



SIXTH ITEM ON THE AGENDA

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

1. At its 281st Session (June 2001), the Governing Body of the ILO asked the Office to prepare a technical cooperation programme for Colombia.
2. The *Special technical cooperation programme for Colombia* was submitted to the 282nd Session (November 2001) of the Governing Body by the Director of the Regional Office for the Americas, Mr. Agustín Muñoz.
3. The Office submitted a progress report to the 283rd Session (March 2002) of the Governing Body on the start of implementation of activities in the framework of the *Special technical cooperation programme for Colombia*.
4. The new progress report, incorporated as an appendix, describes the activities to date that have been carried out since the last session of the Governing Body (March 2002).

Geneva, 6 June 2002.

Submitted for information.

Appendix

I. Progress made in activities

Context in which the programme is being implemented

At its 281st Session (June 2001), the Governing Body asked the Office to prepare a *Special technical cooperation programme for Colombia*, and since that time there has been no respite from the climate of violence that has, for decades, caused so much death and suffering in Colombian civilian society and so many victims among the population and the ranks of the trade union and employers' movements.

This situation has been further exacerbated, since February 2002, by the expansion of the armed conflict following the collapse of the peace process begun with the guerrilla group FARC (Revolutionary Armed Forces of Colombia). The guerrilla groups FARC and ELN (National Liberation Army) and the paramilitary groups united under the AUC (United Self-Defence Forces of Colombia) have increased their attacks against the civilian population. The fact that state institutions do not exist in many regions of the country serves only to aggravate legitimacy, governability and respect for the rule of law. This can be seen with the massacre that occurred in Bellavista on 2 May 2002 when the FARC launched an explosive charge that hit a church altar, killing 119 people, among them 43 children, and wounding many more. The security forces were unable to reach the area until days after the atrocity had occurred. This indescribable violation of the most basic standards of human rights and international humanitarian law, which affected an entire community, reveals the degree of vulnerability faced by members of Colombian workers' and employers' organizations who must carry out their daily activities.

A number of international human rights agencies have made recommendations to the effect that the Colombian State should provide more human and budgetary resources for the administration of justice in the country, strengthen the human rights units, combat the paramilitary groups, take measures to protect the civilian population from the human rights and international humanitarian law violations perpetrated by the guerrilla groups, and provide guarantees for witnesses, judges and prosecutors in judicial investigations, especially with regard to attacks. Some of these recommendations have been taken into account, but regrettably the violence persists.

The most recent report of the United Nations High Commissioner for Human Rights on Colombia, presented in Geneva on 18 April 2002, highlights the risks that the current situation represents for the rule of law, bearing in mind the weakening of civilian institutions, the continuing armed conflict, the expansion of the paramilitaries and their persistent ties to public employees and the security forces, the inability of the State and its institutions to confront human rights concerns, and the lack of results in the investigations being carried out by the Attorney-General's Office into human rights violations. Although the report acknowledges the Government's efforts, it also indicates that there are continuing violations of the right to life, personal integrity, freedom, personal safety and due process. It refers to the guerrilla attacks on the civilian population and on civilian property and infrastructure, activities that undermine the ability of the State to guarantee respect of human rights, including economic, social and cultural rights, by preventing it from providing basic services. The report condemns the recent cases of kidnapping and murder of members of Congress and municipal authorities and the kidnapping of a presidential candidate, events that seriously compromise democracy and the free exercise of political rights. It also points out the vulnerable situation of human rights defenders, trade unionists, reporters and academics, women and children, and indigenous and Afro-Colombian communities.

There are also numerous calls from different sectors of Colombian civilian society for the Government to adopt concrete measures that will ensure the protection of trade union officials who have been threatened and that will end the kidnapping and ransom of business leaders, taking into account that the measures taken up until now have been insufficient. There has been an increase in the number of displaced persons, among whom are officials and members of workers' and employers' organizations.

The violence and threats against trade union officials are not just a flagrant violation of the fundamental guarantees of every human being, they also threaten the very survival of the workers'

organizations, thus undermining the role played by the trade unions in achieving more equitable working and living conditions for Colombian workers.

In recent years there has been an alarming increase in the number of attacks against trade union officials and activists. A recent report from the Medellín National Trade Union School (ENS) and new complaints presented by the Single Confederation of Workers of Colombia (CUT) confirm this escalation in attacks against trade union officials. The ENS stated that, during the first quarter of 2001, the number of murders of trade union members (35) was four times greater than that of the previous year (eight). CUT indicated that, during the first quarter of 2002, some 70 trade union members were murdered. This shows that the number of murders in the first quarter of 2002 has doubled compared to that of the first quarter of 2001.

Among the numerous public accusations made by CUT of murders, kidnappings and persecution of members of workers' organizations affiliated to the confederation that have occurred since the last meeting of the Governing Body, the following should be mentioned.

The kidnapping of Gilberto Torres Martínez, Secretary-General of the "Oleoducto" executive subcommittee, and the murder of Rafael Jaime Torra, Treasurer of the Barrancabermeja executive subcommittee, on 26 March 2002: both men were employees of ECOPETROL. CUT states that these occurrences took place after the murder of Aury Sará Marrugo, President of the Cartagena executive subcommittee, and show the continuing harassment of those who work for this enterprise and are members of the Petroleum Industry Workers' Trade Union (USO). It also states that the attacks against the freedom and security of the trade union officials mentioned took place in the context of preparatory meetings of the National Petroleum Congress at which the policies and the future of the company were being discussed.

After having been kidnapped by paramilitaries, Alfredo Zapata Herrera, official of the Single Trade Union of Construction Material Workers (SUTIMAC), Santa Bárbara Section, was murdered on 3 April 2002.

On 8 April 2002, Diofanel Sierra Vargas, official of the National Trade Union of Food Industry Workers (SINALTRAINAL), Barrancabermeja Section, and member of the Women's Popular Organization, was murdered. According to CUT, this official was taken by force from home and executed by the paramilitary group operating in the city of Barrancabermeja, Department of Santander.

On 9 April 2002, in the city of Cali, Department of Valle del Cauca, Oscar Alfonso Jurado, official of the National Trade Union of Chemical Industry Workers of Colombia (SINTRAQUIM), Yumbo Section, was murdered.

On 16 April 2002, in the city of Pasto, Department of Nariño, Tito Libio Hernández Ordóñez was murdered at his place of work – the University of Nariño. He had been President of the Pasto executive subcommittee of the Trade Union of Colombian University Workers and Employees (SINTRAUNICOL) and a member of the working group of the political party Social and Political Front. CUT states that he made a name for himself through his constant battle to defend the economic, social and cultural rights of his region.

CUT also called public attention to the massacre that took place on the Villa Lucía farm in the municipality of Apartadó, Department of Antioquia, when nine defenceless and unarmed people were murdered by the FARC on 26 April 2002. Seven of these people were members of the Agricultural and Livestock Workers' National Trade Union (SINTRAINAGRO).

Impunity is another factor that continues to encourage this wave of attacks. This is not a new situation for the country. In the 1980s, at the request of the Government, a committee of academics from the National University was formed to investigate impunity, among other issues. One of the recommendations of this committee was that a draft should be prepared for constitutional reform to create, within the criminal judicial system, the Attorney-General's Office as part of the Department of Public Prosecutions. It was hoped that this would impart more gravity, security and flexibility to the proceedings, and that the judicial police supervised by the prosecuting authorities would provide the best assistance in investigation work. In reality, in spite of the institutional changes that subsequently took place, especially in the framework of the 1991 Constitution, the situation not only remains unchanged, but, on the contrary, the high degree of impunity that prevents those responsible for attacks against members of workers' and employers' movements from being identified continues to cause concern.

In the framework of the *Special technical cooperation programme for Colombia*, a team of consultants was commissioned to prepare a report on the general human rights situation in Colombia, in particular to identify and classify the difficulties caused by impunity in the investigations conducted to identify the perpetrators of assassinations and kidnappings of trade union leaders and activists. The report highlights serious failings that prevent the investigations from making progress and, which is worse, that prevent the identification and sentencing of those responsible. In many cases, the criminal investigations show a lack of evidence from the outset: in only 16.7 per cent of the cases examined by the consultant was evidence collected at the site of the incident, and in some cases those responsible for collecting evidence did not have the appropriate training. Moreover, the number of cases assigned to each investigator was excessive. Of the various recommendations, mention should be made of those referring to the need to strengthen the database of the National Human Rights Unit of the Attorney-General's Office; to improve coordination between the judicial police and the Attorney-General's Office at the investigative stage; to assign more human resources, at the regional level, to carry out investigations for prosecutions with absolute commitment to the investigation of cases relating to violations of the human rights of trade union members or, at the national level, for those regions where there are no guarantees of impartiality and autonomy for public employees; to grant more resources to promote the creation of laboratories specializing in criminology and the presence of those responsible for the investigations in the regions; to offer training to prosecutors and members of the judicial police and to provide protection for judges, prosecutors and members of the judicial police who are threatened; to raise public awareness of the social functions of trade unions and thereby to create a culture of tolerance; and, finally, to insist that the Colombian State continue to combat, and with greater effectiveness, the paramilitary groups, which are ostensibly the groups that are mainly responsible for the deaths of trade union members.¹

Activities in the framework of the *Special technical cooperation programme for Colombia* are continuing, but to a limited degree as, to date, the only resources available are those provided through some of the projects that form part of it and the budgetary resources of the Office itself.

Following is a summary of the main activities carried out between March and May 2002.²

1. Human rights and the right to life

The following activities to establish the conditions to strengthen the guarantee of the right to life and the right to integrity of trade union officials and business leaders have been completed:

- In April 2002, the Government and the social partners were sent the report of the consultations held for the purpose of designing a training programme for judges and prosecutors, the aim of which is to improve the training and efficiency of these officials, who are responsible for processing cases relating to violations of fundamental human rights in the labour sphere. The training plan submitted should be implemented through *Project Colombia*, a project which is part of the *Special technical cooperation programme for Colombia* and which, as has already been mentioned in the most recent session of the Governing Body, still does not have funding.
- With financial support from the ILO Regional Office for the Americas in Lima and the Ministry of the Interior, two national consultants and an international consultant began an assessment of the shortcomings in the composition, function, structure and budget of the Committee for the Regulation and Evaluation of Risks of the Ministry of the Interior. On the basis of the consultants' assessment, a proposal will be put forward as to how to improve procedures for the evaluation of risks and the measures of protection for trade union officials and activists, and also how this activity should be monitored. As mentioned in the previous report, the ILO – through its desk in Bogotá – participated actively in the meetings of the committee to draw up the terms of reference of the report to be submitted by the consultants, in conjunction with the representatives of the groups at risk under the responsibility of the committee and representatives of government departments and the Office of the United

¹ Most of the consultants' reports (Spanish versions only) mentioned in this document are available to the members of the Governing Body.

² A summary of the activities carried out before March 2002 is to be found in GB.283/6.

Nations High Commissioner for Human Rights. A representative of the Office was also on the committee responsible for selecting the consultants.

At this first stage, and in order to have a comprehensive assessment and to formulate proposals that will help improve the programme, a methodology was designed based on the participation, observations and concerns of members of workers' organizations, employees of the Ministry of the Interior, state security agencies that participate in protecting the beneficiaries, and employees of the administrative agencies of financial resources and of the international agencies.

The following aspects of the protection programme are being evaluated: the compatibility of the judicial framework and national protection policies with international standards and the recommendations on this issue made by the international agencies to the Government of Colombia; the incidence of the legal framework on the range and efficacy of the programme; the political and institutional support for the Ministry of the Interior's protection programmes, including inter-institutional coordination, the implementation of protection measures and the attribution of responsibilities among the various state departments; the characteristics of the financial component of the protection programme and the efficiency of the transfer of resources.

Also being evaluated are studies of personal risk and the safety of installations, the protection measures established and their implementation, and the compatibility of all of these in order to determine their efficacy and relevance with regard to the security of persons and organizations.

In order to gather information and to contact those benefiting from the programme, the local authorities and security agencies throughout the country will carry out visits, between 30 May and 20 June, to the cities of Cali, Barranquilla, Santa Marta, Bucaramanga, Barrancabermeja, Valledupar, Medellín, Apartadó, Popayán and Pasto.

The final document containing the assessment and proposals is due to be submitted by 20 July 2002.

- Finally, the Office proposes, to those countries and international organizations that are carrying out, or intend to carry out, protection programmes for trade union officials and activists who have been threatened, that they form a coordination committee so that they can exchange information on their experiences and discuss issues of common interest, thereby enriching the programmes with shared information on the plans and methods of assistance that each one applies.

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

- A study was conducted into the current situation of freedom of association and the right to organize in Colombia in order to ascertain the types and principal characteristics of the violations, restrictions and limitations to freedom of association that exist in the country, with particular attention to any special aspects in the regions, economic sectors and public and private areas. This study was circulated to the Government and the social interlocutors in April 2002.
- With the participation of the National Association of Manufacturers (ANDI), a programme of six seminars for employers was prepared on "freedom of association and collective bargaining". These seminars took place in May 2002 in six cities.
- Project COL/95, which is part of the *Special technical cooperation programme for Colombia*, began the bidding stage to provide the Ministry of Labour with the technology that will allow it to use effectively the database on complaints being processed for violations of freedom of association, drawn up in the framework of the *Special technical cooperation programme for Colombia*, information on which can be found in GB.283/6.

3. Encouraging the development of collective bargaining

- In respect of collective bargaining in the public sector, Project COL/95 is contributing the human and financial resources for a national seminar, expected to be held in July, on wage

policy and collective bargaining in the public sector, with a view to drawing up public policy in labour issues, promoting dialogue and labour consultation and the exchange of experiences and criteria on the subjects of greatest interest to workers in the public sector and to the Government.

In this respect, there should be mention of the serious crisis being experienced by workers' organizations in the public sector as a result of massive dismissals stemming from a financial readjustment. Although Colombia has ratified the Labour Relations (Public Service) Convention, 1978 (No. 151), which concerns protection of the right to organize and procedures for determining conditions of employment in the public service, this instrument has still not been applied owing to objections last year by the legal secretariat of the Office of the President of the Nation relating to the regulatory decree adopted by the sectoral committee of the public sector in October 2001. In order to advance in this process, and in connection with an initiative of the workers' organizations presented to the sectoral committee of the public sector, a draft law was drawn up and it is hoped that this will be submitted to Congress in July 2002.

4. Promotion of fundamental labour rights

- In April 2002, the “Single programme to strengthen institutionally the representation of women’s affairs in the trade unions in Colombia”, prepared by three consultants, each of whom was a member of one of the trade union confederations, was submitted to the trade union confederations. This is an assessment of the establishment and development of women’s secretariats or departments in the three Colombian trade union confederations, with a view to strengthening women’s participation in the trade union movement.
- A documentation centre³ was set up specializing in the analysis, monitoring and dissemination of legislation and practice relating to gender policies, both in Colombia and other countries, with a view to achieving the implementation of the international guidelines in this area.
- Between March and May 2002, the International Programme on the Elimination of Child Labour (IPEC) provided technical assistance and cooperation in the following areas of activity:
 - In the framework of the action programmes being carried out by IPEC, the Confederation of Workers of Colombia (CTC) and CUT, a decalogue was drawn up containing the fundamental guiding principles for action by branches of the CUT to eliminate child labour; awareness-raising materials were also designed and printed, such as a monthly planner, calendars and murals in four cities. The CTC published special-issue bulletins in April and May reporting on the subjects of child domestic labour, child sexual exploitation and child labour in market places. Similarly, the trade union confederations published a trade union letter in which they requested the State to adopt measures to tackle these problems at the national level. A new project will soon be implemented with the General Confederation of Democratic Workers of Colombia (CGTD).
 - IPEC worked with ANDI, the Association of Flower Exporters of Colombia (ASOCOFLORES) and MINERCOL to implement the programme of work intended for 2002, which will contribute to eliminating child labour. In the meeting that took place on 16 May 2002, it was agreed to include this subject in the programme of work of the council of the employers’ organizations and the executive boards of the employers’ organizations for construction, trade, agriculture and mining. It was also agreed to prepare awareness-raising materials aimed at employers, to hold an awareness-raising event with the employers’ organization in the mining sector, to regulate jobs for young people and to continue the programmes aimed at encouraging protected work for young people and providing activities outside of school hours to prevent children under the age of 14 working, with a coverage of 1,900 children.

³ The establishment of this centre was mentioned in GB.283/6, point 4 of the appendix.

- IPEC and MINERCOL Ltd., the state enterprise responsible for the administration of mining resources in Colombia, carried out a focal study to determine the worst forms of child labour in small-scale mining in ten municipalities in the departments of Antioquia, Boyacá, Caldas, Cundinamarca, Chocó and Nariño. The results have been published nationally and locally. Preliminary activities were carried out to hold a workshop, which took place at the end of May 2002 in Condoto, Chocó.

5. Bringing labour legislation into line with international labour standards

The issue of particular concern is the failure to bring legislation into line with Convention No. 151. This situation has become more complex as a result of Decision No. C-201 of the Constitutional Court on 19 March 2002, which ruled in favour of the constitutionality of the articles in the Substantive Labour Code that restrict the right to collective bargaining for the public employee trade unions.

6. Promotion of social dialogue

The studies funded by the ILO to analyse the economic effects of current Colombian labour legislation on labour stability, employment training and productivity, studies in which were analysed economic criteria and the mechanisms for establishing salaries and the effects of these on employment, were submitted to the Government and the social partners. They will be submitted and discussed at tripartite meetings so that they can contribute to encouraging social dialogue.

The Office will continue to support the work of the Special Committee for the Handling of Conflicts referred to the ILO.⁴ This Committee deals with many complaints and is also beginning to hold meetings to endeavour to find solutions to the complaints submitted to it.

II. Financial and organizational aspects of the special technical cooperation programme and of its projects

The person in charge of the United States Department of Labor (US-DOL) Project⁵ has met frequently with representatives of the various government departments, workers' and employers' organizations, NGOs and academic institutions to explain the objectives of the project and to gather information that will help orient the project's activities. In May 2002, a tripartite consultative committee was set up and this will meet every six months to supervise progress made with the project. In the second semester of 2002, US-DOL will launch activities for the promotion of the *ILO Declaration on Fundamental Principles and Rights at Work and its Follow-up* and for training with regard to conciliation and mediation mechanisms in cases of labour disputes and the creation of jobs for women. In June 2002, it will also commission consultants to carry out an assessment on employment creation and policy development for poverty reduction.

It has still not been possible to begin the activities of *Project Colombia*, the main instrument of the cooperation programme to give assistance in the area of human rights and the right to life. As indicated in the document submitted to the 282nd Session of the Governing Body,⁶ *Project Colombia* was to grant "protection funds" to the trade union confederations to finance the relocation

⁴ This Committee was established in 2000 during the mandate of the Special Representative of the Director-General for Cooperation with Colombia. It is tripartite in character and its objective is to create a space for dialogue to address complaints already before the Committee on Freedom of Association and new complaints relating to violations of ILO Conventions.

⁵ Among the main activities of US-DOL should be mentioned those aimed at improving labour relations promoting "good practices" in collective bargaining and at strengthening economic growth to achieve gender equality.

⁶ GB.282/5, para. 13.

costs of trade union officials and their families when, as a result of threats or assaults, their personal safety is at risk. This project will also finance, through “assistance funds”, the training and reintegration into the workforce of trade union officials and activists who have had to leave their place of residence to escape from violence. As regards the promotion of social dialogue, *Project Colombia* includes among its objectives the drawing up and implementation of training programmes for members of the trade union and employers’ movements.

During the last session of the Governing Body, it was agreed that, should the International Labour Conference adopt a recommendation of the Programme, Financial and Administrative Committee to use the budgetary surplus of the Organization for 2000-01 to strengthen the capacity of the ILO to respond to crisis situations, a part of these resources would be used to finance *Project Colombia*.

Finally, once financing for *Project Colombia* is confirmed, the person in charge of the project will be selected and that person will also take charge of general coordination of the *Special technical cooperation programme for Colombia*. To date, the implementation of the programme has been coordinated by the ILO representative in charge of the desk in Bogotá, under the supervision, and with the support, of the ILO Andean Multidisciplinary Advisory Team and in coordination with the Regional Director for the Americas and the Director-General’s Office.