



FIFTH ITEM ON THE AGENDA

## **Special technical cooperation programme for Colombia (2001-03)**

### **I. Presentation**

1. In June 2001 the Governing Body of the ILO asked the Office to prepare a substantive technical cooperation programme for Colombia.
2. Following this request, the Director-General of the ILO instructed the Regional Director for the Americas and the Andean Multidisciplinary Advisory Team (AMAT) to prepare this programme, in line with guidelines established by the Director-General himself.
3. Consequently, the Regional Director and the members of the AMAT prepared the following cooperation programme for Colombia, which has the agreement and support of both the Minister of Labour and of the trade union confederations and the employers' confederations represented by the National Association of Manufacturers (ANDI).<sup>1</sup>
4. The programme is designed to help create mechanisms to safeguard the lives of both trade union and business leaders, to defend freedom of association, to bring legislation into line with international labour standards, to strengthen the social partners and to promote collective bargaining as the basis of social dialogue at its various levels.
5. Consequently, the technical cooperation programme seeks to achieve specific objectives in six areas of action which represent the pillars of the programme as put forward by the Director-General at the 281st Session of the Governing Body: (1) labour rights and effective measures to protect life; (2) defence of freedom of association and promotion of the right to organize; (3) promotion of collective bargaining; (4) public promotion of fundamental rights and principles at work; (5) bringing Colombian legislation into line with the international labour standards ratified by Colombia; and (6) promotion and strengthening of social dialogue.
6. In these six areas special attention is paid to increasing participation by women with a view to their integration and particular emphasis is placed on their specific problems as well as

<sup>1</sup> This is a summarized version.

on finding and adopting solutions to the most manifest forms of labour discrimination they face.

7. The programme's sphere of action includes both Colombian state bodies as well as the social partners, and through its objectives, results and activities it seeks to facilitate the protection of life, the respect of labour rights and the promotion of social dialogue. The pursuit of harmony and social peace is part and parcel of the objectives of the programme, particularly by strengthening labour institutions and promoting a new culture of concerted and less confrontational labour relations.
8. It is important to point out that the existence of the programme and the gradual achievement of its objectives do not release Colombia from fulfilling the obligations arising both from its status as a Member of the ILO or from the commitments it has undertaken through its ratification of international Conventions.
9. The programme is based on activities financed using resources from the ILO regular budget and on activities developed by the following projects: project COL/95/003, financed using resources provided by the Government of Colombia; project for the "Improvement of labour relations and economic growth for gender equality in Colombia", financed by the United States Department of Labor; and project for the "Defence of freedom of association and the right to organize, and the promotion of social dialogue and fundamental labour rights in Colombia", to be financed using resources to be obtained from various cooperation sources. To these activities should be added others executed either directly or indirectly by IPEC/ILO (see the annexed graph).

## II. The programme's objectives

### Development objective

10. The programme will help to guarantee labour rights and particularly the right to life, compliance with labour rights, the strengthening of and full compliance with freedom of association, a culture which is peaceful and promotes collective harmony and, as a result, improved social protection, working conditions and freedom of enterprise in Colombia. This should all contribute to the gradual development of a new culture of labour relations which will help strengthen peace and democracy.

### Strategic and immediate objectives

| Areas for action                                  | Strategic objectives  | Immediate objectives  |
|---|---|---|
| 1. Labour rights and effective protection of life | Develop conditions to guarantee the lives, safety and freedom of trade union and business leaders and turn attention to workers displaced as a result of violence | <ol style="list-style-type: none"> <li>1.1. Once the programme is completed the appropriate conditions will have been established to ensure suitable protection for the trade union leaders under threat</li> <li>1.2. Once the programme is completed, the conditions will have been established to strengthen the guarantee of the right to life and the right to the integrity of trade union and business leaders, and a series of measures will have been adopted to allow judicial processes to be initiated</li> </ol> |

| Areas for action   | Strategic objectives   | Immediate objectives  |
|--|--|---|
| 2. Freedom of association and promotion of the right to organize             | Develop the conditions for the full exercise of freedom of association and the promotion of the right to organize in Colombia, as provided in ILO Conventions, and for their ongoing application | <p>and developed, as well as sanctions applied to those who directly or indirectly endanger the lives or activities of those exercising their trade union rights</p> <p>1.3. Once the programme is completed, conditions will have been established to ensure suitable protection for employers under threat</p> <p>1.4. Once the project has been completed, the local trade unions that receive workers who have representative posts in trade union organizations and who have become displaced as a result of the violence, will benefit from a fund and sufficient structures to facilitate their reintegration</p> <p>2.1. By the time the programme is completed, a system will have been established to process and examine, with a view to settling them at the national level, the cases pending before the Committee on Freedom of Association (CFA)</p> |
| 3. Encourage the development of collective bargaining                        | Encourage and promote collective bargaining at all levels, both in the public and the private sectors  | <p>3.1. By the end of the programme, the social partners of Colombia will have developed the skills to improve labour relations and to bargain collectively at the various levels and to adopt new forms of cooperation at the workplace</p> <p>3.2. By the end of the programme, the social partners from various economic sectors will have adopted a system of dispute settlement to supplement the currently existing one and the work of the labour judges and labour inspectors will have improved</p> <p>3.3. By the end of the programme, there will be effective collective bargaining in the public sector</p>  |
| 4. Public promotion of fundamental rights                                    | Promote fundamental rights and principles at work as the basis of the development of workers   | <p>4.1. Once the programme is completed, there will be greater awareness of fundamental labour rights by the population</p> <p>4.2. By the time the programme is completed, there will have been a reduction in child labour, particularly in its worst forms</p>   |
| 5. Bringing labour legislation into line with international labour standards | Adopt legislation and bring it into conformity with the ILO Conventions ratified by Colombia   | <p>5.1. By the end of the programme, national legislation will facilitate the effective development of freedom of association, the right to organize and collective bargaining, having incorporated the comments and observations of the Committee of</p>   |

| Areas for action                | Strategic objectives   | Immediate objectives  |
|---------------------------------|--|---|
| 6. Promotion of social dialogue | <p>Improve the technical capacities of trade union confederations, increase the awareness of workers and employers in respect of techniques and issues subject to negotiation, and strengthen the institutional nature of social dialogue, all of this in conjunction with the development of a new labour culture</p> | <p>Experts on the Application of Conventions and Recommendations and of the CFA</p> <p>6.1. By the end of the programme, the trade union and employers' organizations will have developed mechanisms and the technical capacity to participate in the consultation process in a fully effective manner</p> <p>6.2. Once the programme has been completed, issues relating to gender equality will have been incorporated into the consultation process</p> <p>6.3. Once the programme has been completed, trade union and employers' leaders from various levels and social spheres will have increased their knowledge of dialogue and bargaining techniques, and of the technical aspects of the issues subject to the Standing Negotiating Committee on Labour and Wage Policies (CPCPLS)</p> <p>6.4. Once the programme has been completed, the technical and administrative capacity of the CPCPLS will have been underpinned in accordance with the provisions of the Constitution</p> <p>6.5. The necessary technical examinations will be undertaken into new subjects or into subjects that have already been dealt with and which deserve further attention, as a way of facilitating the adoption of consultation agreements</p> |
|                                 | <p>Provide technical support to the process of social consultation, at both the national and regional levels</p>   |   |

### III. Progress made in activities

11. By the end of this year the AMAT will have carried out a number of activities contained in the programme, financed using the ILO regular budget. A list of these activities is appended. To these should be added activities relating to the selection, preparation and programming of the project "Improvement of labour relations and economic growth for gender equality in Colombia" financed by the United States Department of Labor. This project is scheduled to begin in January/February 2002.

### IV. Principal operational aspects of the programme

12. During the planning of the programme, agreement was reached with the Minister of Labour and trade union and employers' leaders not only on its content but also on the

scope of activities in each of the programme's areas of action. These activities are summarized below, together with a description of the scope of some of them.

## 1. Human rights and the right to life

13. Activities in this area will include the design and implementation of a fund to protect leaders under threat, support for actions by the authorities and officials in charge of investigating and punishing the murderers of trade union leaders, the preparation of a possible system to protect businessmen under threat, as well as activities to promote the reintegration into the labour market of displaced trade union leaders.

- *The protection funds* will be financed with budgetary resources from the programme (“Project Colombia”) and will be used to cover the cost of the transfer and maintenance (within Colombia or in another country) of trade union leaders (and, where necessary, immediate family members) under threat, who must consequently leave their usual place of residence. The fund, the resources of which could be gradually increased,<sup>2</sup> will be made up of an initial amount of US\$400,000 and will be administered either by the Single Trade Union Command Unit (comprised of Colombia's three trade union confederations) or by an institution of its choosing (a foundation or similar body), or alternatively by another institution to be agreed with the donors. Decisions regarding the leaders to be looked after by the fund, the locations to which they will be moved and the length of care, will be adopted by a special committee made up of one representative from each of the three trade union confederations.
- *Setting up of an independent legal team to monitor the actions of the Office of the Public Prosecutor:* This team will comprise two or three lawyers of solid reputation who will be responsible for monitoring action taken by the Office of the Public Prosecutor for the identification and prosecution of the perpetrators of assassinations and kidnappings of leaders. It will recommend measures to facilitate the processes and draft a periodic report on progress made in investigations.
- *Fund to assist displaced workers:* This fund will be financed using budgetary resources from the programme (“Project Colombia”) and will serve to finance the programmes devised and implemented by the respective trade union confederations to promote the reintegration into the workforce of trade union leaders and activists who, while not actually having suffered threats, have had to leave their place of residence to escape from violence. These programmes will include training activities and help to find employment and to create micro-enterprises, etc. The fund, the resources of which could gradually increase, will be set up with an amount expected to be in the region of US\$300,000.<sup>2</sup>

## 2. Freedom of association and promotion of the right to organize

14. Activities in this area will include evaluating freedom of association in Colombia and finding solutions to the cases pending before the supervisory bodies, providing technical support to the Committee for the settlement of complaints submitted to the ILO, training workers, employers and officials on the subjects of freedom of association and the right to

<sup>2</sup> If the applicable donors so decide.

organize, and finding strategies agreed on a bipartite or tripartite basis to promote this right in Colombia.

- *In this framework a study will be carried out into the settlement of cases before the Committee on Freedom of Association (CFA) and a committee of experts to study and monitor such settlement will be created:* The study is designed to provide input for a programme to train and assist Ministry of Labour officials to enable them to respond to all the allegations submitted in the cases pending before the Committee on Freedom of Association in which it has not been possible to settle the corresponding disputes. The committee of experts will work towards achieving greater compliance with the recommendations made by the Committee (possibly through mediation procedures).

### **3. Encouraging the development of collective bargaining**

**15.** Activities in this area will include the identification and dissemination of good practices in the sphere of labour relations, the training of workers, employers and public officials on the subject, finding strategies agreed on a bipartite or tripartite basis to promote collective bargaining, the strengthening of the capacities of the Ministry of Labour in this area, the design and implementation of a system for *extrajudicial dispute settlement and the preparation of draft bills relating to collective bargaining in the public sector in accordance with international labour standards.*

- *Extrajudicial dispute settlement:* In accordance with the planned activities an assessment will be made to discover the shortcomings in the current system and to establish an efficiently functioning operational system to supplement the current one. The assessment will be discussed and agreement reached with trade union confederations and occupational organizations and, once finalized, the assessment will be distributed along with the appropriate material to its end-users.

### **4. Promotion of fundamental rights**

**16.** Activities in this area consist of campaigns to promote awareness of fundamental rights, as well as the implementation of programmes and projects for the elimination of child labour by IPEC, the employers' occupational organizations and the trade union confederations. The awareness campaigns will be carried out through the mass media (press, radio and television), as well as through the public distribution of brochures, posters, etc. They will be managed by an ad hoc tripartite committee and the campaign material will be prepared by a specialized enterprise.

### **5. Bringing labour legislation into line with international labour standards**

**17.** Activities in this area will include bringing labour legislation into line with the ILO Conventions ratified by Colombia, incorporating into it the comments of the CEACR and the CFA, and the preparation of a study on the economic impact of certain labour institutions considered in the legislation.

- *Legal and economic study into legislation:* The aim of the study will be to examine the legal content and the impact of prevailing labour legislation so as to evaluate the effects on employment, income, productivity, etc. as well as to formulate revision

proposals, where necessary. The study will be carried out by a team of consultants (economists and jurists) who will conduct it in accordance with terms of reference prepared by the AMAT. The result of the study and its conclusions and proposals will be presented and discussed at a tripartite workshop.

## 6. Promotion of social dialogue

18. Activities in this area will include strengthening the technical capacity of the trade union confederations, the training of workers, employers and public officials in consultation techniques and support for the operation of the Standing Negotiating Committee on Labour and Wage Policies.

- *Training programmes:* These programmes will be devised and implemented by the respective trade union confederations and employers' occupational organizations, and will be financed using the budgetary resources of the programme ("Project Colombia").
- *Strengthening of the institutional nature of the Standing Negotiating Committee:* This essentially involves providing technical support to consolidate the work of the Committee at the regional and national levels, it being understood that its secretariat should be financed out of the state budget.
- *Committee for complaints before the ILO:* In the framework of the Standing Negotiating Committee and using the necessary input (and the technical support of projects) a general working method that is both independent and efficient should be developed for the Committee for the settlement of complaints submitted to the ILO, which was set up in 1999 and which is tripartite in nature.

## 7. General

- *Preparation of studies and assessments:* These will be carried out in accordance with the terms of reference drawn up by the AMAT. Once they have been completed, they will be submitted to the social partners involved and disseminated as appropriate. For the selection of consultants, the Ministry of Labour, the trade union confederations and the employers' occupational organizations will be asked to recommend suitable professionals so as to have a selection of potential consultants.

## V. Organizational and institutional aspects of the programme

19. The management and execution of the programme and the projects that comprise it will be the responsibility of the International Labour Office. For this purpose a team of international experts will be established in Colombia made up of the programme's general coordinator, who will also manage the activities corresponding to "Project Colombia" (which may take the form of one or more multilateral cooperation projects), the director of the United States Department of Labor project and the international experts associated with each of these two projects. The team will also include those national consultants it proves necessary to contract to ensure the smooth running of the programme, including consultants for project COL/95/003 and those contracted under the ILO regular budget (RBTC).

20. For the implementation of the programme, the Ministry of Labour, the occupational organizations and the respective trade union confederations will appoint their respective counterparts who will be responsible for exchanges between those institutions, the general programme coordinator and the directors of the associated projects. Likewise, each of the three trade union confederations will appoint two representatives to a trade union committee which will monitor the programme. A similar committee will be established by the employers' organizations and another by the Government. The principal objective of each of the committees will be to meet periodically with the general programme coordinator in order to review progress in the implementation of the programme and to make any recommendations they consider appropriate.

## **VI. Monitoring, evaluation and programme reports**

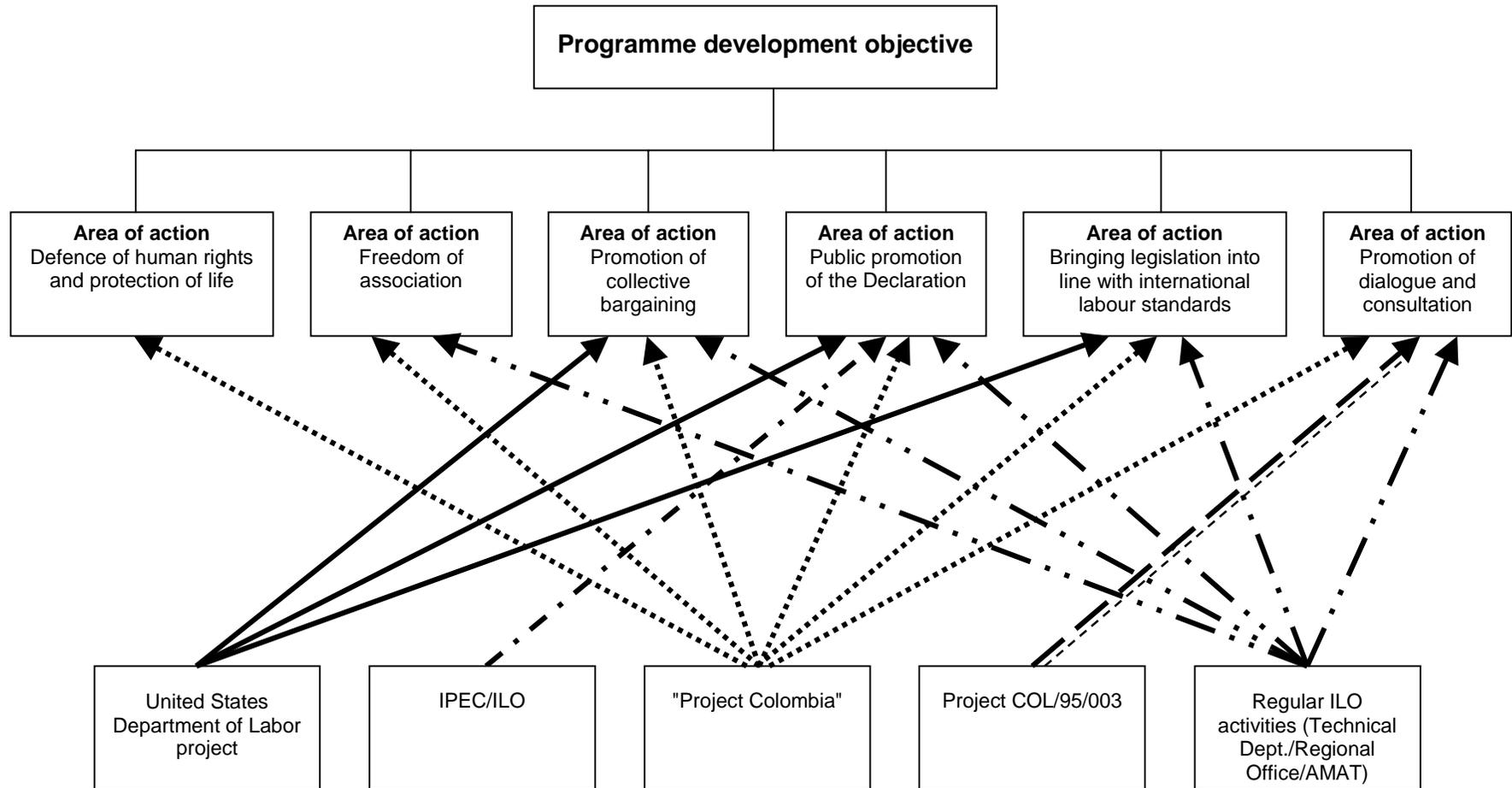
21. The AMAT, the regional office, the Office of the Director-General and the related headquarters departments will supervise, together with the general programme coordinator, the preparation of a schedule of activities, which will be transmitted to the Ministry of Labour and Social Security, to workers and to employers.
22. The general programme coordinator will submit technical progress reports to the donors in accordance with the provisions contained in the projects involved, as well as a supplementary global report every six months. Likewise, he or she will prepare a special report concerning progress made with regard to objectives, in consultation with the technical advisers of each programme and with the AMAT and the Regional Office for the Americas, 15 days prior to each session of the Governing Body. This report will contain any other technical or financial proposals that might be necessary for the development of the programme.
23. Furthermore, as already indicated, the committees set up by the trade union confederations, the professional associations and the Government itself will participate in the monitoring of the programme.

## VII. General budget\*

|  | US\$             |
|--|------------------|
| 1. Labour rights and effective protection of life                            | 860 000          |
| 2. Freedom of association and promotion of the right to organize             | 145 000          |
| 3. Encouraging the development of collective bargaining                      | 815 000          |
| 4. Public promotion of fundamental rights                                    | 2 995 000        |
| 5. Bringing labour legislation into line with international labour standards | 60 000           |
| 6. Promotion of social dialogue  | 695 000          |
| Subtotal of six areas and objectives   | <b>5 570 000</b> |
| International technical staff, missions, etc.                                | 1 215 400        |
| Teams  | 130 000          |
| Publications and various charges   | 300 000          |
| <b>Programme total</b>   | <b>7 215 400</b> |
| <b>By source of financing</b>  | <b>US\$</b>      |
| ILO (2001-03)  |                  |
| Regional Office and Geneva   | 90 000           |
| AMAT   | 80 000           |
| Multidisciplinary team experts   | 566 000          |
| Subtotal 1: ILO  | <b>736 000</b>   |
| United States Department of Labor project**                                  | 1 373 800        |
| “Project Colombia”   | 2 270 600        |
| Project COL/95/003   | 100 000          |
| Subtotal 2: ILO and projects   | <b>4 480 400</b> |
| IPEC (2 495 000) and ANDI projects (240 000)                                 | 2 735 000        |
| <b>Total (subtotal 2 + IPEC)</b>   | <b>7 215 400</b> |

\* This does not include agency charges or allowances for cost increases. \*\* Of this project, only the labour relations component is part of this programme.

Geneva, 30 October 2001.



## Appendix 2

### Activities currently in progress

Support (in conjunction with other United Nations human rights institutions) for inter-institutional self-evaluation by the risk assessment committee.

Design and implementation of a training programme for criminal lawyers and judges for the effective and efficient processing of cases relating to the elimination of impunity.

Preparation of the first annual report concerning the status of the investigations and judicial proceedings against the perpetrators of assassinations and kidnappings of trade union and business leaders, prepared in conjunction with other United Nations human rights bodies.

Study of the most relevant aspects of the freedom of association situation in Colombia, with special emphasis on the situation in the regions.

Preparation, in collaboration with the Special Committee for the settlement of disputes before the ILO, of a study to find solutions for cases pending before the Committee on Freedom of Association and/or before the Special Committee itself.

Three trade union workshops to provide training in the area of freedom of association.

Three employers' workshops to provide training in the area of freedom of association and the right to organize.

Employers' event on freedom of association and the right to organize.

Preparation of a programme to provide training and assistance with respect to the processing of cases pending before the ILO supervisory bodies and preparation of specific materials.

Three regional seminars for trade union leaders on the subject of collective bargaining, as an instrument to achieve progress for both enterprises and workers.

Study into the inclusion of gender issues in collective bargaining.

Two regional seminars to train employers in collective bargaining, as an instrument to achieve progress for both enterprises and workers.

Preparation of draft bills and regulations in respect of collective bargaining in the public sector, taking into account the draft bills formulated by the International Labour Office.

Establishment in the Presidential Committee for Women of a documentation, analysis, monitoring and dissemination centre for legislation and practice related to ILO Conventions Nos. 100 and 111.

Activities contained in the IPEC/ILO plans and projects, including, if financing can be arranged, the start up of direct intervention projects prepared by the National Association of Manufacturers (ANDI).

Preparation of a study to evaluate the economic and social impact (employment, income, productivity, etc.) of Colombian labour legislation and, as appropriate, the preparation of possible reasoned proposals for the revision of legislation, in accordance with the provisions of the national Constitution and of the ILO Conventions ratified by the country.

Three participative assessments to identify the problem and draw up a plan to strengthen the participation of women in trade unions.

Preparation of two technical studies into subjects of priority for the Social Consultation Agenda.