliance) and Eduardo Vallarino (Christian Democratic Party).

¹² Report of the Second National Human Unity and Development Meeting, Bambito II, page 66.

¹³ *Cuando los Políticos Cumplen, Experiencias del Proceso de Negociación Panamá 2000*, M. Solórzano Martínez, UNDP 1997, page 19.

went ahead for a further meeting with the theme of strengthening the political will to consolidate and develop the democratic system.

In the opinion of some of its participants, Bambito III pursued a twofold objective: on the one hand, to institutionalize political dialogue and thereby make it an ongoing process "administered" by Panama's political and social organizations themselves; and, on the other hand, to produce bipartite agreements (Government - civil society) with respect to specific social policies.

For its part, UNDP conducted a series of pre-meeting consultations with the President of the Republic and with the main leaders of Panama's social and political organizations with a view to identifying their expectations in terms of the results of the meeting. By and large, there was found to be a marked interest in discussing the possible institutionalization of the political and social dialogue that had been initiated in the Bambito I and II meetings. While most organizations felt that it would not be possible at this third meeting to have an in-depth discussion of proposals in respect of State policy regarding the agenda items agreed to in Bambito I, it was felt that there should be an opportunity to analyse and reach a consensus on the main objectives that ought to be met by the Republic in relation to those items, as well as to debate any concrete and specific proposals which the participating organizations might advance in relation to those objectives and items. On the basis of its consultations and the findings they produced, UNDP drew up a proposed agenda for the discussions.

However, the objectives proved to be out of step with the prevailing political climate, with a recently elected Government that was starting to take decisions relating to its own party agenda and within its own style of government; a political opposition which had yet to recover from the trauma of its electoral defeat; and a proposal for dialogue that was ambiguous and confused, primarily because it sought to "institutionalize the political dialogue such as to make it a permanent process administered by the political organizations themselves", at a point in time that was anything but favourable (the early stages of a new government). Indeed, during his address to Bambito III, the new President of the Republic, Ernesto Balladares, shared his views on the question of institutionalizing the mechanisms for dialogue and consultation, stating that "any legal obligation to hold consultations which are not binding in nature results in those consultations becoming an obstacle to the decision-making process, and therefore effective consultations cannot be guaranteed. The country has many useful consultation channels of which little use has been made, such as the local government bodies, which tend to be closer to the feelings of the majority than are the major bureaucratic entities. As in the Government, I have on many occasions come upon extremely valuable opinions within unions that do not coincide within institutional positions. Where there is a genuine readiness for discussion, the fewer the formalities, the more fruitful will be the dialogue. Furthermore, a legal obligation to engage in non-binding consultations entails the risk of making those consultations a formality that is complied with for compliance's sake, in the absence of any practical significance whatsoever."¹⁴

These views were greeted with concern by a number of political representatives attending the same event. Camilo Brenes, representing the Christian Democratic Party, said: "I have to say that he has left us concerned because perhaps we did not clearly understand the significance of what was said in last night's address regarding the purpose or obligation assumed by the State in these non-binding - or effectively non-binding - consultations, because the fact is that many of us were left with the impression that the administration is perhaps unwilling to lend an ear and give a serious follow-up to what we are proposing here, and I believe it to be very important that we should at least clarify matters and make it very clear that we are not here just for the fun of it".

All of this explains the background to the situation of confrontation which arose between the opposition and the Government, when in fact there should have been progress towards a policy of reconciliation. But in addition, as many participants explained, the meeting ended up opting for an oblique solution by adopting the Pact on Commitments for Development between the Government, the

¹⁴ Report of the Third National Human Unity and Development Meeting, Bambito III.

Labour Foundation, the representatives of small and medium-sized enterprises and women's organizations, instead of having entered into a discussion based on the proposed agenda.

The result of this meeting was seen as negative by the various political forces, and as positive by workers and employers. On the one hand, political confrontations arose when the previous president, Guillermo Endara, presented a draft bill to modify the structure of the Interoceanic Region Authority (ARI). Endara had established the principle of non-interference by the Executive, a situation which Pérez Balladares sought to change by reducing the independence of the Chief Administrator, who until then had been elected by means of a competitive system. The Arnulfista Party led the confrontation, which was joined by all the other opposition parties, deciding not to sign any document with the Government. This vacuum between Government and opposition was turned to good advantage by workers and employers, who joined the Government in signing the Pact on Commitments for Development.

Some time later, UNDP carried out a process of formal evaluation and a process of inquiry and action aimed at analysing the Bambitos meetings, evaluating their results, positive contributions and errors, and formulating a number of scenarios for a renewed national dialogue. The methodology involved looking into all the background details, inventorying the various concerns with the actors themselves, and drawing up specific proposals based on the demands being made. The results of both these lines of inquiry translated into the following conclusions:

- Bambitos I and II were considered to have been highly successful;
- the political parties in opposition were critical of Bambito III, as were civil society members pointing to the failure to abide by the agreements reached;
- As to the possibility of holding another meeting and to the chances of success for any such event, the prevailing feeling was one of a general lack of confidence stemming from, among other things, an absence of clarity in regard to the discussion agenda, the participants and the role played by the facilitators during Bambito III;
- a clearly distinguishable need for dialogue on the State agenda rather than on the government agenda;
- an acknowledgment of the difference between the political climate which prevailed at the time of Bambitos I and II, and the one in which Bambito III was held.

In the view of the consultant engaged by UNDP, the lesson to be drawn from all this is that, for as long the situation was not one of political emergency, a climate of mistrust reigned between the parties, in particular the political actors. This was very obvious during the evaluation, with all actors indicating that any future meeting must be framed within clear and specific rules of play designed to avoid the sum-0 result. These conclusions were instrumental in constructing an altogether different model for the post-Bambito meetings.

The Panama 2000 process: national dialogue on the Panama Canal

In 1995, with a new UNDP representative in office, the Programme was requested by workers and employers to push for a renewed process of national dialogue. This gave rise to a series of consultations aimed at ascertaining whether the various political parties and civil society considered it appropriate or otherwise to engage in a new process of dialogue and concerted action. Following a round of discussions, the conclusion was reached that there was indeed a desire to open a new round of dialogue with a view to overcoming the difficulties that had plagued Bambito III and to separating issues involved in the State agenda from those pertaining to the government agenda.

Basing itself on the results of its prior investigations, UNDP developed a new strategy which took account of the negative aspects of the national and international climate (mistrust), the prevailing

political climate (stability), the demand for dialogue with respect to the State agenda, and the demand that the process be characterized by transparency.¹⁵ The model pursued four major objectives: creation of a climate of confidence; gradual resolution of existing and potential tensions; transformation of differences into constructive elements; and establishment of an open dialogue capable of linking together the items on the agenda.

The central problem was that of mistrust between the opposition parties and the Government and with and within civil society. A key objective was therefore to generate a climate of confidence among the actors.

The Coronado Meetings:

Coronado I

The Coronado I meeting (May 1996), unhampered by the previous tensions and with levels of confidence much higher than those that had prevailed at the outset of the process, represented a step forward. Furthermore, when it came to implementing the agreements, the last remaining source of deep-seated tension was resolved with the incorporation of the Arnulfista Party into the discussion and negotiation process.

The Coronado meeting was a success, thanks largely to a model whose design took account of the errors identified from the Bambitos meetings. The model began with an organizational stage, involving research and action and selection of the facilitators (support group), the actors and the formal and informal machinery of interrelationship.

The objective in the second stage was to organize the committees for the political parties and civil society. In the case of the Government, the task was more one of defining the channels of communication through three representatives, including the President, than of organizing a committee.

The second stage also involved firming up the meeting agenda, which reflected the desire that the central theme of the meeting should be the Panama Canal. The agenda was then passed over to the support group, which incorporated in it items stemming from the views of the parties and civil society. Finally, discussions were held on the actual workings of the meeting, in order to determine the number of participants by right and the number of special guests. Rules of procedure for the meeting were drawn up and submitted to the members of the committees for discussion.

In phase three, the tasks were to decide who was to convoke the Panama 2000 Meeting, to identify parallel activities that would be conducive to the success of the meeting, and to make all necessary arrangements in connection with the working environment. After much discussion it was decided that the call to the meeting would be issued by the political parties, that there would be an information workshop and that the meeting would take place in Coronado.

In phase four a communication strategy was drawn up. Phase five saw the actual organization of the Coronado meeting (meeting methodology, selection of a moderator, support documentation, and so forth). Phase six depended on the results of the meeting, a series of actions having been implemented (see above).

¹⁵ For detailed information regarding the model for negotiation, see Solórzano, *op. cit.*, p. 42.

During the meeting it was decided to accord greater recognition to civil society. The first stage therefore saw the inclusion, in addition to the Labour Foundation, of the Association of Small and Medium-sized Enterprises (APEMEP), the National Coordinator for Indigenous Peoples, the Women and Development Forum (which had participated in Bambito III), CONATO and the Panama Canal workers' unions, CONEP, the Ecumenical Council, the Council of University Rectors, academic groups, the National Council of Cooperatives, the Catholic Church and associations of media representatives. In all, then, a total of 14 delegations representing civil society attended the first Panama 2000 Meeting, each expressing the general opinion of its respective sector.

Preparing the agenda was a major task spanning three months, during which time it was submitted to the three sectors for consideration. Its final form was as follows: The Panama Canal in the twenty-first century: future challenges¹⁶ and Governance: guaranteeing political and legal stability to canal users and the international community.

With the agenda drawn up and accepted, the first session of the Panama 2000 Meeting was convened on 8 May 1996. The only absentee from the event was the Arnulfista Party, which had suspicions regarding the item on governance.

This first session decided on the mechanics, programme and rules of procedure of the meeting, which needed to be discussed and approved at a sufficiently early stage.

In view of the suspicions that had dogged Bambito III with respect to the actual conduct and progress of the meeting, it was decided to draw up minimum rules of procedure that would allow for the establishment, on a transparent basis, of rules of play governing all matters relating to the role of the participants and moderator, the agenda of the meeting, composition of delegations, special guests, the rules of debate, and resolutions.

The meeting known as Coronado began on 26 May in the Hotel Coronado Resort, not far from Panama City. The Arnulfista Party was not represented. In his opening address, the President immediately quashed any suspicions that the Act establishing the Canal Authority was being drawn up behind closed doors, informing his audience that the draft bill would be sent to all participants for comment. Affirming that the canal was not the inheritance of any party but of all Panamanians, he criticized the Arnulfista Party for its absence from discussions of such overriding significance for the country. His Government would be participating in the Panama 2000 Meeting in a spirit of openness, and would be ready to take up any recommendations generated by the meeting and to incorporate them, as the case may be, in the draft bill to be submitted to the Legislative Assembly, or examine them within the framework of the study of alternatives to be put forward.

Three working groups for each item on the agenda were established during the meeting. Their work culminated in the final declaration, entitled National Vision "Panama 2000 Y and beyond" - Vision of the future, today's commitment, comprising a general declarative part and a part devoted to specific commitments.

The first part set out a long-term vision in which participants expressed their will to achieve strategic objectives in the interests of national development, resolve the issues in the State agenda, consolidate the constitutional State and further develop democratic governance.

The second part relates to the country's undertaking to commit itself to the more effective administration of the Canal, ensuring the absence of party political or sectoral interests in any decisions having to do with the Panama Canal Authority, and guaranteeing the appointment of members of the

¹⁶ This item covered long-range traffic forecasts, the results of the 1993 studies of alternatives, investment in response to expected demand and for widening at Culebra, technological developments and the third set of locks.

Management Board of the Canal Authority, as well as of the Administrator and deputy Administrator of the Canal, on the basis of ability, merit and integrity.

The document also set forth the commitment to hold elections in accordance with the constitutional calendar in force and to preserve the ecological heritage, and the need to hold meetings as soon as possible in order to consider:

- the draft bill on the Panama Canal Authority;
- the General Plan on Land Use;
- the Regional Plan of the Interoceanic Region Authority.

Other topics for consideration were the conversion and re-use of the military bases; the appropriateness of playing an active part in the Universal Congress on the Panama Canal, scheduled for September 1997; and the sponsoring of a permanent forum for interactive dialogue and national debate on the canal.

Generally speaking, each of these activities called for a constant and consistent effort, not to mention political will, on the part of the participants in dialogue and negotiation, the results of which went far beyond mere words, taking the form of substantive agreements that were to play a defining role in the Panamanian process.

Coronado II

Meeting to discuss the Universal Congress on the Canal

Meeting this commitment was a less complicated affair since the organizer of the event was happy to cooperate and because the discussion was aimed at identifying forms of collaboration between, on the one hand, the parties and civil society and, on the other, the Congress.

On 29 July, the first formal contact between the organizers of the Congress and the national actors took place in the form of a meeting to discuss all matters relating to the Universal Congress on the Panama Canal. The most important aspects of the meeting were the establishment of a direct link between the organizers of the event and the country's social and political forces, support for the preparatory effort, and suggestions with respect to ways and means of consolidating confidence in the administrative and political ability of the Panamanian Government and people to manage the canal efficiently.

Meeting to discuss the Canal Authority Act

Under the second item of the agreements reached the previous May there was to be discussion of an issue whose special nature made it both politically and technically delicate, as well as decisive in view of the bearing it had on the future administration of the canal. The draft bill on the Canal Authority governed the legal framework for what was to become the body responsible for administering the Panama Canal as from the year 2000.

The draft bill was the result of the work done by the Canal Transition Commission, headed by the former Foreign Minister and Secretary for International Affairs of the PRD, Dr Jorge Eduardo Ritter, who was also a member of the Support Group.

As had been promised by the President of the Republic in his opening address to the Panama 2000 Meeting, the draft bill was distributed at the end of the event and published in the press. The

version in question was still subject to discussion with the Canal Administration, ARI and the Canal Workers' Trade Union Sector.

The general idea was for civil society, the political parties and the Government to engage, at the national level, in a wide-ranging debate on the draft bill prior to its submission to the Cabinet, in the interests of ensuring that the proposed Act was presented to the Legislative Assembly in a form that was agreed upon by all parties.

The proposals, suggestions and contributions that emerged from the group discussion of various issues were set forth in the Record of the Session of the Support Group dated 15 August 1996.

On 25, 26 and 27 August 1996, a second meeting, attended by delegates from the political parties, civil society and the Government, was convened in Coronado for the purpose of studying, discussing and seeking agreement on the draft bill on the Canal Authority. During this meeting, 31 of the 34 points of consensus from Coronado II were incorporated.

Meeting to study and discuss the General Land Use Plan and Regional Plan of the Interoceanic Region Authority (ARI): Coronado III

With the meeting to discuss the draft bill on the canal at an end, discussions began on ARI's General Land Use and Regional Plans.

The debate on the plans as presented promised to be a very difficult one on account of their strictly technical approach and the manner in which they were drawn up. Apart from a number of maps of various regions making up the route of the interoceanic region, the philosophy of the plan as such was nowhere to be found. Despite the offer of discussions made by the President at the first Panama 2000 Meeting, where he had indicated that the Cabinet would not enter into an examination of either of the two Acts without there having first been a wide-ranging discussion process, the ARI's technicians and a number of its professionals took a negative view with respect to the holding of such a debate, considering many of the representatives at the meeting to lack the authority to speak for minorities, and being more inclined to engage in a discussion with political parties, intellectuals and employers, who, in their opinion, were conversant with the subject-matter.

The meeting itself, known as Coronado III, took place on 22, 23 and 24 September 1996. Three preparatory study workshops were set up, on the economic and social aspects of the basin, the environment, and urban development.

Of all the meetings held within the framework of Panama 2000, Coronado III was the most difficult and controversial, since it sparked a debate between proponents of very different currents of thought on a series of economic issues, including various opinions on the competencies of government agencies, local governments and civil organizations in regard to the preparation of plans, their implementation and their periodic review. Despite the intensity of the debate and complexity of the issues discussed, and contrary to the negative predictions as to the outcome, an agreement was reached and reflected in the final declaration, which referred to "acceptance of the regional and general land use plans that were presented to us with the following general and specific recommendations". There then followed a series of highly significant recommendations relating to the very definition of the concerns felt by the human being as the central focus and target of social and economic development of the Interoceanic Region; the interests of the inhabitants of each region; ecological and environmental concerns; mechanisms relating to control and responsibility with respect to fulfilment of the principles; and adequate protection and appropriate expansion of the Panama Canal.

The outcome of the meeting was highly positive: the plans were approved, as was the draft bill to be submitted to the Cabinet and then to the Legislative Assembly. But above all, "this meeting opened the way for a more far-reaching dialogue between the participants, the institutions and, it has to be said, the social, political and government leaders, that dialogue having succeeded in establishing a climate of underlying confidence for strengthening of the democratic process".¹⁷

This meeting partially concluded the Panama 2000 process. The discussion on the issue of converting and re-using the military bases remained open for some time. The process of recovery of the property pertaining to the canal, including the bases, was approved by a broad consensus within Panamanian society.

Results of the exercise

From the standpoint of the actors

The exercise demonstrated the political weight that civil society can carry,¹⁸ to the extent that its members can organize themselves, overcome their ideological differences and work towards understanding the plurality of thought that reflects the multiple interests which coexist in the non-public sector of society. An event organized within the framework of the meetings was the Civil Society Assembly, which represented a first move by the latter to consolidate its own space within the country.

- In the political sphere, the event demonstrated a genuine potential for dialogue on issues of national concern, i.e. on the State agenda, which did not exclude the possibility of dialogue and concerted action with respect to the government agenda.
- From the Government's perspective, Panama 2000 demonstrated that when a government is serious then so is the opposition, and that when a government enters into a debate with a mature attitude and without hiding any of its cards, it is liable to find an opposition that is both open and ready to assume its responsibility. The Panamanian Government's open attitude was mirrored in that of the opposition. At the same time, the event showed the advantages of formulating State policies, which, as is clear in the case of Panama, is only possible to the extent that they are formulated on the basis of broad consensus in the face of those who might doubt the country's seriousness and maturity.
- Also clear was the important role of UNDP and its usefulness in the political sphere, in the service of the country.

¹⁷ Ligia Elizondo, "Coronado III: un peldaño geométrico más" [Coronado III: another step up the ladder], Panama, La Prensa, Sunday 6 October, p. 42, quoted in Solórzano.

¹⁸ Both in the first Panama 2000 as in the following ones, representatives from 14 groups of Civil Society were present: Forum for Women and Development, CONATO, The Labour Foundation, The Union of Workers from the Canal, CONAPIP, the Eucumenical Council of Churches, The Catholic Church, Forum of Women from Political Parties, CONEP, Association of Small & Medium Enterprises, National Coordination of Indigenous People of Panama, Association of Representatives of the Media, National Council of Cooperatives, Council of Rectors and Academic Groups.

Regarding the process

- Application of correct working methods, which did away with any fears of manipulation;
- The importance of leadership as assumed by a management body and by the members of the Support Group;
- The decisive role played by the media as a part of civil society, providing information and creating opinion throughout the process;
- The moral force of the declaration, which was strong enough to break those pockets of resistance which, even after the first meeting, persisted within various sectors that had participated in it.
- The objective of establishing a democratic culture can only be achieved on the basis of an effective demonstration of how it functions. In societies that have experienced lengthy periods of authoritarian rule, society as a whole pays far greater attention to the doings of the national leadership, both political and social;
- In this regard, it is very important that the leading classes demonstrate their responsibility in terms of the manner in which they deal with problems affecting society in general, and above all that they keep their word once having given it;
- The process that took place in Panama throughout 1996 was one in which that responsibility was, step by step, reaffirmed. This was particularly so at those difficult moments when it was a matter of tabling such sensitive issues as the Canal Authority Act and Interoceanic Region Plans.

National Vision 2020¹⁹

Another major process of dialogue and social reconciliation between civil society, political parties and the Government of the Republic, once again facilitated by UNDP, was the Vision 2020 process, in which the main objective was to define how the country should look by the year 2020. The success of the Coronado meetings provided a significant backdrop to the birth of the idea of bringing everyone together in rethinking the country, having regard to four key factors in the historical development of the Nation: the growing awareness of the dynamics of the change taking place in the world; the transfer of the canal, associated property and adjacent areas from the United States to Panama; the effort by Panamanians to consolidate the democratic system; and the firm belief in the possibility of achieving, through dialogue, medium- and long-term agreements between the national actors.

One of the most important subproducts of this exercise was the visualization from different perspectives of what it meant to have the responsibility of administering the Panama Canal and the benefits that that represented for the country. This in turn led people to reflect on the importance of entering into broad dialogue on the Panama of the future.

The aforementioned idea gave rise to a meeting held on 2 May 1997 between the Civil Society Assembly and Mrs Ligia Elizondo, UNDP Resident Representative, at which there was agreement on the desire to pursue a serious exercise aimed at developing a long-term vision of the nation. Some days later, the leaders of the political parties themselves expressed interest in implementing the Assembly's proposal. There was a need to lay down key national objectives that would set the country on the path of development and modernity. The Government of the Republic expressed its support for the initiative.

¹⁹ The information in this section is drawn from the National Vision 2020 document *Repensando el país* (Rethinking the country), Annex 1, UNDP, Panama 1998.

It was not a question of drawing up a long-term government plan which could at the outset give rise to ideological differences, but rather of re-establishing the legitimate role of the political parties in a democratic system which gave them the right to take turns in power and to pursue government policies supported by the majority vote.

A discussion during a workshop seminar held on 11 June 1997, in which civil society and the political parties took part, produced a number of conclusions, further to which a request was issued to academic centres, universities, experts and professionals to the effect that they draw up a proposal for submission to civil society, the political parties and the Government.

A sustained debate ensued among the delegates from the academic centres and other intellectuals, resulting in the conclusion that Vision Panama 2020 should be based on five key elements: democratic institutionalism, self-determination, economic development, justice and sustainability.

At this juncture it was seen as important to conduct a strategic planning exercise (METAPLAN) with the representatives of the political parties and of civil society in order to identify the nation's strengths, opportunities, weaknesses, threats and strategic objectives, based on the individual and collective opinions of the participants.

In the interests of making the vision a long-term reality, the participants agreed on operational goals and objectives and undertook to put them into effect.

The Governance Forums

Another exercise in national social dialogue took place in 1999 at the invitation of UNESCO, CONEP, the University of Santa María la Antigua (USMA) and ILO. The Forum on Governance and State Policies was attended by 100 representatives of governmental organizations, the Church and non-governmental organizations, as well as by distinguished members of Panama's business, political and educational communities.

The aim of this meeting was to provide a space for reflection and for pursuing basic areas of consensus in the Panamanian context with respect to the actions needed in order to strengthen and deepen democracy and contribute to sustainable shared human development. The discussion also covered issues such as transparency in the management of public affairs and State modernization, the exercise of citizenship through responsible involvement, and the use of dialogue as an instrument of negotiation and for ensuring cultural, social and political progress.

The programme included five addresses, each followed by discussion, as well as two working sessions and a plenary attended by the participants in the Forum, the aim being to have a fluid exchange of opinions and suggestions, questions and proposals.

The participants developed recommendations and conclusions, agreeing on the need to:

- encourage active participation by national and municipal authorities, non-governmental organizations and civil, community and business associations in the planning, elaboration and application of policies conducive to the country's development;
- promote dialogue in conjunction with policy-making at all levels of government and step up measures designed to eradicate corruption, thereby ensuring transparency and efficiency as well as the involvement of all social actors in decisions relating to the management of public resources;
- help to foster the genuine and active involvement of all social groups, particularly those that are normally excluded, such as women, the young and the indigenous communities, in the process of adopting and implementing decisions as an essential prerequisite for the achievement of sustainable development;

-
- promote respect for human dignity, equality and justice between men and women through a change in attitudes and equal opportunities;
 - recognize that social development is a common purpose requiring the involvement of States, local authorities, non-governmental organizations and all members of society;
 - foster a higher level of private sector involvement in social development.

National dialogue

At the time of writing this report, three major social dialogue processes are taking place within Panama: the so-called National Dialogue between the Government, the opposition and workers' and employers' organizations; the dialogue on reform of the Social Security Fund, involving - as we shall see later - a great many actors; and a social dialogue process relating to education.

The first process is focused on the country's economic revival, and although the invitation to participate was initially extended only to the PRD, a representative of the Partido Popular also takes part in the meetings. The workers participate in the dialogue through CONATO, and the employers through CONEP. The PRD designated its Secretary-General, Martín Torrijos, and its President, Balbina Herrera, as participants.

The opposition sector was the first to table a proposal, entitled "Considerations by the PRD concerning national understanding", in which it put forward as topics for dialogue economic revival, modernization of the Panama Canal, and law and order. For its part, the Government put forward a document entitled "Bases for the pursuit of national consensus aimed at achieving sustained economic development", in which it emphasized the financial and fiscal approach to identifying solutions to the Panamanian economy's structural problems. On the basis of these proposals, the representatives of the Government, the opposition, the employers' sector and the workers' sector are attempting to agree by consensus on specific proposals aimed at resolving the country's problems, especially those relating to the economy. The National Dialogue is supported by a technical dialogue commission headed by the Deputy Minister of Economics. The commission establishes working methods and analyses the proposals put forward by the different sectors.

One subject which has proved to be of key interest in the discussions is that of the Trust Fund for Development, comprising some USD 1200 million derived from privatizations and regulated by Act 22 approved in 2000. The discussion focused on how to use the Fund, which according to the Government was producing a very low yield, and on reform of the Act. This led to one of the first results of the National Dialogue in the form of an agreement reached on 22 November to reform the Act by which the Fund had been established.

Only a few hours after that agreement was reached, however, CONATO threatened to leave the negotiating table if the decisions pursued by those seated around it were not taken on the consensual basis that had been agreed upon at the outset and which, according to the labour organization, had been replaced by "majority consensus". CONATO demanded that 70 per cent of the trust funds be channelled into financing works designed to generate employment, whereas the alternative supported by other sectors was to pay off part of Panama's foreign debt.

Other consensus agreements reached by means of the National Dialogue were on limiting the State's borrowing capacity, limiting the growth in public expenditure, using the returned areas for financing infrastructure projects, and reforming the Trust Fund for Development Act.

The National Dialogue for Education

October 2001 saw the start of the second phase of the National Dialogue for Education, with Belisario Betancur, former President of Colombia, acting as moderator. The dialogue will include a process of making available information on the true state of the country's educational system.

At the request of the Presidency of the Republic, UNDP has been acting as a process facilitator, having organized a series of conferences, discussion panels and working committees in which the parties to the dialogue receive information and exchange views on, among other things, the state of the country's educational centres, public demands and the situation of teaching staff and students.

So far as the representative of the Association of Teachers is concerned, the dialogue has thus far been a very positive experience since all the sectors have been participating in the process.

Social dialogue on the social security system

An important process of national dialogue started in April 2001, organized by UNDP at the request of the Presidency of the Republic, Ms. Mireya Moscoso, on the Reform of the Social Security System.

The Social Security Fund (CSS) is the country's largest institution, swallowing up a quarter of the national budget with its 20 000 employees and some 800 000 affiliates. A key feature of the Fund is that it is governed by a Management Board including representatives of the employers' and workers' associations and of other interest groups such as pensioners and retirees. The Management Board is responsible for establishing goals and objectives, and is empowered to guide and monitor the workings of the institution, elaborate and review its rules and regulations and modify its administrative structure. Its chief function is to define short-, medium- and long-term health and social security objectives.

Each association that is represented on the Board of the Fund is entitled to put forward a shortlist of candidates to serve on the Board, from which the President of the Republic makes a choice that is submitted to the Legislative Assembly for consideration.

In 1997 and part of 1998, ILO carried out a study on the financial and actuarial situation of the CSS. That study was transmitted to the social actors in June 1998 in order to serve as a basis for reforming the Act pertaining to the Fund. During the course of the study, a contact and follow-up group was formed, comprising representatives of CONEP, CONATO and the Government. The group was responsible for agreeing on the data to be supplied to ILO to feed the statistical model used. The study concluded that in order for the system to be sustainable over time it would be necessary to carry out a series of reforms. However, the recommendations it put forward were very badly received by the workers' sector, which saw them as falling outside the scope of the mandate with which ILO had been entrusted.

Despite the negative manner in which the report was received by the workers' sector, the information it contained regarding the unsustainability of the system has been one of the greatest concerns of the social actors, and for this reason the Presidency of the Republic requested UNDP to organize a social dialogue aimed at analysing the problems of the Fund and agreeing on possible action in order to reform it.

The Presidency had already launched an earlier attempt to analyse the situation of the Fund through the creation, by Executive Decree,²⁰ of a high-level commission. However, CONATO had refused to participate in the commission on the grounds that the workers' sector was insufficiently represented. The workers asserted that there was an agreement with the President of the Republic to appoint three representatives from trade union organizations, as was the case in the Contact and Follow-up Commission.

The Presidential Commission was made up of 12 members: five ministers, the Director of the CSS, the Treasury Inspector of the Republic, one employers' representative, one representative from the National Medical Negotiating Commission (COMENENAL), one representative from the National Federation of Retirees and Pensioners, one representative of civil society and one workers' representative. As the workers saw it, the appointment of five Ministers of State and one employers' representative was designed to strengthen the position of the government sector when it came to pushing through changes which went against them; however, it was also their view that if such changes began to take shape it would be without the participation of the working class.

The proposal to increase the membership of this high-level commission was supported by the employers' associations within the Labour Foundation, which, by means of a letter approved in the Board of Trustees, requested that the employers' and workers' sectors each have three participants. The letter was signed by the two Co-Chairmen (employer and worker) of the Foundation, as well as by representatives of the Manufacturers' Union of Panama, the Chamber of Commerce and the Panamanian Association of Business Executives (APEDE), with the backing of, among others, CNTP and CTRP.

As an alternative to the Commission, UNDP agreed to organize a national participatory process to analyse the reform of the Fund. The first stage of the process, initiated in April 2001, took the form of a round of consultations with the sectors having a direct interest in the subject of social security. The idea was to begin by establishing the topics for discussion, the working methods and a tentative schedule of activities, the whole process being expected to last no longer than one year. This stage also saw the formation of a process support group which held its first meeting on 7 June 2001 and which will meet on a weekly basis to discuss matters of relevance to the process.

An informative stage was held during the month of August, comprising four workshops and a closing meeting, for the purpose of providing information on the Social Security Fund's four programme areas, namely: disability, old age and death; sickness and maternity; occupational hazards; and management and administration. On the basis of what was termed "information standardization", the workshops sought to bring about among those participating in the dialogue a common information platform with regard to the reality, both actual and perceived, of the Social Security Fund and its four programmes.

The methodology established in the meetings called for the information to be presented by officials of the Fund, with additional material to be provided by special guest speakers who were not participants in the dialogue. At the end of each workshop a summary of the presentations was drawn up to serve as reference material for the closing meeting. UNDP also drew up rules of procedure for the workshops, specifying the functions of the moderator and setting a limit on the time for which participants could speak.

The purpose of the closing meeting, which lasted one and a half days and was considered to be the first meeting of the social dialogue process, was to explore the participants' views and expectations regarding the topics to be dealt with during the process through the holding of FODA (Spanish abbreviation for Strengths, Opportunities, Weaknesses and Dangers) workshops. The intention was to identify, in working groups, the strengths and weaknesses of the Social Security Fund and to determine

²⁰ Executive Decree 335 of 24 November 2000.

the topics and proposals to be addressed by the work committees during the dialogue process. Each of the participants in this first meeting joined one of the four topic groups set up to consider each of the four programme areas.

These four topic groups have continued to meet on a weekly basis, with 29 organizations participating in each of the working committees. The meetings are attended by representatives of, among others, CONATO, CONEP, the Government, the Management Board of the Fund, the Legislative Assembly, the political parties Solidaridad, Partido Popular, PP, Partido Arnulfista and the Partido Liberal Nacional, the Association of Teachers, the Council of Rectors, the Community Social Security Councils, the National Confederation of Retirees and Pensioners, the Association of Occupational Risk Pensioners, the Chamber of Commerce, APEMEP, the Civil Society Assembly, the Women and Development Forum and the National Movement for the Recovery of Sovereignty (MONADESO).

In order for the dialogue to make headway it has been necessary to address a number of problems, starting with the participants' lack of confidence in the process and the considerable divergence of interests. The possible privatization of certain medical services and the reduction of the number of participants in the dialogue kept the participants, particularly the workers' sector, in suspense. The moderator of the dialogue, Eduardo Stein, observed that one factor that would help to dissipate the mistrust would be the sound information that was to be forthcoming regarding the Social Security Fund. Another of the factors hampering the dialogue, particularly where invalidity and death is concerned, is the manifestly technical nature of the discussions and the need to verify each proposal by means of actuarial tools.

3.2 Institutions for social dialogue

The Labour Foundation

The Labour Foundation (FUNTRAB) is one of the few existing examples of institutionalized bipartite dialogue in Latin America. It is a non-profit-making social association and is made up of the main trade union and employers' organizations.

The Foundation was set up in November 1992 as the result of a number of conversations between employers and trade unionists for the purpose of offering joint resistance to the neoliberal programme initiated by the Government of Guillermo Endara in the early 1990s, and in response to the common perception that neither of the two sectors was ready to compete in a more open market. Employers and trade unionists began to come together in 1991, eventually signing the Pact on Commitments, in which they attacked the Government's policies. It was this pact which led to the establishment of the Foundation on 3 November 1992.

The Foundation constitutes a permanent forum for dialogue within the productive sector, between the trade union and employer associations. It is made up of the trade union organizations under the umbrella of CONATO and the employers' organizations under that of CONEP. The construction workers' union CONUSI, a joint signatory, together with the Chamber of Construction, of the only sectoral collective agreement to have been concluded in Panama, is not a member of the Foundation. Nor are public workers represented, and this would seem to work in the Foundation's favour insofar as, were those workers to be represented, the employer counterpart - the Government - would have the right to participate.

The Foundation's specific objectives, as set forth in its statutes, are to promote the generation of employment, foster the comprehensive development of human resources, essentially through

educational and social programmes, enhance relations and mutual understanding at all levels among the country's productive sectors, and contribute to the country's economic and social development by fulfilling these objectives.

The organization has an executive committee (Board of Trustees) which is formed on a peer basis by two co-chairmen, two vice-chairmen, two co-secretaries, two co-treasurers and two co-members as well as their respective alternates. An interesting feature of the Board of Trustees is the way in which its members are elected: the labour sector elects from among the employers' representatives the individuals who will occupy the posts of joint chairman, joint vice-chairman, joint treasurer and joint secretary, and the representatives of the labour sector elect the corresponding officials from among the members of the labour sector. In other words, the workers decide who will occupy the employer executive posts, and the employers do likewise for the worker executive posts, out of a list of candidates presented by each one of the sectors.

Decisions are taken on a collegiate basis, and any action taken individually by any member of the executive committee is considered void. The executive committee meetings are always attended by invited guests, not only from the member organizations but also from other sectors. The Board of Trustees meets every two weeks to discuss the items on an agenda that is open to any topic that may be proposed by the participating sectors.

Objectives, agenda and work programme: the problem of funding

The working agenda initially agreed upon and set forth in the statutes included:

- Organization of a labour exchange by recording the labour supply and demand, this information service being provided to the people of Panama on a not-for-profit basis.
- Development of technical training programmes providing for practical learning and which contribute to the preparation of human resources that are able to make efficient use of the available natural resources.
- Promoting the establishment of a technical college for the training of workers, using, among other things, modern distance learning systems.
- Implementation of a direct arbitration system designed to facilitate the resolution of disputes through voluntary agreements, thereby helping to maintain the kind of environment that is conducive to healthy economic growth.
- Joint missions to other countries by workers and employers for the purpose of promoting the investment necessary to create sources of productive employment, under conditions in which social justice prevails.
- Initiation of studies on the establishment of a workers' bank designed to facilitate the implementation of human development programmes on a self-financing basis.

Although these objectives were set forth in the initial agenda, it was stated in the 2000 annual report that they were of a long-term nature and could therefore not be put into effect within the space of one year. The projects in which the Foundation is currently engaged are an electronic labour exchange accessible via the Internet,²¹ the Training and Labour Integration Plan for the Republic of Panama, the transfer of the Labour Foundation model and electronic labour exchange to the countries of Latin America and the Caribbean, and support for the productive sector with respect to the prevention of STI / HIV / AIDS in Panama.

As can be seen, the Foundation's work plans differ from the agenda initially established: individual arbitration, the establishment of a technical college, the creation of a workers' bank and the

²¹ www.funtrab.org/bolsas1.htm.

generation of employment remain at the preliminary planning stage, while the Foundation's main programme has to do with support for the productive sector in the prevention of STI / HIV / AIDS. The reason for this would appear to lie in the Foundation's difficulty in acquiring and maintaining the human and financial resources necessary to launch and follow through on an ambitious agenda. In fact, the work programme would appear to depend largely on the priorities of the bodies which provide the Foundation with funds and materials, such as the Secretariat for Central American Economic Integration (SIECA) and the Central American AIDS Action Project (PASCA).

The bulk of the Foundation's budget comes from the Ministry of Labour, the funds being granted in response to a request submitted annually by the Foundation for an amount that is more or less equal to five per cent of the education insurance²² (see below, page XX), i.e. some USD 100 000. No agreement has been signed for the assured continuity of the funding, the Government's contribution depending, as reported by sources within the Foundation, solely on its goodwill. In the light of this situation, the organization has set up a committee with the task of submitting a proposal to the Government to the effect that it pass an act under which a fixed percentage of the education insurance is granted to the Foundation on a regular yearly basis.

It is just such financial insecurity that constitutes one of the key weaknesses of the Foundation, which finds itself obliged to draw up its work programmes in line with the current priorities of the bodies which provide funding, such as PASCA, SIECA and the Inter-American Development Bank (IDB), which do not necessarily coincide with its own priorities. For example, one of the Foundation's main activities in 2000 was the "Project on support for the productive sector in the prevention of HIV / STI / AIDS", consisting in the provision of training in the prevention and control of HIV / AIDS, the project being a part of the PASCA, financed by the United States Agency for International Development (USAID / G-CAP). PASCA administers a fund of USD 1 million in donations for Central American NGOs involved in the fight against AIDS.

Another collaboration agreement reached in 2000 was the one that was concluded with PROALCA (Program Supporting Central American Participation in the Free Trade Area of the Americas) / SIECA.²³ SIECA is engaged in a labour market modernization programme which includes a social dialogue component. Last year, within the framework of this programme, it engaged the services of the National Social Dialogue Advisory Foundation for the specific purposes of advising the Minister on the implementation of social dialogue programmes within the country, drawing up strategies for the introduction of efficient social dialogue systems at the national level through the involvement of representatives from the Government and from other sectors such as employers, workers and civil society, and providing training to officials of the Ministry of Labour and members of the national social dialogue commissions. The Foundation is also carrying out a study on social dialogue in Panama. Other features of the modernization programme are workshops, study trips and so forth.

²² The Education Insurance is a fund for workers education financed by a tax which is deducted from the salary sheets of all workers.

²³ The Secretariat for Central American Economic Integration (SIECA) is the body responsible for the technical and administrative aspects of the process of economic integration in Central America.

The Full Employment Congresses

One of the Foundation's main concerns has from the outset been job creation, which is why one of its most relevant activities is the organization of the two-yearly National Full Employment Congress, which met for the second time from 13 to 15 November 2000 with the theme "Education for employment". On this occasion, the event was inaugurated by the President of the Republic, Mireya Moscoso, and closed by the Minister of Labour and Labour Development.

Following a number of groupwork sessions²⁴ on specific topics, the participants came up with a series of conclusions, recommendations and proposals on which they had reached agreement, all geared towards the identification of ways and means of increasing the availability of dignified and decent employment. During the closing ceremony the Minister undertook to analyse the proposals generated by the Congress and to consider the possibility of arranging for their speedy implementation.

The second Congress produced no fewer than 76 conclusions and recommendations focusing on issues such as educational programmes and productive employment, INAFORP, training the worker and employer sectors for change and the micro-, small and medium-sized enterprise. Given their great number and their generic and unspecific nature (for example, the request to the Government that it should "formulate investment and employment programmes based more on strategic planning and less on improvisation" or that "policies designed to encourage investment should be based on the concept of social equity and equal opportunity without any discrimination based on ethnic, gender, political or religious considerations"), the impact of these conclusions and recommendations is hard to evaluate.

Following the Congress, the Foundation held two evaluation meetings to identify the most relevant proposals and follow them up in the interests of achieving the desired results.

The Labour Reform of 1995

The Labour Foundation was in all likelihood weakened by its failure to serve as a forum for the elaboration of a joint proposal at the time of the 1995 Labour Reform. With the coming to power of the PRD in 1994, people began to raise the issue of a labour reform, for which the Foundation was called upon to serve as a framework.

Despite there being various ingredients for consultation, a series of errors were to prevent it from taking place. For its part, the Government identified a number of topics which, with or without agreement, it intended to pursue. This amounted to a foretaste of the Government's position, in response to which the only attitude the social actors felt they could take was a defensive one. Furthermore, while one part of the employer sector was consulting with the workers, another was negotiating with the executive, while the same occurred in the worker sector. All of this gave rise to accusations of inadequate transparency and divisions within each of the sectors. While one part of the worker sector wished to participate in the process and have an influence wherever it could, another part (CONUSI, SUNCTRACS) adopted an all-or-nothing position and encouraged demonstrations which turned violent.

²⁴ The topics for which groupwork sessions were held were: training for the workers' and employers' sectors in order to strengthen and facilitate the process of change; new paradigms for the worker management of small and medium-sized enterprises as an alternative to unemployment; educational programmes and their tailoring to requirements in the field of productive employment; and the current situation and prospects in regard to State encouragement for employment generation in the context of globalization and the country's development.

This lack of consensus on the issue of labour reform was a step in the wrong direction for social dialogue, producing divisions in the trade union movement and weakening the Labour Foundation, which missed its opportunity to serve as a forum for consensus.

The Government's unilateral approval of the Labour Code in 1995 led CONEP and the International Employers' Organization (IEO) to lodge a complaint against the Government of Panama with the ILO Committee on Freedom of Association.²⁵ The complainant organizations contended that the legislation restricted the rights of workers and their organizations. Article 493 of the Labour Code provides that an employer shall continue to pay salaries in the event of a strike where the latter is called for the following reasons: (i) to demand compliance with the terms of a collective agreement, direct settlement or arbitral award in enterprises, businesses or establishments where it has been violated and, as the case may be, to demand appropriate compensation; (ii) to obtain compliance with legal provisions that have been generally and repeatedly violated in all or part of an enterprise, business or establishment and, as the case may be, to obtain appropriate compensation; (iii) where the employer has failed to respond to the list of demands or has abandoned the conciliation process; or (iv) where the employer has violated any of the obligations imposed upon it during the strike under the terms of Article 493 (1) and (3) and Article 496 (immediate closure of the enterprise, establishment or business in question; a ban on the signing of new contracts of employment in order to resume the suspended services, other than where strictly necessary; failure to guarantee the striking workers outside the establishment the right to demonstrate peacefully, disseminate their views among one another and to the public, display placards relating to their demands and station pickets in the vicinity of their place of work for the purpose of expressing their demands, monitoring the premises and collecting donations; in addition to which the employer must not act in any other manner such as to seriously and unjustly hinder the unrestricted exercise of the right to strike).

The case was examined in May 1998 by the Committee on Freedom of Association, which submitted a provisional report on the matter to the Governing Body. The Governing Body subsequently approved the report at its 272nd meeting in July 1999. On that occasion the Committee was of the view that the obligation to pay the salaries in the cases referred to entailed not only the risk of upsetting the balance of labour relations and imposing a cost on the employer, but also problems of conformity with the principles of freedom of association, insofar as such payments should be neither required nor prohibited, the matter being one that should be resolved by the parties. It was for this reason that it requested the Government to amend the legislation to that end. In addition to this, it further requested the Government to amend the legislation such that neither a failure on the part of the employer to respond to a list of demands nor the withdrawal of one of the parties to the negotiations should give rise to disproportionately large penalties.

At the 279th session of the Governing Body, the Committee noted that the Government had begun to hold consultations with the social actors and had stated, in a note dated 6 September 2000, that there were diverging opinions between those actors regarding the amendment of certain provisions, pointing out that the Government did not have the necessary majority in Parliament to enable it to pass an Act amending the Code. The Committee asked to be kept informed of any progress made in those consultations.

Reform of the Labour Code is seen as a key issue that could give rise to a new process of dialogue, although the earlier negative experience makes that process a very difficult one.

²⁵ Case No. 131, first considered in May 1998.

Evaluation of the Labour Foundation by the social actors

Most of the trade union confederation representatives consulted see the Foundation in a very positive light on account of its role as a facilitator of dialogue and forum for discussion. They emphasize the confidence that has grown between the different productive sectors and the minimization of labour conflicts. There would appear to be a large measure of concurrence on a number of the issues covered, particularly education. Another of the Foundation's successes lay in its opposition to the dissolution of the Boards of Conciliation and Decision, an opposition which had an impact on the Government.

There are, however, doubts concerning the transmission of this climate of understanding to lower levels within the system of labour relations, particularly the company level. Furthermore, some actors feel that that understanding is to be found only at the leadership levels of workers' and employers' organizations, where personal relationships are long-standing and where there is little in the way of rotation or new blood, the upshot of this being that new, younger members do not get to participate in the dialogue. The Foundation ought to be open to emerging leaders.

Another target of criticism is the Foundation's discussion agenda which, being open to a broad range of issues without being focused on those that constitute a priority, prevents the Foundation from achieving specific results and having an impact on the government agenda, and thus from gaining the necessary public exposure. In addition, criticism is levelled at the Foundation's failure to follow through on the ideas or proposals it puts before the Government and at the minimal role it plays in the resolution of labour conflicts.

It is also important to give some thought to the role the Government should play. The various parties have refused to allow the Government to become a part of the Foundation, although it does have a certain representation which acts as a direct link to the office of the President. That link, which was proposed by the President of the Republic himself during a visit to the Foundation in 2000, participates in the Foundation's meetings and has served to improve the level of communication with the Presidency.

In the case of the Foundation, there is no doubt as to the representativeness of the employers' associations under the umbrella of CONEP, or of the general unions which participate in the Foundation. However, the real question is whether in Panama there are other organizations representing sectoral interests and carrying significant weight in the national context which should also be considered part of the institution in order to ensure that the dialogue process cannot be bombarded from outside.

The Minimum Wage Commission

The Minimum Wage Commission is probably one of the best examples of tripartite social dialogue pursued within a clearly defined legal framework and with a specific goal: to agree on a recommendation, for submission to the Government, concerning the increase to be made in the current minimum wage.

The minimum wage scale was first adopted in 1959, since when, pursuant to the Labour Code, the minimum wage is reviewed every two years in the light of the change in the cost of living in Panama. Article 174 of the Code provides that the minimum wage shall be established by Executive Decree, having regard to the recommendation issued by the National Minimum Wage Commission.

The Minimum Wage Commission comprises a representative of the Ministry of Labour and Labour Development (normally the Minister, who presides over its meetings), the Director-General of Labour, a representative of the Ministry of Economy and Finance, a representative of the Ministry of Agricultural Development, Commerce and Industry, three representatives from CONATO, two from CONEP and one from the Panamanian Chamber of Construction. The National Commission is assisted by a technical committee which provides it with a technical report on which it bases its final proposal to the Executive.

The factors that are taken into account when establishing the minimum wage are economic trends, investment levels, the employment situation (numbers of employed and unemployed), mean productivity broken down by sector, the financial capacity of the enterprise sector, the price index, the money wage and real purchasing power, the basic family shopping basket of foodstuffs, and poverty indicators.

In the event that the Minimum Wage Commission fails to reach an agreement, it falls to the Executive to establish the minimum wage, based on a recommendation by the Ministers of Labour and Economics.

The 1959 Act set the minimum hourly wage at 40 centésimos for Panama City, Colón and San Miguelito, and at 25 centésimos for the rest of the country. Since then it has been reviewed eight times. In 1971, it rose to 50 centésimos, in 1974 to 55, in 1979 to 66 and in 1982 to 70. In the last decade, it rose to 94 centésimos in 1992, to one balboa in 1995 and to 1.08 balboas in 1998. The latest review was in 2000, when the minimum monthly wage was increased to 253.76 balboas.

The 1998 negotiations

Despite the existence of the National Minimum Wage Commission and the opportunity it afforded to hold discussions for the purpose of formulating a joint recommendation, a consensus was reached on only one occasion, in 1998.

Following the Commission's recommendation, President Pérez Balladares issued a Decree Law on 1 August setting the increase in the hourly minimum wage at eight centésimos. The Commission recommended that the increase be extended to include public-sector employees; however, that recommendation was not followed by the Executive since, according to the Government, there were no credits in the National Budget for that purpose.

Decree No. 38 established three regions for the purposes of the minimum wage, one corresponding to the regions of Panama City, San Miguelito and Colón, which obtained the highest rate; the districts of David, Chitré, La Chorrera, Aguadulce, Santiago, Penonomé, Las Tablas, Bugaba, Chepo and Taboga, which were given the intermediate rate; while all other parts of the country were assigned the lowest rate.

The vast majority of wage-earners are to be found in the region of Panama City, San Miguelito and Colón, where the hourly wage is 1.08 balboas, while in small enterprises (fewer than ten workers), the rate B with a few exceptions B is 1.02 balboas. The lowest wage was earned by agricultural workers, at 0.76 balboas in the case of small enterprises and 0.82 in larger ones. The highest minimum hourly wage of 1.31 balboas corresponded to the construction sector.

The 2000 negotiations: an absence of common positions

With the period covered by the minimum wage established in 1998 due to expire in July 2000, a new Minimum Wage Commission was convened in December 1999. However, after seven months of negotiations the Commission was unable to agree on a recommendation, and the Executive ended up setting the minimum wage by decree.

It was clear at the outset of the negotiations that the positions of the workers and employers differed considerably, with CONEP proposing an increase of three per cent, while CONATO was seeking 122 per cent, equivalent to a monthly wage of 500 balboas B a proposal considered unrealistic by the employers.

For his part, the Minister of Labour and Labour Development, Joaquín José Vallarino III, acknowledged that there had been failings with respect to adjustments in the minimum wage, particularly during the country's periods of political crisis, and indicated that the administration of Mireya Moscoso would for the first time establish the minimum wage on the basis of the basic family shopping basket, explaining that the Commission's technical studies showed the minimum monthly wage necessary in order to have access to the products in that basket to be 265 balboas.

This figure clashed head-on with the workers' demands. Prior to the negotiations the members of CONATO had agreed on a united position, and throughout the talks they refused to budge from it. As for the employers' and government sectors, some of them considered the figure "fair", but "unrealistic" in terms of the ability of small and medium-sized enterprises to pay it. According to Felipe Rodríguez of APEDE, if the minimum wage were to be set at 500 balboas many companies would go to the wall or transfer to the informal sector of the economy.²⁶

CONATO could not agree to the establishment of different minimum wages according to region, insisting that there was only one employment region, and called for adherence to the agreement reached by the Commission in 1998 to the effect that the employment regions be reduced from three to two. For their part, the employers called for the three employment regions to be maintained and for the minimum wage to be determined according to company size (micro, small, medium and large). The concept of minimum wage by region had been established in November 1995.

CONATO also proposed the setting up of a tripartite standing commission to examine the country's various socio-economic problems, such as unemployment and poverty.

The negotiations took place in a atmosphere of tension, mutual accusations (of irresponsibility with respect to the proposals made and of failures to meet the commitments set forth in the corresponding government legislation) and serious rifts between the parties.

For the Secretary-General of SUNCTRACS, Genaro López, the various governments had failed to act in accordance either with the National Constitution or the Labour Code, since the review had not been carried out every two years.²⁷ He stated, moreover, that the adjustments made since 1959 had been insignificant, and that this had resulted in the cost of the expanded basic basket being higher than the minimum wage paid to workers.

²⁶ Ibid.

²⁷ *Salario mínimo, una historia de altas y bajas* [Minimum wage, a story of highs and lows], Y. Sagel, El Panamá América, 22 May 2000.

For her part, the National Union of Small and Medium-Sized Enterprises (UNPYME) leader, Elsa de Guanti, observed that small and medium-sized enterprises considered the figure of 265 balboas to be excessive, pointing out that the negotiations were being distorted because the required adjustment needed to be made on the basis of the basic general shopping basket and not the basic food basket. It was right to give the workers an increase, but not the 120 per cent being demanded by the trade union sector, which she called upon to be more realistic.

The negotiations were also affected by the announcement by President Mireya Moscoso of an agreement that had been reached between workers and employers in the provinces of Chiriquí, Veraguas, Coclé and Herrera to set the minimum wage at 332 balboas, less 20 per cent for rural areas. The CONATO representative within the Commission, Augusto Castillo, insisted that the National Minimum Wage Commission was the only body recognized under the Labour Code, and that the Government should not accept an unlawful proposal. If the Government were to take it into account it would be “sending out a bad signal”, since it would be disregarding the official and legally recognized body B the Commission B in which were represented the country’s majority sectors.

The discussions ultimately broke down, with the employers basing their final offer on an increase of eight centésimos an hour (equivalent to a monthly wage of 239.42 balboas), and the workers maintaining to the bitter end their demand for 500 balboas per month in the capital and Colón, reducing to 450 balboas in rural areas.

The position taken by the unions was that the minimum wage should be based not only on the basic basket of foodstuffs, but also on other basic non-food goods and consumables. The minimum wage should also apply to public-sector employees and should be discussed and agreed upon by all areas of the working class and not only by a single organization, i.e. CONATO.

On 19 July 2000, following the breakdown in talks between workers and employers, the Cabinet Council fixed the minimum hourly wage,²⁸ according to region, economic activity and size of enterprise for the districts of Panama City, Colón and San Miguelito, at 1.50 balboas for the construction industry, 1.22 for large enterprises and 1.15 for small ones.

By agreement with the Ministry of Labour,²⁹ the increase approved for Region 11³⁰ makes the minimum monthly wage 312 balboas in the construction industry, 253.76 in large enterprises and 239.20 in small ones, making the latest wage increase - at 13 per cent - the highest ever approved by a Panamanian government.

The trade union movement divided

A split now began to appear in the trade union movement with respect to its minimum wage proposal, the figure unanimously agreed upon at the outset, on the basis of a study carried out by the general unions, having been 500 balboas. Within CONATO there was disagreement on whether to maintain that position, the main supporter of which was CONUSI. A number of general unions did not agree on the need to maintain an all-or-nothing position and would have been prepared to negotiate a

²⁸Executive Decree No. 59 of 19 July 2000.

²⁹El Panamá América, 20 July 2000.

³⁰For the purposes of applying the minimum wage the national territory was divided into three regions made up of districts, as follows. Region 1: Panama City, San Miguelito and Colón; Region 2: Chitré, Aguadulce, Santiago, Barú, Changuinola, Las Tablas, Penonomé, Bugaba, Capira, Chepo, Taboga, Natá, David, Arraiján and La Chorrera; Region 3: the remainder of the country.

lower figure; however, none of them had the courage to propose this during the negotiations. A significant number of the trade union leaders consulted stated that the responsibility for the failure to reach an agreement lay with the unions, and expressed their impression that the movement lost steam following the breakdown in the negotiations.

The split became evident when, during the negotiations, SUNCTRACS accused union leaders of promoting an increase that would take the minimum wage to less than 500 balboas after heeding offers made by representatives of the employer sector at talks being held away from the negotiating table.

Following this failure on the part of the Commission, workers decided to call a strike on 26 July to protest at what they considered to be a meagre increase. However, the proposed strike was suspended following a union meeting which pointed to the possibility of a lack of support, and was replaced by a march, once again demonstrating the union movement's weakness when it comes to maintaining a strong consensual position.

One might ask how it was that the social actors managed to come to an agreement in 1998. For some actors, it had much to do with the electoral climate that prevailed at the time, with the workers not wishing to see the political parties deriving benefit from a failure on the part of the Commission. At that time, moreover, the workers were under the impression that under the terms of the Act the Commission was required to negotiate, whereas they are now aware that the purpose of the Commission is to analyse the cost of living and not necessarily to negotiate.

So far as the Government is concerned, it is clear from the dates that until 1993 it was failing in its responsibilities in regard to minimum wage adjustments, particularly between 1973 and 1979 and from 1983 to 1993, since when an effort has been made to conduct the review every two years (1995, 1998 and 2000).

3.3 Institutions whose management includes the social actors

The National Vocational Training Institute (INAFORP)

The National Vocational Training Institute (INAFORP) is an autonomous State entity with its own legal status and equity capital. It was established under Act 18 of 29 September 1983 for the purpose of fostering the technical development of workers while not neglecting the economic, social, cultural and human aspects in accordance with their abilities and the possibilities of employment and productive occupations required by the process of national development.

Although INAFORP is not a forum for social dialogue as such, its sixteen-member National Commission, responsible for drawing up policies and annual work plans and for supervising the carrying out of activities, includes government, worker and employer representatives (see below).

INAFORP was set up to support the country's socio-economic development plans, strategies, objectives and goals in the areas of human resource education and training and of in-service training in line with technological progress in the corporate sector and labour market.

The tasks carried out by INAFORP in the pursuit of its objectives include:

- Fostering and organizing, by joint agreement with the various companies, the training activities to be carried out using and mobilizing the existing installed capacity;

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- Investigating, studying and planning occupational training activities deemed to have a high priority and which serve to support the implementation of national development plans and projects;
 - Promoting, discussing and strengthening the coordination and linking of the Institute's activities with other State, autonomous, semi-autonomous or mixed bodies and institutions, with whose help the achievement of objectives is ensured;
 - Organizing, guiding, coordinating, supporting and evaluating all occupational training activities carried out within Panama;
 - Awarding occupational training certificates and validating those issued by similar entities in other countries, in accordance with the corresponding rules approved by the National Commission.

INAFORP is essentially financed from the Educational Insurance Tax. It receives 15 per cent of 73 per cent of the tax (approximately 10.95 per cent of the total amount collected). Its budget is also derived from the budget appropriations which the Government occasionally assigns to it for specific projects, receipts generated by the sale of its products, income received in return for the services provided in its centres in the form of occupational education and training (which is provided on a not-for-profit basis), and any legacies, donations or grants it may receive.

INAFORP provides initial training to young people and adults without knowledge or experience of an occupation or trade, supplementary training to employed or temporarily unemployed workers in order to upgrade their skills or remedy occupational shortcomings, as well as higher-level training for qualified workers wishing to acquire a full and in-depth mastery of a specific aspect of their field of activity. Some twenty to twenty-three thousand students a year attend INAFORP's 16 centres in nine of the country's provinces.

The National Commission

The National Commission is the body responsible for the general functioning of INAFORP, formulating its annual work plans and monitoring implementation of the corresponding activities. It comprises the Minister or Deputy Minister of Labour and Social Welfare (who presides over it), the Minister of Education or his/her representative, the Minister of Trade and Industry or his/her representative, three employers' representatives, three workers' representatives, three employed or self-employed craftspersons and three farm operators. The executive organ of INAFORP is the National Directorate.

The three workers' representatives are appointed by the President of the Republic from a list of six names submitted to it by CONATO through the Ministry of Labour and Social Welfare. The same procedure is followed for the selection of the employers' representatives, from a list submitted by CONEP. The three independent craftspersons and the three farm operators are selected from lists which are submitted to the Governor's Office of each province and region (comarca) by independent craftspersons and farm operators belonging neither to CONEP nor to CONATO. The workers', employers', craftspersons' and farm operators' representatives are appointed for a period of two years, thereby ensuring a measure of continuity in the work of the participants and a familiarity with INAFORP which enables all participants to make the best possible technical contribution.

The National Commission meets twice monthly, with an agenda that tends to focus on course curricula, budget matters, financial status reports and agreements with other institutions. Decisions are taken by an absolute majority of its members, in the form of resolutions or agreements.

Strategic planning

The formulation of INAFORP's current strategic plan began on 8 January 2000 at a strategic planning seminar-workshop. One element of the strategy is the INAFORP 2000-2004 Institutional Action Plan, the purpose of which is to bring the Institute's activities and structure into line with the demands of the labour market and with technical and educational advances.

During the seminar-workshop, INAFORP's mission was described in the following terms: "To foster, establish, organize and maintain a national system designed to ensure the occupational training of human resources for productive occupations required in the process of national development, having regard to abilities, attitudes and values both ethical and moral." With a view to fulfilling this mission, a series of priority areas were established, including "planning and diagnosis" and the introduction of a systematic planning arrangement, to include the permanent diagnosis of occupational training and educational requirements in line with market demands.

With help from a consultant and by means of groupwork, the main strategies and policy guidelines were established and submitted to the plenary meetings. Developing the strategies involved analysing the strengths and weaknesses of the institution, as well as the threats it faced and opportunities that lay before it. INAFORP estimated that meeting the Action Plan's main objectives would require some 60 million balboas over the period 2000-2004.

The Institutional Action Plan calls for the establishment of annual operative plans. It is worth noting that the goals for 2001 include the "introduction of a gender perspective in occupational training and education programmes in the interests of ensuring the mixed, productive and effective labour force that is required by the labour market", as well as "the expansion of training activities for women in non-conventional areas, with a view to increasing their participation in productive activities, without discrimination and at all times within the context of a gender perspective."

Its objectives for this year include the provision of support for sectoral and regional development projects through occupational training and by integrating their activities with those of public and private entities involved in that effort.

Under the 2001 Operative Plan, and focusing on the predetermined critical areas, it is planned to implement 119 activities, establish the indicator corresponding to each activity, define the period over which the activities are to be conducted, identify the advisory services to be responsible for the execution of each activity, determine who will be responsible for ensuring that the activity is carried through to completion, and assess the resources necessary for each activity, with an indication of the type of resources, their source and the total amount involved, according to implementing unit.

Recent changes and the role of the National Commission

As we have seen, INAFORP has over the past two years been engaged in a process of self-evaluation with respect to its programmes and has developed a strategy for the next few years. In addition to this, it is for the first time introducing a programme to monitor the impact of its courses.

Another of the changes to have taken place since last year has to do with the way in which training requirements are approached. An attempt is made, through the representatives from the National Commission, to identify the training requirements in each sector (until recently, programmes had been formulated in response to student demand). This identification of requirements is effected by means of a questionnaire which is sent to each commissioner. Through this system, for example, the representative of the Ministry of Economics pointed to the growing importance of the hotel and tourism

sector and of the nautical (cruises) and fishing (basic elements of seamanship) sector. The view is that the survey will enrich the strategic plan.

As the National Directorate sees it, the commissioners do not play an active part in formulating strategies or in the planning process, acting instead more as a control body. The new strategy has not been accompanied by an attitude of change, perhaps owing to a lack of time or to a lack of technical information on which to base proposals. An example of this can be seen in Article 20 of Act 18, which provides that the National Directorate may set up, for each branch of economic activity, consultative technical commissions within which workers and employers will be equally represented. However, no such technical commissions have ever been created. Furthermore, there is no collaboration aimed at introducing innovative solutions, including new technologies, the work of the commissioners being more focused on execution and control than on a technical contribution with new ideas.

Also since last year, efforts have been under way to change the policy on the hiring of teaching staff in order to make it more flexible and to move from a system of permanent contracts to one in which increasing use is made of short-term arrangements that enable the institution to adapt itself better to the evolving training requirements.

In the view of the National Directorate, the institution cannot grow until the importance of education is fully recognized. Panama has a great deal of potential in the tourism, export and services sectors, and indeed facilities have been requested in the reverted areas. However, that request has thus far gone unheeded, since the companies in those areas need qualified staff, it being observed that those staff requirements are covered by means of workers brought in from other countries.

The institution also lacks the resources it would take to equip a new installation, and has requested funds from the Development Aid Fund (FAD) to help it in that regard. The same lack of resources means that the salaries the institution pays its teaching staff are not competitive. A particular problem lies in the fact that teachers are trained in other countries through a fellowship scheme, and leave INAFORP upon returning to Panama. With a view to overcoming these problems, the institution has asked ILO to assist it in restructuring itself.

Although the services of an outside consultancy firm have already been engaged in order to draw up a strategic plan, there is a need for a far-reaching institutional analysis by an outside consultant with a brief including the formulation of a plan that could be submitted for the purposes of obtaining financing. This would cost in the order of 80 000 balboas. It is a major handicap not to have the know-how that is required in order to draw up projects for submission to an international body in an attempt to acquire financing.

Workers, for their part, are aware that there is a problem that is both financial and structural, and one general union pointed to the lack of a clear objective, since INAFORP should be training workers, whereas what it is in fact doing is standing in for the State education system, trying to make up for its lack of quality. Those following the courses are for the most part not workers, who are generally unable to attend them as they are held during working hours.

Workers are likewise aware that CONATO is not in the habit of making proposals to the National Directorate, concentrating its efforts instead on overseeing the work done. This can be explained by an inadequate institutional capacity and a lack of the resources necessary to employ staff on a full-time basis.

The Panamanian Institute for Labour Studies (IPEL)

The Panamanian Institute for Labour Studies (IPEL) was established in 1973³¹ as an independent organ of the Ministry of Labour and Social Welfare attached to the General Directorate of Labour. Its objectives are union training and development of the social and economic education of Panamanian workers and employers, to which end its activities include seminars, courses, lectures and talks around the theme of union and labour training, in addition to which it finances courses and seminars approved and authorized by the Trade Union Education Commission (see below) and organized by the trade unions themselves, and collaborates with other public institutions on the development of educational and training programmes for workers.

IPEL is financed with five per cent of the educational insurance, giving it an annual budget of three million balboas. Of that amount, 15 per cent goes on its own activities, while the remaining 85 per cent is distributed among trade unions to finance their training activities. Employer members may take part in the courses organized by IPEL, but do not receive funds direct from the institution to finance training activities by their own organizations. IPEL operates at the national level, maintaining regional offices throughout the country.

The body responsible for regulating IPEL's activities is the Trade Union Education Commission. It comprises the Minister of Labour and Labour Development, who presides over it, the Rector of the University of Panama, two experts in trade union education (one government member and one employer member) selected by the Executive, and three representatives of legally-constituted trade union associations. The secretary of the Commission is the Technical Director of IPEL, who has no voting rights. The Commission meets every two weeks in ordinary session. Decisions are taken by a majority of those present and voting.

The duties of the Trade Union Education Commission include the approval of training or educational programmes submitted to it, through IPEL, by legally recognized social organizations, as well as programmes drawn up by the Institute itself. Proposals emanating from the trade union side are normally submitted by CONATO, although they are sometimes put forward by individual organizations.

The Institute publishes an annual statistical bulletin containing information on its activities. According to the 2000 issue, a total of 1683 workers from 130 trade union organizations took part in those activities (according to the IPEL management, efforts have been under way to include a greater number of employers). Of the 63 educational activities carried out last year by IPEL itself, particular mention may be made of the tripartite courses on labour legislation and adjective law, the Course on Conflict Resolution through Conciliation, Mediation and Negotiation, and the Course on Gender Issues.

As for the funds that are channelled to the trade union organizations to finance their educational activities, these are considered to be "subsidies", and there is therefore no audit to ascertain their proper use, nor is there any evaluation or fiscal control.

³¹ Act 74 of 20 September 1973.

3.4 Tripartite labour justice: Boards of Conciliation and Decision

Although the Boards of Conciliation and Decision are not mechanisms for social dialogue as such, they do represent a form of tripartite labour justice, insofar as a Board comprising one workers' representative, one employers' representative and one government representative, who is the presiding officer, is solely competent to decide on the following matters: demands for justice following unfair dismissal, whereby any person may claim payment of an amount of up to 1500 balboas, and demands of any kind and for any amount by domestic workers. The Boards of Conciliation and Decision were established by Act 7 of 25 February 1975³² and depend for administrative purposes on the Ministry of Labour and Social Welfare through the Directorate-General of the Boards of Conciliation and Decision. They are competent throughout the national territory.

The origin of the Boards goes back to the approval of the Labour Code in 1972, which recognized, among other things, the decasualization of workers having held their post for over two years, and their reinstatement in the event of unfair dismissal. A study was carried out to determine how to remedy the backwardness that characterized the Sectional Labour Courts, since it was they that were responsible for resolving all labour complaints. Workers and employers alike voiced their interest in introducing a system that would be speedier than the ordinary labour channels when it came to deciding on workers' claims of unfair dismissal. This was to be the main competence of the tribunals that were now being envisaged around the principle that workers, employers and the State should work together to shape labour relations, thereby resolving labour conflicts. It was from here that the Boards of Conciliation and Decision took their origins.

In accordance with the Act, the workers' and employers' representatives on the Boards are appointed by the Ministry of Labour and Social Welfare from lists submitted to it by CONATO and by the most representative employers' associations, respectively. The government representatives are freely appointed by the Executive through the Ministry of Labour and Social Welfare.

The workers' and employers' representatives on the Boards carry out their duties for a period of one month, which may be extended by up to two months. The workers' representatives are entitled to unpaid leave of absence from their regular place of work, that leave being considered as a period of normal work for all other legal purposes. The State covers the wages of the workers' representatives, for an amount that may not be less than 500 balboas per month. The employers' representatives, if they are workers, are entitled to unpaid leave from their place of employment, and the State covers 50 per cent of their wages up to a maximum of 500 balboas per month. The workers' and employers' representatives receive training from IPEL prior to taking up their duties on the Boards.

The Boards B of which there are currently 18 distributed throughout the national territory,³³ plus one in the process of being established - are genuine tribunals, i.e. public sector agencies responsible first and foremost for administering labour justice. Consequently, their decisions have the status of jurisdictional acts.

The powers of the Boards of Conciliation and Decision are for the most part presented by a representative to the Judicial Secretariat, which checks that the powers in question have been properly granted. Some workers turn to the tribunals in order to lodge their complaint through the duly accredited union leadership. Workers who do not have the necessary resources to engage the services of

³² The regulations under this Act are provided by Resolution DM 20 of 1 April 1975 and by Executive Decree 1 of 1993.

³³ There are 11 Boards in the province of Panama and seven in other provinces (La Chorrera, Aguadulce, Colón, Chiriquí, Herrera y los Santos, Veraguas and Chaguinola).

a lawyer may seek assistance from the office of the Workers' Ombudsman, whose services are free of charge, within the Ministry of Labour and Social Welfare.

The participation of the workers' and employers' representatives in a given Board is determined by the drawing of lots on the day on which the Board is to be held and the case history to be studied. Once the session has begun, the Board seeks to reconcile the parties. Where this proves to be impossible, the evidence provided by the parties is examined.

The case is dealt with in a single session. The decision is handed down at the end of the session and the parties are informed thereof, unless the Board considers it essential that additional evidence be furnished. The Board's decision is taken by a majority of votes.

A total of 1317 sessions were held in 2000, this being a marked increase on the 1043 held the previous year. Between September 1999 and December 2000, a total of 655 judgments were made in favour of the worker and 568 in favour of the employer.

The social actors very much value the work of the Boards. Employers who were traditionally more reluctant than workers to take time out from their regular duties are now participating more and more.

On 28 and 29 April 2001, the social actors took part in a tripartite workshop to discuss the work of the Boards and propose ways in which it could be improved.

Chapter 4 - Conclusions: Strengths and weaknesses of social dialogue in Panama

Panama has a wealth of experience in the area of social dialogue, with processes as significant as the Bambito and Coronado meetings having made for a responsible and peaceful transition to democracy and for the handing over of the Panama Canal from United States to Panamanian control. Other key processes that have taken place on a one-off or regular basis have been the dialogue on reform of the Social Security Fund and the negotiations on the minimum wage. Experience has shown that whenever the need for consensus was paramount, the actors conducted themselves with maturity and responsibility and in a spirit of compromise.

The traditional social actors have participated in these and other processes, and believe in dialogue. They also participate in the management of a number of entities such as the Social Security Fund and INAFORP, although that participation is limited by a lack of technical and financial resources, above all on the trade union side, which suffers from the divisions and fragmentation that are so often to be found in this sub-region. The strengthening of social dialogue will require a strengthening of the social discussion partners and of their technical capacity at all levels. The current divisions result in problems when it comes to putting forward coordinated proposals, on both the trade union and employer sides.

One thing worth pointing out has been the participation of other interest groups in a number of the social dialogue processes, such as women's groups or the coordinators of indigenous groups, as was the case with the Coronado meetings. Some 29 groups are involved in the discussion process on reform of the Social Security Fund, although the technical discussions seem to involve mainly the traditional social actors and the Government.

The Government, and particularly the Ministry of Labour, does not appear to exercise its role as promoter and facilitator of social dialogue in a systematic manner and, despite the existence of participative forums, there is always the threat that someone will abandon the talks, and mistrust prevails between the actors, especially the Government and the workers. It is here that we see problems stemming from the lack of a solid culture of dialogue and from attitudes that are non-conducive to healthy labour relations. This is reflected in the fact that the trade union actors appear to be recognized at the higher levels of dialogue, but that that recognition seems to waver at lower levels in the system of labour relations.

The creation of the Labour Foundation has been a key factor in promoting dialogue between workers and employers, and that role is broadly recognized by all sectors in Panama. However, a number of shortcomings are to be seen in its functioning and impact, for example: the difficulty it has in transmitting this better understanding to the lower levels; the lack of openings for emerging leaders; the absence of concrete results; and its limited ability to follow up on proposals submitted to the Government. Thought should also be given to whether the agenda drawn up by the Foundation could be reoriented in order to accommodate topics liable to have a greater impact on working conditions.

Another weakness of the Foundation lies in the absence among its ranks of certain trade union sectors which participate in CONATO. Here we see a conflict insofar as those sectors are opposed to the Foundation's serving as the valid discussion partner for the Government - as would appear to be the latter's wish - rather than CONATO. A key step in this regard would be to undertake a definition of the roles of those participating in the dialogue process.