

**FOR INFORMATION**

## FIFTH ITEM ON THE AGENDA

**Other questions****(b) Colombia: Tripartite Agreement on Freedom of Association and Democracy**

1. Following the discussion in the Committee on the Application of Standards of the International Labour Conference (June 2006), a high-level mission composed of the Chairperson of the Committee on Freedom of Association and the Employer and Worker Vice-Chairpersons of the Conference Committee on the Application of Standards visited Colombia at the invitation of the Government from 24 to 29 October 2005. One of the recommendations of the mission, which was included in the Report of the Committee on Freedom of Association to the 295th Session of the Governing Body (March 2006), refers to the importance of a permanent ILO presence in Colombia as a means of ensuring a more sustainable technical cooperation programme (GB.295/8/1).
2. At the 95th Session of the International Labour Conference (June 2006), the social partners and the Government of Colombia submitted to the Committee on the Application of Standards a “Tripartite Agreement on Freedom of Association and Democracy” (Appendix II), whereby the Government of Colombia undertakes, with the assistance of the ILO and with the support of the workers and employers, to guarantee a renewed presence of the Organization through a permanent representation for promoting decent work and the defence of the fundamental rights of workers, their trade union leaders and their organizations, specifically as regards their physical integrity, trade union freedoms, freedom of association and of speech and collective bargaining, as well as free enterprise for employers.
3. In the Tripartite Agreement on Freedom of Association and Democracy, the signatories request the Governing Body to put the agreement into effect and to provide the logistics and support for its implementation.

4. At the 296th Session of the Governing Body (June 2006), the Director-General undertook on behalf of the Office to submit to its next session a report on the actual implementation of the Tripartite Agreement. Appendix I accordingly presents a summary of the activities that the Office, together with the Government and social partners of Colombia, has undertaken in recent months. Appendix III sets out the terms of the agreement reached on the mandate of the ILO's permanent representation in Colombia.

Geneva, 30 October 2006.

*Submitted for information.*

## Appendix I

### I. Activities carried out since the 296th Session of the Governing Body (June 2006) to implement the Tripartite Agreement on Freedom of Association and Democracy

#### ***Point (a) of the Agreement – Organizational aspects***

1. From 24 June to 1 July 2006, the Executive Director of the Director-General's Office visited Colombia, among other things to discuss with the social partners and government authorities the implementation of the Tripartite Agreement on Freedom of Association and Democracy, as well as various issues connected with the National Decent Work Programme.
2. From 24 to 28 July 2006, the Chief of Official Relations and Documentation – and former Director of the ILO's Subregional Office for the Andean Countries – carried out a mission to Colombia to follow up the issues dealt with by the Executive Director of the Director-General's Office. He also held meetings with representatives of employers' and workers' organizations and with senior government officials. Among other points discussed, the Office drew the Government's attention to the problem of the proper protection in Colombia of the immunity of the Organization and of its officials.
3. From 1 to 4 October, the Regional Director for the Americas visited Colombia with another ILO official, who extended his stay in the country to 6 October. During their mission, meetings were held with representatives of the Workers' Confederation of Colombia (CTC), the Single Confederation of Workers of Colombia (CUT), the General Confederation of Workers (CGT) and the National Employers' Association of Colombia (ANDI), together with top-level government authorities, with a view to reaching agreement on measures to implement the Tripartite Agreement.
4. On 3 October 2006, parallel with these individual discussions with the social partners and government authorities, a tripartite meeting was held at the Ministry of Social Protection with the participation of the incumbent Minister, the Deputy Minister for Labour Relations and the senior representatives of the employers and workers' organizations, at which it was agreed:
  - to set up an ILO permanent representation in Colombia, whose priority task will be technical cooperation aimed at promoting decent work and the defence of the fundamental rights of workers, their trade union leaders and their organizations, specifically as regards their physical integrity, trade union freedoms, freedom of association and of speech and collective bargaining, as well as free enterprise for employers;
  - to establish a tripartite working group to draw up proposals for the Office regarding the specific mandate and duration of the permanent representation, and to determine the profile of the official to be designated by the ILO to fill the post. The Office undertook to appoint an official to coordinate the work of the tripartite group *in situ*;
  - to appoint the official in charge of the Office's permanent representative in Colombia as soon as agreement was reached on the mandate by the signatories to the Tripartite Agreement.
5. The Regional Director for the Americas and the ILO official who accompanied him on the mission were invited to a lunch hosted by the President of Colombia for representatives of employers' and workers' organizations; the lunch, at which the President was apprised of

the outcome of the tripartite meeting, was also attended by the Minister of Social Protection and the Deputy Minister for Labour Relations.

6. On 5 October 2006, the conclusions of the tripartite meeting held two days earlier were submitted to the National Commission on Wage and Labour Policies, in the presence of the ILO official.
7. Later the same day the first meeting of the tripartite working group was held, which drew up a timetable for the early preparation of a document setting out the mandate and duration of the permanent representation and the profile of the ILO representative to be responsible for it. The timetable scheduled a number of meetings to be held during the following weeks.
8. On 18 October 2006, the social partners and government authorities of Colombia, assisted by an ILO official, defined the mandate of the ILO's permanent representation in Colombia (Appendix III).

### ***Point (b) – Financial support***

9. The Tripartite Agreement on Freedom of Association and Democracy stipulates that the Colombian Government undertakes to seek economic support that will guarantee the achievement of the proposals made and, to this end, will seek financial assistance from the ILO and other donors.
10. At the 296th Session of the Governing Body (June 2006), a representative of the Government of Colombia stated that financial resources for the implementation of the Tripartite Agreement were in the process of legal approval for inclusion in the national budget to be submitted to Congress on 28 July 2006.
11. The Government of Colombia hopes to contribute some US\$5 million over the next four years to finance four projects under the Technical Assistance Project for the Promotion of Decent Work, which cover a substantial number of the activities that will be carried out as part of the Tripartite Agreement. For the first year the Government has earmarked 4,500 million pesos (approximately US\$1.8 million) in the draft budget to be approved by Congress for preliminary work on some of the activities.
12. By agreement between the Vice-President of the Republic and the Office of the Attorney-General, 4,016 million pesos (approximately US\$1.7 million) were earmarked to strengthen the team of professionals responsible for speeding up proceedings with respect to crimes against the personal integrity and freedom of trade union officials and workers.
13. The Government of Colombia has decided to include the issue of decent work in the National Development Plan, and this will make it possible to include an item in the national budget for the financing of projects in this area and, in turn, to request international cooperation to this end.
14. On its side, the ILO is providing much of the last quota of US\$118,800 from the cash surplus funds (US\$1,093,041) that were set aside to finance support activities for the implementation of the Tripartite Agreement.
15. The Office, which is aware of the special importance of the Tripartite Agreement on Freedom of Association and Democracy and the particular concern that the ILO's constituents have expressed with regard to its implementation, is encouraging member States also to provide resources for this purpose.

### ***Point (c) – Fight against impunity***

16. On 11 September 2006, the Office of the Attorney-General held a tripartite meeting with the presidents of the three Colombian Federations (CUT-CTG-CTC) that are members of the Single National Unit (CNU), the ANDI, the Vice-President of the Republic and the

Ministry of Social Protection, in order to present the 120 cases of attacks on the physical integrity of members of the trade union movement that had been pre-selected for investigation by the workers' organizations themselves.

17. On 15 September 2006, inter-administrative agreement No. 15406 was signed with a view to speeding up proceedings with respect to violations of the human rights of members of trade unions, developing strategies to clarify the crimes concerned and adopting national and local inter-institutional plans and programmes as appropriate.
18. The project is designed to implement machinery for speeding up and following up cases brought before the ILO by: (i) optimizing the investigation proceedings; (ii) sorting out the various cases and accelerating the paperwork; and (iii) carrying out a qualitative analysis of the available information and of the nature of the crimes, by strengthening the National Human Rights Unit, the National Terrorism Unit and the directorates of their respective sections.
19. The Human Rights Unit of the Office of the Attorney-General has set up a special investigation group comprising five specialist district attorneys. The group is responsible for the investigation of cases of attacks on the physical integrity of members of trade unions.
20. A committee composed of workers' and employers' representatives, in addition to government officials, has been established to follow up the efforts of the Office of the Attorney-General to resolve cases of attacks on the physical integrity of members of the trade union movement.
21. On 18 October 2006, the Vice-President of Colombia launched the strategy for speeding up investigations into ILO freedom of association cases, such as Case No. 1787. The event was attended by the workers' confederations and, in addition to the Office of the Vice-President, the Office of the Attorney-General and the Ministry of Social Protection. Invitations were also sent to the Public Prosecutor's Office, the Ombudsman, the Higher Council of the Judiciary, the Ministry of the Interior and of Justice and the Ministry of Foreign Affairs.

### ***Other activities with respect to the adoption of the Tripartite Agreement on Freedom of Association and Democracy***

22. The Office contributed financial resources for the organization of three seminars for Colombia's three workers' confederations (CUT-CGT-CTC) to promote the Tripartite Agreement and basic rights and to make their members aware of the importance of the understanding reached as a means of improving working conditions and compliance with the fundamental guarantees that the Agreement affords workers.
23. Also with the support of the Office, the ANDI intends to promote the Tripartite Agreement among its members at the IXth Meeting of Employers' Labour Relations Experts that it is organizing in Bucaramanga at the end of October 2006. The occasion will be particularly appropriate, as it is the ideal national forum for updating, discussing and exchanging information on social and labour issues.

## Appendix II

### Tripartite Agreement on Freedom of Association and Democracy

In the framework of ILO Conventions Nos. 87 and 98, the Colombian tripartite delegation to the 95th Session of the International Labour Conference, desirous of putting into effect the matters agreed to, declares to the Committee on the Application of Standards that the following agreements have been reached:

- (a) The Government of Colombia will, with the assistance of the ILO secretariat and with the support of workers and employers, guarantee a renewed presence of the International Labour Organization in the country, through a permanent representation of the aforesaid Organization, whose priority task will be technical cooperation aimed at promoting decent work and the defence of the fundamental rights of workers, their trade union leaders and their organizations, specifically as regards their physical integrity, trade union freedoms, freedom of association and of speech and collective bargaining, as well as free enterprise for employers. The parties request the Governing Body to put this agreement into effect and to provide the logistics and structure for its implementation.
- (b) With regard to technical cooperation, the Colombian Government undertakes to seek economic support that will guarantee the achievement of the proposals made and, to this end, will seek financial assistance from the ILO. With this in mind, the national Government will make available the necessary resources to activate and implement the programme. The Government also requests the ILO to take action to obtain additional resources from donor nations and other international organizations, with a view to reinforcing the cooperation programme.
- (c) In the fight against impunity, the parties have agreed on a rigorous follow-up of the findings of the special investigation group set up by the Office of the Attorney-General to bring to light crimes against the physical integrity and freedom of workers and trade union leaders and to punish those guilty.
- (d) The Colombian Government, the employers and the workers undertake to provide a new impetus to ILO principles with a view to giving effect to fundamental rights at work. In this perspective, the National Commission on Wage and Labour Policies will be convened with a permanent agenda, and the ILO will be requested to provide it with appropriate assistance in its work.

The commitments made hereby are intended to seize the opportunity offered by the Committee on the Application of Standards to disseminate this Agreement and to reaffirm the implementation of ILO policies on cooperation, social dialogue, collective bargaining, trade union freedoms, defence of workers' human rights, freedom of association and freedom of enterprise.

Geneva, 1 June 2006.

For the Government:

*(signed)* Jorge León Sánchez Mesa,  
Deputy Minister for Labour Relations of the Ministry of  
Social Protection.

For the workers:

*(signed)* Carlos Rodríguez Díaz,  
President of the Single Confederation of Workers of  
Colombia (CUT).

Julio Roberto Gómez Esguerra,  
Secretary General of the General Confederation of Labour  
(CGT).  
Apecides Alviz Fernández,  
President of the Workers' Confederation of Colombia  
(CTC).

For the employers:  
(*signed*) Luis Carlos Villegas Echeverri,  
President of the National Employers' Association of  
Colombia (ANDI).

## Appendix III

### Agreement of the Tripartite Working Group defining the mandate of the ILO's permanent representation in Colombia

(Bogota, 18 October 2006)

#### *I. Background*

This proposal was formulated by common agreement, for submission to the ILO, in the framework of the Tripartite Agreement on Freedom of Association and Democracy (henceforth "Tripartite Agreement"), signed by the Government and the social partners of Colombia and submitted to the Committee on the Application of Standards at the 95th Session of the International Labour Conference (June 2006). The objectives set out in point (a) of the Tripartite Agreement and in the Technical Assistance Project for the Promotion of Decent Work shall be priority tasks for the ILO's permanent representation in Colombia.

#### *II. Scope of the mandate*

1. Coordinate the technical cooperation provided to Colombia by the ILO secretariat with a view to promoting decent work and the defence of the fundamental rights of workers, their trade union leaders and their organizations, specifically as regards their physical integrity, trade union freedoms, freedom of association and of speech and collective bargaining, as well as free enterprise for employers.
2. Promote, by means of the tools and resources at its disposal, a culture of dialogue and compliance with the obligations and rights derived from the Constitution and from the ILO's Conventions.
3. Promote and organize training activities for the executive, legislative and judicial branches of the Government and provide follow-up.
4. Promote and organize training activities for members of the trade union sector and provide follow-up.
5. Provide advice, at the request of the Government and the social partners, on the formulation of proposals for standards related to its mandate.
6. At the invitation of the legislative branch, attend meetings at which bills relating to the mandate are discussed.
7. Participate in the meetings of the Standing Committee on Labour and Wage Policies, and in all other tripartite social dialogue forums.
8. Promote the resumption of the work of the Special Committee on the Handling of Conflicts referred to the ILO and participate in its meetings.
9. Provide advice to workers, employers and the Government on the implementation of the Conventions, Recommendations and other instruments adopted by the ILO.
10. Advise the social partners and authorities with regard to comments made by the ILO's supervisory bodies, particularly those made by the Committee on Freedom of Association.
11. Provide advice, at the request of any of the social partners, on supervisory machinery for the implementation of the Conventions ratified by Colombia.

12. Participate as a guest in the meetings of the Inter-institutional Commission for the Promotion and Protection of Workers' Human Rights, and in those of the Committee for the Regulation and Assessment of Risks (CRER) of the Ministry of the Interior and of Justice.
13. Maintain contact with the Office of the Attorney-General and the Office of the Procurator General regarding judicial and disciplinary inquiries into acts of violence against the physical integrity of trade unionists and trade union leaders, in particular those relating to Case No. 1787 which is before the Committee on Freedom of Association.
14. At the request of the Office of the Attorney-General and/or the Ministry of Social Protection, participate in meetings of existing or future committees so as to speed up investigations into acts of violence against members of the trade union and entrepreneurial sectors.
15. Prepare a biannual report on progress made in the implementation of the permanent representation's mandate, for submission to the Standing Committee on Labour and Wage Policies.
16. Organize meetings with agencies within the United Nations system, with diplomatic representatives of potential donor countries and with other national or international institutions and organizations that might support the implementation of the Tripartite Agreement.

### **III. *Duration of the mandate of the permanent representation***

It is proposed that the duration of the permanent representation be of two years, extendable at the request of the Colombian constituents.

### **IV. *Profile of the representative***

The representative shall be a high-level, professional international civil servant, appointed by the International Labour Office. The appointment shall be subject to the approval of the Government of Colombia and the consent of the representatives of employers' and workers' organizations signatories to the Tripartite Agreement. The civil servant shall not be bound in any way by the politics and instructions of the country of which he/she is a citizen.

### **V. *Logistics***

The International Labour Office and the Government of Colombia shall make the necessary arrangements to grant the representative immunity, and shall make appropriate financial and other provisions for the establishment and operation of the permanent representation and for whosoever shall take up the post.

For the Government:

*(signed)* Jorge León Sánchez Mesa,  
Deputy Minister for Labour Relations of the Ministry of Social Protection.

For the workers:

*(signed)* Carlos Rodríguez Díaz,  
President of the Single Confederation of Workers of Colombia (CUT).  
Julio Roberto Gómez Esguerra,  
Secretary General of the General Confederation of Labour (CGT).  
Apecides Alviz Fernández,  
President of the Workers' Confederation of Colombia (CTC).

For the employers:

*(signed)* Luis Carlos Villegas Echeverri,  
President of the National Employers' Association of Colombia (ANDI).