

**FOR INFORMATION**

SEVENTEENTH ITEM ON THE AGENDA

Report of the Director-General**Second Supplementary Report:****High-level mission****(Colombia, 23–28 November 2007)**

1. The Tripartite Agreement on Freedom of Association and Democracy was signed by the representatives of the Government, employers and trade unions of Colombia in Geneva on 1 June 2006. Its stated aim was, among other things, to promote decent work and to strengthen the defence of the fundamental rights of workers, their organizations and trade union leaders, specially as regards respect for human life, trade union freedom, freedom of association and speech, collective bargaining and free enterprise for employers. In order to facilitate the implementation of this Agreement, the ILO has established a permanent representation in Colombia and a technical cooperation programme is being carried out.
2. At the 96th Session (June 2007) of the International Labour Conference, a commitment was made to carry out a high-level mission to identify new requirements in order to guarantee the effective application of the Agreement and the technical cooperation programme in Colombia. A preparatory mission was conducted in August 2007 by the Regional Director for the Americas, the Director of the Subregional Office for the Andean Countries and the Director of the Relations, Meetings and Document Services Department. In September 2007, the Director-General of the ILO met the Colombian Minister of Social Security and representatives of employers' and workers' organizations in Port-of-Spain, during the XV Inter-American Conference of Ministers of Labour. They reviewed the progress made regarding the Agreement, and the Director-General suggested that an agenda for its implementation should be established.
3. The Director-General subsequently met the President of Colombia, Mr Alvaro Uribe, in New York in September 2007. The Director-General expressed his concern regarding the implementation of the Agreement and stressed that measures should be taken to allow concrete progress to be made on the issues which require government action. The President reiterated the Government's willingness to make progress and make any extra efforts needed.
4. Following the meeting of the Governing Body in November 2007, the high-level mission referred to at the 96th Session of the Conference visited Bogotá, Colombia, from 25 to 28 November 2007. The mandate of this mission, as stated by the Director-General in his letter on 9 November 2007 to the Minister of Social Protection, Diego Palacio Betancourt, and the social partners was to identify new requirements in order to guarantee the effective

application of the Tripartite Agreement on Freedom of Association and Democracy, and of the technical cooperation programme in Colombia.

5. The mission was composed of Mr Kari Tapiola, Executive Director for Standards and Fundamental Principles and Rights at Work; Mr Jean Maninat, Regional Director for the Americas; Mr José Luis Daza, Director of the Subregional Office for the Andean Countries; Mr Ricardo Hernandez-Pulido, Director of the Relations, Meetings and Document Services Department; Ms Karen Curtis, Deputy Director of the International Labour Standards Department; and Ms Maria Travieso Errecarte, official of the International Labour Standards Department. Mr Marcelo Castro Fox, ILO representative in Colombia, was also part of the mission. A list of the persons met by the mission and the mission programme are attached to this report.
6. The mission wishes to underline that the Tripartite Agreement of June 2006 and its implementation have to be seen against the background of constitutional, legal and institutional arrangements since the early 1990s. Certain measures relating to point (c) of the Agreement (the fight against impunity) have been initiated and are expected to gather further pace in the coming months. The ILO presence, stated in paragraph (a) of the Agreement, has now been strengthened by four projects:
 - a project on the promotion of fundamental labour Conventions, mainly those related to freedom of association, and the strengthening of social dialogue and labour inspection;
 - a project on the promotion of employment for women;
 - a project on the promotion of employment for young people; and
 - a project on the promotion of economic development at the local level.
7. Item (c) of the Tripartite Agreement deals with the serious and continuously urgent question of the fight against impunity and, in its words, the “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”. The high-level mission was extensively briefed on the measures undertaken. This covered the action by the Attorney-General’s Office and the ad hoc judges as well as the protection programme for trade unionists. The representatives of the Government and the employers’ and workers’ organizations participated actively in these discussions. They all stressed the importance of this action and welcomed the achievements so far.
8. As regards paragraph (d) of the Tripartite Agreement, in which the tripartite constituents “undertake to provide a new impetus to ILO principles with a view to giving effect to fundamental rights at work”, the mission notes that this remains work in progress. The mission welcomes the stated commitment of the Government, and of the employers’ and workers’ organizations, to the implementation of the Agreement. This commitment is indispensable for the further use of the Agreement. Its signatories represent key segments of the society and economy of Colombia, and they are the owners of this Agreement. Consequently, they hold the future of the Agreement in their hands.
9. Indeed, for any tripartite agreement to work efficiently, all parties must remain committed to its implementation, however different their views on specific subjects may be. This necessarily means that all concerned have to take a certain leap of faith. This challenge has to be met, and it could go a long way towards addressing the current situation where the need to build trust between the partners remains a paramount task.

10. The Office pledges to continue to intensify its direct support and the support it can mobilize for this process, as indicated in paragraph (b) of the Tripartite Agreement. The mission particularly welcomes the allocation of US\$4.7 million by the Government of Colombia to date in support of the aims of the Agreement. In addition to the projects now introduced, ILO support can be provided by the Subregional Office in Lima as well as through various headquarters services in Geneva, including the International Labour Standards Department.
11. An essential part of the discussion during the visit of the mission was on the importance of an ongoing dialogue and oversight of the implementation of the Tripartite Agreement. Paragraph (d) of the Agreement singles out the role of the National Commission on Wage and Labour Policies. The role of this Commission and a possible programme of work were extensively discussed in the tripartite meeting held on the final day of the mission, 28 November 2007. This meeting was attended by the Minister of Social Protection and top-level representatives of both employers' and workers' organizations.
12. The Government and the social partners indicated that they could at the current stage agree on a number of items to be discussed in the National Commission on Wage and Labour Policies. The Commission should start meeting regularly and at least every month. However, it was underlined that the issues should be seen as a whole, and those on which there was no current agreement should not be seen as excluded from the agenda. A list of ten or 11 items could be drawn up immediately. Others contained elements which were relevant to these or could be taken up at a subsequent stage. In particular, items relating to recommendations of the ILO supervisory bodies retain their relevance in all circumstances.
13. The items on which there was overall agreement for priority action and where progress could be envisaged in the near future were: further support of the Attorney-General, special judges and investigators and the special protection programme; the registration of trade unions within the framework of the Freedom of Association and Protection of the Right to Organise Convention, 1948 (No. 87); collective bargaining and legislation concerning the public service; initiatives to combat abuses in the employment relationship through the use of cooperatives; follow-up to the implementation of the law on oral justice; strengthening the procedure through the Special Committee on the Handling of Conflicts referred to the ILO (CETCOIT); and certain other proposals made by the Government to ensure that the social partners had the opportunity to make their views on draft legislation known through the media. All discussions on these and other related matters were to take place in a framework where the important role of trade unions and employers' organizations in social dialogue and the economic and social development of the country was recognized.
14. The Government reaffirmed its agreement regarding the themes for discussion in a letter sent by the Minister of Social Protection to the Director-General on 28 November 2007. The Government noted that other themes will remain under discussion and, subject to tripartite agreement will be incorporated in the workplan for the development of the Tripartite Agreement. The employers' organization, ANDI, submitted a letter to the mission at the end of the tripartite meeting, expressing their support for both the National Commission on Wage and Labour Policies and the Special Committee on the Handling of Conflicts referred to the ILO (CETCOIT) and underlining their commitment to a fixed agenda for discussion. In a letter to the Director-General on 4 December 2007, the Single Confederation of Workers of Colombia (CUT) expressed its agreement with the agenda as formulated by the ILO high-level mission.
15. The high-level mission believes that this general agreement on a detailed programme of work can be a significant step forward. This programme of work is based on priorities but remains open-ended, so that matters can be discussed as they arise and agreement on them

can be reached. It would be desirable for the ILO Governing Body, meeting in March 2008, to be advised of progress made in launching this tripartite process. While such a programme will necessarily be the outcome of political will and constructive dialogue between the parties concerned, the ILO is ready to assist in an appropriate technical manner in its development. In particular, the ILO representative in Bogotá is at the disposal of the constituents to help in working out the specific agenda for the forthcoming discussions in the National Commission on Wage and Labour Policy. A permanent and independent secretariat for the Commission should also be contemplated.

16. The mission made a number of suggestions, which the tripartite constituents could give consideration to in the further discussions in the Commission and either separately or jointly in other related activities.
17. Legislative proposals on industrial action have recently been forwarded to the Congress. The mission hopes that this will address some of the concerns expressed by the ILO supervisory bodies. In all legislative matters, and particularly when drafting legislative acts, the services of the ILO remain at the disposal of the Government at various stages, including when legislation is discussed in the Congress.
18. As public sector collective bargaining is apparently addressed in a tripartite subcommittee, which has the prospect of leading into legislation or other regulations, this process should fully address the obligations under the ratified Conventions Nos 151 and 154, as well as the recent Constitutional Court decision. The ILO remains at the disposal of the Government on this issue. The mission noted the agreement to include this item in the work programme for the implementation of the Tripartite Agreement.
19. There are currently some 52 cases before the Special Committee on the Handling of Conflicts referred to the ILO (CETCOIT), which concern situations in both the public and the private sectors. The agreement that this Committee should be strengthened is welcome. This Committee's success in gaining the confidence of the parties, which will be demonstrated through the specific results of its work, will go a long way towards improving the industrial relations climate in Colombia and strengthening the prospects for finding mutually acceptable solutions.
20. To ensure the effective functioning of this Committee, certain time lines should be set, with the possibility of extending them depending on the merits of the cases and subject to the agreement of the parties concerned. Potentially, this Committee could also be made use of to provide the follow-up to the recommendations of the ILO Committee on Freedom of Association, although other bodies could also be relevant in this regard. Consideration could also be given to introducing the function of a mediator, who of course would have to enjoy the confidence of all parties concerned.
21. While there has apparently been a considerable increase in the flow of information on measures taken to protect workers against anti-union violence, convening the Inter-institutional Committee for the Promotion and Protection of Human Rights of Workers regularly would permit the workers and employers to have increased confidence in the protection programme, as they could more readily express their concerns and obtain solutions to them.
22. This body might also raise concerns with the Attorney-General about the progress made in relation to acts of violence against trade unionists. The mission takes note of definite efforts by the Government and the Attorney-General to speed up the fight against impunity and expects that further and significant progress can be reported in the coming months regarding the cases of violence against trade unionists. It would be important to achieve a situation where all cases were opened and examined and no further backlog had

accumulated. It would also be important to extend the mandate of the special courts, which are in charge of the cases of violence against trade unionists.

- 23.** The mission wishes to express its sincere gratitude to the Government and the social partners of Colombia for their cooperation and availability to discuss the implementation of the Tripartite Agreement, signed on 1 June 2006. It considers that the discussions were informative, constructive, open and useful. They made it possible to examine both the progress achieved and the expectations of all parties in what remains a difficult overall situation. The Tripartite Agreement to proceed with regular discussions in the National Commission on Wage and Labour Policies offers a possibility to deal, in an operational way, with all issues on the broad agenda of the Tripartite Agreement. It provides a tool for continuous governance of the process, and is essential for the creation and strengthening of the trust and social dialogue without which no progress is sustainable.

Geneva, 7 February 2008.

Submitted for information.

Appendix I

High-level mission agenda (25–28 November 2007)

Sunday 25

- | | |
|-------------|---|
| 16:00–17:00 | Internal meeting of mission delegates |
| 17:00–19:00 | Meeting with the government authorities |

Monday 26

- | | |
|-------------|---|
| 08:00–14:00 | Meeting with representatives of workers' organizations (Single National Unit = CUT – CTC – CGT – CPC) |
| 15:00–21:00 | Meeting with representatives of employers' organizations (ANDI, ACOPI, SAC, FENALCO) |

Tuesday 27

- | | |
|-------------|--|
| 08:00–10:00 | Meeting with the government authorities, representatives of employers' organizations and the national coordinators of the four technical cooperation projects which are being implemented within the framework of the tripartite agreement |
| 10:00–14:00 | Meeting with the Presidents of the Council of State's Labour Cassation Courts and the Supreme Court of Justice |
| 15:00–17:00 | Meeting with the Attorney-General, the three relief judges (presiding over courts dealing with backlog cases) and the President's Adviser on Human Rights to discuss developments in the fight against impunity |
| 17:30–19:00 | Meeting with the Director of the Ministry of the Interior's Protection Programme; the Director of the Administrative Department for Social Security (DAS) and the Human Rights Coordinator of the National Police to discuss protection measures for trade union members who are at risk |
| 20:00 | Drinks organized by the high-level mission for the government authorities, state officials and representatives of employers' and workers' organizations |

Wednesday 28

- | | |
|-------------|---|
| 07:00–13:00 | Meeting with representatives of government authorities and representatives of employers' and workers' organizations |
|-------------|---|

Appendix II

Government authorities and state officials

Ministry of Social Protection

- Diego Palacio Betancourt – Minister for Social Protection
- Andrés Palacio – Deputy Minister for Labour Relations
- María Clara Escobar – Head of the International Cooperation Office
- Gloria Gaviria – Coordinator of the Group on Human Rights
- Ana Lucía Noguera, official
- Luz Stella Arango, lawyer

Ministry of Foreign Affairs

- Clemencia Forero – Ambassador to the Permanent Mission to the UN in Geneva
- Adriana Mejía – Ministry of Foreign Affairs, Deputy Minister, Geneva
- Silvia Constain, Chancellery, Embassy of Colombia in Washington
- Alvaro Frías Galván, Human Rights Department

The Office of the President and Vice-President of the Republic

- Carlos Franco, President's Office – Director of the Human Rights Programme
- Victoria González Ariza, Vice-President's Office, Human Rights
- Janneth Mabel Lozano Olave, Vice-President's Office, official
- Sandra Miranda, President's Office – Coordinator of the Project to Combat Impunity
- Jorge Cubides, President's Office – Advisor to the Programme on Human Rights

Ministry of the Interior and Justice

- Rafael Bustamante – Director of the Protection Programme
- María Isabel Nieto – Deputy Minister of the Interior
- María Aurora Pescador, official
- Jhon Jairo Morales – Head of the Legal Affairs Office
- Evelio Henao, official

Ministry of Education:

- Noemí Arias, official

Administrative Department for Social Security – DAS

- María del Pilar Hurtado – Director
- Jaime Andrés Polanco, official

- Jorge Alberto Lagos – Head of Counter-intelligence

National police

- Coronel Oswaldo Efraín Aragón – Human Rights Coordinator
- Mayor Ana Beatriz Ramos, official

Office of the Attorney-General

- Mario Iguarán – Attorney-General
- Francisco Echeverri Lara – Head of International Affairs Office
- Sandra Castro Ospina, official
- Luis González, official

Supreme Court of Justice and Council of State

- Gustavo Gnecco – President of the Labour Cassation Chamber
- Jaime Moreno García – President of the Labour Cassation Chamber

Relief courts (juzgados de descongestión)

- Elsa Riveros de Jiménez
- José Nirio Sánchez
- María Judith Durán
- Angela Natalia Yaya Gómez, official

Representatives of workers' organizations

Single Confederation of Workers of Colombia – CUT

- Carlos Rodríguez – President
- Boris Montes de Oca – Secretary-General
- Tarsicio Mora Anaya
- Alfonso Velásquez Rico
- Juan Manuel López
- Gustavo Rubén Triana Suárez,
- Zita Froila Tinoco
- Carlos Rodríguez Mejía
- Alexandra Trujillo

Confederation of Workers of Colombia – CTC

- Apécides Alviz Fernández – President
- Luis Miguel Morantes
- Jorge Peña
- Carlos Torres Corredor

- Diana Cecilia Gómez
- Jorge Carrillo
- Víctor José Pardo
- Elson Rafael Rodríguez

General Confederation of Workers – CGT

- Julio Roberto Gómez – Secretary-General
- William Millán – Deputy Secretary-General
- Cervuno Bautista
- Ricardo Díaz
- Gregorio Gutiérrez
- Germán Rojas
- Joaquín E. Gómez
- Nidia Tarazona

Confederation of Pensioners of Colombia – CPC

- Anselmo Gómez
- Jesús Ernesto Mendoza – President

Colombian Commission of Jurists

- Gustavo Gallón
- Lina Paola Malagón

National Trade Union School

- Luciano Sanín

Representatives of employers' organizations

National Manufacturers' Association – ANDI

- Luis Carlos Villegas – President
- Alberto Echavarría – Vice-President for Legal Affairs
- Klaus Koch

Association of Colombian Manufacturers – ACOPI

- Norman Correa – President
- Catalina Jiménez

Colombian Farmers' Association – SAC

- Rafael Mejía
- Ricardo Sánchez
- Liliana Heinrich

National Federation of Tradesmen – FENALCO

- Eduardo Visval

Others

- Dino Samper, BBVA
- Henry A. Gonzalez, AVIANCA
- Conchita Bedoya, AVIANCA
- Ana María Sánchez, Jurídica NESTLE
- Cristobal Constain, MANCOL
- Carlos E. Molina, consultant
- Juan Pablo López, consultant
- María de la Luz Arbeláez, Coca Cola FEMSA
- Alejandro Arteta, OLIMPICA
- José Gabriel Mesa, Prieto y Carrizosa

National Coordinators for ILO technical cooperation projects

- Beethoven Herrera
- Luzmila Flórez
- Juan Carlos Gutiérrez