

**Trade unions
and social dialogue:
Current situation
and outlook**

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Contents

Editorial	V
<i>Social dialogue: An international overview,</i> by Muneto Ozaki and Marleen Rueda-Catry	1
Trade unions' approach	
ICFTU	
<i>Trade unions and social dialogue: The global dimension,</i> by Jim Baker	11
IUF	
<i>IUF agreements,</i> by Ron Oswald	18
WCL	
<i>Engaging in dialogue without selling one's soul,</i> by André Linard	21
ETUC	
<i>A new collective bargaining dimension,</i> by Jean Lapeyre	25
The Caribbean region	
<i>Social dialogue in selected countries in the Caribbean: An overview,</i> by Evelyn Greaves	33
North America	
<i>Social dialogue in the United States,</i> by Katie Quan	45
Latin America	
<i>Social dialogue: Theory and practice,</i> by Oscar Ermida	51
<i>Social dialogue in the Andean countries: A rough road,</i> by Juan Manuel Sepúlveda and María Luz Vega	60
Central Europe	
<i>Social dialogue in Hungary: What comes after the decade of central tripartism?</i> by Mária Ladó	69
Africa	
<i>Social dialogue: The South African experience,</i> by Omano Edigheji and Karl Gostner	83
Asia-Pacific region	
<i>Trade union dialogue with civil society in Nepal,</i> by Shiva Sharma	93
<i>Experiences of social dialogue and prospects for the future in the Republic of Korea,</i> by Young-Ki Choi	96
Appendix I. Convention (No. 144) concerning Tripartite Consultations to Promote the Implementation of International Labour Standards	103
Appendix II. Recommendation (No. 152) concerning Tripartite Consultations to Promote the Implementation of International Labour Standards and National Action relating to Activities of the International Labour Organisation	106

Appendix III. Recommendation (No. 113) concerning Consultation and Co-operation between Public Authorities and Employers' and Workers' Organisations at the Industrial and National Levels	108
Appendix IV. Resolution concerning tripartite consultation at the national level on economic and social policy	110

Editorial

What is it that accounts for the relatively recent infatuation with the term “social dialogue”? This is the question posed by the contributors Ozaki and Rueda-Catry, and also tackled by all the others from their respective standpoints as trade union leaders in confederations active at the national, regional and world levels and as specialists with an interest in labour relations issues.

It is due in part to the novelty of their message, which primarily addresses what all the partners stand to gain from the social dialogue even if a compromise must be reached in bargaining in order to attain the goals being pursued.

What are the prerequisites that must be met if the social dialogue is to bear fruit? The recurring answer is the existence of strong, free social partners acting independently and recognized as such. By engaging in dialogue and taking part in decision-making, these partners make it possible to nurture a tradition of peacefulness in the settlement of conflicting interests which, although persisting, must be conciliated in order to attenuate the feeling of powerlessness on the part of citizens. As underlined by the contributors, this argument takes on particular importance from the standpoint of the transition to a genuinely participatory democracy. This is not to say that we may naively claim that the social dialogue is the cure-all. Disagreements are not eliminated; what is achieved through social dialogue is the provision of a legal avenue for addressing them and seeking solutions for them.

According to Baker, Oswald, Linard and Lapeyre, the most promising form of social dialogue is that taking place between multinational corporations and international trade secretariats, which has led to the successful conclusion of framework agreements concerning the functioning of relations between company managements and worker representatives. In the chemicals industry, for instance, the first-ever sectoral agreement of worldwide scope has been reached. This is an advance that introduces a dynamic element into globalization and provides the opportunity to struggle for compliance with international labour standards across the world. The stage still to be reached is one where the initiative to conclude agreements of this kind would be taken by the main social partners themselves rather than at the prompting of some other body.

Amongst the prerequisites mentioned, the contributors also refer repeatedly to the need for these partners to have the information and the necessary training to devise their strategies, for consultations and bargaining amongst the partners to be held on a regular basis and conducted through appropriate structures and mechanisms that will avoid the arbitrariness of case-by-case consultation. Further, they all mention the existence of a culture of participation and acceptance of the distribution of power.

A review of the regional situations (Andean countries, Mercosur countries, Caribbean countries) and of national situations (United States,

Hungary, South Africa, Nepal and the Republic of Korea) reveals that there is still a long way to go before reaching the stage described above and that it is strewn with obstacles, but that the goal is an attainable one. Some countries are only just beginning to discern the way forward. At a time of crisis as serious as that of the Republic of Korea (1998), the hitherto faltering social dialogue then opened the way for striking a historic compromise whereby workers negotiated labour market flexibility in exchange for the improved implementation and observance of fundamental rights at work and some social protection measures.

Confidence, willingness to consult and negotiate and commitment on the part of all the players to social dialogue rather than confrontation are also factors underscored time and again by all the contributors to this edition, together with the need to extend it to other social players from civil society representing important interest groups.

All the contributors addressed the matter of defining the social dialogue, in which connection these articles constitute an invaluable and useful compilation. The tough task that faced the social players who were involved in transposing the European Directives on Labour Law into the Hungarian Labour Code in preparation for that country's entry into the European Union is a good illustration of how important it is to have clear concepts, this being indispensable to setting the terms of reference of the various institutional bodies responsible for this task.

None of the contributors fails to recognize the crucial role played by the International Labour Organization in this regard, which made it possible to give impetus to the social dialogue, in particular, through the Tripartite Consultation Convention (International Labour Standards), 1976 (No. 144); the Recommendation (No. 152) concerning Tripartite Consultations to Promote the Implementation of International Labour Standards and National Action relating to the Activities of the International Labour Organization (1976); the Recommendation (No. 113) concerning Consultation and Co-operation between Public Authorities and Employers' and Workers' Organisations at the Industrial and National Levels (1960) and the resolution concerning tripartite consultation at the national level on economic and social policy adopted by the Conference in June 1996.

Finally, all the contributors broached this subject area as a whole within the broad framework of the ongoing globalization and, to restate Lapeyre's formulation, which we believe hits the mark most exactly, one of the potential aims of the social dialogue is for economic globalization to be matched by the globalization of social justice.

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Social dialogue: An international overview

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Although social dialogue is a relatively new concept today it has acquired significant importance in public debates throughout the world. Several international institutions have played a major role in the diffusion of the concept. Most notably, within what is now the European Union (EU), Community-level social dialogue became a regular feature of policy-making in the middle of the 1980s, and has been further strengthened since the 1990s, among other things through the Treaty amendments at Maastricht and Amsterdam, which made incumbent upon the EU authorities to consult with the main social partners prior to the drafting of legislation and over any specific proposals. Company-level social dialogue within “Community-scale” enterprises was also given a strong impetus to develop by the adoption in 1994 of the European Works Councils Directive (see below).

Some other regional institutions have recently established forums for social dialogue at the regional level and also proclaimed the members’ willingness to promote it within the member countries. For example, towards the end of 1998, Mercosur* declared that the promotion of social dialogue at national and regional levels was one of its main policy objectives.

The ILO has also recently contributed to the diffusion of the concept of social dialogue by declaring in its programme of activities for 2000-2001, the strengthening of social dialogue among member States as one of its four strategic objectives to be achieved.

The recent good economic and social performance of some Western European countries, for example, Austria and Ireland, that have

effectively practised social partnership, has also significantly contributed to raise the awareness, among the general public, of the desirability of involving employers’ and workers’ organizations in economic and social policy-making, which is generally regarded as one of the main forms of social dialogue.

Concept

In spite of its wide diffusion, there is not yet a commonly accepted, precise definition of the concept. Some people understand social dialogue to mean all forms of bipartite or tripartite dialogue, negotiations and consultations on social issues, taking place at any level of society – nation, industry or enterprise – and involving the government, the employers (or their organizations) and the workers’ organizations. Some others conceive social dialogue mainly as a process to take place at a relatively high level, such as the national, regional or sectoral level, excluding the enterprise and workplace levels. Some limit the use of the concept to cooperative relationship among the parties, while others also include conflictive relationships. In countries where procedures for negotiating collective agreements are explicitly established by law, social dialogue may refer to flexible forms of negotiation, which may take place outside the established mechanisms for the conclusion of formal collective agreements.

Social dialogue is sometimes used to refer to dialogue that involves more than the traditional social partners. Non-governmental organizations (NGOs) and other representatives of the so-called “civil society” are often invited to take part in negotiations and consultations together with the traditional social partners. The European Union has invented the term “civil dialogue” to refer to this type of dialogue. As a subsequent chapter by Katie Quan shows,

* Mercosur is the common market for South America. It groups Argentina, Brazil, Paraguay and Uruguay. Association agreements exist with Bolivia and Chile.

social dialogue is often understood, in the United States, to refer to alliances between labour unions and NGOs, sometimes also involving employers or local authorities, for the betterment of living conditions in the local community.

This chapter does not seek to solve this definitional problem definitively, but focuses on social dialogue at the national and supranational levels, as well as at the level of multinational enterprises, without claiming that these are the only levels at which social dialogue can take place.

Why social dialogue?

In spite of the ambiguity surrounding the concept, an increasing number of employers, trade unions and governments have embraced social dialogue as a desirable form of interaction among them. This is because it embodies certain values that are inherent to the ideals of democracy and meets certain aspirations for equity and efficiency, which the parties in industrial relations hold.

But, whatever the definition of social dialogue is, it includes a tripartite process that gives a voice to employers and workers in the formulation of national and local policy on work-related and other social (and possibly also economic) issues. The concept of social dialogue also normally covers bipartite dialogue between employers' and workers' organizations. In this case, it is a process that enables workers to participate in managerial decision-making in industry. In both cases, social dialogue in itself constitutes an element of a democratic society, like the right of workers to organize and bargain collectively, and represents a practice to be upheld for its intrinsic value.

Moreover, there is evidence suggesting that social dialogue at central level, by facilitating consensus-building among productive forces in the country on social and economic policy-making, contributes to high economic performance. The examples of Ireland, the Netherlands, Austria and Denmark are well documented.

However, an important question arises with respect to the popularity of social dialogue: Why does the concept of social dialogue appear increasingly more attractive to employers, workers and government officials than the concept of collective bargaining, which in its broad meaning refers to a quite similar practice?

From the employers' viewpoint, social dialogue is attractive because, unlike traditional collective bargaining, it tends to inspire a spirit

of collaboration and harmony and because it evokes a win-win or mutual gain process, rather than a zero-sum game. Moreover, it evokes a peaceful process, consisting in the search for consensus. Dialogue is not identical with negotiation. From the workers' viewpoint, social dialogue appears to imply upstream participation in managerial or governmental decision-making. Almost everywhere, traditional collective bargaining has only dealt with the consequences of decisions, without having been able to influence the decision-making process itself. By participating in this process from the beginning, workers and trade unions hope to have a broader range of options for solution than in traditional collective bargaining and have a greater influence on decisions to be adopted, and consequently to be more effective in protecting their occupational interests.

One advantage of social dialogue over such traditional concepts as "collective bargaining" or "tripartite consultations" lies in its open nature. As mentioned earlier, parties in social dialogue do not always have to be limited to the traditional social partners, at least in so far as certain issues affecting wider groups of interests in society are concerned.

National-level social dialogue

Tripartite consultation or "concertation" at national level, as well as central bipartite negotiation on "framework" agreements, have been prominent features of the traditional industrial relations systems in a number of countries since the days preceding the diffusion of the concept of social dialogue.

Tripartism and bipartism in Western Europe

In the member States of the *European Union*, social dialogue is today a fairly widespread and well-established practice. National-level social dialogue in Western Europe, as elsewhere, takes a variety of forms. In a number of countries, there are statutorily established advisory bodies in which representatives of employers and workers, other interest groups as well as experts, discuss and adopt recommendations to the government on social and economic policy, as is the case with the Economic and Social Councils of France, Spain, Belgium and the Netherlands, among others. There are also cases in which the social partners negotiate central agreements on social and economic policy issues, with or without government participation.

Some Western European countries, such as in Austria and Ireland, have developed tripartite approaches to the negotiation of central agreements, at peak-level consultation, on social and macroeconomic issues. In *Germany*, where the autonomy of the bargaining parties has been the basic principle underlying its labour relations system since the end of the Second World War, there has been an experimentation with national tripartite social dialogue under the current Government. On the other hand, in the *Netherlands*, the centre of gravity in central social dialogue has been shifting from tripartite consultation towards bipartite negotiations. In *Spain*, central agreements take the tripartite or bipartite form, depending on the objectives pursued by parties, the opportunities for compromise and the attitude of the Government towards the autonomy of the social partners at a given moment. The three important central agreements reached in 1997 on labour relations and employment contracts were bipartite and concluded by the central organizations of employers and trade unions, and later incorporated in legislation.

Let us briefly review recent developments in social dialogue in *Ireland* and the *Netherlands*, in order to highlight the contrast between basically tripartite and bipartite forms of social dialogue, both of which are widely recognized as having been instrumental in the recent economic and social success in their respective countries.

In *Ireland*, the structure of collective bargaining oscillated for decades after the Second World War between centralization and decentralization, producing unsatisfactory economic and social results. However, the centrally negotiated tripartite agreement of 1987, the "Programme for National Recovery", inaugurated a new tradition of central tripartite social dialogue, which has since been an integral dimension of Irish economic and social policy-making. Since then, five such agreements of three-year duration have been concluded. The latest one, the "Programme for Prosperity and Fairness", became operational in 2001. The issues covered by the agreements have considerably expanded, and the focus has shifted over the years. Already the third agreement, the "Programme for Competitiveness and Work" (1994-1997), recognized that the key elements in competitiveness were no longer confined to the direct costs of production. The fourth agreement, "Partnership 2000" (1997-2000), shifted the emphasis from economic competitiveness towards social inclusion and employment. The current agreement covers even wider

social and developmental issues, including living standards, workplace environment, balanced regional development, rural development, local governance, equality, and lifelong learning, to take only some examples.

In the *Netherlands*, post-Second World War industrial relations were characterized by active state intervention, in particular in wage determination, and the existence of a statutory tripartite consultative body. However, the central bipartite agreement of 1982, called the "Wassenaar agreement", signed in the midst of serious economic difficulties, marked a turning point towards the strengthening of the social partners' autonomy. In the 1990s, a number of central bipartite agreements were signed, which dealt with a wide range of issues, such as general socio-economic policy, various issues related to the labour market, including wage policies, employment conditions, types of employment contracts, gender issues, health care and ethnic minorities. Among the landmark central agreements signed in this period are a 1993 agreement entitled "A new course: Agenda for collective bargaining in 1994", a 1995 agreement called "Declaration regarding consultation on employment conditions, 1996 (and beyond)", and the "Agenda 2002 – agenda for collective bargaining in the coming years" of 1997. The wisdom of relying on central bipartite negotiations in the elaboration of macro social and economic policy is sometimes questioned by some policy-makers who tend to regard the process of social dialogue excessively slow in reacting to the changing economic context of today. However, it now seems to be generally accepted that central bipartite negotiations are a key mechanism for elaborating macro labour-market policies.

Among *Western European* countries, the degree of reliance on established institutions for social dialogue also varies greatly. It is not totally clear whether institutionalized social dialogue produces better results than ad hoc social dialogue, although the role of supporting institutions in effective social dialogue may be crucially important, as seems to be the case of the social partnership institutions in Ireland, such as the National Economic and Social Council (NESC), set up in 1973, and the National Economic and Social Forum (NESF); their reports and recommendations form the basis for negotiations of central agreements. The Joint Commission on Prices and Wages (*Paritätische Kommission für Preis- und Lohnfragen*) of *Austria*, set up in the early 1950s by an informal agreement between the Government

and the social partners, as well as the Foundation of Labour of the Netherlands, established in 1945 by the central organizations of employers and trade unions, are both forums for effective negotiations and consultations.

On the other hand, in *Italy*, mainly for historical reasons, social partners have shown preference for ad hoc tripartite negotiations at national level rather than negotiations within the framework of established institutions. Long and arduous negotiations in the early 1990s revolving around labour costs, wage structure and the reform of collective bargaining, led in 1993 to the conclusion of a tripartite "Protocol on incomes and employment policy, on bargaining structure, on labour market policies and on the support of the production system". The Protocol had a great impact on the subsequent development of Italian industrial relations, which has since undergone a notable transformation from a highly conflictive system to one marked by a high degree of social dialogue. It was later followed by the signing of a tripartite Pact for Employment in 1996, and the Social Pact for Economic Growth and Employment in 1998. A notable aspect of Italian social dialogue is the close linkage that has been established between the process of national tripartite dialogue, or bargaining, and the definition of legislative and administrative measures to deal with key social and economic issues, like employment and competitiveness.¹

National social dialogue outside Western Europe

Outside Western Europe, arrangements for national-level social dialogue have been experimented recently in a large number of countries. However, in many cases, their effectiveness is questioned, and efforts to promote dialogue under these arrangements tend to be sporadic and unsustainable in the absence of the genuine commitment of the parties.

In *Asia*, notable recent experiments with social dialogue are found in Indonesia and Korea. In the former country, the labour law reforms in the transition towards democracy were introduced through close involvement of social partners and the civil society, with assistance from the ILO. In Korea, social dialogue made some progress in the late 1990s, in particular around the issue of labour law reforms, culminating in the conclusion of the first (and so far the only) tripartite social pact in the country in February 1998, in the midst of the Asian financial crisis. The pact contained

trade-offs that went far beyond labour issues. Nevertheless, as Choi points out, the centrepiece of the political exchange between the Government and the unions was the latter's acceptance of labour market flexibility (in particular, dismissal for managerial reasons), in return for improved basic labour rights and some measures of social protection. Subsequently, however, with the ending of the financial crisis, the parties' (especially the Government's) commitment to social dialogue seems to be waning, and the effectiveness of social dialogue declining, in spite of the Tripartite Commission, which had been established in 1998 under a Presidential decree, being put on a statutory basis in 1999.

In *South Asia*, although national tripartite consultative mechanisms exist in all the major countries, namely Bangladesh, India, Nepal, Pakistan and Sri Lanka, they seem to be ineffective. There is evidence showing that even their unanimous recommendations often remain unheeded by the Government. There is reportedly a lack of culture of consultation and cooperation among workers' and employers' organizations at the national level.² Indeed, there is no record of any effective tripartite framework agreements on social and economic policy, concluded at the national level in South Asia in the past few decades; and a series of tripartite declarations concluded in the 1950s in *India* on various aspects of labour relations do not seem to have been effectively implemented.³

Latin America also lacks a tradition of effective social dialogue. In an increasing number of countries, mechanisms of national social dialogue have been created in recent years, and there have been sporadic attempts to practise social dialogue. Ermida refers to two agreements signed in the 1990s in *Argentina*: the Framework Agreement of 1994 and the Memorandum of agreements (*Acta de coincidencias*) between the Government and the CGT of 1997, as well as some experiments in other Conosur countries. *Chile* has been experimenting with Round Tables for social dialogue on a number of issues, including the reform of labour law and labour relations. In *Colombia*, a tripartite agreement on minimum wages and the adjustment of transport subsidies was concluded in December 2000 within the Permanent Concertation Commission on Labour and Wage Policies. *Panama* has been experimenting bipartite national social dialogue within the Foundation of Labour, aimed at promoting employment. However, as Ermida observes, the deficiency in

political democracy and the weakness of the social partners in the context of the continuous implementation of structural adjustments imposed by the predominant economic doctrine, among other factors, are preventing genuine social dialogue from developing.

In *Africa*, a notable experiment with national-level social dialogue has been made in *South Africa* after the abolition of apartheid. The main institutional framework is the National Economic Development and Labour Council (NEDLAC), created by a special Act passed in 1994. As the article by Edigheji and Gostner shows, in the transition period towards democracy, negotiations within NEDLAC effectively produced a new post-apartheid labour market regime, resulting in particular in the promulgation of the Labour Relations Act, the Basic Conditions of Employment Act, the Skills Development Act, and the Employment Equity Act. The NEDLAC, however, is having difficulties in proposing a new vision of its role after the completion of the first series of legislative work. These difficulties have led some participants and observers to question the viability of NEDLAC in today's context of globalized economy. Social dialogue in South Africa seems to be passing through a period of searching for a new agenda.

In *Hungary*, tripartite social dialogue at the national level experienced a significant development in the course of the 1990s. The key institution for it was the tripartite Interest Reconciliation Council (IRC), established in 1988, in which the Government and the social partners negotiated – in relation to pre-legislative negotiations on the draft law on the annual budget and taxation – and concluded a series of income policy package agreements. They covered a wide range of issues, such as wage growth in the business sector and public services, minimum wages, personal income tax and exemptions therefrom, family allowances and other social benefits, increases in the administered prices (for example, energy), unemployment benefits and contributions to the social insurance funds, among others.⁴ The successive governments until 1997 are reported to have honoured the agreements, except on a few occasions, and implemented them through legislation.⁵ However, tripartism in Hungary has increasingly been confronted with difficulties in representing the interests of all those with a stake in labour, social and economic policies, as privatization and political and economic institution-building resulted in the emergence of new important actors, such as multinational

companies, banks, insurance companies and chambers of economy.⁶ In 1998, fundamental modifications were introduced into the practice of social dialogue by the new Government. Its declared policy objective was to reject any corporatist endeavours, as reported in the chapter by Mária Ladó. Consequently, the IRC was dismantled and replaced by a set of new forums such as the Economic Council, Council for European Integration, National Labour Council and Council for ILO Affairs. Her chapter shows that the basic principles underlying the current mechanism for social dialogue are (i) consultation on economic issues, and (ii) consultation and negotiation on labour issues. In terms of the structure of these forums, while the National Labour Council has maintained a tripartite structure, the Economic Council has broadened the scope of participation to include various business and financial interests, such as the National Bank, the economic chambers, representatives of the financial and investment sector, and foreign economic chambers representative of the major investors.

This brief review of the practice of social dialogue in different regions of the world shows that, outside Western Europe and a few other countries, social dialogue has not yet become a well-established method for elaborating social and economic policy. Many countries have made sporadic attempts to practise it, but it often remains a fragile practice which declines as soon as the immediate needs disappear or when one party has achieved a particular objective it was seeking to attain at a given moment.

Social dialogue in multinational companies

With globalization, multinational companies (MNCs) have become major players in relation to both global products and labour markets. With deepening international economic openness, the ability of MNCs to move freely anywhere around the globe in pursuit of further profitable return for investment and lower labour costs is becoming enormous. In most cases labour is basically an immobile factor of the production process. This gap in the mobility between MNCs and workers can have the effect of undermining the social foundation of existing industrial relations institutions which are basically national in location.

In particular, as many MNCs continue to build up global management strategies, the core management decisions – for instance, investment and divestment – which may have a

huge influence over employees across borders, tend to be taken at the headquarters of the MNC. On the other hand, trade unions have lagged far behind MNCs concerning the creation of mechanisms for transnational coordination among trade unions.

In an attempt to ensure balanced and equitable relations between MNCs and trade unions, trade unions have tried to establish transnational mechanisms of information and consultation at the MNC level since the 1970s and replicate, at the international level, the social dialogue that takes place at the national level. But, with the exception of the European Union, the absence of an international regulatory framework has, in fact, left to the MNCs the final decision on whether to establish a transnational forum together with the unions. Only a few of these forums have been created outside the scope of the EU.

It is in the European Union that the most advanced form of transnational labour-management dialogue exists. The European Works Councils (EWCs) were created following a directive⁷ passed in 1994, specifically targeting the MNC operations in Europe. This requires companies to inform and consult with employee representatives once a year on a European-wide level about relevant strategic business matters such as: the economic and financial situation; the probable development of the business and of production and sales; the situation and probable trend of employment; investments; substantial changes concerning the organization; introduction of new working methods or production processes; transfers of production; mergers, cutbacks or closures of undertakings, establishments or important parts thereof; and collective redundancies. Although basically of an informative nature, some of these forums have evolved to some kind of negotiation, as is the case of Danone and Accor.

Outside Europe, transnational dialogue at the MNC level takes mainly the form of union cooperation, although some labour-management dialogue has also been established. This dialogue can vary from a simple exchange of information to a real negotiation established either formally or informally. The scope of the dialogue may cover two or several countries, or even be global. But in spite of the number of different options, reality shows that only a few transnational labour-management forums exist around the world. Well-known examples are Volkswagen, Natwest, SKF, Nestlé, Statoil or Ikea. Some have emerged as an extension of the EWC (Natwest). Others, as a result of a

favourable approach from the company's side (Danone) or as a response to organized action from the union side (Volkswagen).

The shape that dialogue takes at the MNC level depends on a variety of factors such as the strength of the actors and their ability to coordinate internationally; the strategy of the International Trade Secretariats (ITSs); the approach of the companies towards dialogue; the labour relations tradition of the countries where MNCs operate; or the regional institutional arrangements. What seems to be clear is that previous union cooperation is a precondition for the establishment of labour-management forums. Therefore, companies that enjoy strong unionism in sectors and a powerful ITS are more likely to create such forums. But this is not a guarantee: even the International Metalworkers' Federation's world works councils, a result of a strategy already initiated in the 1960s, have not managed to institutionalize the participation of management.

Volkswagen seems to be an exception to that rule. Not only has the company accepted to create, together with unions, a group world council, but management and workers' representatives signed one of the first existing transnational collective agreements, involving the company and metalworkers' unions from Argentina and Brazil.

Another success in the history of transnational industrial relations is the global industrial relations agreement⁸ signed by Statoil in July 1998. It is the first such initiative in the oil sector and one of the first in any industry. The International Federation of Chemical, Energy, Mine, and General Workers' Unions (ICEM) was instrumental in its campaign and signature. The agreement covered recognition of basic human rights, health, safety and the environment, information and training for all Statoil operations over which the company has direct control.⁹

While demand for transnational workers' representation mainly comes from trade unions and employees, a certain form of transnational labour-management dialogue at the MNC level might be mutually beneficial as it can also offer potential benefits for employers, such as the creation of communication channels among employees and between management and employees from different countries, which may also encourage the transfer of best practice from one country to another.

Social dialogue at the regional level

The renewed interest of countries in economic integration has taken the form of an increasing number of agreements being concluded by countries or reactivating the existing ones. In the majority of the more than 100 agreements notified to the GATT/World Trade Organization (WTO), the social dimension is absent, and social dialogue has not been a tool to give social partners a say in the implementation of socio-economic policies. Nevertheless, different forms of social dialogue, mainly through consultation, have given a say to social partners in a number of groupings, namely those which have reached deeper degrees of integration.

Social dialogue varies from an institutionalized dialogue between regional-level actors in the preparation of legislative instruments in the European Union to informal consultation between national-level actors in others, such as in the South African Development Community (SADC), the Common Market of the Southern Cone (Mercosur) or the Caribbean Community (CARICOM).

Social dialogue in the EU is by far the most comprehensive. It is institutionalized at different levels: company-level dialogue through the European Works Councils (see above); sectoral consultation and incipient bargaining of European-level sectoral framework agreements in the agriculture and transport sectors; and inter-professional dialogue, which includes tripartite consultation on a range of issues, including, for example, macroeconomic policy and real bargaining between social actors at the EU level. This bargaining has given rise to three framework agreements¹⁰ that have been subsequently implemented as EU Directives.

Historically, the process of configuration of social dialogue in the EU shows a change in the centre of interest from an institutionalized dialogue to an autonomous dialogue of a bipartite nature.¹¹ The Val Duchesse meeting with social partners in 1985 was the starting point for inter-professional social dialogue and gave rise, in 1991, to the Protocol of Social Dialogue, approved in the Maastricht Treaty in 1993. Through this agreement, the view of the social partners has to be systematically sought on social policy, and the agreement gives the social partners the possibility to negotiate agreements. The current situation is that workers' and employers' organizations have become privileged actors within the Brussels policy debate – notwithstanding the fact that many other national and sectoral interests are also

involved and can often exert veto power over any initiative.¹²

One of the main obstacles for the development of social dialogue has been the permanent tensions between the social partners on the scope and efficiency of the results. While unions are in favour of strengthening social dialogue through formal agreements (without giving up the idea of European collective bargaining), employers have tried to avoid excessive regulation to confine social dialogue to an exchange of viewpoints between the parties, without reaching any binding formal agreements. The Commission, on its side, has played an important role in promoting social dialogue by itself, independently of the capacity of the parties to reach formal agreements.¹³

Social dialogue has also been a component in other regional groupings, but in none of them, with the exception of the EU, has there been a clear political commitment to give social actors a systematic, active role in the designing and implementation of common policies. Political willingness encompasses the support to create or strengthen regional-level actors to allow them to take part in social dialogue efficiently.

In SADC, social dialogue takes place in the Employment and Labour Sector (ELS), which operates on a tripartite basis with all three social partners involved in the sectoral meetings. Reports submitted to the annual meeting of ministers and social partners of the ELS are required to have been the subject of national consultation processes with the social partners in each of the member States.¹⁴

One of the most remarkable developments in the field of labour in SADC, the Code on HIV/AIDS, has also a social dialogue component: It aims at ensuring that SADC member States develop tripartite national codes on AIDS and Employment¹⁵ that shall be reflected in law.

In CARICOM, each State is required to establish a National Committee or designate another body to monitor and ensure compliance of the Charter of Civil Society.¹⁶ In either case, the composition is tripartite plus, although admittedly the relevant provision does not address the details of ensuring equitable representation between the traditional social partners within the ILO's definition of the term.¹⁷ The implementation procedures of the Charter are quite strong: The member States subject themselves to a periodic reporting requirement and the preparation of the reports must be undertaken through consultation with the social partners.

The Mercosur Social and Economic Advisory Forum (FCES) gives a consultative role to the economic and social sectors, and the power to formulate recommendations to the Common Market Group (CMG), the executive body of the grouping. Although it deals with a particularly wide range of subject matters that reflect the various economic and social sectors of Mercosur, it has embraced some topical labour concerns, notably in a Recommendation on Employment Policy.¹⁸

Directly subordinated to the Common Market Group are work subgroups that conduct studies on specific Mercosur concerns and draw up minutes of decisions to be considered by the Council. The subgroup on Labour, Employment and Social Security Matters carries out its activities, in the preliminary consultation process, with a maximum of three representatives of civil society and the private sector from each member State. At the decision-making stage, only official representatives of the member States may participate. The structure of this subgroup bears one key difference from the others: it is tripartite, with direct representation from governments and workers' and employers' organizations. Therefore, social actors are an integral part of the recommendations made by the working group, although their role remains, as is the case in the majority of the groupings, of a consultative nature.¹⁹

With the experiences being so recent and different in their nature and scope, it is difficult to draw lessons and to foresee how the role of social actors will evolve in the future. But what seems clear is that social dialogue also has a role to play at the regional level to ensure that the implementation of socio-economic policies, which will have an impact on the living standards of society, is being accompanied by the internationalization of labour standards and social dialogue. The more supranational policies are put in place, the more the social actors should have a say in the decision-making process, either through the involvement of workers' and employers' organizations at the regional level, where they exist, or by involving national-level actors.

Conclusions

The prerequisite for effective social dialogue is the existence of strong, independent and responsible social partners. The existence of a political will to engage in social dialogue, in particular on the part of the government, is also an indispensable factor, beyond the creation of institutions. For social dialogue to be sustain-

able, the commitment of all political parties to the social partnership model is important; it will secure the continuity of social dialogue in the event of a change of government. Social dialogue does not operate in a vacuum, it requires the existence of concrete economic, social and labour issues that need to be dealt with. Finally, the operation of social dialogue at all levels of the decision-making process and clear articulation between them represent other important conditions.

For the development of an effective and sustainable practice of social dialogue, it is necessary to develop a shared strategic vision among the parties of the problems facing the country, as well as a mutual understanding between the parties, so that each of them can appreciate the concerns and objectives of the other, without abandoning the commitment to protect and advance – forcefully if necessary – the interests of those they represent.²⁰

The inclusion in the mechanism of social dialogue of all stakeholders concerned by the issues for dialogue, including civil society, may be important under certain circumstances. In particular, as the economic and social issues dealt with through social dialogue are becoming increasingly broad and complex and affect all segments of the population who may not always be adequately represented by the traditional social partners.

In many cases, social dialogue has developed in a context of economic crisis, enabling the actors concerned in each country to build consensus and to reach compromises over the policies and actions aimed at overcoming the consequences of economic crisis, avoiding social unrest and perhaps political instability. But the usefulness of social dialogue tends to be forgotten once the economic crisis is over. The constant cultivation of the culture of dialogue is a big challenge confronting social dialogue partners in those countries that have succeeded in putting the process of effective social dialogue in motion.

Notes

¹ Bordogna, L. and Pedersini, R. 1999. *The contribution of collective bargaining to employment protection or creation and to competitiveness: Italy*, ILO internal document.

² Venkata Ratnam, C.S. 1999. *Social dialogue in South Asia*, ILO internal paper.

³ op.cit.

⁴ Hethy, L. 2000. "Hungary: Social dialogue within and outside of the framework of tripartism", *ILO Social Dialogue Papers*, No. 4, p. 15.

⁵ op. cit.

⁶ op. cit., p. 1.

⁷ Directive 94/45/EC on the establishment of European Works Councils or a procedure in Community-scale undertakings and Community-scale groups of undertakings for the purposes of informing and consulting employees was adopted by the Council on 22 September 1994.

⁸ The text sets out a number of basic human rights and principles to be recognized and respected, largely based on ILO labour standards and very similar to those set out in various codes of conduct for multinationals. There is also a focus on trade union rights, another key point of world-level management-union relations. A central role of the annual meeting is to review and follow up the respect for the agreed principles.

⁹ *European Works Councils Bulletin*, Issue 17, September/October 1998.

¹⁰ On parental leave (December 1995), providing a right to unpaid leave for either parent on the birth of a child; on part-time work (June 1997), requiring equal treatment of part-time as compared to full-time workers; and on fixed-term contracts (March 1999), prohibiting discriminatory treatment and "abusive" use of successive fixed-term contracts.

¹¹ Aragón, J. et al. 1998. *Integración regional y relaciones laborales: el caso español*, ILO, mimeo.

¹² Hyman, R. 2000. "Social Dialogue in Western Union: The State of the Art", *Social Dialogue Papers No. 1*, ILO.

¹³ Aragón, J. et al. 1999. *Integración europea y relaciones laborales: una perspectiva desde España*, ILO, mimeo.

¹⁴ Hayter, S. 1998. *Regional integration and labour relations: SADC*, ILO, mimeo.

¹⁵ The code presents guiding principles for and components of these national codes; information, education and prevention programmes should be developed jointly by employers and employees and should be accessible to all at the workplace.

¹⁶ In the Charter, workers' rights are set out in some detail, including a range of freedom of association, collective bargaining, occupational safety and health, non-discrimination and social security rights.

¹⁷ Blackett, A. 1999. *The social dimension of regional integration: Institutional arrangements*, ILO, mimeo.

¹⁸ Topet, A. 1999. *Integración regional y relaciones laborales: Mercosur*, ILO, mimeo.

¹⁹ Blackett, 1999.

²⁰ Hyman, R. 2000. op. cit.

Trade unions and social dialogue: The global dimension

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At the national level, social dialogue has proven to be an invaluable means to address social concerns, help develop good and viable public policy, and build consensus. It is a central element of democratic societies. Social dialogue, formal and informal, takes various forms. Although not necessarily tied to government policies or structures, it often works best where it is encouraged by public policy. In some cases, for example, it takes place in relation to government-sanctioned or -sponsored bipartite or tripartite structures. Strong and viable social partners, both free and independent trade unions and legitimate employers' organizations, are all fundamental to social dialogue.

At the international level, tripartism has existed since the foundation of the International Labour Organization (ILO) in 1919. Although governments play an important role in the ILO, it is often negotiations between the social partners that are crucial to making progress in that institution. In the Organisation for Economic Co-operation and Development (OECD), there is also a long tradition of involvement of the social partners, in this case through formal consultative bodies controlled by trade unions – the Trade Union Advisory Committee (TUAC) and employers' organizations, the Business and Industry Advisory Committee (BIAC). At regional level, particularly in the European Union and to some extent in Mercosur (Latin America), social partners have consultative rights as well.

This paper will examine trends in international social dialogue in relation to international bodies and the debate over global governance. It will also consider a more recent development, the growth of social dialogue between International Trade Secretariats (ITS) and multinational enterprises. It will look at these trends in the context of changes in the global economy.

The International Labour Organization (ILO)

Global social dialogue began with the objective of preventing war. The founders of the ILO were keenly aware of the dangers of militarism and nationalism, of governments unchecked by the will of the people and of the lack of development of what would now be called "civil society". All these factors contributed to producing the conditions for war. The ILO's special contribution to peace was based on the fact that conflicts and tensions inside national boundaries often contribute to and influence conflicts between States.

Legitimate and independent organizations of workers and employers, engaging in dialogue and collective bargaining, serve to limit the often dominant power of the State and bring a tradition of social peace based on free negotiation and accommodation of conflicting interests. They create conditions in which people can participate in public life and have some control over their own destinies, reducing citizens' fears and sense of powerlessness. Trade unions, as popular mass organizations with a degree of economic influence, have a particularly important role to play.

Trade unions central to the emergence of democracy

Trade unions have the power to change relationships. They help move societies toward the consent of the governed. This continues to be demonstrated. For example, the trade unions in South Africa were critical to the collapse of apartheid and, in Poland, *Solidarnosc* was the main force in bringing down the illegitimate government of that country. However, strong trade unions do not only throw out repressive

regimes; they are also, as the examples of both South Africa and Poland demonstrate, central to the emergence of democracy. Trade unions can also help ensure that power is beyond the control of a single group or party.

In this post-Cold War period, there are areas of the world that are beginning to show the same destructive and intractable tendencies that were common prior to the First World War. In the case of the Balkans, they are found in the same region. However, conflicts on all continents show that the inability to regulate internal conflict creates instability that can, in some cases, threaten neighbouring States. Unfortunately, in many countries moving towards democracy or where democracy exists but is weak, there is a failure to encourage social dialogue as a vital means to recognize and resolve conflict and deepen the roots of democracy in society.

In other words, the traditional role of the ILO in terms of the nation state and relationships among nation states remains valid and important. In addition, with the rapid integration of the global economy and the resulting changes in relationships among enterprises, and between them and labour, an even greater contribution is required from the ILO, a body that has the advantage of being both tripartite and equipped to supervise the application of its international labour standards.

The International Labour Conference, held every year in Geneva, adopts standards to be ratified and applied by nation states. With rare exceptions, the focus of ILO standard-setting, supervision and other activities is national rather than international. Bodies like the International Confederation of Free Trade Unions (ICFTU) and the International Organisation of Employers (IOE), by bringing international experience and an international policy framework, compensate for the national focus of many representatives. They play, therefore, an important if unofficial role.

One example of the ILO's work on standards to be applied globally rather than purely nationally is the Tripartite Declaration of Principles on Multinational Enterprises and Social Policy. The Declaration is based on universal standards and is expected to be applied globally in every country in which a company operates.

Many changes have occurred since the adoption of the Declaration in 1977, but human values are remarkably constant. The principles contained in the Declaration remain an unchallenged reference point for best practice. But, so

far, the Declaration has not had the impact on international corporate behaviour hoped for by many of those present at its creation. Meanwhile, there are many discussions today about corporate social responsibility and private voluntary initiatives, but it is neither necessary nor useful to constantly seek to reinvent the wheel. The Declaration represents an important and far-reaching tripartite consensus. Many years after its adoption it seems almost tailor-made for globalization. The Declaration ought to be brought into the corporate social responsibility debate and serious efforts should be made to implement it.

Another area often relevant to the changes in the global economy is the ILO sectoral and smaller meetings, formerly known as industrial committees. On the trade union side, one or more ITS work with national trade union representatives and play a leading role in preparing for the meetings as well as in the meetings themselves. In those cases where there is an effective counterpart organization on the employers' side, this can lead to quite useful and productive work. However, international employer structures in sectors are often not very well developed or have no role in the area of industrial relations or other similarities with ITS. Progress in improving this area of work could make a significant contribution to effective international social dialogue.

Chemicals and maritime transport are examples of two sectors where social dialogue on an international basis, including at the ILO, has been effective and productive. There are, of course, many other examples.

ILO machinery for maritime activities, including special standard-setting machinery such as the ILO Maritime Conference and Joint Maritime Commission, continue to function. They have certainly helped advance dialogue in the maritime industry where the International Transport Workers' Federation (ITF) is the trade union social partner. The ITF plays a similar role in the International Maritime Organization (IMO), a United Nations specialized agency that plays a central role in regulating the shipping industry. The ILO is examining how the positive experience of developing international social dialogue within the maritime sector can be transferred to other industrial sectors.

Dialogue between the International Federation of Chemical, Energy, Mine and General Workers' Unions (ICEM) and the chemical employers was strongly encouraged by an ILO sectoral meeting and has resulted in highly use-

ful dialogue between those two global social partners outside of the context of the ILO. This cooperation is focusing on work on the Responsible Care Programme.

The structural changes in the ILO in 1999 now offer opportunities to expand social dialogue in a creative and flexible manner. By improving the work of sectoral committees and engaging in discussions with both sides of industry on a wide variety of issues, even those not directly related to standard-setting, progress should be possible.

The OECD

In the period of recovery following the Second World War, there was a consensus that economic measures, such as trade liberalization, by themselves would not be sufficient to stimulate both economic and social progress. The Marshall Plan recognized that a variety of measures needed to be taken to provide stability and build broad support for democracy and civil society institutions. The desire to strengthen social dialogue as one of the mechanisms to build a new Europe was reflected in the recovery effort itself and constituted a form of international social dialogue.

The official trade union participation in social dialogue goes back to 1948 when a trade union consultative body was established to represent trade union views and work with the European Recovery Programme – the Marshall Plan. The Trade Union Advisory Committee (TUAC) was a transatlantic organization from the beginning, bringing together trade union counterparts of the governments involved in the revival of Europe in those difficult times. The roots of the post-war economic miracle in Europe were in that notion of pursuing economic and social progress together rather than considering social progress as either an afterthought or an automatic result of economic measures.

When the Organisation for Economic Co-operation and Development (OECD) was created in 1962 as a sort of intergovernmental economic think tank, the TUAC continued its work of representing organized labour's views to the new organization. The TUAC and its business counterpart, the Business and Industry Advisory Committee (BIAC), are not only able to provide information and views, but also to challenge the arguments of members of the OECD secretariat and member governments. Unlike other international institutions, the OECD has to defend its positions throughout the process of formulating policy advice for its

members. This important role for the social partners means not only that their views are considered, but that there is a "real world" view brought to the table, which means that governments themselves are better served and the quality of the analysis is improved.

Unlike the ILO procedure, whereby trade unions and employers shape standards as participants with votes and rights, the dynamics of the consultative process at the OECD do not require the TUAC and the BIAC to reach agreement on issues. However, there are opportunities, formal and informal, for an exchange of views between the two consultative groups and, on occasion, this results in areas of consensus between the social partners.

For example, in the 1980s, in an exceptional move, the TUAC and the BIAC adopted a joint statement on a wide range of vital public policy issues in the area of education and training. More recently, business and labour representatives found broad areas of agreement in favour of strong action by governments to fight corruption, including bribery of government officials by enterprises. This consensus helped produce support in this area for the OECD Convention on Combating Bribery of Foreign Public Officials in International Business Transactions, which was adopted in November 1997.

In recent years, the OECD has been increasingly called upon to provide expertise on an expanding range of issues, often involving countries that are not members of the OECD. This is not a new role for TUAC though, which, principally in cooperation with the ICFTU, has for a number of years served as an important resource on economic and social issues. Its work covered a wide range of policy issues related to many institutions, including the World Bank, the International Monetary Fund (IMF), the General Agreement on Tariffs and Trade (GATT) and its successor organization, the World Trade Organization (WTO).

The OECD itself has increasingly become a forum for discussion of globalization. The organization, with effective participation from both employers and trade unions, developed guidelines on corporate governance, adopted in May 1999, which include an explicit recognition of the role of stakeholders. Concerning the failed Multilateral Agreement on Investment (MAI), the TUAC challenged the imbalances in the agreement long before MAI became a matter for public debate. Had these concerns been taken on board earlier, it might have been possible to negotiate a more viable MAI that could have been adopted and implemented.

OECD Guidelines for MNEs

In June 2000, the OECD Ministerial adopted revisions in the OECD Guidelines for Multinational Enterprises (MNEs). The Guidelines were originally adopted in 1976. They were a major advance because they put into place a government consensus on decent corporate conduct. Unfortunately, from the time of adoption to the recent revision, the Guidelines, with a few exceptions, have had limited impact on the behaviour of enterprises.

The revision of the Guidelines, with strong and active lobbying by both the TUAC and the BIAC, resulted in a modification of both their content and their implementation procedures. The text was changed in several ways, one of which was the incorporation of the standards contained in the *ILO Declaration on Fundamental Principles and Rights at Work and its Follow-up* (adding child labour, forced labour and equality of treatment). They also explicitly acknowledged that the organization of international business had changed since the Guidelines were first adopted, with a larger role for suppliers in the operations of multinationals. It was also made clear that OECD governments expect companies to respect the Guidelines wherever they do business and not just in OECD member countries.

More importantly, the weak Guidelines implementation procedures were improved. Their observance depends, in large part, on the activities of National Contact Points (NCPs). However, before the revision, the guidance of those NCPs was limited and they often failed to work effectively. In the new provisions, elements of social dialogue are included. They encourage more active problem-solving by the NCPs. Regardless of what efforts are undertaken, for example, mediation efforts, the NCP is to report on the results of its work. It is hoped that fewer cases will be virtually ignored and that NCPs will play a more active role.

These improvements in the implementation of the Guidelines offer a few possibilities for developing more and better social dialogue. At the national level, they may encourage elements of tripartism in the administration of the Guidelines as well as active consultation with both parties in a dispute. At the international level, they may offer opportunities for International Trade Secretariats to intervene more effectively with companies to solve problems. In other words, one of the most important potential outcomes of the revision of the OECD

Guidelines is the collective encouragement of social dialogue to help resolve problems in real situations of conflict.

Another related test for the revised Guidelines is whether they will really be promoted this time among employers after many years of lip service. It will also be a test and a challenge for trade unions to take the Guidelines seriously and try to use them to help workers organize and bargain collectively and resolve other problems related to the global economy.

Other international institutions

The international financial institutions (IFIs) have relatively little consultation with trade union and employers' organizations, although there is considerable contact with the private institutions in the financial markets. Notwithstanding a growing willingness in recent years to consult with trade unions, particularly after the financial crisis, policy-making remains seriously handicapped by insufficient and irregular social dialogue.

The ICFTU has been encouraging the IFIs to meet with trade unions at the national level in connection with programmes planned in some countries. In spite of some progress, reports from a survey of ICFTU affiliates indicate that there is still, with a few exceptions, a lack of serious consultation. Meetings held between the international trade union movement and the IFIs in October 2000 resulted in a movement towards a more useful and regular consultation process. The ILO, over many years, has not been active enough in trying to bring social issues and processes of tripartism and social dialogue into the working practices of other international organizations, including the IMF and the World Bank. This has resulted, in some cases, in governments invoking IMF conditionality to justify violations of trade union rights, including through the arbitrary and unilateral abrogation of freely negotiated collective bargaining agreements.

Arrangements for consultation under the old GATT that preceded the WTO were informal and ad hoc. Since the WTO was created in 1995, it has sought gradually to improve opportunities for non-governmental organizations (NGOs) – including both trade unions and many organizations representing companies – to participate in its activities. However, such initiatives remain at a highly informal stage and there is no sign of consensus among WTO members on any more structured arrangements for consultation with civil society.

Towards a “social Europe”

At the European level, important agreements to protect workers have been reached through a process of negotiations between the European Trade Union Confederation (ETUC) and their employer counterparts. Because of the development of political institutions at the European level, particularly the European Commission and the European Parliament, there is a political context that can help encourage such agreements. They are significant contributions and begin to institutionalize a “social Europe”. The agreements reached so far are on parental leave, part-time work and fixed-term work. Although often halting and difficult, it is fair to say that social dialogue exists at the European level. With the adoption of the European Works Council (EWC) Directive requiring multinational companies to establish EWCs if they employ at least 1,000 employees within the EU Member States and at least 150 employees in each of two Member States, European social dialogue also includes direct contact between workers from different countries. In spite of these strides, however, only limited progress has been made with employers to reach a major ETUC priority: European-level collective bargaining.

In the Mercosur common market (Argentina, Brazil, Paraguay and Uruguay), the tripartite “Consultative Forum on Economic and Social Issues”, created in 1995, provides for regular national and regional discussions of economic and social matters related to Mercosur. Trade unions and employers’ organizations in the countries of the Southern African Development Community (SADC) also have an annual opportunity for discussion of labour-related issues at the meeting of the Labour Commission of SADC. Similar opportunities for tripartite dialogue exist at the Organization for African Unity (OAU) annual Labour Commission meetings.

The UN Global Compact

International organizations of trade unions and employers have had consultative status with the United Nations over the duration of its existence. It has not, however, always provided for a level and a quality of dialogue on policy issues that is satisfactory. However, a potentially important initiative, of which social dialogue is the central feature, was taken by UN Secretary-General Kofi Annan. The UN Global Compact, announced at the World Economic Forum in

Davos in 1999, was originally focused on business organizations or what was described as the “private sector”. In the course of developing the Compact, however, it has become more broadly based, with the international trade union movement and a number of international NGOs participating. In the Global Compact, business organizations, trade unions and elements of civil society other than trade unions all have distinct identities. As such, their diverse voices can be heard and a real dialogue take place.

UN Secretary-General Kofi Annan explicitly recognized the importance of dialogue among the components in the Compact at a major, high-level meeting on 26 July 2000. The Secretary-General stated that “probably the most important step we have taken in the last 12 months has been to bring those organizations into the Compact as partners” and he stressed that the Compact itself is an important forum for dialogue.

The Global Compact brings the “partners” together around a set of nine universal principles on human rights, workers’ rights and the protection of the environment. It remains loosely defined, which means that, at this point, dialogue itself is a major point of the exercise in order to find ways to advance those principles.

Trade unions: A bridge between industry and civil society

Trade unions have a dual role. They are the only mass civil society organizations at the table and they also represent the human side of industry. In calling on unions to help make the Compact work, the UN Secretary-General, at that same 26 July meeting, recognized their important role when he said: “Labour unions can mobilize the workforce – for after all, companies are not composed only of their executives.” Trade unions have a foot in industry and a foot in civil society. As such, they provide important contributions to industrial and political democracy as well as to economic development.

With the Global Compact, the Secretary-General of the United Nations has taken an important initiative and has issued a compelling call for global social dialogue. It remains, however, an open question as to whether the moment in history is right for the Global Compact to succeed. Its success will not be measured by its public relations impact for companies, but by whether there is the will by all parties to engage in dialogue and further the nine principles of the Compact.

Corporate social responsibility and accountability

As indicated above, social dialogue can be encouraged either through some kind of governmental role by the tripartite ILO, or through interaction by one or both of the social partners with intergovernmental organizations. Or, as in the case of the European Works Councils, through a requirement and framework established by an intergovernmental organization. Of course, social dialogue can also take place between the social partners themselves without governmental involvement. In countries where social dialogue takes place, collective bargaining remains its most important form, although other forms of bipartite social dialogue involving business and trade unions also exist. Yet even in national experience, where social dialogue is more prevalent and has far more expressions than at the international level, the government must play an enabling and fostering role. This is essential for collective bargaining, which only rarely occurs outside of a legal industrial relations framework where the right of workers to bargain collectively is protected by law.

The obstacles at national level

In order to appreciate the forces that are moving the social partners to engage in international social dialogue, it is useful to recall the obstacles to collective bargaining and to social dialogue at the national level. The most important obstacles involve the failure of government. For various reasons, including international competition, many governments are not enforcing existing laws such as those that protect workers seeking to join or form trade unions and to bargain collectively; and some governments overlook enterprises that avoid their legal obligations as employers.

This failure to enforce labour law is exacerbated by the failure of labour law in most countries to adapt to the changing world of work. For instance, most labour law does not allow for the possibility that a worker may have more than one employer, as is often the case for temporary workers supplied by an agency. In some cases, responsibilities are assigned to a nominal employer and not to a more appropriate enterprise that may also be more capable of fulfilling these responsibilities. In many countries, labour law is becoming increasingly inadequate in distinguishing self-employed workers from workers who are dependent on enterprises and require legal protection. The grow-

ing informalization or casualization of work is also narrowing the scope of application of labour law. In a number of countries most private-sector work is performed outside of any legal framework.

Codes of conduct

The organization of business provides other challenges to traditional collective bargaining relationships. Increasingly, workers and their unions are finding that the persons across the bargaining table are not the real decision-makers. All too often the real decision-makers are persons in another enterprise that may not be legally related to their nominal employer or even located in the same country.

The issue of the obligations of business to people who do their work, but who are not their employees, has become an important part of the growing debate over corporate responsibility. The idea that enterprises have obligations to workers who are not their employees is central to the company codes of conduct that have attracted so much attention in recent years. The first of these codes were adopted by companies involved in the marketing of brand-name clothing, footwear, toys and other labour-intensive manufacturing in response to negative publicity generated by reports of extreme exploitation and abuse of workers. The companies adopting these codes did so for the purpose of applying them to their suppliers and subcontractors. These codes, together with their implementation and verification, continue to be subjects of great controversy.

Unilaterally adopted codes of labour practice will not necessarily, by themselves, present an opportunity to develop social dialogue on either national or international levels. One measure of their value, if any, is whether they provide an opportunity for workers to form trade unions and to bargain collectively. Where codes facilitate this, they could fairly be said to make social dialogue a possibility. The controversy over company codes of labour practice has made an enormous contribution towards building a general appreciation of the importance of international labour standards as well as knowledge of specific ILO Conventions. However, the real contribution of these codes is their vindication of what trade unions have been saying all along – not only about the importance of labour law and of employment relationships, but also about the need for multinational companies to have and apply labour policy on an international basis. In the end, the

most promising form of international social dialogue will be between multinational companies that have adopted international labour policies and International Trade Secretariats.

Global industrial relations

One of the most profound changes in corporate behaviour is the willingness of a growing number of global companies to engage in international social dialogue with International Trade Secretariats. In some cases, this dialogue has produced formal framework agreements. Although they are not collective bargaining agreements and are not intended, by either side, to replace such agreements, they constitute, nevertheless, a form of global industrial relations. In many cases, framework agreements take the form of an agreed set of principles, combined with some understandings as to how relations will work. In others, including the pioneering agreement between Danone and the International Union of Food, Agricultural, Hotel, Restaurant, Catering, Tobacco and Allied Workers' Association (IUF) (*see IUF agreements, p. 19*), they go beyond a short list of principles and cover several other areas of agreement.

Framework agreements/ sectoral agreements

There are an increasing number of framework agreements. They include: the International Federation of Chemical, Energy and General Workers' Union (ICEM) agreements with Statoil and Freudenberg; the International Federation of Building and Wood Workers (IFBWW) agreements with Ikea, Faber-Castell and Hochtief; the IUF agreements with Accor and Danone; and the Union International Network's (UNI) agreement with Telefónica. In addition, the IUF has an agreement on a regional basis covering bananas with Chiquita and Del Monte.

Discussions are currently taking place between the ICEM and the chemical industry that could produce the first-ever global sectoral agreement. This agreement would ensure ICEM involvement in the monitoring and implementation of the chemical companies' Responsible Care Programme, thereby helping to achieve "the highest standards of occupational health and safety and of environmental protection" at chemical plants worldwide.

Global corporate or sectoral agreements provide opportunities for global social partners

to engage and resolve conflicts before they become the source of major problems and tensions. Because they are agreed rather than unilateral and because of this potential to bring concrete results, they offer many advantages for both parties over internal corporate codes of conduct. Of all of the existing framework agreements, all but one have been negotiated since January of 1995.

In addition to signing formal framework agreements, many companies are engaging in dialogue with ITS, often on a regular basis. This recognition of trade union bodies as global interlocutors or social partners is, in itself, a major step forward. It removes a barrier to the resolution of problems and adds a vital and dynamic element to globalization.

Of course, some of the dialogue with companies originated in what were bitter disputes and, in some cases, vigorous global campaigns. In those situations, it did not come from progressive employer initiatives, but rather from hard experience. Nevertheless, regardless of the reasons, companies engaging in such dialogue are demonstrating flexibility and a willingness to seek innovative relationships to solve problems and further their interests.

Globalization has left a vacuum. It has left a vacuum in global governance, but also in social dialogue. At national level, company-union discussions are often centred on arguments by companies that workers must make sacrifices because of conditions elsewhere, including global market considerations beyond their control. In other words, globalization often becomes an excuse to undermine healthy industrial relations and social dialogue. Many of these same companies, when confronted internationally, argue on the other hand that all of their decisions that relate to employees are made at the national level. Global social dialogue fills this gap and allows national unions, through their ITS, to engage their members' common employer beyond the national level.

Social dialogue on policy issues with global political institutions, combined with company- and industry-specific dialogue may, over time, begin to mirror successful examples of such dialogue at national level. It may also contribute to shaping global governance in a way that balances property rights against other rights, such as human and trade union rights. It also provides an element of industrial relations and self-regulation that can supplement and complement global rules for the global economy.

IUF agreements

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and Allied Workers' Associations (IUF)

In today's ever-shrinking world, we see example after example of mobile capital investment moving and taking up residence, either as short-term tenants or as owner occupiers, in virtually any and every national and regional market. The motivating force behind this remains largely the search for greater and greater returns on investment.

Pressure for such increasing returns can lead to a situation where significant competitive advantage is sought based crudely on ever-reducing labour and employment standards rather than quality, innovation or efficiency. Something that has often been referred to as a "race to the bottom" or "competing on the low road".

There is considerable evidence and certainly substantial logic, however, to suggest that this only too common "race to the bottom" is not just bad for the majority of workers directly victims of it, workers who too often have little or no power. It is also, ultimately, "bad for business". Bad for business not just because it fails to produce the kind of sustainable and soundly based economic development which is good for middle- and long-term business development. But also bad for business because we are seeing an increasing degree of consumer awareness that relates quality of a product not only to appearance, performance, taste or even price, but also to the impact the production of that product has had on social and environmental standards. Today we are only seeing the early evidence of this trend. Companies that choose to ignore it do so ultimately at their cost.

There are therefore sound business reasons why employers have reason to work with trade unions exploring mechanisms to ensure first that "low road competition" does not hap-

pen and, importantly, that consumers are convinced and remain convinced that it is not happening.

The starting point is the need for minimum and agreed global labour and environmental standards, established internationally through bodies such as the ILO and effectively in place and enforced at national level. There is no substitute for good national legislation and nationally enforced social and environmental protection. Nothing that we do with corporations or that corporations themselves do should be seen as substituting for this.

That said, there are paths that companies and their social counterparts can take to further protect workers and the environment, paths that recognize that national legislative protection is sometimes inadequate or not sufficiently enforced. And, even where laws are good and applied fairly, the interaction of labour and business can make a great contribution to resolving and avoiding unnecessary conflict.

One such path involves the growing attachment by companies to codes of conduct. However, ethical codes of conduct too often represent belated efforts by companies to provide some assurance that they are not enthusiastic participants in the race down the low road. However, such codes are often too few, too late and, as unilateral exercises, inevitably carry with them the problem of credibility as companies will continue to discover.

Danone

Danone and the IUF have chosen to go another path. Together, we have signed a series of agreements applicable internationally and covering a number of important areas of corporate social policy.

These agreements are now documented in a booklet with a jointly agreed foreword and printed so far in six languages. They cover five general areas affecting the social relations between Danone and its employees.

The most crucial for the IUF is the agreement covering respect for trade union and collective bargaining rights. It refers specifically to ILO Convention on Freedom of Association and Protection of the Right to Organise, 1948 (No. 87), Convention on the Right to Organise and Collective Bargaining, 1949 (No. 98) and Convention on Workers' Representatives, 1971 (No. 135) since we believe it is crucial that ILO Conventions be encased in such an agreement.

However, the most challenging and innovative of these internationally applicable agreements is the one that relates to handling the impact of changes in company strategy on employment. The agreement specifically addresses procedures for negotiation when restructuring exercises are proposed.

Danone has committed itself internationally to procedures that fully involve trade unions and has agreed that it must take serious account of union-proposed alternatives to the particular form of restructuring proposed by the company. Danone's agreement to explore alternatives with unions in a transparent manner will, I believe, prove valuable to Danone in the longer term.

Nobody has any illusions about the difficulties this agreement on employment may face and has faced. Indeed, it has already been "tested in the field" in the heat of battle, so to speak.

In 1998, a proposed plant closure in France was subject to lengthy consultations according to French labour law. Local unions subsequently invoked the international agreement, admittedly later in the process than we would have liked. Invoking the Danone/IUF agreement led to an additional review of the closure proposal and an alternative buyer appeared with a significant number of jobs guaranteed as a result.

For many reasons, this example understandably strained and tested the relationship we have with Danone. However, we had always known that experience was bound to have an impact on the implementation of such a complex agreement and we subsequently proceeded jointly to analyse what took place in this case. Following a frank and healthy process of analysis by both parties, we have now agreed that even closer attention to this agreement in the early stages of proposed restructuring rep-

resents the best way to find mutual benefit in it in the future.

The remaining three agreements cover: equality between men and women; skills training; and access to information for collective bargaining purposes.

It might be useful to reflect on what has persuaded Danone on the one hand and the IUF on the other hand to enter into such formal agreements over these issues.

Danone has done so because while in principle they may recognize the need to behave "ethically", they actually have displayed a serious intention to ensure that they do so transparently and credibly. There is a clear business advantage in being seen to be defending "ethical" social policies and in being believed. Danone's credibility comes naturally from the concrete results of their social policies. It also critically comes from their willingness to develop social policies on a corporate level through negotiation with the IUF and our affiliates. A unilateral adoption of such positive social policies, even with equally positive intentions, would not in my view carry the same credibility in a sustainable way.

Danone also believes that these agreements allow change to take place without provoking lasting social problems because, as a general rule, change takes place throughout the Danone company through a process of negotiation. By the same token, they also avoid minor conflicts becoming unnecessarily large and, therefore, expensive ones, again something that is surely good for business.

The IUF has entered into this series of agreements because we see it as a way to ensure that our affiliates share a common starting point in their social relations with this company. This can limit the degree to which any company, Danone in this case, can apply social standards below those which that are generally acceptable to their social counterparts. Any company tied to such minimum standards will necessarily be more likely to compete based on quality, innovation and efficiency. In other words on "high road" issues rather than on "low road" issues.

Such agreements benefit companies, their employees and the unions they form to represent them. In addition, they begin to map out a new arena of international industrial relations.

It is clear that a number of companies have begun to give serious thought to the benefits of establishing systems of industrial relations that function at an international level. To a limited degree, those who operate significantly in

Europe have been forced to do so through European Works Council legislation.

Trade unions nationally are also increasingly realizing that a global system of industrial relations is absolutely necessary as a complement to existing national industrial relations systems, especially if national systems are themselves to be defended and to survive.

While for many such a goal might seem as yet far away or even never likely to happen, there are pressures that will inevitably lead us into this new dimension of international industrial relations. Such changes will come more quickly than most people would expect.

Our agreements with Danone may prove to be crucial beacons lighting this road forward. Some, of course, will do all they can to avoid this high road and will see our agreements with Danone as dangerous lighthouse signals warning of rocks and rough water ahead!

Accor

The trade union rights agreement was signed between the IUF and Accor in 1995. Unlike Danone, there was clear evidence that there were major problems "on the ground" in terms of respect for basic rights in Accor facilities.

Following the agreement, the IUF set about using it to work with Accor's corporate headquarters to improve the local situations where union rights were clearly not respected.

Successful examples where this has worked include:

Novotel, New York: Local management had resisted the union's effort to negotiate a collective agreement despite winning a union membership election in 1985. Twelve years later, with the leverage of the international agreement, local management finally agreed to negotiate a contract and only a few weeks later a contract was signed together with a tentative agreement to cover Accor's planned Sofitel hotel to be built in New York and opened in late 1999.

UK: A union organizer had been forcibly ejected from an Accor hotel. Using the agreement, the IUF and two British affiliates negotiated a series of meetings with Accor's UK management aimed at agreeing on a formula for union access and recruiting in Accor hotels in the UK.

Australia: Accor had been active in pressing for individual workplace contracts using the regressive legislation passed by the Australian Government. Working with the IUF's affiliate LHMU (Australian Liquor, Hospitality and Miscellaneous Workers' Union) and using the IUF/Accor international agreement, the company eventually declared an 18-month moratorium on further individual contracts and entered in serious negotiation with the LHMU.

Indonesia: The local Accor management chose at first to only "recognize" the former "official" trade union despite workers' obvious preference for an independent union. Using the IUF/Accor agreement and working with Accor's corporate headquarters in Paris, local management eventually agreed to recognize the workers' right to join a union of their choice.

Toronto: The IUF/Accor agreement was used to persuade Canadian Accor management to change the approach taken by a local "union-busting" consultant and settle a collective agreement negotiation at a Toronto Accor hotel.

Both the Danone and the Accor agreements with the IUF are building constructive relationships between global companies and global unions. This is true as well for other framework agreements between companies and other International Trade Secretariats. However, destructive approaches to corporate responsibility and accountability remain more typical. Which vision will prevail? Time will tell. In the near future, national trade unions through the international unions they have formed are likely to find enough intelligent and enlightened companies out there to make these types of agreement less of an exception than they are today.

Engaging in dialogue without selling one's soul

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The concept of “social dialogue” in the broader sense designates mechanisms for consultations between the actors involved in the broader issue of labour: employers, workers and governments. These mechanisms can take various forms depending on the context, whether at the international or the national level or even at more confined levels such as the sectoral or the company level. In some countries there are actually forms of collective bargaining between management and labour which are directed or facilitated by delegates from the public authorities (social conciliators, for example).

In the context of the International Labour Organization (ILO), social dialogue is defined more specifically in Article 2, paragraph 1, of Convention (No. 144) concerning Tripartite Consultations on International Labour Standards, 1976. This is a particularly important Convention, since it deals with discussion mechanisms and thus conditions the conclusion of agreements on other subjects. This is indisputable in the ILO context, where the principle of tripartite dialogue has been the cornerstone and the specificity of the Organization in the United Nations system from the very outset.

However, the above definition itself raises a number of questions, in particular those concerning the meaning of the terms “consultation”, “actors” and “labour”.

Consultations

There are two main reasons for which one can but subscribe to the importance of introducing and operating machinery for consultations between employers, workers and governments. First, because these are conciliation methods either for organizing the solution to certain problems or, as the case may be, for

resolving tension, and because conciliation is generally preferable to confrontation. And secondly, because introducing machinery of that nature also constitutes recognition of the legitimacy of trade union organizations as negotiating partners. And that is a battle that is never won as a matter of course; it has to be fought again and again. As labour sociologist Mateo Alaluf points out: “The trade unions must obtain recognition, and that recognition is always questioned. It is in the interests of labour to have a partner with whom they can negotiate, but it is not in the interests of management to be that partner”.¹

The social dialogue also implies recognition of the right to participate which derives from work and not only from ownership, including dialogue on the company. To quote Mateo Alaluf again, “The logic of those who own is not the only logic; there is also the logic of those who work. The tendency to say that in order to have rights workers must become shareholders runs counter to trade union logic”.²

So, long live social dialogue – but participation must be effective. In *Latin America*, a number of social “dialogue” experiences consisted, for governments, of communicating decisions that had already been taken and guidelines that had already been laid down to a body which, although tripartite in composition, had no power to exert influence except, perhaps, to move a few commas. The “inviolable” structural adjustment programmes imposed by international bodies and accepted willy-nilly by the governments often served as justification for such practices.

In *Asia*, the social dialogue is shaping well in most countries which benefit from the advantages of democracy, but the levels reached differ according to the scale of the democratic arenas. In *Myanmar* and *Pakistan*,

social dialogue is obviously inconceivable due to the military regimes. In the *Democratic People's Republic of Korea*, the population is hoping for change. *China* claims to be heading for the adoption of reforms through social dialogue. There has been appreciable improvement in *Indonesia*, although there are still many threats. In the *Philippines*, *Malaysia* and *Thailand*, the social dialogue has been officially established, but it is not yet fully effective due to certain political and economic difficulties.

There are a number of conditions that must be fulfilled if the dialogue machinery is to operate efficiently. There is first of all the *information* requirement: Engaging in dialogue on an equal footing presupposes that the actors have full information at their disposal, if only so as to have a proper understanding of the issues at stake. Then there is the requirement of *regularity* of sessions and the legal *status* of the body (or bodies) on which the dialogue takes place. The latter two conditions are intended to avoid arbitrary action on the part of governments or employers holding consultations only when it suits them, case by case.

Consultation or negotiation

“To consult”, in the strict sense of the term, means simply “to ask an opinion”; there is no obligation to take account of that opinion. The distinctions made between consultation, negotiation and co-determination³ in the report of the ILO Committee of Experts for the Application of Conventions and Recommendations are thus understandable. Yet the idea of participation calls for a wider vision than this purely formal interpretation and an understanding of consultation in its broader meaning. It is then a question of real influence on the content of the decisions to be taken, which implies the right to take initiatives, the right to debate, the right to propose guidelines, and the right to have one's opinion taken into account, subject to the general interest, which, in a democracy, remains the prerogative of the political sphere (see below).

This, it is true, requires that there be a culture of participation and power-sharing in each society – a culture which only too often clashes with another culture, where power is seen as a means of imposing a point of view to the exclusion of all others. Education for workers, employers and even government officials can contribute to the development of such a culture.

Governments, employers and workers are the three essential poles of the social dialogue. However, this tripartite basis is in danger.

Threats

Dialogue can be jeopardized whenever the private actors, ensnared in the prevailing ideology, think that they can dispense with the political pole. There are no doubt arguments in support of such an attitude: The subsidiarity principle can lead to a situation where only matters which can be settled between the actors directly concerned are entrusted to an external authority, in this case the public authorities. But to do so is to forget that in a democracy the State represents – or is supposed to represent – the public interest and that employers' and trade union organizations represent interests that in the last analysis remain private, even whenever this private nature concerns a large number of workers. So the political pole remains absolutely essential.

Representative capacity of the organizations

The above leads to a second threat to the tripartite basis of the social dialogue; it is the corollary of representative capacity. What do the employers' and trade union organizations sitting round the negotiating table actually represent? Of course this question refers to an internal democracy issue, but there is another factor which we wish to emphasize here: the freedom for workers to be represented by organizations of their choice. In the opinion of the World Confederation of Labour, that freedom of association has two fundamental aspects.

First of all, the trade union organizations (and this reasoning also applies to employers' organizations) must be the expression of workers' interests and not merely a mechanism for transmitting decisions to the workers. In view of their particular and very limited conception of freedom, the communist regimes generally had the system of one single trade union, which was the expression of the one-party State. But these are not the only cases where there is only one trade union; there are still instances of this situation. The ILO is definitely one of the guarantors of freedom, but as was seen in the case of Côte d'Ivoire, for example, the Organization can have difficulty in obtaining any concrete change in the situations it denounces.

The second aspect is equally important: Workers must be able to create the organizations *of their own choosing* and be represented by them, even if this involves organizational plurality corresponding to the *de facto* pluralism of society. The existence of a real social dialogue

in a country thus requires the participation of all organizations representing a certain quantity of workers and not only one organization – the largest one or the one which, historically, has been acknowledged that role. In Chile, for instance, the Government has created machinery for dialogue, in which only one trade union confederation participates, whereas there are two such confederations. It is as yet too soon to conclude whether this mechanism works or not. This situation is also found in many countries in Central or Eastern Europe, where independent trade unions have risen from the ashes of one-union trade unionism but have not always succeeded in obtaining participation in the tripartite bodies proportionate to the number of workers they represent.

The ILO accepts this interpretation, as is evidenced by a 1978 memorandum in response to a request by Sweden⁴ for an interpretation. But it must be stated that the ILO Freedom of Association Committee – influenced no doubt by a special conception of trade union unity – is still very reluctant to recognize this second aspect of freedom of association. Although it recognizes that, “in certain countries, there are a number of different workers’ and employers’ organizations which an individual may choose to join for occupational, denominational or political reasons”, it does not pronounce “as to whether, in the interests of workers and employers, a unified trade union movement is preferable to trade union pluralism”.⁵

Trade union pluralism

The Freedom of Association Committee has made a breakthrough, however; that committee has in fact been admitting for many years that objective and pre-established criteria⁶ are required and that as soon as a new confederation meets these criteria it must be involved in the social dialogue.⁷ This is the case in particular with the confederation Promyana in Bulgaria.

However, we are still a long way from general acceptance of the fact that respect of freedom of association is required not only of governments but also of the other trade union organizations. Freedom of association implies the right not to join a union and the right to choose the organization one joins. In other words, respect of ILO Convention (No. 87) on Freedom of Association and the Protection of the Right to Organise, 1948, ILO Convention (No. 98) on the Right to Organise and to Bargain Collectively, 1949, and ILO Convention (No. 144) concerning Tripartite Consultations on International Labour

Standards, 1976, corresponds to the same logic, a fact which makes it difficult to understand why some countries have ratified the first two conventions but not the third.⁸

ILO Convention No. 144, which makes provision for the introduction in the member countries of tripartite machinery for social dialogue on international labour standards as defined by the ILO, is definitely the minimum to be achieved. However, it is in the logic of participation to extend this objective to all aspects of economic and social policy which concern employers and workers. Indeed it must be noted in this context – and translated into practice – that a number of other ILO Conventions concerning specific aspects make explicit provision for the use of tripartite machinery.

The recent development of capitalism – concealed discreetly by the term *market economy* – tends to give the impression that the traditional opposition between capital and labour no longer exists. Although a number of recent developments such as worker participation in the profits of the undertaking or the privatization of social security machinery are impressive, the expression “employers and workers fighting the same battle” is of course a myth. At the summer school organized recently by the Movement of French Enterprises (MEDEF, its French acronym), Daniel Cohn-Bendit stated, albeit with murmurings from the floor, that “capitalism works well for some but not so well for others”.⁹

Does the social dialogue come under the same logic? Is not participation in the efforts to resolve labour issues within tripartite bodies a trap for workers? By dint of co-managing the economic system, are not the trade union organizations liable to forget that their primary role is to demand that the system be changed for the benefit of workers and that, although this does not necessarily mean conflict, it is bound to involve social battles?

Is social dialogue a trap? No – and yes. No, when the tripartite debate is the continuation of the struggle in the field of discussion rather than of harsh confrontation. Negotiating is not a question of adopting one’s opponent’s logic; it is a matter of entering into a *rapport de forces* which is channelled constructively. Provided that this is the case, the existence of social dialogue machinery can be considered to be an advancement of “civilization” in the sense of using citizenly methods for settling disputes, which of course are always preferable to violence.

On the other hand, when it is a question of emasculating the labour world’s capacity to make demands by involving trade union or-

ganizations in fields where they are cornered, the social dialogue can become a trap for workers. In these cases, the trade unions can appear to be sharing the paternity of decisions which it will then be difficult for workers to disclaim, even if they are unfavourable. This is far from being a theoretical hypothesis, even if it is extremely difficult to draw the dividing line in the permanent choices of strategy which have to be made.

In several Western European countries, for example, the trade union organizations take part in the management of the economy and of industrial relations. They distribute unemployment benefits to their members and negotiate (and make concessions in) collective agreements. At the international level, the trade unions are part of the structure of the ILO, where they negotiate Conventions with employers and governments on various aspects of labour. Historically, the ILO was created just after the Russian Revolution precisely in order to avoid other such radical ruptures through negotiation.

In the trade union structures of industrialized countries, such as the Trade Union Advisory Committee (TUAC-OECD), which is a body for dialogue between the trade union world and the OECD, or the European Trade Union Confederation (ETUC), two historical trends of the trade union movement co-exist. One, which is characteristic of Northern Europe, has a tradition of co-determination and dialogue within the established socio-economic system; the other, coming mainly from the South, is more inclined to contest the system, and this leads to a higher incidence of industrial action – strikes, demonstrations, etc. The international organizations thus have to navigate between these two currents, which can in fact prove complementary at the risk of being accused of being either too much part of the system, or even of conniving, or too critical and “ideological”.

But, closer to the company field, there can be no possible confusion of resistance and complicity. Whenever trade union delegations par-

ticipate in bodies such as European Works Councils, it is generally more a matter of bringing resistance to the very heart of those undertakings. The question becomes more complex due to the fact that intentions – even when absolutely sincere – are not the only criterion. For lack of analysis or for other reasons, one can be a party to an issue “objectively”, whereas subjectively one thinks that one is resisting. Conversely, it is often that presence at the heart of the “system” which provides access to information, and this in turn provides the opportunity to contest it and to resist some of the prospects. Thus, what is necessarily involved here is the broader issue of strategy. It is impossible to decide in the absolute between radical confrontation and step-by-step progress.

References

¹ Alaluf, Mateo. 2000. “Trade unionism has always required reconstruction”, *Labor Magazine*, World Confederation of Labour, No. 3, p. 12.

² op. cit., p. 13.

³ ILO. 2000. *General Survey concerning the Tripartite Consultation (International Labour Standards) Convention, 1976 (No. 144) and the Tripartite Consultation (Activities of the International Labour Organisation) Recommendation, 1976 (No. 152)*, Report III (Part 1B) submitted to the International Labour Conference, 88th Session, Geneva, ILO, p. 18.

⁴ op cit., p. 21.

⁵ ILO. 1996. *Freedom of Association. Digest of decisions and principles of the Freedom of Association Committee of the Governing Body of the ILO*, 4th (revised) edition, Geneva, ILO, chap. 4, para. 286 and ILO. 1994. *Freedom of Association and Collective Bargaining. General Survey*, 81st Session, International Labour Conference, Geneva, ILO, chap. 4, para. 44 and following.

⁶ ILO. 1996. *Freedom of Association: Digest of decisions and principles of the Freedom of Association Committee of the Governing Body of the ILO*, 4th (revised) edition, Geneva, ILO, chap. 4, para. 314.

⁷ ILO. 2000. *Freedom of Association Committee*, 320th Report, Geneva, ILO, March, pp. 86- 87.

⁸ Freedom of Association and Protection of the Right to Organise Convention, 1948 (No. 87); Right to Organise and Collective Bargaining Convention, 1949 (No 98); and Tripartite Consultation (International Labour Standards) Convention, 1976 (No. 144).

⁹ *Le Monde*, 2-3 September, 2000.

A new collective bargaining dimension

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Collective bargaining is practised in many different ways throughout the European Union. Far from being a handicap, this diversity is an asset resulting from over one hundred years of industrial culture. In some countries, such as Belgium, Spain, France and Italy, negotiation is conducted at various levels: national/confederal, sectoral/federal and lastly local, that is, at the corporate level. In other countries, such as Germany, bargaining takes place mostly at the sectoral/regional level. However, the first regional agreement (for example, at the *Land* level) serves as a reference for other regions, hence the importance of a national or federal strategy. Lastly, in other countries, such as the United Kingdom, collective bargaining is predominantly conducted at the enterprise level.

Irrespective of national negotiation cultures, three dimensions are common to all countries: the national, the sectoral and the corporate levels. A fourth level has resulted from European construction – the Community, which adds value to the individual cultures without duplicating them.

Three successful confederal negotiations, including framework agreements which were granted legal validity by the European Council, have given birth to a European negotiation which, since its extension into the professional sectors, has become an authentic industrial relations tool in Europe.

Brief background to the European social dialogue

In 1985 Jacques Delors, then President of the European Commission, launched the European social dialogue by bringing together two employer bodies: the Union of Industrial and Employers' Confederation of Europe (UNICE), for private-sector employers; the European Centre of Enterprises with Public Participation and Enterprises with a General Economic Inter-

est (CEEP), for public-sector and public-participation enterprises, on the one hand; and a trade union body: the European Trade Union Confederation (ETUC), on the other.

The three stages of the social dialogue

The first stage ran from 1985 to 1989 and was a period of initiation and education for players who had to learn to understand each other; it is not necessarily easy for a Swedish employer to understand a Greek trade unionist. In order to arrive at the bargaining stage in the European context, each one had first to understand the others' systems. This phase resulted in a common language and an understanding of subsidiarity which laid the foundations for European principles while still allowing for considerable national autonomy in implementing those principles.

The second stage began in 1989 with the adoption of the Community Charter of Fundamental Social Rights of Workers and a Social Action Programme which, thanks to qualified majority voting, pursuant to article 118A of the Single European Act, would relaunch the Commission's labour legislation initiative which had been blocked for a long time because of the unanimity principle. The ETUC, which had always promoted a contractual dimension to social dialogue, introduced the idea of the social partners contributing to the reform of the Treaty on European Union in order to create a context governed by negotiated regulations. The employers then realized that, if they did not want the entire body of regulations to be subject to law, they had to agree to negotiation at the European level. Consequently, this second stage ended in December 1991 with the adoption of the Social Protocol of the Maastricht Treaty which reflected the social partners' agreement of the previous 31 October estab-

lishing them as participants in crafting regulation with an obligation to be consulted, on the part of the Commission, and the possibility of suspending the legislative option in order to negotiate on specific issues. Furthermore, an agreement reached by the social partners could be granted legal validity “*erga omnes*” by the Council upon the Commission’s proposal. This marked a “revolutionary” stage in the social dialogue process.

The third and current stage started in 1991 with the enactment of European negotiation. Three confederal agreements have already been signed and incorporated into European legislation on parental leave, part-time work and fixed-term contracts. At the sectoral level, agreements have been reached on working hours in the rail, maritime and air transport sectors. The third stage should now lead to a fourth which should make it possible for bargaining to take place independently of the Commission. European employers have difficulty clearing this phase.

The framework and context of European collective bargaining

European social dialogue is being developed on the basis of a three-pronged model comprising mainly the following three elements:

- **Economic and social cohesion** which, by virtue of the Structural Funds and the role of Public Services, must allow for the development of all European regions and, above all, compensate for the existing structural deficiencies while promoting equal access of all citizens to services such as health and education.
- Labour rights-based **solidarity** which must facilitate the convergence of diverse social situations and avoid the risk of social dumping. Solidarity should also be visible in the preservation, modernization and development of social protection that is not individualized.
- **Quality industrial relations** as the most economically and socially efficient way of anticipating and managing industrial and technological changes and social progress through collective bargaining. It should be said, at the outset, that European negotiation owes its existence to the wealth of national and sectoral negotiations. Europe represents a benefit or an added value because of the transnational and supranational nature of the issues relating to European construction.

European construction. Social dumping is to be avoided, first of all, so that monetary convergence does not result in social divergence. Secondly, the potential of the European Union must be fully exploited to provide employment and improved living and working conditions for European workers. This is the only way of boosting the latter’s confidence in this new decisive phase of European construction.

Social dialogue is also being developed in a context characterized by:

- the fight against massive unemployment and social exclusion, even though the recovery of sustainable growth is currently reducing unemployment and highlighting the objective of full employment, as underscored by the Heads of State and Government at the Lisbon summit in March 2000. Long-term unemployment remains a serious problem and efforts are still being made to combat social exclusion;
- economic and monetary union with the new decisive stage which began on 1 January 1999. The introduction of the euro has both positive and negative aspects. On the positive side, it will lay the foundations for stable and qualitative growth by strengthening the coordination of economic and industrial policies. On the negative side, employers and governments might seek fresh room for manoeuvre through wage costs, since they would no longer be able to manipulate currencies and budgets;
- the European strategy for growth and full employment, with the Luxembourg process on the labour market, the Cardiff process on structural reforms and the Cologne process on macroeconomic dialogue, strengthened by the Lisbon objectives which also provide social partners at the national and European levels with ample room for tripartite concertation; and
- the perspective and conditions of enlargement are now at issue and require the involvement of all players – political, economic and social – in order to meet the enormous challenges relating to integration. The social aspect of enlargement will be a major determining factor for its success and the ETUC, along with the trade unions of the applicant countries, are already involved in creating the necessary conditions therefor.

Three objectives and three forums for social dialogue and European collective bargaining

Objectives

The three major objectives of the European social dialogue are:

- (i) coordination of national and sectoral collective bargaining, bearing in mind their interdependence within the euro zone and the need to establish negotiating guidelines, in particular on wage policies using, as a basis, common indicators on inflation, productivity, profits, employment goals and working conditions (see page 28);
- (ii) negotiation on transnational and supranational rights to establish a common basis through bottom-up harmonization of national contexts; and
- (iii) sectoral and territorial negotiation of the consequences of economic and monetary integration and the exploitation of its potential for job creation and for improving labour rationalization.

These three objectives recur in the social dialogue between professions, at the sectoral level and in the context of transnational enterprises and border regions.

Forums

The different forums, in particular the inter-professional and the sectoral contexts, must be mutually complementary and interconnected so as to create a dynamic synergy and promote active negotiation at all levels.

At the European level, the principles and general guidelines may be defined within a dynamic framework agreement. The objectives defined at the European level could be concretized at the national and sectoral levels and specific sectoral and territorial issues addressed.

The interprofessional context

- The primary objective is to establish basic standards for collective bargaining, such as was done for parental leave, part-time work and fixed-term contracts.
- Further negotiation has started on temporary employment; it will, no doubt, be extremely difficult but the fact that negotiation can be conducted on thorny issues at the European level is proof of the positive

evolution of social dialogue since 1985. This objective may be coupled with the one relating to contributions which social partners are expected to provide within the context of the European strategy for growth and full employment.

- The third objective is the coordination of contractual policies, especially wage policies. An interesting coordination effort was started by our confederations along with Belgian, Dutch, Luxembourg and German federations. However, that initiative has taken on a new dimension since 1 January 1999 with the introduction of the single currency. Coordination must now be effected among 11 or even 12 countries, if we include Greece. There is, therefore, a need to implement analytical and comparative instruments and common indicators. The European Trade Union Institute (ETUI) has begun to design these instruments which are indispensable for the common task and the coordination of confederations and federations.

Last year the ETUC organized a seminar for the negotiators of its confederations and its 12 federations on the impact of the Monetary and Economic Union on collective bargaining. We will continue work at the confederal level on this topic in support of the macroeconomic dialogue with the ministers of the economy and finance and the European Central Bank.

This discussion is inextricably linked to taxation which must be harmonized at European level, especially in relation to the financing of social protection.

The inclusion of the Social Protocol in the Treaty of Amsterdam has also served to strengthen the responsibility of inter-professional and professional social partners in the area of negotiation capacity.

The role of European social dialogue is also to promote the economic and social development model based on cohesion, solidarity and quality industrial relations. This is particularly important with regard to European Union enlargement. Furthermore, the ETUC, UNICE and CEEP are carrying out a joint study on bipartisanship and tripartisanship in the applicant countries. The study is expected to provide discussion material for a major conference to be held this year involving all employer and trade union leaders of member and applicant countries.

The importance attached to social dialogue should lead to the incorporation in the Treaty of fundamental labour rights such as the right

of association, the right to negotiate and the right to take industrial action, including across borders. It is not logical that the free movement of capital should exist and not the free movement of the right to strike.

The promotion of the European model, the role played by the social partners in the construction of Europe and the balance and complementarity between legislative and contractual standardization are examples of how geo-economic areas may be regulated within the framework of a globalization that is still dominated by liberal deregulation. Globalization of the economy must be matched with the globalization of social justice.

The sectoral context

The management of industrial and technological changes and the organization of work and working hours are the main ingredients of the European transnational sectoral dimension and could trigger considerable social dialogue and negotiation.

However, a coordinated approach towards wage policies and collective bargaining has also provided an action field for European federations. The workers of the European Metalworkers Federation (EMF), the graphic designers of UNI-Europa and employees in the clothing and footwear sector of the ETUF-TCL (see page 31) have developed coordination approaches and procedures which are similar to those laid down by the ETUC. The main pre-occupation is for workers to share in productivity gains and to be granted compensation to offset inflation. It has been generally noted that the wage moderation policy has reduced the share of salaries in national income since the early 1990s, accompanied by a strong boost in productivity and a low investment rate. On the other hand, profits have continued to grow but have attracted more stock market speculation than job-creating productive investment. It seems that wage moderation has become a doctrine that ignores current developments. The ETUC and its federations cannot accept such a situation and, following the agreement to establish a single currency, workers want their share in growth.

The anticipation and management of the restructuring and redeployment of economic activities in Europe require workers to manage information, consultation, participation and negotiation. The cases involving Renault Vilvoorde, Levi Strauss, Michelin and Pirelli have demonstrated the importance of developing

these capacities and strengthening existing legislation, especially legislation on European Works Councils and collective termination.

Consequently, a "European observatory for change" ("*Observatoire Européen des Mutations*") must be established as soon as possible. The observatory would require the social partners, especially at the sectoral level, to identify changes, verify possible scenarios and implement management policies which would anticipate and accommodate eventual shifts in employment trends from both a qualitative and a quantitative point of view. The observatory would be an excellent way of fuelling the sectoral social dialogue.

Similarly, legislation or a framework agreement making it incumbent on enterprises to submit an annual report to workers' representative bodies on foreseeable developments and changes within the enterprise would be indispensable.

The sectoral context also includes European Works Councils; over 600 of these have already been established by agreement, which means that approximately 20,000 trade union delegates are involved in transnational trade union activity. This constitutes a challenge for European trade unions and the ETUC, especially with regard to training and logistical support. It is not enough for the European head office of an enterprise to possess a pile of information; the information must be understood and analysed in conjunction with trade unionists from different countries and diverse situations. European Works Councils must, therefore, be equipped with new analytical support tools. The ETUI is definitely already in a position to provide answers but other European instruments are necessary, such as the accounting and economic and industrial expertise of enterprises.

As was said previously, specific labour standards could also be established in the sectoral context. Working hours in the maritime, rail and air transport sectors demonstrate this capacity through the observed results, legitimized through legislation. However, it should also be noted that a voluntary agreement has been signed in the agricultural sector on working hours, health and security, and vocational training. There are already 25 sectoral committees on social dialogue, supported by the European Commission, which work together to produce, for example, the code on fundamental rights in the footwear sector and agreements in the industrial cleaning, commercial and building and construction sectors. Unfortunately,

there is an inexcusable lack of social dialogue in the metalworking, chemical and public-service sectors.

The territorial context

The Community Structural Funds are important cohesion instruments which require trade union intervention at the local and regional levels. This is particularly important in territories where heavy industrial redeployment has taken place and continues to do so in the coal, iron and steel, textile and shipbuilding industries, as well as in the border regions where economic and employment mobility are stronger and cultural proximity is important. The ETUC has already established 37 cross-border, interregional committees. Some of them, such as the one in the Nord-Pas de Calais/Hainault-West Flanders/Kent region, have already identified employer social partners and social dialogue has started.

A special effort is being made by the ETUC to set up interregional trade union committees in border regions with applicant countries in order to deal with problems relating to migration, the labour market and solidarity.

The capacity of European actors

Developing European negotiation capacity has become a pressing need and therefore calls for certain measures, such as the transfer of power and the establishment of democratic procedures. Since the holding of three conferences – Luxembourg, Brussels and Helsinki – the ETUC has adapted its statutes and established rules of procedure relating to negotiation so as to lay down rules governing the fixing of mandates, negotiation control and the determination of outcomes. This was a difficult exercise which required one year of fine-tuning. Transfer of power has never been an easy task. The ETUC's indispensable dual base of inter-professional and professional legitimacy gives it undoubted European bargaining power embracing different collective bargaining cultures. This is not as easy for UNICE which is made up solely of national employer confederations.

The Europeanization of negotiation calls for a European flavour to be given to national and European supranational training, a need met by the European Trade Union College, the training organization of the ETUC. Therefore, training must be offered to future negotiators for whom Europe will be a natural context. The joint attempt with employers to establish a

European industrial relations centre to train employer and trade union representatives on the specifics of European collective bargaining revealed the relevance of such an initiative as well as the interest of participants in the pilot training programmes. Unfortunately, the lack of support from the European Parliament caused the experiment to be discontinued. The issue certainly deserves to be revisited.

The current status of social dialogue

We are now in a period that is crucial for the future of social dialogue in Europe. Never before has the recognition of the role of social partners been so strong. There are no Council of Ministers of Social Affairs, Ministers of the Economy and Finance or Heads of State and Government that have not made reference to or appealed for action from employers and trade unions. Nevertheless, much resistance and even bad will at times remains. Employers continue to play a passive role, limiting the potential of social dialogue and preventing the challenges of a constantly changing society and of European construction from being met.

The refusal of European employers to negotiate the right to information and the right to consultation now makes the speedy conclusion of the draft Directive a matter of urgency. The French presidency (July-December 2000) was able to make progress on the draft but did not manage to see it through to the end. Furthermore, the European limited company statute was finally adopted under the French presidency.

The current negotiation on temporary employment should ensure continued regulation of atypical and precarious types of work with the same objective as for fixed-term contracts, namely to keep this type of work at a minimum and ensure equal treatment for male and female workers.

The European Employment Strategy, which was reinforced at the Employment Summit held in Lisbon in March 2000, should lead social partners to become more involved in what could be an authentic European Employment Pact with the commitment of member States, the Commission and social partners in their respective areas of responsibility. Nevertheless, they would all be mutually accountable for what was or was not achieved. Guidelines for action could be established by the ETUC, UNICE and the CEEP in parallel with those established by member States.

The ETUC has already proposed negotiations to employers, especially on teleworking

and lifelong training but employers are still refusing to negotiate. It is hoped that they will change their position. Otherwise, the ETUC will be obliged to call for the passing of relevant legislation. The attitudes displayed by employers raise the problem of social dialogue autonomy. The next stage should consist of the initiation of voluntary negotiation without the need for any legislative action on the part of the Commission. Employers cannot continue to claim autonomy and then not assume it!

The Social Agenda was adopted under the French presidency in 2000. This will help to establish a programme for the next five years, thus reinforcing the Community social policy on shared values and energizing the social partners. It now remains to define the specifics of the programme.

ETUC's mobilizing capacity will remain a determining factor in the face of employer inertia and will be necessary to stimulate and support the political will of public authorities and to push them to do more in the areas of social policy and full employment. The demonstration in Luxembourg in November 1997 assembled over 30,000 European trade union delegates and the one in Porto in June 2000 over 50,000, with strong participation from Spanish organizations. Another demonstration organized for the eve of the Council of Heads of State and Government held in Nice on 6 December 2000 brought together 70,000 demonstrators. The ETUC is becoming a bona fide trade union organization, thanks to the powers conferred upon it by its national confederations and European professional federations, which augurs well for the future of social dialogue.

Specific examples of European coordination of collective bargaining

Specific collective bargaining coordination is being developed within the ETUC. Three examples are the regional "Doorn Group" which congregates trade unions from four countries – Germany, the Netherlands, Belgium and Luxembourg – and two sectoral unions from the metalworking and textile, clothing and leather sectors.

The Doorn Group

The Doorn initiative draws its name from the "Doorn Declaration" made in 1998 by representatives of confederal and sectoral trade union organizations from Germany, Belgium, Luxembourg and the Netherlands. The initia-

tive was prompted by the decision of the Belgian Government to align salary increases in Belgium with those of neighbouring countries in the interest of competitiveness.

In the Doorn Declaration, the Group adopted the principle that future salary claims in each country would be based on a formula comprising the global sum of the costs of living and productivity increases. An information network to handle the course of future negotiations was established and invitations issued to national trade unions to participate as observers at the collective bargaining committee meetings. This process was intended to underscore and strengthen the position of trade unions in negotiations conducted at national level in order to prevent salary dumping of any kind.

Annual Doorn Group meetings have been held since 1998 and are organized by a technical group which meets on a regular basis. At a meeting held last year in Luxembourg, it was agreed to strengthen the Doorn initiative by organizing two seminars on how to use the formula (also based on comparative figures) and on international coordination of non-salary claims, especially with regard to two qualitative aspects: training and career management; and the juggling of work and home life. It was also agreed to set up a website on the Doorn initiative.

The European Metalworkers Federation (EMF)

The EMF made an initial commitment to coordination in 1993 with the decision to hold preliminary information exchanges on national collective bargaining models and the creation of a think tank on the subject. However, a progressive approach to coordination was adopted following several important stages.

The first "regulation on salary coordination" was approved in 1996. This first attempt to establish coordination was based on a very simple rule whereby salary increases should, at least, offset inflation. Therefore, the primary aim of the coordination initiative was to guarantee workers' purchasing power. Another stage involved meeting the convergence objective in relation to working hours. In this regard, a guideline was published in favour of convergence towards a total of 1,750 work hours per year (or 38 hours per week) as an intermediate objective towards the goal of the 35-hour work week.

In 1998, an assessment of the first "regulation on salary coordination" placed the productivity rate above the inflation rate, the aim of the regulation being to compare national

situations ex post. The qualitative aspects of the agreement were also considered since a “balanced part” of productivity could be used to improve various elements such as working hours, retirement and equal remuneration.

In order to consolidate coordination further, the EMF set up a “European information network on collective bargaining” entitled “*euco@*”. The network collates the results of national collective agreements in the metal-working sector and publishes an annual report comparing the information collected. This constitutes a first step towards authentic coordination based on trade union activity data and agreements signed at the national and regional levels. The report will be available on the EMF’s website as soon as it is operational.

The EMF has also created regional networks within the framework of coordination strategies, such as the Belgium/Netherlands/North Rhine/Westphalia region which has a coordinator to maintain cooperation among trade unions.

The European Trade Union Federation: Textile, Clothing and Leather (ETUF-TCL)

Since 1993 the ETUF-TCL has been compiling the first database on collective agreements

in the footwear sector. The database has been fine-tuned with the financial support of the European Commission and the participation of employers, within the context of sectoral social dialogue.

The ETUF-TCL also adopted a protocol on working hours in 1998 and one on salary coordination in 1999.

The current concept of salary coordination is based on the idea of a “salary serpent”, an adapted version of the guidelines laid down by the ETUC and the EMF on salary coordination. According to this concept, pay rises must match inflation and reflect half the increase in national productivity. However, this sum could be exceeded under special circumstances, such as greater sectoral productivity, strong profits or low unemployment. Similarly, national figures are allowed to be lower if a particular sector is experiencing economic difficulty. The concept is also included in an extended approach to the assessment of the qualitative aspects of agreements and salary increases.

The results could be reviewed every three to four years with the aim of negotiating these guidelines with European employers in the future. At the same time, the ETUF-TCL is preparing a database on all the covered sectors, not just the footwear sector.

Social dialogue in selected countries in the Caribbean: An overview

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This article will attempt to present an overview of social dialogue in five countries of the Caribbean in the decade of the 1990s. It will examine the practice of industrial relations, the challenges brought on by globalization and trade liberalization, the responses of the trade unions, the employers and the government, and the lessons learnt. It will attempt as well to point a way forward. The five selected countries are: Trinidad and Tobago; Jamaica, Guyana; Grenada; and Barbados. These countries have been selected because there has been some attempt by the social partners to give meaning to social dialogue in their struggles to cope with the many difficult economic challenges with which they have to cope in this dynamic globalized economy.

It is important at the outset to establish a working definition of social dialogue and to recognize that social dialogue is an integral part of tripartism, the major plank on which the International Labour Organization is founded and which guides all of its activities.

The definition which will be used in this article derives from the deliberations of an ILO/EU Meeting on the "Promotion of Social Dialogue in the wider Caribbean within the context of decentralized co-operation". This meeting, which was attended by representatives of the Caribbean Congress of Labour, the Caribbean Employers' Confederation and Trade Unions and Employers representatives from Martinique, sought to improve on the definition which has been developed by the ILO by adding the experience of the Caribbean. Thus, the following was agreed upon:

Social dialogue includes all types of negotiation, consultation or exchange of information between and among representatives of government, employers

and workers, on issues of common interest, relating to economic and social policy. The aim of the social dialogue process is to operate within a framework of trust and cooperation. (ILO, 2000)

Later in the article, the issue of trust and its absolute importance to the success of any social dialogue effort will be examined. For the moment, attention would be paid to negotiations, collective bargaining and other means of pursuing agreement between employers and representatives of workers. One should not, however, overlook the ultimate aim of social dialogue which is the active involvement of the social partners in decision-making on fundamental economic and social issues. This development will naturally take us to the position of a "social partnership" and the avoidance as much as possible of conflict.

It should be pointed out that the countries in the Caribbean which are the focus of this overview have been actively involved in tripartite consultation for a number of years. In the main, these consultations have been on issues relating to the ratification of ILO Conventions but there have also been times when consultations have been held on social and economic issues. These consultations were, however, never formalized. The 1990s and the onset of globalization and trade liberalization brought to the fore more starkly the need for social partners to work together for the survival and development of the countries concerned. This will be examined in greater detail at a later stage.

The other aspect of the definition which should be dealt with is "negotiation". This would provide an opportunity to give a brief description of collective bargaining as practised in the countries identified. Collective bar-

gaining is a highly developed craft in the Caribbean and has been practised since in the 1940s when laws permitting the formation of trade unions were placed on the statute books. These laws were modelled on the then British Trade Union legislation. The industrial relations system is to a large extent "voluntaristic". This means that the system only has a minimum of laws and basically allows the parties (trade unions and employers) to regulate the terms of their relationship. Under this arrangement, collective agreements are not enforceable in the courts of law.

In this system, the trade unions and the employers negotiate and often conclude agreements at the domestic level. In the event of a breakdown, either party is free to refer the matter to the Ministry of Labour or the Department of Labour, for conciliation. Many agreements are also settled at this level. There are instances where agreement is not possible and either the Minister of Labour or the Prime Minister, depending on the strategic importance of the enterprise, would bring the parties together and iron out an agreement. This approach has worked successfully in those countries where it is practised. As a consequence, it can be said that over the years it has avoided chaos in the industrial relations environment. Within recent years, one has seen a hardening of positions on the industrial relations scene particularly by the employer and to a lesser extent by the trade unions. It can be argued that the new environment in which enterprises have to compete has forced them to be less generous in the wage and working concessions that they make to workers. It has also forced the parties to examine the approaches that they have used to settle problems. In this respect, the social partners have been examining alternative approaches and the social dialogue approach, leading to a social partnership, has been the most favoured one.

Trinidad and Tobago presents an interesting and different case of industrial relations in the region. In this country, the existence of an Industrial Relations Act (1972) which gave birth to an Industrial Court has somewhat circumscribed collective bargaining and has also placed limits on freedom of association. Needless to say, this has been the subject of complaints to the Freedom of Association Committee of Experts of the ILO. Collective bargaining is voluntaristic up to the point of a breakdown at the enterprise level or at the conciliation level at the Ministry of Labour. After that, it becomes compulsory and is referred to the Industrial Court for formal adjudication. The Court's rul-

ing is binding on both parties and cannot be appealed, except on a point of law. Provision is also made for the registration with the Court of all collective agreements whether at the enterprise level, the Ministry of Labour or at the Industrial Court itself. These agreements have the force of law.

Another aspect of the definition that should be dealt with is "issues of common interest relating to social and economic policy". In the Caribbean, governments make copious use of the concept of Statutory Boards or Corporations to manage a wide range of public-sector activities. These include ports, social security, tourism, industrial development, housing, technical and vocational education, culture, school boards and banking. As can be realized, these Statutory Boards make vital decisions on critical social and economic policies. In most instances, in the countries under review, trade unions and employers' organizations are called upon to name representatives for membership of these organisms. There can be no doubt that these entities benefit from the involvement of the social partners in their deliberations. It can therefore be seen that, at this level, social dialogue is alive and functioning.

Trust

Perhaps this is an appropriate point at which to introduce and deal with the element of "trust" to which earlier reference was made. One of the best articulated writings on this important topic is a book entitled *Trust. The social virtues and the creation of prosperity* written by Francis Fukuyama (1995). In it he argues that in any modern society, the economy constitutes one of the most dynamic and fundamental arenas for human sociability. He continues: "... and while people work in organizations to satisfy their individual needs, the workplace also draws people out of their private lives and connects them to a wider social world. That connectedness is not just a means to the end of earning a paycheck but an important end of human life itself ..."; "... one of the most important lessons we can learn from an examination of economic life is that a nation's well-being, as well as its ability to compete, is conditioned by a single pervasive cultural characteristic: the level of trust inherent in the society."

Fukuyama continued to provide examples of situations in enterprises where trust led to success and in others where the lack of trust brought about failure. He also referred to James Coleman's concept of "social capital": the abil-

ity of human beings to work together for common purposes in groups and organizations. He then concluded the point by stating the following: "The ability to associate depends, in turn, on the degree to which communities share norms and values and are able to subordinate individual interests to those of the larger group. Out of such shared values comes trust; and trust has a large and measurable economic value" (Fukuyama, 1995).

It is important to dwell on this particular point for a while since the evidence which will be adduced to describe the example of a successful social partnership model in the Caribbean hinges on the role played by trust among the social partners.

To further buttress the point, reference can be made to Kieran Mulvey who, in a report prepared for the ILO/EU Meeting in Trinidad and Tobago, emphasized the importance of trust when he stated: "The importance of tripartism and indeed bipartite agreements and their role in the positive regulation and support of workplace relationships between government, employers and trade unions is clearly recognised in many EU social dialogue institutional processes, in ILO Conventions, national laws and the system of free collective bargaining itself. However, these developments need to be strengthened, encouraged and supported. It also implies a high degree of trust between social partners on the one hand and with government on the other. The building of that trust, its maintenance and its sustainability requires a high degree of courage, commitment and leadership" (Mulvey, 2000).

It is timely to examine, in detail, the practice of social dialogue in the five Caribbean countries.

Barbados

At the end of the 1980s, the Barbados economy had experienced a healthy growth pattern but early in the 1990s signs were starting to indicate that economic trouble was on the horizon. The economic downturn in the world economy did not help the situation and by September 1991, with a rising unemployment rate, a negative growth rate (-3 per cent), a high debt service ratio, very little foreign exchange and with no foreign investments coming to the country, the Government had to seek the assistance of the World Bank and the International Monetary Fund (IMF). The response from these institutions was the classic one: an economic stabilization programme (IMF) and a structural adjustment programme (World Bank). The ele-

ments of the economic stabilization programme were basically the following:

- devaluation of the Barbados dollar;
- a reduction in government expenditures and an increase in government revenues in order to reduce the fiscal deficit;
- a reduction in social benefits;
- a reduction in public-sector employment;
- a reduction in severance and unemployment benefits;
- privatization of government enterprises;
- removal of subsidies to the public transport system (the Transport Board); and
- removal of subsidies to the public housing (the National Housing Corporation).

Faced with such a critical task for economic recovery, the Government consulted with the social partners and sought their support, since it was recognized that no recovery programme could succeed if the trade unions and employers were not supportive of the effort. The country as a whole (Government, employers, trade unions and political parties) rejected devaluation as an option for economic recovery. It should be stated that there was not agreement on all the elements of the programme. For example, the Government, in exchange for an agreement with the IMF on the removal of devaluation as an option, decided to pursue a "short and sharp" 18-month stabilization programme, the controversial elements of which were: (1) a reduction of 8 per cent in wages and salaries in the public sector; and (2) a lay-off of workers (approximately 10 per cent). This had the effect of pushing the unemployment rate to approximately 24 per cent and there were fears of social unrest.

In an unusual show of unity which was previously hard to achieve, the trade unions rejected this approach. Out of this solidarity, the making of a national trade union centre began to emerge. This eventually led to the formal launch of the Congress of Trade Unions and Staff Associations of Barbados (CTUSAB) in 1995. However, there was still a commitment by the social partners to play a meaningful role in the economic recovery programme.

A social partnership model proposed by unions

One of the proposals from the trade unions was the adoption of a Social Partnership Model. In this respect, the experience of Ireland, the

economy of which recovered dramatically after that country adopted the social partnership approach, and the experience of the Province of Ontario (Canada), which had serious problems at the beginning of the 1990s and had an agreement on a "Social Contract Framework Agreement" drawn up, were used as sources for the social partnership concept. A framework agreement was drafted by the trade unions. This was used as the basis for discussions which eventually led to the first social partnership agreement in Barbados: the Protocol for the Implementation of a Prices and Incomes Policy. This was signed by the social partners on 24 August 1993 and covered a two-year period, 1 April 1993 to 31 March 1995. The Preamble to the Protocol stated:

Acknowledging that the success of Barbados as a nation has been due, in large measure, to its peaceful and harmonious labour-management relations, and that these relations have been characterized by the maturity exercised in industrial relations by the social partners;

Recognizing that such maturity springs from the acceptance that tripartism is the most sound and effective strategy through which a commitment to national co-operation and development may be realized; and

Affirming that sound relations may be maintained only by their commitment to the equitable principles laid down by the International Labour Organization for the just and equitable development of labour and capital. More particularly the principles of Freedom of Association (Convention 87) and the Right to Bargain Collectively (Convention 98),

Agree to the following broad principles encompassing a Prices and Incomes policy for Barbados, as part of an overall strategy for the sustained economic development of the country, since it is recognized that there has been a gradual erosion in Barbados' competitiveness which needs to be reversed by resolute and co-ordinated action by the Social Partners. (Preamble to Protocol on Prices and Income Policy, 1993.)

The objectives of the Protocol may be summarized as follows:

- the safeguarding of the existing parity of the Barbados dollar;
- the restructuring of the economy; and
- the promotion of productivity.

Provision was made for the accomplishment of these objectives through the implementation of a number of policies, including the establishment of a National Productivity Board; a freeze on wages and salaries for a two-year period (the life of the Protocol), except where it could be proven that the proposed increase was the result

of improved productivity in the enterprise; and the monitoring of prices.

The attempt by the Government during the life of the first Protocol to increase public housing rents and fares on public transport was a major test of the resolve of the social partners. The combined efforts of the representatives of workers and employers persuaded the Government not to pursue such measures because any increases at that time would have been in contravention of both the spirit and the letter of the Protocol.

At the end of the period the parties agreed that the Protocol had, despite its shortcomings, achieved its primary purpose. The dollar had not been devalued, the economy had been stabilized and Barbados was positioned well enough to absorb the shocks of continued structural adjustment. Although the agreed freeze on wages in the public and private sectors had held, the professional class and self-employed artisans over whom no one could exercise institutional influence had increased their charges. It is true to say that some prices had risen, but not sufficiently to jeopardize the Protocol. (Frost,¹ 1999.)

Protocol Two was negotiated against a background of an improving economic climate. Incidentally, there had been a change in government in 1994 and the incoming party was supportive of the social partnership approach. As a consequence, any political stumbling block was avoided. This new Protocol had the following elements:

- wages restraint as against wages freeze that appeared in the first Protocol;
- clearly defined administrative procedures set out, in which a Sub-Committee of the Social Partners was established to be "the first line of consultation regarding all aspects of the implementation of this Protocol" (Protocol, 1993); and
- meetings of the full social partnership were to be held quarterly under the chairmanship of the Prime Minister.

There were three situations in the life of Protocol Two which tested the resolve of the social partners. These were:

- an attempt by some enterprises within the private sector to downsize their operations;
- the refusal of some data processing firms to recognize the Barbados Workers' Union as the bargaining agent for the workers and their subsequent attempt to impose North American industrial relations practices in Barbados; and

- an attempt by the Government to increase the price of Liquid Petroleum Gas (LPG), a basic item for the householders.

How were the social partners able to deal with these threats?

In the first place, both the Government and the trade unions took the position that down-sizing would create unemployment and would undoubtedly bring about unwanted social consequences. The trade unions therefore invoked clause 2 (b) in the Protocol which committed to the establishment of “a framework which protects workers’ security of tenure and seeks to reduce labour disputes” (Protocol, 1993). A wide-ranging job-security agreement was fashioned and became an addendum to the Protocol. Incidentally, the basis for the job-security agreement was taken from a similar agreement which the Barbados Workers’ Union had developed in collaboration with the Hotel Association of Barbados and which formed part of their collective agreement.

In the second place, the social partners issued a joint press statement which reaffirmed their commitment to the voluntaristic industrial relations practices in Barbados. “The fact that the employers’ representatives distanced themselves from those foreign companies is indicative of the strength of unanimity on a matter of principle” (Frost, 1999).

Finally, they were persuaded to agree to reduce their tax take so that the effective price to the consumer was not altered as a result of increased costs. It can be argued that Protocol Two achieved some measure of success in that the Barbados economy continued to be stabilized and indeed to record some continued growth.

The third Protocol (1998-2000) was negotiated against a background of an improving economic climate: unemployment was at 12 per cent – the lowest for many years; foreign reserves were rising; and inflation was levelling off after the initial rise consequent on the introduction of value added tax.

The main difference between Protocol Three and its predecessors is that although it retains all the essential elements of the first two, it has added others so that it is no longer just a document of tripartite strategy to focus strictly on macroeconomic issues. Protocol Three acknowledges the scope of social responsibility of the partners and their collective obligations in respect of all factors which affect the development of Barbadian society. There are thus, for example, specific sections dealing with the role of the social partners in employment formula-

tion, training, reduction of social disparities, public-sector reform, crime, and treatment of the disabled.

The most important clauses of Protocol Three are, however, those which specifically identify the collective and individual responsibilities of the social partners. For the Government these are:

- to consult on the formulation and implementation of fundamental economic and social policies;
- to acknowledge its responsibilities as a model employer and to ensure that its agents act accordingly;
- to increase training and worker representation on Boards;
- to ensure neither discrimination nor inordinate delays in appointments;
- to initiate policies to reform domestic capital markets and to provide small business enterprises with awards of contracts; and
- to ensure that non-national investors are given prior information about industrial relations practices and conventions.

The employers’ representatives have committed themselves to:

- seek to increase membership;
- dissociate themselves from anti-worker practices;
- moderate mark-up levels so as not to create inflationary trends;
- develop progressive management policies ensuring consultation and full worker participation in the making of decisions;
- encourage share ownership and similar agreements; and
- support local suppliers of goods and services.

The workers’ representatives have committed themselves to:

- the honouring of contractual obligations;
- the provision of high-quality workmanship;
- the development of a culture of productivity in the workplace; and
- the encouragement of workers to avail themselves of all opportunities for training, for consultation and for the development of national pride and the reinforcement of traditional values.

In addition to the foregoing, there is also recognition of the commitment that should exist at the level of the enterprise, one characterized by: an understanding of the basis of social partnership; mutual respect for rights and interests; a willingness to share the profits equitably; and a willingness to provide productive labour to ensure the continued competitiveness and sustained viability of the enterprise.

That the Barbados economy has continued to experience constant growth and relatively low unemployment when compared to previous years; low inflation; a comfortable fiscal deficit; increasing foreign investment; and increased foreign reserves, is a tribute to the success of the social partnership arrangement.

Trinidad and Tobago

The practice of tripartism, through the formal establishment of a Tripartite Committee, according to the provisions of ILO Convention No. 144, demonstrates a desire on the part of the social partners to work together. This Committee has been actively monitoring Trinidad and Tobago's ratification and reporting performance to the ILO in accordance with the requirements of the Convention. The Committee has also been recommending to the Government those Conventions for which it feels ratification is necessary.

It was therefore a logical step for Trinidad and Tobago to seek to extend the scope of this tripartite relationship by entering into a formal social partnership arrangement. The purpose is to prepare the country to be more competitive and to increase productivity. This followed a series of meetings between representatives of government, employers represented by the Employers' Consultative Association (ECA) and the trade unions, represented by the National Trade Union Centre (NATUC). The agreement is titled "Compact 2000 and beyond: Declaration of social partners to address economic and social issues" and was signed by the social partners on 31 October 2000. It is clearly too early to even attempt a tentative evaluation of the exercise. However, the fact that an agreement was signed is an indication of the growing maturity of the partners; a recognition that neither group has all the answers and a willingness to work together for the national good. A unit has been established in the Office of the Prime Minister to oversee the implementation of the Compact 2000 Agreement.

It should be stated though, that Trinidad and Tobago has had a history of confrontational industrial relations. This is one of the reasons

that led to the introduction of the Industrial Relations Act (1972) and the establishment of the Industrial Court. The period of the mid-1990s to the present has seen an escalation of industrial conflicts in the private and public sectors. This indicates that there is still a lack of "trust" among the social partners and an absence of the ability or the will to resolve disputes in an atmosphere of understanding and respect for each other's point of view that would lead to peaceful settlements.

Another factor worthy of note is that the unity in the trade union movement, which saw the emergence in the early 1990s of the National Trade Union Centre, has been shattered. This is the result of mistrust and of lack of solidarity in the movement during a series of industrial disputes (mainly wage or salary related) that the major unions – the Oilfield Workers' Trade Union (OWTU), the Unified Teachers' Association (UTA), the Communications Workers' Union (CWA) and the Public Services Association (PSA) – had to contend with over the past two years. As a consequence, NATUC no longer enjoys the confidence of some of its members. These dissatisfied trade unions have distanced themselves from the Compact 2000 Agreement. They have even hinted that they will be forming a rival trade union federation.

The experience of Barbados has shown that one of the fundamentals for the execution of a successful social partnership agreement is a united labour movement. It seems therefore that the social partners will have a difficult time to make the Compact an effective reality.

For what it is worth, some of the highlights of the above-mentioned Compact should be identified. These are:

- tripartism is a feasible and effective strategy through which commitment to economic and social development may be achieved;
- the impact of globalization and trade liberalization will require all sectors of the society of Trinidad and Tobago to embrace change and consider all the implications for flexibility, adaptability, sustainability and justice; and
- the joint and equal responsibility of all the social partners to promote and forge a developmental course would create a sound and resilient economy characterized by growth and sustainable development.

The objectives are:

- to achieve sustainable development with particular attention to the environment and

the protection and enhancement of natural resources;

- to maintain a stable and collaborative industrial relations climate;
- to foster the need for greater productivity and competitiveness;
- to enhance the social security system including issues of health care, pensions and savings; and
- to actively promote human development through higher levels of investment in education, vocational training and housing among others.

As Trinidad and Tobago seeks to grapple with the challenges of globalization and trade liberalization, much will depend on the commitment of the social partners to collaborate in an effort to achieve the objectives of the Compact. It should not be overlooked, however, that at the enterprise level (oil, gas and cement manufacturing) there have been some impressive social partnership arrangements and, as a consequence, the practice of information sharing in these enterprises is alive and well. There are also very active health and safety committees made up of representatives of management and the trade unions functioning in the enterprises. These have been established through the collective bargaining process since the outdated Factories Act does not make specific provisions for such committees. Mention should be made as well of the fact that there is trade union representation on a number of State Boards and Corporations.

Guyana

Social dialogue in Guyana, as in the other countries in this overview, is very present at the enterprise level, at the industry level and at the national level through the process of collective bargaining. Furthermore, the Tripartite Committee, set up according to the provisions of ILO Convention No. 144, functions and makes recommendations to Government in accordance with its mandate.

Trade unions, through the Guyana Trade Union Congress (GTUC) and the employers, through the Consultative Association of Guyanese Industry Ltd (CAGI) represent workers and employers respectively on a number of statutory boards and, in this respect, participate in the decision process of many key sectors of the economy.

The Guyana Trades Union Congress would wish to have a greater and more meaningful role

in national decision-making and in national development. In short, they want to move from what appears to them to be token participation to a more fundamental and higher plane.

However, tensions have developed, particularly between the Government and Public Service Union (PSU) over an Arbitrator's award of substantial increases for the public-sector workers which has had the effect of causing the relationship between the GTUC and the Government to be somewhat cold. This was particularly so during the period that the General Secretary of the Public Service Union, Mr. Patrick Yarde, was President of the GTUC.

With a change in the leadership of the GTUC, one has seen a less confrontational approach in industrial relations matters being adopted by that organization. As a matter of fact, the General Secretary of the GTUC, Mr. Lincoln Lewis, is on record as actively promoting the concept of social dialogue and has been receiving a positive and supportive response from the employers' organizations.

The Guyana TUC has therefore been in the forefront of promoting social dialogue and social partnership as the most effective approach to solving the country's many economic, social and political problems. To this end it organized, in collaboration with the ILO Caribbean Office and the Caribbean Centre for Development Administration (CARICAD), a two-day Tripartite Meeting for the purpose of developing proposals for a "First Protocol for the implementation of a social partnership – 2000". This meeting was attended by senior representatives from Government, the private sector and the trade unions. The output from these deliberations was a document, modelled on the Barbados Social Partnership Protocol, which covered a wide range of social and economic issues. It was submitted to the Government of Guyana and to the employers with the request for the Government to convene a meeting of the partners.

The main issues addressed in the document were:

- good governance for the sustained social and economic progress and political stability of the country;
- collaboration of the social partners for confronting challenges and for achieving industrial harmony;
- tripartism;
- joint approach to the formulation of policies, to the solving of problems and to the management of a process of change and social development;

- mutual respect;
- stable rate of exchange;
- restructuring of the economy;
- increase in productivity;
- continual reduction of unemployment; and
- consolidation of the process of tripartite consultation.

The leadership of the GTUC has indicated that it has made several attempts to have the Government convene the suggested meeting of the social partners to discuss the above issues and to commit to a social partnership agreement, but this appeal has met with a lukewarm response.

Grenada

The industrial relations situation in this country is one which follows the voluntaristic model as described earlier in this paper. There have been quite a number of instances within the decade of the 1990s where trade unions have been forced to take industrial action for better wages and conditions of employment, for the right of workers to join trade unions and for the recognition of trade unions to bargain on behalf of the workers.

This has been made more challenging by the impact that trade liberalization has had on this country. The export of primary agricultural products – bananas and cocoa – to Europe under the Lomé Agreement was a major source of foreign exchange earnings for Grenada. However, the dispute between the United States of America and Europe over the regime for bananas (the World Trade Organization had ruled that this special arrangement was in contravention of its Rules for Free Trade) had serious consequences. It has seen the virtual disappearance of the banana industry. This has meant a rise in unemployment since alternative employment is not easily available. In a situation like this, employers have a strong position and the Government has not made it any easier for the trade unions. As a consequence, collective bargaining has been difficult but the trade unions have been relatively successful in their mission.

At the national level, trade unions, through their umbrella organization, the Grenada Trade Union Council (TUC), are represented on some State corporations and can therefore be said to have a say in some national decisions, even though the trade unions regard this as a mere token. At the level of the enterprise, the collective agreement provides for some limited consultation and especially on safety and health issues.

In 1998 the Government entered into discussions with the social partners for the conclusion of a Memorandum of Understanding which focused on the achievement of consensus on national development.

This Memorandum was signed by the Government (represented by the Minister of Finance), the trade unions (represented by the President of the Council), the private sector (represented by the President of the Grenada Chamber of Commerce and Industry) and the non-governmental organizations (represented by the Inter Agency Group of Development Organizations). This group is called the social partners.

The text of the Memorandum is as follows:

Whereas the social partners have declared their commitment to hold consultations aimed at achieving consensus on national development; and

Whereas the social partners agree that the vehicle for such consultation shall be the National Tripartite Consultation Committee comprising the social partners and other organizations and individuals selected to participate by mutual agreement,

The Social Partners agree as follows:

(1) The Tripartite Consultation Committee shall set up sub-committees as may be deemed necessary for the elaboration of its work and shall meet regularly to deliberate, formulate and issue reports;

(2) The elements of the said consensus on national development shall be:

(a) the elaboration of a vision for national development i.e the overall macro-economic and sectoral goals for Grenada in the short, medium and long terms;

(b) a review and assessment of the state of the economic and social sectors;

(c) the identification of policies and programmes aimed at achieving the kind of national development consistent with the articulated vision. (Memorandum of Understanding, 1998.)

It should be noted that there are no reports from which one can form an opinion about the progress or otherwise that has been made, even though there are regular meetings of the Committees. There seems to be some considerable frustration, certainly on the part of the trade unions, about the effectiveness of the exercise. This was reflected in the following recent statement by the President of the TUC, endorsed by the Executive Director of the Employers' Federation: "In spite of the fact that meetings are held, one gets the impression that it is a mere talk shop and no policies are developed or serious action taken on matters referred to Cabinet through the Minister who chairs the Committee: the Minister of Tourism, Social Security and Women's Affairs" (Allard,² 2000.)

Jamaica

The industrial relations situation in Jamaica is largely a voluntaristic one except that there is a legal requirement for arbitration in the event of a breakdown in negotiations when it reaches the level of the Ministry of Labour. The Arbitration Tribunal, to which representation is made by both the representatives of the workers and of the employers, can then make an award, binding on the parties, and having the force of law.

Trade unions and employers negotiate collective agreements for a sizeable portion of the Jamaican workforce. The agreements cover areas of cooperation and collaboration at the enterprise level. Provision is also made for the functioning of joint safety and health committees.

The social partners meet regularly under the ILO 144 Tripartite Convention regulations and from time to time make representations to the Government about the Conventions to be ratified and the general state of reporting and compliance with the terms of the ratified Conventions which place a responsibility on the Government.

Trade unions, like the employers, sit on a variety of State corporations so it can be said that there is some measure of social dialogue taking place. The trade unions, however, need to have a bigger and more fundamental say in decision-making in the country. The same can be said for the employers, judging from statements which they frequently make on this subject. It should also be mentioned that at the level of the enterprise, relationships have been built up over the years. This is especially so in the larger industries.

In 1996 the Government of Jamaica announced that it wanted to establish the framework for a social partnership and, consequently, had drafted a wide-ranging document entitled Draft Agreement for the Implementation of a National Economic and Social Understanding – Social Partnership 1996-1997. It was put before Parliament. Trouble soon erupted as far as this document was concerned since neither the trade unions, represented by the Jamaica Confederation of Trade Unions (JCTU), nor the Jamaica Employers' Federation (JEF) were in agreement with its contents since they were not consulted for inputs. The document was drafted in the Social Partnership Secretariat, a government agency. Furthermore, the Government set a deadline for its coming into operation.

The JCTU felt that it was being presented as "window dressing for political purposes since the deadline coincided with the election date". The trade unions also felt that the Government was not levelling with the country about the true state of the finances of the country. The trade unions also felt that trust was at the heart of the problem and that there could be no genuine social partnership unless information was shared. (Goodleigh,³ 2000.)

As a consequence, the JCTU rejected this proposal by the Government but indicated that in order to demonstrate its commitment to the ideals of a social partnership, its affiliates would initiate discussions with employers, where appropriate, at the enterprise and at the sectorial level to develop Memoranda of Understanding (MOU) or Framework Agreements.

It should be stated that there was a difference in the Government's and the trade unions' approach in the two documents. Whereas the Government document concentrated on tax administration reform; public-sector reform; inflation; exchange rate; money supply; etc., the MOUs between the employers and the trade unions dealt with specific activities of enterprises concerning investment policy; modernization; productivity and training, to mention only a few; all of which were designed to improve the competitiveness of the enterprises in a globalized world.

Of significant note are the Memoranda of Understanding between the trade unions in the bauxite/alumina sector and the employers; between the National Water Commission (a government agency) and the trade unions; between the Shipping Association and the trade unions; and between the sugar industry and the trade unions in that sector.

These documents commit the social partners, including the Government, which has responsibility for creating a stable macroeconomic environment, to maintain certain broad principles. For example, the trade unions in the bauxite sector agreed that if the Government maintained a stable macroeconomic environment, and if the companies undertook the measures listed in the Memorandum such as corporate responsibility; skills training and development; working with the unions to increase productivity; investment in plant and equipment; support for educational programmes aimed at sensitizing the labour force to the importance of achieving international competitiveness in the bauxite/alumina industry; and disclosure of information on the com-

pany and the industry, they would move towards negotiating productivity-driven wages. Gain sharing would be the main vehicle to achieve this.

It has been reported that as a result of this new approach, productivity in the industry is up, costs have been contained, workers are benefiting from tax-free productivity payments, and the workforce has been stabilized.

The other enterprises in which Memoranda of Understanding have been signed are optimistic that in time, with more open communication, transparency and trust building, they will experience a turnaround in their establishments.

Regional level

This presentation could not conclude without reference, fleeting though it may be, being made to activities for the promotion of social dialogue at the regional level. In this regard mention must be made of the "CARICOM Declaration of Labour and Industrial Relations Principles" which was approved by the thirteenth Meeting of the Standing Committee of Ministers responsible for Labour (SCML), 26-28 April, 1995 (CARICOM, 1999).

The Declaration sets out the general labour policy to which the region aspires, consistent with international labour standards and other international instruments. It is an important policy guide on labour matters for the social partners and will contribute to the development of a healthy industrial relations climate, and enhanced social partnership. It underscores the rights and responsibilities of the social partners, and provides the bases for the development of national labour laws, and inform the enactment of labour legislation. (Carrington,⁴ 1995.)

The Caribbean Office of the ILO has recently received funding for a Caribbean sub-regional project designed to assist Caribbean enterprises in facing the competitive challenges being encountered in the international market-place. Workplace cooperation and joint problem solving will replace traditional relations of confrontation. This should lead to enhanced productivity and increased international competitiveness. The project is called PROMALCO (Programme for the Promotion of Management and Labour Co-operation). The geographical coverage is the Dutch- and English-speaking countries in the Caribbean. It is a two-year project which has been endorsed by the Governments of the ILO member States

in the English- and Dutch-speaking Caribbean countries as well as by the Caribbean Congress of Labour on behalf of the workers' organizations and the Caribbean Employers' Confederation on behalf of the employers' organizations of the region.

The widespread acceptance of the project augurs well for the future and suggests that the social partners in the region recognize that they have to make the necessary adjustments to the ways in which they operated in the past so that they can stay competitive and meet the challenges presented by globalization and trade liberalization.

What lessons can be learnt from the Caribbean as described in the overview of social dialogue in the five countries surveyed? The following can be suggested:

- social dialogue is the preferred way to establish effective working relationships at the enterprise and at the national level;
- social partnership takes social dialogue to a higher level and involves the parties in decision-making on crucial issues at the national and at the enterprise level;
- no one partner has all the answers to the problems confronting the enterprise or the nation;
- information sharing and transparency are prerequisites for a successful social partnership;
- social dialogue/social partnership thrives and grows in a climate of "trust";
- social partners should place trust-building high on their agenda;
- a crisis at the national level or at the enterprise level provides the basis for a meaningful social dialogue/social partnership;
- partners must be consistent and not change course at the first sign of the removal of the threat;
- social dialogue/social partnership is the most effective answer to the challenges of globalization and trade liberalization;
- workers must be entitled to share equitably in the gains derived from improved productivity;
- training and re-training of workers must be ongoing and must include attitudinal change;
- there must be political will to implement social dialogue/social partnership; and

- the head of the government, usually the Prime Minister, must be actively involved in the promotion of social dialogue/social partnership in the country.

These are by no means exhaustive but have been gleaned from the experience in the Caribbean.

Notes

¹ Patrick Frost is General Secretary of the Congress of Trade Unions and Staff Associations of Barbados (CTUSAB).

² Derek Allard is President of the Grenada TUC.

³ Lloyd Goodleigh is General Secretary of the Jamaican Confederation of Trade Unions (JCTU).

⁴ Edwin Carrington is Secretary General of the Caribbean Community.

References

- Allard, Derek. 2000. TUC, November.
- CARICOM Secretariat. 1999. Georgetown, Guyana.
- Carrington, Edwin. 1995. *Foreword to the CARICOM Declaration*.
- Frost, Patrick. 1999. *A social partnership success story*, paper delivered at a Tripartite Forum on Social Partnership in Guyana, April.
- Fukuyama, Francis. 1995. *Trust. The social virtues and the creation of prosperity*, Simon & Schuster Inc., pp. 6 and 7; and p. 10.
- Goodleigh, Lloyd. 2000. *An interview*, General Secretary of the Jamaica Confederation of Trade Unions (JCTU), November.
- ILO/EU. 2000. *Meeting on Promotion of Social Dialogue in the wider Caribbean within the context of decentralized co-operation*, Port of Spain, Trinidad and Tobago, March.
- Memorandum of Understanding*. 1998. Grenada, 17 November.
- Mulvey, Kieran. 2000. *Report on Social Dialogue in the wider Caribbean within the context of decentralized co-operation*, ILO/EU Meeting in Port of Spain, Trinidad and Tobago, March.
- Protocol for the Implementation of a Prices and Incomes Policy for Barbados. 1993. *Preamble*, 24 August.

Social dialogue in the United States

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In the United States, the traditional concept of social dialogue is not widely recognized. Tripartite institutions of labour, management and government that are formed to achieve social peace between adversaries are practically non-existent.

Nevertheless, social dialogue is present in other social groupings such as labour-community alliances (Quan, 2000). Like traditional tripartite institutions, they bring together groups that ordinarily would not engage with each other for discussion and action. These alliances between unions and community groups can vary in scope and duration from short-term coalitions that address specific issues, to long-term partnerships that work toward broad goals. Examples range from the coalition of unions and African-American community groups who struggled to ensure that the 1996 Olympics in Atlanta would be built with union standards (Acuff, 2000), to the long-standing alliance between the United Farm Workers Union and the Chicano civil rights movements (del Castillo and Garcia, 1997).

Despite numerous examples of successful labour-community alliances, these alliances are still not common. Many community groups are sceptical of labour's interests in their affairs, and many unions do not recognize the value of seeking common ground with community groups. However, the current leadership of the American Federation of Labor-Congress of Industrial Organizations (AFL-CIO) has made the formation of labour-community coalitions a top priority. In its 1998 Union Cities programme, it established the formation of these alliances as one of the top goals for local labour federations,¹ and wrote guidelines for labour leaders on how to create them.

Among the successful labour-community alliances, there are a few examples that have not

only established common ground and achieved set goals, but have also produced a strategic restructuring of employer-employee relationships, with the intention of enhancing the ability of workers to organize. This article will study two such cases: the anti-sweatshop movement's campaign for corporate responsibility, and the partnership of workers and care recipients in the unionization of nearly 100,000 home-care workers in California.

Case Study

The Anti-sweatshop Movement's Campaign for Corporate Responsibility

The anti-sweatshop movement's campaign for corporate responsibility is an example of a labour-community coalition that built a powerful citizens' movement which strategically targeted well-known multinational corporate investors to be held accountable for workers rights.

During the 1990s several high-profile exposés of exploitation in garment factories gave rise to public outcry against sweatshops. From the news that NIKE workers in Viet Nam had been forced to run in the hot sun until they fainted (Herbert, 1997), to Thai immigrants being incarcerated behind razor-wire fences with armed guards in a Los Angeles suburb (White, 1995), public discourse condemned the brutal treatment of workers and called for social accountability. By 1996, when television star Kathie Lee Gifford refused to accept responsibility for her apparel line being produced in Latin American sweatshops, public reaction was so strong that she was forced to reverse her position (Greenhouse, 1996).

Gifford's initial refusal to be held accountable was typical of most apparel manufacturers

during that period. In an industry that has always subcontracted production, and that has for more than 40 years done so on a global basis, garment manufacturers have easily shielded themselves from liability for exploitative working conditions by blaming their contractors (Bonacich and Appelbaum, 2000).

However, labour organizers have long held that seeking accountability for labour conditions only from contractors is not viable, since many contractors operate at a slim margin, and they have little control over the prices that manufacturers pay to them. They do not have the option of changing the design of the product or its materials, and cannot themselves generate funds to pay the workers more. Contractors are actually only the first tier of a multi-tiered system of employers that includes brand-name manufacturers and also many retailers.²

Therefore, in the 1990s labour advocates devised a two-pronged strategy that restructured the workers' movement against sweatshop exploitation. The first prong was to unite labour groups with a broad alliance of human rights groups to call for social accountability and mobilize action around consumer choice. The second prong was to redirect the target of their demands from contractors to the profit-making tiers of employers: the manufacturers and retailers. The result was a new campaign for corporate governance, calling upon manufacturers and retailers to accept responsibility for labour conditions in contracting shops.³

The building of a broad labour-community coalition was key to the success of the campaign for social responsibility. It was accomplished by re-conceptualizing labour issues and by building wide networks of support. As labour advocates exposed child labour, sexual harassment, extreme exploitation and brutal repression of union organizers, they re-framed the labour issues as human rights issues and built a compelling moral argument for justice and decency. This found strong resonance among religious and human rights groups, as well as the public in general, including many who ordinarily would not be inclined to support labour issues. Non-governmental organizations such as the National Labor Committee, Global Exchange and Sweatshop Watch, with their considerable national and international networks, were moved to demand social accountability on behalf of the workers, and to call for consumers to boycott NIKE, GAP, GUESS and other corporations who were manufacturing under sweatshop conditions. These actions resulted in

a powerful coalition between labour and community groups, one that had much more influence and strength than labour groups alone would have had.

Corporate codes of conduct

It was the strength of this labour-community alliance against sweatshops that made it possible to achieve the second prong of the strategy: agreement to corporate responsibility. After this alliance produced numerous revelations of shocking sweatshop conditions, and after consumer boycotts of several large companies, many apparel corporations felt compelled to salvage their image. They agreed to demands put forth by labour advocates for internationally recognized core labour standards embodied in "corporate codes of conduct". These codes, modelled after ILO core Conventions, generally consist of a ban on child labour and prison labour, payment of a minimum or living wage, a limit on overtime hours, and the right to organize unions. Today, nearly ten years after the first corporations began to adopt codes of conduct, the majority of large apparel manufacturers in the United States have such corporate policy in place.⁴

Significantly, most of these corporations have also agreed to some form of code enforcement. Whereas in the past, governments passing core international labour Conventions generally did so without punity if the Conventions were violated, some large corporations such as the GAP and NIKE established internal departments with staff who are responsible for monitoring their codes of conduct. They have sometimes also contracted with outside accounting firms and auditors to verify compliance. However, numerous independent reports have shown that these types of internal monitoring were often not effective in ensuring workers' rights.⁵ This has prompted labour and human rights advocates to call for independent monitoring to be carried out by external groups such local unions and non-governmental organizations that have access to workers in situations free of reprisal.⁶

Corporations' responsibilities

While debates continue over what form of monitoring is most effective, there is no question that the anti-sweatshop labour-community alliance has succeeded in changing business views of corporate governance. Whereas in the past, corporations commonly refused to be held

accountable for working conditions in contractors' firms, this has now changed. There is a general recognition among apparel employers that compliance with labour rights should be a normal obligation of doing business, and that corporations should utilize their financial influence to intervene in the labour practices of their contractors. Moreover, in monitoring for compliance with their codes of conduct, apparel corporations are assuming enforcement responsibilities that sometimes extend well beyond those of local legal regulations, and in doing so are defining a new role for corporate governance.

The labour-community alliance against sweatshops has not only redefined the employer-employee relationship in the apparel industry, but has also influenced advocacy for workers' rights in global trade and finance, and consumer policy in government and university procurement. Core labour standards have been proposed for inclusion in trade institutions such as the North American Free Trade Agreement and the World Trade Organization.⁷ They have also been proposed for adoption by global financial institutions such as the International Monetary Fund and the World Bank.⁸ Students have proposed codes of conduct for university licensees in more than 100 universities nationwide,⁹ and citizens' groups have passed local ordinances requiring government purchases to be made sweat-free in San Francisco, Pittsburgh and Cleveland.¹⁰

Case Study **The California Home-care** **Organizing Campaign¹¹**

The organizing campaign of 100,000 home-care workers in California during the past decade is the largest victory for American unions since 1941. It was accomplished by a unique partnership between unions and communities of elderly and disabled who joined together to structure the delivery of services in way that benefited both the workers and their care recipients. This new structure incorporated the concept of a labour-community alliance in an innovative form of industrial relations, one where the present and future depend upon the strength of that alliance.

Home-care workers are personal attendants who care for sick, elderly and disabled people. Their duties may include cooking and house-cleaning, as well as personal care such as bathing and feeding. In the state of California, there are some 100,000 people employed as home-care workers, mostly through a state agency known as the In-Home Support Ser-

vices (IHSS). This agency was created to implement a policy conceived in the 1970s to shift the care of sick, elderly and disabled people from nursing homes and other boarding institutions to independent living in private homes.¹²

Prior to unionization, the wages paid to home-care workers were the state minimum rate, an amount so small that it did not even raise the workers above federal poverty levels. Moreover, the workers were not entitled to any medical insurance, pension or holiday pay. While they were allowed to work as much as 283 hours per month (with no overtime pay), most workers could not even find 40 hours of work per week. The jobs were often difficult and stressful, requiring a variety of skills ranging from heavy lifting to medical care, to coping with death. The majority of the workforce were women from African-American or immigrant Latino and Asian communities, and nearly 50 per cent were family members of the care recipients (known as "consumers").

A fragmented work force

Historically, workers in low wage sectors have improved their wages and working conditions by organizing unions. However, in this situation, the unions faced several serious obstacles. The first challenge was how to unite a fragmented workforce that never saw each other and was spread out over huge distances – 74,000 workers over more than 4,000 square miles in Los Angeles County alone. The workers were hard to locate, as the turnover rate was close to 50 per cent per year, and many of them worked for two or three consumers in a week. Moreover, unity was hampered by a staggering diversity of ethnic and cultural backgrounds, for example, more than 100 different spoken languages just in Los Angeles County.¹³

Difficult task of identifying the employer entity

The second obstacle was how to structure collective bargaining. IHSS issued the paychecks, but nothing in the law gave it the authority to bargain collectively with the union. Moreover, some traditional management functions were delegated by IHSS to the consumers, such as the right to hire, to direct work, and to terminate the work relationship of workers at will. Yet, the consumers could hardly be considered employers for bargaining purposes, because they themselves were receiving public assistance and did not have the means to pay additional wages and benefits.

Thus, the union was faced with the dilemma of not only identifying who the employer was or should be, but also how to legally establish that entity for collective bargaining purposes.¹⁴

The third obstacle was how to generate leverage for the workers' demands. Traditionally, workers back up their demands for union recognition with the threat of withholding their labour, that is strike. However in this case, the union knew that striking was not an option, because the care that home-care workers provided was personalized and, in many cases, it was critical. In fact, if the consumers resisted the unionization of home-care workers, public sympathy would likely favour the consumers, and the workers would be put in an embarrassing and untenable position. Therefore, a different source of power had to be generated for this group of workers.

A long-term organizing strategy

The Service Employees International Union (SEIU) responded to these obstacles by developing a long-term organizing strategy based upon: (1) launching a grass-roots organizing campaign among home-care workers; (2) building a partnership between the union and consumers, as well as with the broader community; and (3) establishing "public authorities" that would act as employers-of-record for collective bargaining purposes.¹⁵

The strength of the union's organizing campaign among home-care workers cannot be underestimated. The union signed up tens of thousands of dues-paying workers sometimes years prior to winning any union contract. In Los Angeles, the workers organized into formations consistent with political precincts to unite themselves and put political pressure on local politicians,¹⁶ and in Oakland they set up a community-based Workers Center to have a meeting place and provide training for new recruits.¹⁷ Because of the high turnover rate and campaigns that lasted as long as 13 years, this meant that union organizers needed to constantly organize and reorganize 10,000 to 15,000 members statewide per year just to demonstrate to the public that there was sufficient interest among workers to unionize.¹⁸

A joint struggle of consumers and workers

After building a base among home-care workers, the union established a partnership with the consumers' movement. This strategic realignment of forces joined workers and con-

sumers, who might otherwise have been adversaries, in a common struggle for quality care. While some consumers were sceptical of allying with the union, the majority saw it as an opportunity to upgrade the pay and skills of their personal attendants, thus lowering the possibility that the workers would leave for other jobs, and increasing the quality of their care.¹⁹ In some counties, groups of labour advocates and consumers struggled for several years to research their options and plan joint actions. During this time, union representatives began to understand the need for disabled consumers to have control over their own lives, and for senior consumers to have security checks on the background of the workers.²⁰ The consumers also learned that their workers would not only be better served by better wages and benefits, but that they would all be better served by having the strength of the union working in their interests.²¹

A revision of the existing employer system

The strength of these partnerships formed the basis of a wider community alliance with church and other community-based groups. This broader social movement became the leverage that the workers needed to support their demands. Delegations of workers, elderly and disabled persons met with politicians, rallied at government buildings and chained themselves to the doors of the Capitol, all demanding that home-care workers be given dignity by revising the existing employer system.²²

The labour-community alliance proposed the establishment of "public authorities" in each county. This creative policy initiative authorized either county government officials or independent organizations composed of consumers and civic representatives to become an employer-of-record to bargain collectively with the union. This model of employer was the final result of many years of struggle that included lawsuits, legislation, lobbying and grass-roots mobilization.²³

Collective bargaining agreements for nearly 100,000 home-care workers

To date, successful union elections have been held in more than eight California counties, bringing the number of unionized home-care workers to nearly 100,000. Their collective bargaining agreements reflect the various needs of the coalition that brought this struggle

to victory. For example, the workers have the right to union representation but consumers have the right to hire and fire. In areas where the labour-community coalition has been particularly successful, such as San Francisco, the community advocates have actively lobbied the mayor and other policy-makers to increase wages and benefits. The results are that San Francisco home-care workers earn US\$9.70 per hour (compared to a US\$6.25 state minimum wage), and have medical and dental benefits (compared to no other fringe benefits in other counties).²⁴

Both the union and the community groups realize that they have only taken the first step in assuring dignity and respect both for the workers and the consumers. The new employer-employee relationship is complicated, as there are elements of employers in three entities: the IHSS, the consumers and the public authority. Although this can be somewhat confusing for workers who must figure out which entity is responsible for what, it is accepted because it is the result of a creative partnership that respected the rights of all stakeholders. As the model is refined over time, the challenge will be to ensure that this respect is maintained, and that the partnership that made this success possible will continue to provide the leverage both for workers and consumers.

Conclusion

Labour-community alliances are a form of social institution that can be used to bring together unions and community groups for a common agenda. The social dialogue that is created is not only helpful in providing additional support for this agenda, but in some cases, can be powerful enough to change the structure of industrial relations.

In the case of the anti-sweatshop movement against exploitation, the alliance between unions and human rights groups moved from a simple employer-employee issue to a global campaign for multinational corporate responsibility. This alliance succeeded in changing corporate policies toward workers, and has become the model for those attempting to replicate these policies in trade, finance, procurement and other arenas where citizens' voices on social issues can be expressed.

In the case of California home-care workers organizing, the alliance between the workers and the consumers has led to an unprecedented partnership that actually created one of three employer entities, and succeeded in winning

union contracts for 100,000 workers. This alliance was based upon respecting the interests of both workers and consumers, and the future of this model of industrial relations is likely to rest upon the continued success of this partnership.

Notes

¹ <http://www.aflicio.org/unioncity/index.htm>

² <http://www.sweatshopwatch.org/swatch/industry>

³ <http://www.globalexchange.org/>

⁴ Surveys of companies that have adopted codes appear in Varley, Pamela (ed.), *The Sweatshop Quandary: Corporate Responsibility on the Global Frontier*. Washington, D.C., Investor Responsibility Research Center, 1998, and *The Apparel Industry and Codes of Conduct*. Washington, D.C., US Department of Labor, 1996. For links to some examples of corporate codes of conduct, see <http://oracle02.ilo.org:6060/vpi/vpisearch.first>

⁵ For critiques of private monitoring systems, see Esben-shade and Bonanich, July/August 1999. "Can Code Codes and Monitoring Combat America's Sweatshops?", in M.E. Sharpe; O'Rourke, Dara. 1997. *Working USA*. New York. *Smoke from a hired gun: A critique of Nike's labor and environmental auditing in Vietnam as performed by Ernst & Young*, report published by the Transnational Resource and Action Center, San Francisco, 10 November 1997; *No Illusions Against the Global Cosmetic SA8000*, report published by Labor Rights in China (LARIC), Hong Kong, 1999.

⁶ Etienne, Yannick. 2000. "Monitoreando a Mickey Mouse en Haití", in *Códigos de conducta y monitoreo en la industria de la confección: experiencias internacionales y regionales*, in Koepke, R.; Molina, N.; Quinteros, C. (eds.), El Salvador, Heinrich Böll Foundation; Anner, Mark. 1998. *La maquila y el monitoreo independiente en El Salvador*, San Salvador, Independent Monitoring Group of El Salvador (GMIES); Molina, N.; Quinteros, C.. 2000. "El monitoreo independiente en El Salvador," in *Códigos de conducta y monitoreo en la industria de la confección: experiencias internacionales y regionales*, Koepke, R.; Molina, N.; Quinteros, C. (eds.), El Salvador, Heinrich Böll Foundation; Jeffcott, Bob; Yanz, Lynda. 2000. *Codes of Conduct, Government Regulation and Worker Organizing*, Canada, Maquila Solidarity Network; Pineda, Magali. 2000. "El Caso de Levi Strauss & Co. en la República Dominicana", in *Códigos de conducta y monitoreo en la industria de la confección: experiencias internacionales y regionales*, Koepke, R.; Molina, N.; Quinteros, C. (eds.), El Salvador, Heinrich Böll Foundation.

⁷ See <http://www.icftu.org/list.asp?Language=EN&Order=Date&Type=WTOReports&Subject=ILS>

⁸ See <http://www.cicizen.org/pctrade/publications/gtwpubs.htm#MAI>

⁹ See <http://www.umich.edu/~sole/usas/>

¹⁰ See <http://www.uniteunion.org/sweatshops/cities/cities.html> and <http://www.cleanclothes.org/campaign.htm>

¹¹ Most of the information of this section comes from original research carried out by Katie Quan and Linda Delp, Labor Occupational Safety and Health Program, University of California, Los Angeles.

¹² See <http://www.calhomecare.com/index.html>

¹³ Katie Quan interview with union organizer Steve Wolensky, 28 December 2000.

¹⁴ Katie Quan interview with union leader Patricia Ford, 27 September 2000.

¹⁵ Interview with Steve Wolensky.

¹⁶ Linda Delp interview with Rickman Jackson, 20 April 2000.

¹⁷ Katie Quan interview with union organizer Mila Thomas, 11 May 2000.

¹⁸ Interview with Steve Wolensky.

¹⁹ Katie Quan interview with consumer activist Mark Beckwith, 2 February 2001.

²⁰ Katie Quan interview with former union organizer Karen Sherr, 6 December 2000.

²¹ Katie Quan interview with consumer activist Blane Beckwith, 1 February 2001.

²² Linda Delp interview with coalition leader Lilibeth Navarro, 5 May 2000.

²³ Linda Delp and Katie Quan interview with union policy analyst Maura Kealy, 17 March 2001.

²⁴ Katie Quan interview with San Francisco public authority executive director Donna Calame, 29 December 2000.

References

- Acuff, Stewart. 2000. "The struggle for economic justice", *Labor Studies Journal*, Vol. 25, No. 1, Spring.
- Bonacich, Edna; Appelbaum, Richard P. 2000. *Faces behind the label: Inequality in the Los Angeles apparel industry*, Berkeley, University of California Press.
- del Castillo, Richard G.; Garcia, Richard A. 1997. *Cesar Chavez: A triumph spirit*, Oklahoma, University of Oklahoma Press.
- Greenhouse, Steven. 1996. "A crusader makes celebrities tremble: Image is new weapon in sweatshop war", *The New York Times Metro*, 18 June.
- Herbert, Bob. 1997. "Brutality in Vietnam", *New York Times: In America*, 28 March.
- Quan, Katie. 2000. *State of the art of social dialogue: The United States*, Geneva, ILO.
- White, George, 1995. "Workers held in near-slavery, officials say", *New York Times*, 3 August.
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Social dialogue: Theory and practice

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The expression “social dialogue” is now fashionable. The European Union has been using it intensely and increasingly since the 1980s. The Mercosur *Declaración Sociolaboral* (Social and Economic Declaration) proclaimed it as a fundamental right in 1998. In 1999, the ILO included the strengthening of tripartitism and the social dialogue in its 2000-2001 Programme and Budget. Today, it is rare for that expression not to appear in any moderately important and topical speech or document on labour matters.

Nevertheless, it is agreed that by scientific standards, the doctrine is not sufficiently precise a notion. This paper attempts to circumscribe the concept more closely and gives examples of some salient standard-setting practices and measures.

Theory of the social dialogue

As was just pointed out, this first part will attempt to outline very succinctly a theory of social dialogue, in an effort to pin down a concept that is very much in vogue but largely ill-defined. To that end, consideration will be given to the breadth and inexactness of the notion, its place and function in the system of labour relations and in the political system, the categories and types of social dialogue, as well as its assumptions, prerequisites and conditions. In this way, we hope to make a small and modest contribution to shaping the concept of the expression “social dialogue”.

The notion of social dialogue has undergone an experience similar to that of tripartitism: It was used in common parlance, in political discourse and in various international documents, though its content was assumed rather than defined with precision. Perhaps that degree of relative indefiniteness is part of the utility of the expression which, given its hazy contours,

could encompass a range of institutions and practices without either including or excluding others.

This is why it has been possible to assert, for instance, that social dialogue is “an indefinite and open term that says much but commits little”, although in any case, there would seem to be a degree of consensus around the idea that it does encompass “a wide range of relations between trade unions, employers and government authorities, in the form of meetings and contacts that need not necessarily give rise to concrete legal acts” (Rodríguez, 1998) that could “consist simply of an exchange of impressions” (Valverde, 1998).

At all events, in seeking that exactness that the concept seems, *a priori*, to lack, it could be said that in the framework of labour relations, social dialogue includes all forms of interaction between the players, apart from outright conflict. Indeed, it is common knowledge that the system of labour relations is comprised of three main players (workers’ organizations, employers and their organizations, and the government), which interrelate in two ways: by conflict and by negotiation in the broad sense, or dialogue. From this standpoint, the notion of social dialogue covers all the forms of interaction amongst the actors of the system of labour relations that are distinct from full-blown conflict:¹ information, consultation, collective bargaining, dialogue between both sides of industry, etc. (Serna and Ermida, 1994; Ermida, 1995; Rosenbaum, 2000b).

From this point of view, as a broad concept albeit limited to the system of labour relations, social dialogue includes: collective bargaining; information and consultation mechanisms both institutionalized or otherwise; participatory or voluntary labour dispute settlement methods; organized or unorganized participation in the

enterprise or in industry or national bodies; and in dialogue between both sides of industry, including social pacts or framework agreements, whether bipartite or tripartite. The social dialogue includes all bodies in which the players interact, regardless of whether they become bogged down along the way or they produce an outcome; hence, collective bargaining is *per se* a form of social dialogue, even if in a specific case it fails to produce a collective agreement (Serna and Ermida, 1994).²

Classification

Remaining within the framework of the system of labour relations, several types of social dialogue are recognizable. One initial classification of the various potential forms of this dialogue covers the institutions just mentioned: information and consultation; collective bargaining; dialogue between labour and management; and participation and voluntary and participatory methods of dispute settlement.

A second classification could make a distinction between formal and informal methods of social dialogue, depending on whether they are institutionalized by legal norms or are the result of more or less spontaneous, unregulated initiatives. By way of example, mention may be made of the regional social dialogue under way in Mercosur, to which I shall be reverting subsequently,³ that taking place in the *Foro Consultivo Económico-Social* (Economic and Social Consultative Forum) envisaged in the Ouro Preto Protocol; and that taking place under the regulations of the Forum, which represent formal methods. In contrast, the collective bargaining that took place in 1997-98 between the management of Volkswagen in Argentina and Brazil and the metalworking trade unions of both countries in an autonomous and spontaneous manner, with no reference to any previous regulations, formality or procedure, was an unmistakable instance of informal labour-management relations, although the product or outcome – the 1998 collective labour agreement – could indeed be considered as formal.

A third classification would be that covering organized or unorganized forms of social dialogue. The first would be interactions between the players taking place within bodies expressly created for that purpose, or those with other aims, but in which those players are represented. The unorganized forms of social dialogue would be those taking place spontaneously, totally divorced from the existence of

any special body. Continuing with the foregoing example, the dialogue taking place in the *Foro Consultivo Económico-Social* of Mercosur is organized, whilst the Volkswagen regional collective bargaining was unorganized.

These two classifications could lend themselves to confusion, as they undoubtedly have points in common; they are in fact different, however. In the examples that we have been using, the two classifications merge; the dialogue in the Consultative Forum is formal and organized, whilst the Volkswagen regional collective bargaining was informal and unorganized. But as pertains to the outcome of this latter negotiation, the coincidence ceases to exist: the Mercosur 1998 Volkswagen agreement constitutes an unorganized but formal result of the regional social dialogue. In other words, there may be instances of formal yet unorganized social dialogue, such as that just mentioned, and although on the other hand all the organized forms of dialogue are formal in that the very existence of a body *per se* implies a certain formality, the converse is not true, as there can be formal though not organized methods of social dialogue, that is, formal proceedings that nevertheless do not take place in a body; for example, in cases where collective bargaining is regulated and complies with certain formalities, it is a formal, though not necessarily organized, proceeding. The same applies to certain dispute-settlement mechanisms.

A fourth classification takes account of the temporal dimension of social dialogue. It may be permanent or ongoing, or even intermittent, occasional or sporadic. The permanence of the social dialogue tends to be viewed as a sign of maturity and stability of the system of labour relations. It doubtless indicates a certain level of consensus.

The fifth (and last?) classification is that which distinguishes between the levels of social dialogue. Whether it is formal or informal, organized or unorganized, permanent, intermittent or sporadic, there is no doubt that it can take place at various levels. Centralized or high-level social dialogue is that which occurs at the national level (countrywide), or at an even higher level (international); mid-range or relatively centralized social dialogue is that which takes place by branch or sector of activity (e.g., metalworking, construction, textiles, petrochemicals, trade, finance). Decentralized dialogue occurs at the lower level, i.e. that of the enterprise.⁴

A political concept

We have thus far discussed social dialogue as a part of the system of labour relations, as one of the ways in which its players relate to one another.⁵ It must be pointed out, however, that the notion of social dialogue with its somewhat inexact and hence suggestive and versatile nature, also has a greater, much broader dimension that is of political content and related to citizenship, political life, government, democracy and society as a whole.

Indeed, it is today accepted that democracy implies pluralism, that is, recognition of the (co)existence of independent groups with differing and at times opposing interests, and that the interrelationship amongst them must necessarily involve their recognition and participation. As such, participation and dialogue are key instruments of pluralist democracy (Ermida, 1999; Cedrola, 1998; Mouffe, 1998).

In this framework, though focusing more on the specifically social aspect of the matter, it has been claimed that social insecurity is increasingly becoming the uppermost concern of citizens, which would seem to indicate the need to “reconstruct” the State and to resocialize national life. That would call for “a new social context” to which one could strive only through social dialogue (Simón and Martínez, 1999; Sepúlveda and Vega, 1999) and which would acquire a dimension beyond the realm of labour, that is, a political one.

Prerequisites

The existence of a real social dialogue assumes the existence of strong, representative and independent social players. Should any of these prerequisites not be met, such dialogue would not exist, instead there would be a formality devoid of real content, or it would be so unbalanced as to be the mere veneer for the imposition of the will of one (or more) of the parties.

In terms of labour law and labour relations, those prerequisites are identified with the principles of freedom of association, collective autonomy and self-help (*autotutela*). Only where there is effective observance of freedom of association and adequate protection of trade union activity, as well as respect for and promotion of collective autonomy and self-help (*autotutela*) will there be the conditions that will make for the development of a genuine, substantive and fluid social dialogue (Durán, 1999).⁶

There has always been a deficit of all or some of these requirements in Latin America. Today, problems are also arising in other regions owing to the prevailing economic policy and the consequent weakening of collective bodies, and amongst them the trade unions in particular. Aided by globalization, similar circumstances are helping to diminish the power of the State and its independence when it comes to freely devising and effectively applying its labour policy.

Hence, the ILO Programme and Budget, 2000-2001 – now being implemented – includes the strategic objective of strengthening tripartism and the social dialogue and, as an intermediate goal, the strengthening of the social partners. It is observed that trade unions are being affected by the new forms of production and organization of work, technological change, legal obstacles and the “new ideological currents that are calling collective action into question”. Similarly, it is perceived that employers’ organizations are failing to properly encompass the full spectrum of interests they endeavour to represent, which range from large multinational enterprises to micro-enterprises. In addition, the ministries of labour are losing weight within public administrations as a whole in favour of ministries of the economy and departments of planning. This weakening of the three leading social players is complicating the social dialogue, as its prerequisites are not being met. It is therefore necessary to strengthen the three players if social dialogue, tripartitism (ILO, 1999) and pluralist democracy⁷ are to thrive. This will create a *vicious circle*: weakness of the players; absence of real and efficient social dialogue; and shortcomings of democracy, or a *virtuous circle*: strengthening and representativeness of players; real and fluid social dialogue; and entrenchment of pluralist democracy.

Concrete experiences

Having completed the theoretical analysis and more accurately defined the concept of social dialogue to the extent that that is possible, we shall now turn to a discussion of some concrete experiences of social dialogue.

We shall be looking briefly at experiences within the ILO, the European Union, in Mercosur and in some of the countries in the Southern Cone of Latin America, and shall conclude with a reference to one of the components of social dialogue, namely, vocational education and training.

The ILO and tripartism

Social dialogue through tripartism has been an indissociable aspect of the ILO since its inception.

As is common knowledge, the ILO is the only worldwide international body with a tripartite constitutional structure. Structural tripartism, envisaged in the ILO Constitution of 1919, is a basic principle designed precisely to ensure tripartite social dialogue within the organization (Serna and Ermida, 1994; Sepúlveda and Vega, 1999). Besides, the ILO encourages the holding of tripartite social dialogue at the national level, to which purpose it dedicates several international labour standards and programmes.

Those standards include the Tripartite Consultation (International Labour Standards) Convention, 1976 (No. 144) and the Consultation (Industrial and National Levels) Recommendation, 1960 (No. 113). Among the programmes, it suffices to point to more recent actions – given that the promotion of social dialogue and tripartism has been a historical constant in the ILO – from the realm of promotion of collective bargaining, to give but one very representative example.

In recent years, social dialogue has been defined as one of the objects of the ILO activities worldwide. First, it was recognized as evident that “at the dawn of the next century, dialogue will be one of the main underpinnings of social stability” and that “tripartism will comprise the social anchor of our societies”. In parallel, the existence of a genuine social dialogue is becoming a condition for and a component of “decent work” (Sepúlveda and Vega, 1999). Second, the 2000-2001 strategic objectives for ILO action include the reinforcement of tripartitism and the social dialogue, and of the social players, the latter being understood as a prerequisite for the first.⁸

Social dialogue in the European Union⁹

The premises of the Social Action Programme of the European Union are that social policy paves the way for change and progress, that it is neither a burden on the economy nor an obstacle to growth and that quite the contrary, it is a component of economic policy (Montoya, 1998).

The success of the Social Action Programme is attributable, inter alia, to the dialogue being conducted in three spheres: the political (involving the Member Governments of the

European Union); the civil (with the participation of non-profit organizations from civil society and of non-governmental organizations (NGOs)); and the social (in which trade unions and employers’ organizations take part).

The social dialogue, whether bipartite or tripartite, has taken on a variety of forms throughout the process leading to the emergence of the European Union, though of these we shall single out only some of the most outstanding or topical milestones.

Although social dialogue has been present since the creation of the European Community as the founding treaties already provided for consultations between the community authority and the social players, what is most noteworthy from the constitutional and structural standpoint is the creation of the Economic and Social Committee, a permanent body for the representation of the social players, for information and consultation and hence a forum for the conduct of the European social dialogue.

Concurrently, a great many bipartite multi-industry consultative committees (*Comités consultivos interprofesionales*) were formed, as were several sectoral equal-representation committees, and about as many other informal bipartite working groups.

In 1985, the so-called “Val-Duchesse dialogue” began between the European Trade Union Confederation (ETUC), the Union of Industrial and Employers’ Confederations of Europe (UNICE) and the European Centre of Enterprises with Public Participation and of Enterprises of General Economic Interest (CEEP). These are informal contacts based on the mutual recognition of the parties and not on the authority of the European Commission. This form of bipartite dialogue gradually gave rise to a series of “joint decisions” (*dictámenes comunes*), “joint opinions” (*opiniones conjuntas*), “joint statements” (*declaraciones comunes*) or “binding agreements” (*acuerdos obligacionales*) on matters such as employment, the new technologies, vocational training and mobility in the railway industry, amongst others.

In 1986, the Single European Act “constitutionalized” the social dialogue – albeit with a somewhat vague formulation, a characteristic which, as we have seen, is seemingly appropriate to the idea of social dialogue – calling upon the European Commission in article 118 B “to develop the dialogue between management and labour at European level”, adding that if the two sides consider it desirable, that dialogue could lead to relations based on “agreements”.

In 1989, article 12 of the Community Charter of the Fundamental Social Rights of Workers clearly linked the “Val-Duchesse”-style informal dialogue with the European collective agreement: “The dialogue between the two sides of industry at European level (...) may (...) result in contractual relations in particular at inter-occupational and sectoral level”.

But the most meaningful and decisive step with regard to the recognition and promotion of European social dialogue was taken with the Treaty of Maastricht (1992) and in the Agreement annexed to the Social Policy Protocol associated with that Treaty, which, significantly, incorporates almost all of what was agreed previously between the ETUC and UNICE/CÉEP, making the Treaty itself the regulation that enshrined the social dialogue. The 1997 Treaty of Amsterdam repealed the Social Policy Protocol and the Agreement annexed thereto, but for the reason that their contents had been incorporated into the text itself of the European Union Treaty. Hence, the new articles 118 A and 118 B of the Union Treaty have “constitutionally” enshrined European social dialogue as a source of community law, since Amsterdam.

Indeed, the European social dialogue could be a formal source of law in two different ways. First, it could give rise to European collective labour agreements. Second, it can concur with the directives of the European Commission by means of a complex and most interesting procedure that combines autonomy and heteronomy. Indeed, when the Commission intends to draw up a directive on social policy, it must consult the social players beforehand concerning “the possible orientation of a community action” and “on the content of the proposal”. These consultations enable the European social partners to exercise some responsibility in regulating the matter by means of an agreement which, if it materializes, can then be “ratified” by a decision or a directive of the Commission so as to guarantee its effectiveness at national level. Such was the case with the adoption of the Council Directive 96/34/EC on parental leave. If the social partners do not assume some responsibility, the Commission itself again fully assumes its own responsibility for regulating the matter, as occurred in the case of Council Directive 94/45/EC on European works councils.

What is more, the Treaty of Amsterdam amended article 117 of the European Union Treaty to include the social dialogue amongst the objectives of the Community and of the member States.

*The social dialogue in Mercosur*¹⁰

It is well known that Mercosur came into existence completely divorced from social matters. It was a purely commercial agreement, managed exclusively by the foreign ministries and the ministries of the economy of the four member countries: Argentina, Brazil, Paraguay and Uruguay. Nevertheless, as was inevitable, there was soon a new awareness of that “social aphasia”, especially as a result of trade union or doctrinal issues and matters emanating from the ministries of labour themselves. In this way, slowly but surely, a social realm began to take shape in this our experiment in regional integration (Ermida, 2000).

The *Declaración Sociolaboral del Mercosur* (Mercosur Social and Labour Declaration), issued at the close of 1998 by the heads of State of the four member countries, is a solemn, forward-looking and open proclamation of the fundamental principles and rights in the world of work in Mercosur. For the present purposes, it is noteworthy that article 13 includes the social dialogue amongst the fundamental rights, in the following terms: “The signatory States undertake to foment the social dialogue at national and regional levels, introducing efficient mechanisms for ongoing consultation amongst representatives of governments, employers and workers, so as to guarantee, through consensus between both sides of industry, propitious conditions for sustainable economic growth, with social justice in the region and improved living conditions for the populations.”

It is clear, therefore, that social dialogue is enshrined as a fundamental right at the national and regional levels, simultaneously with and on the same hierarchical level as freedom of association, collective bargaining and the right to strike, amongst others.

For the time being, the Economic and Social Consultative Forum envisaged in the Ouro Preto Protocol is the only body with competence in labour matters contemplated in the founding treaties and hence of permanent and “constitutional” rank. Described as a representative body of the economic and social interests of Mercosur, it is comprised of the trade union federations and business chambers of the member countries, as well as representatives of other sectors, including consumers, members of cooperatives and university graduates. It is a purely consultative body that may only submit recommendations to the decision-making bodies of Mercosur. It is a forum for organized social dialogue.

Social dialogue in Latin America

Subgroup No. 10, which succeeded the previous subgroup No. 11, is a tripartite, consultative and quota-based body (*de carácter consultivo y contingente*), created by and dependent on the Common Market Group (an executive body comprised of representatives of the foreign ministries of the four member countries) in order to look into labour aspects of integration and to table proposals in that connection. It is composed of representatives of the ministries of labour and always operates with the very active participation of the trade union federations and business chambers. Its tripartite functioning has made it the most efficient forum of tripartite dialogue in the region to date, having produced both the *Declaración Sociolaboral* of Mercosur, as well as the Mercosur Multilateral Agreement on Social Security.

The Mercosur Social and Labour Commission is contemplated in the Declaration, for the purpose of encouraging the application of the fundamental rights proclaimed therein, based on annual reports submitted by States. Even though it is a body for monitoring the implementation of the Declaration, it is tripartite in make-up and therefore a forum for social dialogue.

Finally, informal and unorganized social dialogue has borne its first fruit: the abovementioned¹¹ and thus far first and only regional collective agreement, concluded in 1998 between the Volkswagen companies of Argentina and Brazil on the one hand, and the metalworking trade unions of those countries on the other. In keeping with its own text, the agreement is based on the need to extend to Mercosur as a whole the understandings reached in labour-management relations, thereby establishing information sharing and dispute prevention and settlement mechanisms, as well as the recognition of trade union representation and of factory works councils. It also includes important provisions on vocational education and training, which will be discussed subsequently.¹²

At all events, the conclusion of this collective labour agreement confirms steps to ensure that in the realm of labour relations in Mercosur, collective bargaining necessarily bears a Mercosur stamp, and is henceforth suited to negotiation with a multinational enterprise, within a branch or activity, or even of a framework agreement or an umbrella social pact, in a manner more or less similar to what has taken place in the European Union.¹³

The social dialogue is still a pending subject in Latin America. An imperfect or incomplete political democracy, a concentration of wealth that has been described as “offensive” (or more diplomatically as “regressive distribution”), an economic dependency today denied in government circles by the theoreticians who designed it in academia, an ongoing “adjustment” resulting from the adoption of the neo-liberal model (*pensamiento único*), have all helped to weaken the social players, the trade unions and the governments (or at any rate government bodies responsible for social policies), as is clearly indicated in the aforementioned ILO Programme and Budget Proposals, 2000-2001 (ILO, 1999). Hence, this setting as a whole complicates the task of developing genuine social dialogue because, apart from the participation of some considerably weakened players in it, real leeway for negotiation is rather limited: most of the issues for discussion have already been decided. It is frequently the case in Latin America that when there is an invitation to dialogue, it is for the purpose of agreeing on the application of measures already adopted, not to discuss the adoption of those measures.

Therefore, despite the fact that both some constitutions and some legal systems contain provisions designed to foment dialogue, in practice, the situation has many shortcomings. In that framework, the Mercosur countries provide a somewhat less discouraging picture than that which can be observed at present in other regions of Latin America.

The trade union movement in Argentina, Brazil and Uruguay has been weakened, but less so than in the other countries of Latin America. With the democratic opening, trade unionism in Paraguay has grown, though starting from a previously very limited base. Collective bargaining has followed a similar path, with the greatest relative stagnation in that regard amongst the Mercosur countries occurring perhaps in Uruguay, since around 1991.

In *Argentina*, macro-scale and highly centralized national dialogue has borne some fruits that were highly exceptional in the Latin America of the 1990s: the 1994 Framework Agreement and the 1977 *Acta de coincidencias* (Memorandum of Agreement) between the Government and the General Workers' Confederation (*Confederación General de Trabajadores*, CGT). From 1999 to date, a number of labour-management consultative groups (*mesas de concertación social*) have been active in Paraguay, though it is diffi-

cult to predict their sustainability and eventual accomplishments. Some degree of tripartite dialogue does, however, take place. Notable in Brazil is the conduct of collective bargaining in the most highly unionized sectors and those with more mature labour relations (e.g., metalworking and banking), as well as organized participation by the trade union federations in the running of the *Fondo de Amparo al Trabajador* (FAT)¹⁴ (Worker Protection Fund). In Uruguay, given the serious reverses suffered by collective bargaining, it is an encouraging contrast to see certain forms of organized labour-management dialogue at a very highly centralized level, such as the participation of workers' and employers' representatives in the directorate of the *Banco de Previsión* (Social Security Bank),¹⁵ in the Mercosur Mixed Sectoral Commission (*Comisión Mixta Sectorial del Mercosur*) and in the National Employment Board (*Junta Nacional de Empleo*).¹⁶

In any case, three general comments may be made in this connection. First, it seems absolutely necessary to strengthen the social players (especially the trade unions), as a prior condition for the development of efficient and fluid forms of social dialogue. Second, in recent years, Mercosur has provided a setting for extra-national social dialogue as important, if not more so, than that provided by the national systems of labour relations, the first having possibly exerted a favourable influence on the second. Third and last, it is probable at a time when labour-management dialogue on traditional topics (wages, working hours, working conditions) is hampered by the situation described in the opening lines of this section, the definitive inclusion of vocational education and training in the system of labour relations is perhaps providing in interesting point of agreement from which to explore the possibilities for developing social dialogue.

Social dialogue on vocational education and training

In recent years, vocational training has become an event proper to the world of labour without, however, ceasing to be an educational event. On the one hand, it is recognized as one of the fundamental rights of workers (Barbagaleta, Barreto and Henderson, 2000; Garmendia, 2000), and on the other, as a tool of competitiveness of the enterprise and as a potential comparative advantage for the national economy. The result is that a space has been developing around vocational training that lends itself to the various forms of social dialogue (Ermida and Rosenbaum, 1998; Rosenbaum, 2000a;

Cappelletti, 2000; Dieese, 2000; Reynoso, 2000; Céspedes, 2000; Rosenbaum, 2000b),¹⁷ which seem to have evolved the most, albeit still embryonically, in the Mercosur countries.

Accordingly, in Argentina, both the 1994 tripartite Framework Agreement and the 1997 bipartite *Acta de coincidencias* (Memorandum of Agreement) contain interesting provisions on vocational training, despite the fact that not all were fully implemented subsequently. Both in Argentina and in Brazil, it turns out that more than 20 per cent of the recently concluded collective agreements do contain clauses on vocational training.

In *Paraguay*, the social players take part in the running of the National Professional Advancement Service (*Servicio Nacional de Promoción Profesional*, SNPP) and a 2000 draft law that includes a reform designed to implement a national vocational training system prescribes that the system's governing authority should be of tripartite composition.

In *Brazil*, workers and employers participate in CODEFAT (*Consejo Deliberativo del Fondo de Amparo al Trabajador* – Deliberative Council of the Worker Protection Fund), a fund that finances major training programmes based on agreements with trade union bodies and other institutions.

In *Uruguay*, the labour retraining fund is managed by the National Employment Board (*Junta Nacional de Empleo*), also of tripartite composition, and which finances training programmes for the jobless and for other groups with job-market placement difficulties.

In the meantime, at the regional level, the aforementioned Volkswagen collective agreement within Mercosur contains significant provisions on vocational training. First, it prescribes the harmonization of training programmes across the various Volkswagen plants in Mercosur. Second, it envisages cooperation of trade unions and works councils in drawing up the programmes. Finally, it provides for automatic recognition of certificates from courses, seminars or training programmes undertaken in any of the units of the firm. All of this falls under the heading "vocational education and training system", which points to the intention to draft a vocational training programme conceived for Mercosur as a whole.

It is not without significance that the first "Mercosur-wide" collective agreement – of limited content and scope, as is only natural for an initial, precursory experiment – does include the topic of vocational training and simultane-

ously establishes some guidelines that are not merely declarative but well attuned to the restructuring of regionwide labour relations.

Finally, it is appropriate to mention the encouragement of social dialogue on vocational education and training recently proclaimed in the Resolution concerning human resources training and development, adopted at the 88th Session of the International Labour Conference held in Geneva in June 2000. Paragraph 18 of the Resolution provides that "Trade unions and employer associations may also contribute to training by managing their own training institutions and providing education for their members. Particularly at the sector and enterprise levels, collective bargaining can set appropriate conditions for the organization and implementation of training." Paragraph 19 states that "the social partners should strengthen social dialogue on training" and that "Government should establish a framework for effective social dialogue and partnerships in training and employment." Paragraph 20 in turn underlines that "the scope and effectiveness of social dialogue and partnerships in training is currently limited by the capacity and resources of actors", and proposes that "being a tripartite organization, the ILO should lead international cooperation to build up capacities for social dialogue and partnership building in training", adding that "additional efforts should be made for the benefit of developing countries". Finally in what seems an allusion to Mercosur, this same paragraph states that "recent regional economic integration also brings a new dimension to social dialogue on training and the need for capacity building." (Topet, Barboza and Rivas, 2000).¹⁸

Notes

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¹ It should be clarified that conflict is always latent in labour relations and underlies all forms of social dialogue in a more or less obvious fashion. In addition, social dialogue may include such participatory means of labour dispute settlement as voluntary conciliation, mediation and arbitration, in which the parties interact.

² On similar or close concepts such as those of tripartitism, participation, coordination, collective bargaining, consultation.

³ See subsequent section entitled "The social dialogue in Mercosur".

⁴ Multinational enterprises can clearly give rise to examples of social dialogue that simultaneously display maximum centralization and maximum decentralization. Hence, the European information and consultation mechanisms and

collective bargaining in multinational enterprises are methods of dialogue with the highest degree of decentralization as they are limited to the enterprise itself but are very highly centralized in that they transcend national borders and encompass an entire region (the European Union or Mercosur, for example).

⁵ As already stated, dialogue and conflict are the two dynamic elements of the system of labour relations, i.e., those that account for its operation.

⁶ With minor variations.

⁷ See the preceding paragraph and the authors cited.

⁸ See above, under the section entitled "Prerequisites of the social dialogue"

⁹ We are referring to the (regional) European social dialogue and not to the social dialogue within each European country.

¹⁰ Just as in the preceding paragraph concerning the European Union, reference is being made to the regional Mercosur social dialogue and not to that taking place within each member country.

¹¹ See above, under the section entitled "Categories of social dialogue".

¹² See the subsequent section entitled "Social dialogue on vocational education and training".

¹³ See above, under the heading "Prerequisites of the social dialogue".

¹⁴ Which will be discussed in the following section.

¹⁵ State authority that manages the social security system.

¹⁶ Participation in the National Employment Board is also mentioned in the following section. See RELASUR concerning these experiments.

¹⁷ CINTERFOR/ILO has endeavoured to follow these developments closely through various publications.

¹⁸ The full text of the Declaration can be consulted in the annexes to the CINTERFOR/ILO publication, *The collective labour agreement in Argentina, Paraguay and Uruguay*.

Bibliography

Barbagelata, Héctor-Hugo (director of the publication); Barreto Ghione, Hugo and Henderson, Humberto. 2000. *El derecho a la formación profesional y las normas internacionales*, CINTERFOR/ILO, Montevideo.

Capelletti, Beatriz. 2000. "Actores sociales y formación en Argentina", *Serie Aportes para el Diálogo social y la formación*, No. 2, Montevideo.

Céspedes, Roberto. 2000. "Diálogo social y formación en Paraguay", *Serie Aportes para el Diálogo social y la formación*, No. 5, Montevideo.

Dieesse. 2000. "Dialogo social et formação no Brasil", *Serie Aportes para el Diálogo social y la formación*, No. 3, Montevideo.

Durán López, Federico. 1999. "Presentation", in Carballo Mena, César A. and Villasmil, Humberto. 1999. *Diálogo social y concertación en Venezuela*, CES, Madrid, p. 8.

Ermida, Oscar. 1995. "Los CES: antecedentes para el Foro Consultivo Económico-Social del Mercosur", *Revista de Relasur*, No. 8, Montevideo, p. 23.

— and Rosenbaum, Jorge. 1998. *Formación profesional en la negociación colectiva*, Montevideo.

- . 1998. "Prologue" in Cedrolla Spremolla, Gerardo. 1998. *Ensayo sobre la paz social*, Montevideo, p. 8.
- . 1999. "La flexibilización de la huelga", in Critchley, Simon et al. 1998. *Descontruction and Pragmatism*, Spanish translation, Buenos Aires, p. 13.
- . 2000. "La cuestión laboral en el Mercosur", in Ermida, O. and Barreto Ghione, Hugo (coordinators): *Formación profesional en la integración regional*, CINTERFOR/ILO, Montevideo, pp. 161ff.
- Garmendia Arigón, Mario. 2000. *Legislación comparada sobre formación profesional*, CINTERFOR/ILO, Montevideo.
- Montoya Melgar, Alfredo. 1998. "El diálogo social en la Unión Europea", in Durán López, Federico (director of the publication): *El diálogo social y su institucionalización en España e Iberoamérica*, CES, Madrid, pp. 237ff.
- Mouffe, Chantal. 1998. "Desconstrucción, pragmatismo y la política de la democracia", in Critchley, Simón et al.: *Deconstruction and Pragmatism*, Spanish translation, Buenos Aires.
- ILO. 1999. Programme and Budget Proposals, 2000-2001, ILO, Geneva. Vol. 1, p. 49.
- RELASUR. 1995. *Formas de tripartismo en el Uruguay*, CINTERFOR/ILO, Montevideo.
- Reynoso Castillo, Carlos. 2000. "Diálogo social y formación en México", *Serie Aportes para el Diálogo social y la formación*, No. 4, Montevideo.
- Rodríguez Piñero, Miguel. 1998. "La institucionalización de la representación de intereses: los Consejos económicos y sociales" in Durán López, Federico (ed.): *El diálogo social y su institucionalización en España e Iberoamérica*, CES, Madrid, p. 80.
- Rosenbaum, Jorge. 2000a. "Negociación colectiva sobre formación profesional en el Mercosur", *Serie Aportes para el Diálogo social y la formación*, No. 1, Montevideo.
- . 2000b. "Diálogo social sobre formación en Uruguay", *Serie Aportes para el Diálogo social y la formación*, No. 6, CINTERFOR/ILO, Montevideo, Ch. III, para. 1.
- Sepúlveda, Juan M. and Vega Ruiz, María Luz. 1999. *El diálogo social en los países andinos ¿nuevo camino para los sindicatos?*, Lima, pp. IX-X and p. 89.
- Serna, María del Pilar and Ermida Uriarte, Oscar. 1994. "El tripartismo", *Revista de Derecho Laboral*, t. XXXVII, Nos. 173-174, Montevideo, pp. 7-10 and 10ff. This article has also been published, with variations, in *Enciclopedia Jurídica Omeba*, Buenos Aires, 1996, Appendix VII.
- Simón, Manuel and Martínez, Daniel. 1999. "Preface" in Sepúlveda, Juan M. and Vega Ruiz, María Luz: *El diálogo social en los países andinos ¿nuevo camino para los sindicatos?*, Lima, pp. IX-X.
- Topet, Pablo, Barboza, Ramiro and Rivas, Daniel. 2000. *El Convenio 142 en Argentina, Paraguay y Uruguay*, CINTERFOR/ILO, Montevideo, pp. 161ff.
- Valverde Martín, Antonio. 1998. "Concertación social y tripartismo: modelos de concertación social en Europa", in Durán López, Federico (ed.): *El diálogo social y su institucionalización en España e Iberoamérica*, CES, Madrid, p. 105.

Social dialogue in the Andean countries: A rough road

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In the Andean countries, with the exception of Peru, the social dialogue falls within the public domain and is a matter for public discussion, yet paradoxically, apart from the widespread use of a concept that is more or less in vogue, there are no stable or concrete experiences, perhaps for lack of a true culture of dialogue. Nevertheless, dialogue is present in the discourse and statements of rulers, employers, trade unionists, politicians and intellectuals and there is no denying its topicality. Whenever there is a crisis, or a change, social dialogue makes its appearance as a way forward, as a proposal, as the “remedy”, a pattern that has been increasingly recurrent over this past decade.

Although the Andean countries do not have a long tradition of social dialogue, they have made some sporadic attempts at genuine concerted action and at reaching some forward-looking agreements.

The varying national settings, the diversity of players involved in the dialogue and the different institutional frameworks in place in each country make it difficult to sum up the practice of social dialogue and its evolution in the Andean countries.

The conviction of the need for social dialogue, which became apparent in some countries of the region during the 1980s, has grown stronger over the past ten years. Countries with a tradition of agreements (such as Venezuela) have sought to persevere along that path with varying degrees of success, whilst in others the social dialogue has been used as a way of guaranteeing democracy and achieving a certain economic stability. Legislative reform and the quest for flexibility is perhaps the latest trend being pursued through agreements (Venezuela).

As in the experiences of El Salvador and Guatemala, using social peace as the basis for overcoming national conflict situations (Colombia) would also seem to be another new avenue to be followed in the subregion.

What is the status of the dialogue in these countries? As will be seen in the pages that follow, it has evolved quite differently from one country to the next.

Evolution of the situation

The specific features of *Bolivia* (inter alia, a single trade union confederation, the formulation of a national list of claims in the form of a major framework agreement,¹ the removal of bargaining on industrial relations issues from the bylaws of business chambers, the leadership of the mining sector in the development of labour relations, the strong indigenous presence) have until fairly recently meant the non-existence of bipartite or tripartite agreements in practice, which makes the country a unique case in the subregion.

The first attempt of recent years took place at the end of October 1996 in La Paz at a tripartite meeting organized as part of a technical cooperation project and funded by the Inter-American Development Bank (IADB). The participants included representatives of the *Confederación Obrera Boliviana* (COB) (Bolivian Workers' Confederation), the *Confederación de Empresarios Privados de Bolivia* (CEPB) (Confederation of Private Businesspeople of Bolivia) and of the State (Ministry of Labour), and two main topics were discussed: improving the level and quality of employment; and establishing participatory and modern labour relations.

In that same connection, the so-called National Dialogue under the theme "Bolivia on the Eve of the 21st Century" took place in La Paz from 6 to 18 October 1997 at the invitation of the President of the Republic.² The process revolved around four discussion groups: opportunity (economic development); dignity (the fight against drug trafficking); justice/institutional framework (State and society); and equity (human development). Consensus was reached in some instances, for example, concerning the need to end social exclusion and combat extreme poverty, the need for equity, equitable income distribution, non-discrimination, education and training of human resources, increasing the level and quality of employment, and production capacity and promoting the participation of civil society institutions in policy-setting.

In July 1998, in the framework of ILO activities and in a new form of furthering the national dialogue, workers, employers and government signed the so-called Santa Cruz Declaration, the first truly coordinated pact, setting forth proposals for a range of actions in the sphere of industrial relations and vocational training, including an established plan for developing basic agreements. Nevertheless, it has so far not been put into practice.

A final attempt at tripartite dialogue took place in connection with the process of amending the General Labour Law (*Ley General de Trabajo*) (LGT), which dates back to 1939. Accordingly, in October 1998, the Government held the first meetings to launch a process to amend the LGT on a tripartite basis and with the technical support of the ILO. Although certain activities and seminars have been taking place to carry out the preparatory work, the initial attitude of deep-seated distrust in trade union circles and fear of a process designed to introduce flexibility, and ultimately, a degree of indecision on the part of the Government owing to pressures from international funding agencies have hampered meaningful progress.

In the wake of the Congress of January 2000, the COB embarked on a phase of self-definition and one without a sitting Executive Committee. There is no doubt that the lack of coordinative leadership of the trade union movement is proving an obstacle to reactivating and reconsidering processes of dialogue. In fact, the new attempt at social dialogue, referred to as "social dialogue for the crisis", has the participation of various business sectors only, the COB being conspicuously absent.

The 1994 Social Pact

In *Colombia*, on the basis that the "social pact for the setting of prices and wages is an essential component of an anti-inflation programme for an indexed economy such as that of Colombia, a necessary complement to a macro-economic policy consistent with the target levels of inflation and aimed at preserving basic economic balances", the Social Pact on Productivity, Prices and Wages was signed on 9 December 1994, representing a significant milestone in the evolution of social and economic coordination within the region.³

The general aims of the Pact were, inter alia: (a) to direct to economy "along a path of stability, growth and equity"; (b) to link productivity and competitiveness; (c) to integrate capital and labour in an internationalizing economy, based on economic growth, social justice and equity; (d) to recognize that the attainment of those objectives "calls for solid and representative trade union and business organizations in order to shape and lead the processes of economic and social change", and (e) to underscore the desirability of the social dialogue as the foundation for social relations.

The Pact included commitments on the part of the Government, employers, workers and the territorial governments, as well as others of a tripartite nature concerned with determining and promoting specific productivity targets, the setting of the minimum wage, the anti-inflation plan, the dissemination of the Pact and its follow-up, evaluation and validity. Through the various measures agreed, the parties were striving to overcome the factors negatively affecting productivity. Besides, "workers, together with the government and enterprises, [would] work out policies aimed at further strengthening trade unions".

Nevertheless, this Pact failed because inflation surpassed the limits foreseen⁴ as it was never possible to boost productivity and wages could not be adjusted in conjunction with this variable. Besides, coordination between the monetary authority and the government failed to materialize. The trade union confederations did not ratify their accession to a new social pact in 1997 (in principle it was only the *Confederación General de Trabajadores Democráticos* (CGTD) that had not taken part in the signing) and the social dialogue broke down, with the result that things reverted to their initial state.

Nevertheless, one outcome of the 1994 Pact was the creation of the Tripartite Commission for the Development of the Trade Union Move-

ment (22 December of that year), without CGTD involvement. Its deliberations led to the May 1995 signing of the Tripartite Agreement for the Strengthening of the Trade Union Movement, including general proposals and specific agreements drawn up by three committees of the Tripartite Commission: the committee on constitutional affairs; that on education, training and dissemination for the trade union movement; and that on the strengthening of industrial relations.

Amongst the agreements of the Tripartite Commission and in the framework of a national programme managed by the Ministry of Labour with the support of the United Nations Development Programme (UNDP) and the ILO, the "New Culture of Labour Relations" Project undertook tripartite publicity and educational activities designed to enhance the world of labour relations, as well as the perception and attitudes of the social partners. Between 1995 and 1999, publicity campaigns and seminars and workshops were staged on the topic as part of the Project, and it was the judgement of the social players that the programme had substantially improved the knowledge and development of labour relations in the country.

Law No. 278 was enacted in 1996 regulating the make-up and functioning of the Permanent Commission for the Coordination of Wage and Labour Policies (CPCPSYL), created under article 56 of the National Political Constitution. It operates on a tripartite basis and its decisions must be taken by consensus amongst the three sectors. Its functions include fostering good work relations and guaranteeing freedom of association, helping to settle collective labour disputes, setting wage policy and the minimum wage by social dialogue, and drawing up labour policy by means of strategic plans.

Disputes

Industrial disputes have intensified in Colombia since 1997 owing to the deepening economic crisis, the upsurge in violence and international pressure. The trade union movement has been exerting constant pressure (mainly through public-sector strikes) and has been thus compelling the Government to reach sectoral settlements. Between 11 and 18 February 1997, civil servants went on strike in protest against the Government's restructuring policies. An outcome of the strike was the signing of the State Labour Agreement (*Acuerdo Laboral Estatal*) with the *Comando Unitario de Trabajadores*

(Unified Worker Command), composed of the *Central Unitaria de Trabajadores* (CUT), the *Confederación de Trabajadores de Colombia* (CTC) (Workers' Confederation of Colombia) and the aforementioned CGTD, recognizing the legitimacy of workers' activities and of dialogue as a sign of the functioning of democracy. Although talks went ahead, the final crisis of the Samper Government made it impossible to reach any agreement and led to the national civil service strike of October 1998. With their enhanced ability to rally support and faced with a new adjustment policy, an attempted labour reform and the absence of a forum for dialogue, the trade union confederations again called a nationwide strike on 31 August 1999, resulting, inter alia, in a commitment by the Government to convene discussion groups to bargain labour claims submitted by the organizations.

New scope

In the light of the stalemate of the talks and of the need to revitalize the social dialogue (which risked being replaced by talks with the guerrilla movement), an agreement⁵ was signed on 15 August 2000 with ILO support, envisaging the launch of concerted social dialogue by 30 October 2000 on five fundamental issues: (a) policy and programmes for generating urban and rural employment, giving priority to emergency plans; (b) social security system, in particular that of the Social Security Institute; health and pensions system and topics pertaining to the Family Allowance Funds (*Cajas de Compensación Familiar*), the Colombian Institute for Family Welfare (*Instituto Colombiano de Bienestar Familiar*); (c) vocational education and training; (d) labour legislation and the development of Article 53 of the National Constitution; and (e) wage policies and the setting of the minimum wage.

The agreement is of special importance as it reopens the way for negotiations on labour matters between both sides of industry and the Government and has placed substantive Colombian labour issues on the agenda. Finally, the Pact has made it possible to improve tripartite relations and has created new scope for defusing social tensions in Colombia and even for cooperating by this means with the peace process⁶ itself.

In *Ecuador*, recent endeavours have produced the "Protocol of a process of social dialogue for the social pact" (*Protocolo de un proceso de concertación social para el pacto social*), signed in October 1996,⁷ giving rise to a process of dia-

logue revolving around five tripartite discussion groups.⁸ The topics dealt with by those discussion groups are: social security (reform); harmonization of wages; vocational training; and employment and industrial relations.⁹

The Ecuadorian process

Countless activities have been undertaken in an attempt to reach a consensus around the various topics since the launch of the process. With the technical support of the ILO, seminars and workshops have been taking place and have produced preliminary agreements and proposals. Indeed, both the discussion group on training and that on employment succeeded in drafting preliminary documents and agreements that were never definitively adopted, as they were never signed by the Plenary for National Social Dialogue (*Plenario de Concertación Nacional*). The endeavours and the good will of the social partners notwithstanding (the United Workers' Front (*Frente Unitario de Trabajadores* – FUT), despite some initial reluctance, came out in favour of continuing the process), the impact of the external crisis, the changes of government and the recent implementation of a policy of internal adjustment have brought the process¹⁰ to a standstill. Following the overthrow of President Jamil Mahuad, it became clear that in Ecuador there was no great social pressure for social dialogue considering that the majority of the population is indigenous, without paid employment and with a programme of claims for negotiation that goes far beyond labour matters (education, health, land, oil mining operations, communications infrastructure, amongst others) and which are being channelled through the Confederation of Indigenous Nations of Ecuador (CONAIE) and not through the trade union confederations.

It is important to point out that the trade union confederations are not very unified and are plagued by internal wrangling. The latest split in the Ecuadorian Confederation of Class Organizations (CEDOC) has further undermined the unification of positions in the trade union movement.

The present Government does not seem very keen on social dialogue. Its main aim for the time being is economic adjustment that will enable it to balance its fiscal accounts, renegotiate the payment of the external debt and relaunch economic growth based on private investment. By and large, the fiscal and financial policies are contained in the Memorandum of Understanding

with the International Monetary Fund (IMF), and have taken the form of the enactment of two laws (Trolleybus I and Trolleybus II)¹¹ introducing sweeping reforms in at least 31 areas ranging from labour reform to the removal of subsidies, and covering the areas of defence and border investments, amongst others. Considerable sectors of workers and employers have strenuously opposed the reforms, thereby creating a climate hardly favourable to social dialogue.¹²

In Peru

As of 1991 in *Peru*, the new legal and political framework and the consequent weakening of the trade union movement, as well as the state of the domestic economy have made it difficult to arrive at genuinely coordinated agreements, and there are only a few not very successful tripartite institutional experiments, such as the Procedural Oversight Committee (*Comité de vigilancia de procedimientos*) of the Ministry of Labour and Promotion (*Ministerio de Trabajo y Promoción*), the National Council for Coordinated Action (*Consejo Nacional de Concertación*) and the more recent Tripartite Commission for Dialogue and Labour Coordination (*Comisión Tripartita de Diálogo y Concertación Laboral*).¹³

The Peruvian trade union movement has repeatedly stated its interest in joining and participating in tripartite and bipartite social dialogue. Nevertheless, the reluctance on the part of both the Government and employers' organizations with respect to industrial relations, as well as an adverse external and domestic context have created a wholly unfavourable atmosphere. They further believe that the present political context marked by a direct attack on democracy and the dismantling of industrial relations must be changed before true social dialogue can take place.

Given the acute political crisis that has been engulfing Peru in the wake of the 1995 presidential and congressional elections, the Organization of American States (OAS) encouraged the creation of a Discussion Group for democracy amongst the pro-government and opposition political forces, the business community, the Church and representative organizations of civil society and workers. The *Confederación General de Trabajadores del Perú* (CGTP) (General Workers' Confederation) is participating on behalf of workers' organizations.

Perhaps owing to its aforementioned tradition of agreements, *Venezuela* is this subregion's

most interesting recent case. The most controversial industrial relations issue of the past 20 years has undoubtedly been that of social security benefits, and specifically their reajustment based on the worker's last salary (article 108 of the 1990 Organic Labour Law (*Ley Orgánica del Trabajo*) (LOT)). The various sectors involved formulated several proposals and counterproposals for the reform of the system of social security benefits. The employers have underscored the need to improve the social security system.

The necessity of conducting coordinated talks was translated into reality with the 1996 creation of a Tripartite Commission to discuss the subject, with the participation, for the government side, of CORDIPLAN, the Ministries of Labour and Finance and Industry and Trade; for the employer side, of FEDECAMARAS, CONINDUSTRIA, CONSECOMERCIO, FEDEAGRO and FEDEINDUSTRIA; and for the trade unions, of the CTV, CODESA and CGT. On 17 March 1997 the Tripartite Agreement on Comprehensive Social Security and Wage Policy (ATSSI) (*Acuerdo Tripartito sobre Seguridad Social Integral y Política Salarial*) was adopted, which was reinforced on 3 July of that same year by the Tripartite Agreement on Job Stability and Wages (ATES) (*Acuerdo Tripartito sobre Estabilidad en el Empleo y Salarios*).

The ATSSI is a tripartite and umbrella policy agreement that institutionalizes the social dialogue by recognizing its permanent and non-short-term nature. As stated above, the ATSSI reforms social security benefits and wages, changes the seniority-based system of social security benefits, restructures wages – converting some existing coupons into wages; provides for the tripartite setting of wages; amends the system of indemnity for unwarranted dismissal; and prescribes compensation for workers' transfers.

As pertains to social security, the ATSSI sets out the model for reform covering wage-earners, independent workers and the urban and rural informal sector and guarantees the participation of public- and private-sector social partners in its organization, financing and administration, which would be of a mixed nature; the health subsystem is to be based on a distinction between the insurance function and the recognition of the beneficiary's right to choose the health-care provider; is for the recapitalization of the Unemployment Insurance Fund (*Fondo de Seguro de Paro Forzoso*) and its financial and administrative separation from the Venezuelan Social Security Institute (IVSS)

(*Instituto Venezolano de los Seguros Sociales*). The ATSSI also covers the strengthening of collective labour relations and tripartitism and relations with the ILO.

Consequent on its signature, the LOT was amended and a draft Organic Law on Comprehensive Social Security (*Ley Orgánica de Seguridad Social Integral*) was adopted (30 December 1997), and completed in 1998 with a package of laws on the regulation of the social security subsystems. To complete the tripartite framework, the ATES put forward the following proposals in July 1997:

- (a) formulation of an employment and training policy for consistent and efficient work;
- (b) stepping up the information campaign concerning the scope of the LOT amendment by the ATSSI;
- (c) commitment by employers to preserve job stability and to coordinate positions with trade union organizations in that connection; and
- (d) in the event of mass dismissals, government invocation of its powers with regard to tenure rights (LOT article 34) to declare the suspension of such dismissal and the reinstatement of those concerned.

Although the instrument did not include provisions on compliance, some specific actions were carried out in that regard:

- (a) widespread inspections were conducted with respect to stability;
- (b) four sectoral tripartite commissions were set up to discuss wage adjustments; and
- (c) a technical commission was appointed to draft a Coordinated Unemployment Policy (PEC) which was set out in December 1997 in a document containing studies, diagnoses and actions in that connection.

At present, political change and the new processes of redefining the State have halted the progress of the social dialogue. It will be necessary to wait and observe the evolution of the policies of the new Government so as to decide whether or not this is a definitive development and whether the tradition of agreement has merely been momentarily put on hold. The trade union organizations, which are active and involved in promoting the whole process, are currently facing government proposals involving intervention in the trade union movement and interruption of the exercise of freedom of association. In this process, both the employers

and workers are aware that the dialogue is based on the existence of representative social players exercising their rights in full freedom. Any attempt against them would spell the end not only of dialogue but also of the very essence of democracy.¹⁴

Subregional level

What has been called the Andean Community of Nations (CAN) is situated at this level, being the region's oldest integration process – of 31 years' standing and bringing together Bolivia, Colombia, Ecuador, Peru and Venezuela. The Andean Consultative Labour Council (CCLA) (*Consejo Consultivo Laboral Andino*) has been created as part of that institutional structure and is comprised of the representatives of the vast majority of the subregion's trade union confederations on the basis of National Chapters grouping the confederations by country. As an organ of the CAN, its purpose is to issue opinions on community programmes and activities and more broadly, to help draw up a Social Agenda for the CAN, thus adding a social dimension to that process.

The Eleventh Andean Presidential Council (*Consejo Presidencial Andino*) held in Cartagena de Indias, Colombia in May 1999, charged the Ministers of Labour of the subregion with devising actions to further the coordination of policies on the encouragement of employment, vocational education and training, occupational health and safety, social security and migration for reasons of work. All this is in anticipation of the forthcoming formation of the Andean Common Market in the year 2005 and the drawing up of the Subregional Social Agenda.

In compliance with that presidential mandate, the Ministers and Deputy Ministers of Labour of the Andean Community have since then held a series of coordination meetings to identify points of convergence in each of these main subject areas and their interlinkage with the amendment of the Simon Rodríguez Convention for social and labour integration. The CCLA has participated in those meetings and has put forward its proposals and viewpoint on the main subject areas in question, which reflects the dynamism of that institution.

In July 2000, the Business and Labour Consultative Councils agreed on promoting the active involvement of both sectors in the building of the Andean Common Market so as to consolidate the Andean integration process, which would yield greater social and economic benefits.¹⁵

An instrument of national stability?

On the labour front, social dialogue constitutes the basis of development. An agreed labour or reform policy will avoid basic conflicts and lay the groundwork for domestic development whilst encouraging foreign investment (more than cheap labour, what is often being sought is a workforce not prone to industrial disputes). That dialogue must be founded upon solid and novel bases. Undoubtedly, consensus generates expansion and opens the way for the development of the concept of solidarity, thereby stimulating economies and the proper functioning of the system of industrial relations.

The governments are aware of the change and a growing number of tripartite institutions, coordination mechanisms and consultation processes are being built into laws, even at the constitutional level. In most of the Constitutions of the past ten years the social dialogue is reflected in the rights of participation, the coordination committees and in the need to create Economic and Social Councils.

Despite the headway made, the question remains as to how far dialogue has helped meet the challenges. In principle, an examination of the actual situation reveals that although there has been an undeniable political impact, the problems of substance have been tackled but not overcome (even though no progress has been made by those countries with no experiments in dialogue, which would suggest that although dialogue may not be the cure-all, neither is it a bad thing). It should be pointed out however, that except for a handful of cases, the problem-ridden development of dialogue in all the countries is such that it is impossible to draw conclusions as to the long-term impact of agreements of this type.

Clearly, discussions and decisions at the central level are less precise and cannot provide "tailor-made" solutions to every problem. Nevertheless, where labour relations are coordinated, it is this very flexibility that will make for its further strengthening and adaptation to specific cases. Besides, practice (the failure of some of the most recent agreements being cases in point) shows that at the central level, it is seemingly very difficult for employer organizations to enter into firm and precise agreements with respect to job creation and preservation, to match the sacrifices made by trade unions.

The social dialogue is not an abstraction or merely an idea dreamt up by international agencies, instead – and experience bears this

out — it is the most suitable means by which to cope with the changes, with globalization and the structural adjustments that are reshaping the rules of the game and affecting societies and the lives and culture of their men and women.

This new approach to social dialogue must involve all stakeholders. At the trade union level, the task must be started by the national trade union leaderships, with the participation of the rank and file, who must play a larger role in decision-making in trade union confederations in the subregion. Trade union reform will necessarily involve the capacity to recognize that in addition to the fact that the movement's membership is eroding, it is facing great difficulty in expanding its membership but is continuing to operate as though it had a broad membership base.

It is necessary to change the way trade union policy is made, to improve relations between the various categories of workers, to incorporate other sectors and readapt trade union structures. These proposed changes must be the basis for the recovery of trade unions, as this is the approach taken by democratic organizations in the wake of major setbacks.

Popular election of trade union leaders

It would nevertheless seem that the trend in the Andean countries is towards appointing national trade union leaders by popular election (this is the case of the CUT of Colombia and of Venezuela), a fact with fundamental strategic significance and which will change the physiognomy and the way of making trade union policy.

The challenge to the trade union movement is that of developing a strategy with a long-term vision, tackling the conflicts stemming from the need to integrate into a new type of society that is emerging as a result of structural changes and to overhaul the historical model of trade union action. A cultural change of this magnitude calls for arduous talks between leaders and rank and file. Our experience with the different structural levels of trade union organizations enables us to affirm that the rank and file are disposed towards greater change than what is generally decided at the leadership levels. The sheer magnitude of the problem is bound to spawn difficulties and will call for changes to trade union action and thinking that go far beyond the mere willingness to modify programmes.

Hence, for the trade union movement, the practice of dialogue is also a tool that is encour-

aging it to assume a new attitude and to carry out efficiently the role incumbent upon it in the processes of concerted action.

This is why social dialogue makes sense as a focus of progress, as it fulfils a key function in facilitating democratic governance and lending feasibility to a process of change that is going ahead anyway, based on a certain degree of agreement, consensus and a philosophy of solidarity and the common good.

Undoubtedly, in a world where economic competitiveness is inescapable and where flexibility is an objective of government policy programmes, it must be ensured that there are mechanisms for guaranteeing the minimum rights of workers. Only the active involvement of all the social partners in all the national processes can guarantee the attainment of this goal and hence of social peace.

The fact that the social dialogue may not be the definitive answer does not negate its usefulness or even its central role. It is clear that the Governments cannot by themselves resolve all economic and social problems and that bargaining and the involvement of the social partners can be instrumental in coming up with more realistic and easily applicable solutions. This notwithstanding, dialogue at all levels is one of the underpinnings of the legitimacy of democracy in that it complements the parliamentary function of popular representation. Hence the need to gather and listen to the opinion of the social players organized around the world of work.

Notes

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¹ Which was not submitted either in 1999 or 2000, however; an indication of the crisis now gripping the COB.

² The participants included representatives of the Legislative, Executive and Judicial branches and of the *Corte Nacional Electoral* (National Electoral Court); the Catholic Church; the *Confederación de Empresarios Privados de Bolivia*; the *Central Obrera Boliviana*; the *Confederaciones de Trabajadores Campesinos, Gremiales y Artesanos* (Confederations of Rural, Professional and Handicraft Workers); the professional colleges; NGOs; women's organizations, the mass media and organizations of journalists; private and public universities; the armed forces; the political parties of Government and opposition; the *Asamblea de Derechos Humanos* (Human Rights Assembly); the *Federación del Trópico de Cochabamba* (Federation of the Tropical Zone of Cochabamba) and of cultural movements.

³ It was drafted by a Commission comprised of representatives of the National Government (Minister for Economic Development, who chaired the Commission, and the Minis-

ters of Finance and Public Credit, Agriculture and Rural Development, Labour and Social Security, Mining and Energy, Transport; the Council of Economic Affairs and Competitiveness, which coordinated the Commission, and the Director of the National Planning Department). It also included representatives of the business community (the Presidents of ANDI, ASOBANCARIA, SAC, FENALCO and of ACOPFI), representatives of the labour movement (the Presidents of CUT, CTC, UTRACUN and FANAL). Also participating were the President of the Colombian Federation of Municipalities (*Federación Colombiana de Municipios*) and the President of the National Federation of Governors (*Federación Nacional de Gobernadores*) representing of territorial activities. The Technical Secretariat was composed of the Deputy Director of the National Planning Department, the Technical Vice-Minister for Finance and Public Credit (*Viceministro Técnico de Hacienda y Crédito Público*) and advisors from the Ministries of Finance and Public Credit, the *Consejería Económica y de Competitividad* and from the Ministry of Labour and Social Security.

⁴ Instead of the 17 per cent projected for 1996, the figure posted was 21.63 per cent.

⁵ The agreement was signed by the Minister of Labour, the Minister of Finance, the Minister of Development, the Minister of Planning and by the Ministerial Advisor to the President, as well as by the organizations of employers belonging to the Livestock Breeders Association, the Agricultural Society, the Banking Association, the National Association of Industry, the Association of Small and Medium-Sized Industrialists and the National Traders Federation. Signing on behalf of the workers were the *Central Unitaria de Trabajadores* (CUT), the *Confederación de Trabajadores de Colombia* (CTC), the *Confederación General de Trabajadores Democráticos* (CGTD), and the *Confederación de Trabajadores Pensionados* (CTP).

⁶ It must nevertheless be recalled that the coordination process now getting under way is not without risk. One such risk is the tightness of the deadline. Another, the reaction by the guerrilla movement, which will perhaps wish to continue to keep labour issues on the peace negotiations agenda.

⁷ The pact was signed by the President of the Republic, the Vice-President, the Minister of Finance, the President of the Monetary Board, the Minister for Social Welfare and the Minister of Labour. Representing workers on an integrated basis, it was signed by the FUT (with the participation of CEOSL, CTE, CEDOC and CEDOCUT). Signing on behalf of the business sector were the Chambers of Industry, Commerce, Agriculture and Livestock, Construction and of small and medium-sized industry of Quito and Guayaquil.

⁸ The process of social dialogue started in 1994 concerning the harmonization of wages. The Bucaram Government signed a "Protocol for a process of social dialogue for the social pact" (*Protocolo para el proceso de concertación a fin de lograr un pacto social*) with the workers' and employers' organizations, and which was the genesis of the present one.

⁹ This latter group has met only once since its establishment.

¹⁰ Since May 1999, the social partners have repeatedly demonstrated their interest in relaunching the process on solid bases, and in fact the FUT, representing the trade union sector, held an ILO-supported evaluation seminar that made it possible to examine the process of the two preceding years and to table new proposals.

¹¹ A new Trolleybus III Law was tabled in Congress in September.

¹² Nevertheless, it opened the possibilities for bipartite worker-employer dialogue with specific results: the agreement to request the Government to withdraw all labour provisions contained in the Trolleybus II Law.

¹³ Incidentally, 1995 saw the signing, at the ILO in Geneva, of a Memorandum restoring tripartite dialogue between the CGTP and the Ministry of Labour, which was accepted though not signed by CONFIEP.

¹⁴ On 20 November 1999, the National Constituent Assembly submitted the new Constitution, article 95 of which establishes, inter alia, the obligation of rotation of incumbents of trade union posts and the need for trade union leaders to make sworn declarations of their assets before taking office – principles whose consistency with the exercise of freedom of association would seem debatable. The new Constitution was approved in a referendum.

¹⁵ The ILO has been invited to participate in various meetings of the Andean Community, the most recent of which include the meeting of Ministers of Labour (20-21 May 1999), which adopted the "Cartagena Declaration" and the "Action Plan". Subsequently, as part of the activities of the Fourteenth American Regional Meeting of the ILO, the Director-General met with senior Andean Community officials as well as with the President of the Andean Consultative Labour Council (CCLA). The outcome of that meeting was a "Cooperation Agreement between the Andean Community and the ILO". Under that Agreement, a "Letter of Understanding between the Andean Consultative Labour Council (CCLA) and the International Labour Office (ILO)" was signed during the Third Ordinary Session of the CCLA in July 2000.

Social dialogue in Hungary: What comes after the decade of central tripartism?

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The decade-long era of central tripartism in Hungary, marked by the National Interest Reconciliation Council (NIRC) and later by the Interest Reconciliation Council (IRC), practically came to an end by 2000. Simultaneously, a new institutional setting has been built in, where more emphasis is placed on the involvement of the various representatives of the society than just that of the conventional social partners.

The fundamental changes started with the current (Orbán) coalition government coming into power in mid-1998. The new Government, as the relevant key politicians have stated in a public document, “had the initial objective of rejecting any corporatist endeavours. The government intends to make decisions independently within its own jurisdiction, and is willing to reach various agreements and consensus with non-public (i.e. civil) players of the society, whenever and wherever those are competent, and when they are in a position to warrant that whoever they represent will respect such agreements” (Herczog and Ory, 1999). In this spirit, a comprehensive reform of social dialogue started in late 1998.

New approach towards social dialogue

The process of reform of social dialogue did not take Hungary unawares. Similar endeavours had emerged already in the 1996-97 period, although they did not lead to major changes (Gyarmatiné and Geiger, 2000; Hanti, 2000; Héthy, 2000; Ladó and Tóth, 2000/a and 2000/b).¹ The programme of the new Government had hinted at such reform by laying down some principles for future social dialogue. It has also been known that preparations within the State administration started in the autumn of 1998.

As the first major step in launching the process of reform officially, the Government issued a discussion paper² in November 1998. This paper briefly assessed the ten-year experience of social dialogue; identified the weaknesses of the (then) system; suggested a new set of structures; and outlined their basic features. As a background, it listed the relevant basic ILO standards and European Community documents; overviewed the main characteristics of European social dialogue, and referred to the social dialogue practices of some European Union (EU) member States.

The paper provided the basis for: (i) the Government’s concept,³ made public widely, also through the Internet; and for (ii) the Government Decree,⁴ adopted at the end of the year. Both documents only laid down the basic institutional framework, since the Government intended to develop the new social dialogue structures jointly with the social partners through a consultation process. At the outset, the Government had planned to introduce changes in the social dialogue process only with the full consent of the social partners.

However roughly outlined the Government’s concept was, it did indicate fundamental modifications compared to the previous decade. As regards central consultation and negotiation, the Government aimed at:

- making a distinction between *consultation* and *negotiation*, both in terms of the issues addressed and the parties involved; and
- distinguishing between *general economic policy issues* and *labour matters*, both in terms of the way they are addressed (i.e., negotiation or consultation) as well as the parties involved.

The Government clearly set out to establish *consultations* as the prime form of social dialogue, and to limit *negotiations* to: (i) areas where the prerogatives of the Government and the Parliament cannot be curtailed; and (ii) parties who can bear full responsibility for their commitments. The purpose of consultation was understood "to provide regular information on the endeavours of the Government, and preferably ensuring participation in the decision-making process, and ongoing dialogue in all major questions that concern economic development" (Herczog and Ory, 1999).

The Government's concept placed a strong but distinct emphasis on *pre-legislative consultation*. It actually aimed at rendering operational the provision of the Act on legislative procedures,⁵ which had been in force for more than a decade, and which stipulates that the legislators must consult with the representatives of those concerned by the given legislative text. The Government's concept obliged the line Ministries to consult the relevant social partners and professional interest groups, in the context of their legislative activities, and proposed the introduction of certain procedures. Thus *pre-legislative consultation* has been clearly distinguished from *general consultation*, both in terms of the level of consultation as well as the parties involved.

The first quarter of 1999 saw heated debates between the supporters and the opponents of the reform. Opponents, on one side, wanted to maintain the structures in place, possibly with some minor modifications to ensure more efficient tripartite cooperation. Supporters of the reform, on the other side, wanted to achieve fundamental changes in order to eliminate the (presumed or real) danger of corporatism. In between, some eventually accepted the need for restructuring but urged thorough preparation, and set as a precondition for any changes the full consent of all three parties.

Informal tripartite talks in early 1999, involving discussing of the Government's concept in more detail, did not result in any common position.⁶ According to the social partners, the Government's concept was too vague for any serious consultation, and they asked the Government to shed more light on its aspirations. They also suggested adopting a gradual approach: first, focusing on national-level social dialogue, with special emphasis on the future of the Interest Reconciliation Council (IRC); then continuing with the development of the reform proposals concerning sectoral and branch social dialogue structures.

The revised Government proposal,⁷ which was merely intended to replace the Interest Reconciliation Council, was submitted to the plenary session of the IRC in late February 1999. The discussion, once again, has not led to a common view.

Subsequent closed-door talks, meetings with the Minister at the Prime Minister's Office and technical discussions, all aimed at reaching a compromise. The views, for the first time, were converging. A compromise could even have been achieved if: (i) the Government had been slower with the implementation of its ideas, providing more time for consultation; and, more importantly, if (ii) the issue of the reform had not become part of a "package-deal" with other agendas such as the modification of the Labour Code and a wage moderation agreement, both highly controversial in nature.⁸

The end of spring and early summer eventually marked a breakthrough: although no consensus was achieved as regards the dissolution of the IRC, within a few months' time a new institutional setting for social dialogue had become operational. In April 1999 the Economic Council held its first meeting, then the National Labour Council (NLC) was established; in May the Council for ILO Affairs was set up, followed by the Council for European Integration in June. With these events, the Government's concept had actually been implemented. The social partners had no choice but to accept the new situation.

New structures for social (and civil) dialogue⁹

The IRC was replaced by a set of new forums, the main mandates of which are discussed below and are dual in nature: (i) consultation on economic issues; or (ii) consultation and negotiation concerning labour issues.

As regards economic consultation, the Economic Council and the Council for European Integration deserve special attention¹⁰ (see Table 1).

The Economic Council, as one of the successors of IRC, has inherited the power to discuss strategic economic issues. It is a classical consultative body. The participants are those organizations that are strong enough to influence the economy considerably by their unilateral decisions. Thus, alongside the traditional social partners, other economic, financial and international actors have been invited. The Government is represented at a high level;

Table 1. Successors of IRC: Forums for economic consultation

	Economic Council (EC)	Council for European Integration (CEI)
Date of establishment	April 1999	June 1999
Areas of concern	Economic policy and strategy affecting the whole economy	General issues related to the accession process
Functions and powers	General consultation on economic policy and strategy	<ul style="list-style-type: none"> • providing information on the accession process • providing information on developments in the EU • general consultation on accession-related issues
Structure	Multipartite ^a	Multipartite
Participants	<ul style="list-style-type: none"> • Government (represented at the highest level, as appropriate) • trade unions (who participate in NLC) • employers' organizations (who participate in NLC) • Hungarian National Bank • economic chambers • representatives of the financial and investment sector (Banking Association, Investment Council, Council of the Budapest Stock Exchange) • representatives of the major investors of productive sector (Hungarian Association of International Companies, Joint Venture Association) • foreign economic chambers 	<ul style="list-style-type: none"> • Government (Minister of Foreign Affairs; government representative responsible for social dialogue; others, as appropriate) • trade unions (who participate in NLC) • employers' organizations (who participate in NLC) • economic chambers • permanent invited observers: MSZEIB^b and MMNSZ^c
Number of sittings since establishment	Four (sittings envisaged at least twice a year)	Six (sittings envisaged quarterly, or more frequently if the accession process so requires)

^a According to the draft Standing Order of the Council, participants are grouped into eight blocks but, since the draft has not yet been accepted and signed, it is not clear exactly how the EC will operate. ^b MSZEIB (Magyar Szakszervezetek Európai Integrációs Bizottsága). The Committee of Hungarian Trade Unions for European Integration is a special trade union coordinating body for EU-related activities. ^c MMNSZ (Magyar Munkaadói Szervezetek Nemzetközi Egyttmuködési Szövetsége). The Confederation of Hungarian Employers' Organizations for International Cooperation is an umbrella organization of employers' organizations for their joint representation in international matters.

meetings held so far have been led by the Prime Minister.

Within the framework of the Economic Council, social partners have been consulted: on the medium-term economic and fiscal policy; and on the key features and priorities of the state budget for the years 2000-2002, as well as for each subsequent year. In the latest meeting, the Economic Council discussed the draft medium-term economic plan called the Széchenyi plan.

The Council for European Integration (CEI) has been established to support social partners as well as economic chambers in playing their

role in the EU-accession process. It actually has transformed what had formerly been ad hoc contacts between the Ministry of Foreign Affairs and social partners into an institutional framework. The International subcommittee of the IRC, established in 1997, can also be considered as a forerunner, although differences are considerable in two aspects: (i) the mandate of the CEI is restricted to EU matters only; and (ii) the CEI is characterized by a rather loose consultative structure compared to the strict tripartite structure and tripartite rules of the former International subcommittee of the IRC.

Table 2. Successors of IRC: Forums for labour issues

	National Labour Council (NLC)	Council for ILO Affairs
Date of establishment	April 1999	May 1999
Areas of concern	All issues related to "the world of work"	ILO-related matters
Functions and powers	<ul style="list-style-type: none"> • to negotiate and conclude central <i>tripartite agreements</i> regarding certain industrial relations issues (e.g., the national minimum wage, the recommendation on the average wage increases in the competitive sector) • <i>pre-legislative consultation</i> concerning labour matters and the operation of social partners • <i>general consultation</i> concerning labour and employment matters 	<ul style="list-style-type: none"> • to provide an institutional framework for tripartite meetings according to ILO Convention No. 144 • to promote national, ILO-related activities • to cooperate continuously with the ILO
Structure	Classical tripartite structure	Classical tripartite structure
Negotiating parties, and the size of each "side" (i.e., number of organizations constituting the negotiating party)	workers: 6 ^a employers: 9 ^b Government: depends on issues addressed permanent Government representative: the political State secretary of the Ministry of Economic Affairs	workers: 6 representatives nominated by IRC employers: 6 representatives nominated by IRC Government: government representative responsible for ILO affairs and five other nominated government representatives
Number of sittings since establishment	plenary sessions: 15 subcommittee meetings: 30 (sittings as appropriate)	seven (sittings as appropriate)

^a The composition of the workers' side is as follows: ASZSZ (Autonomous Trade Unions' Confederation), ÉSZT (Confederation of Unions of Professionals), FSZDL (Democratic League of Independent Trade Unions), MOSZ (National Federation of Workers' Councils), MSZOSZ (National Confederation of Hungarian Trade Unions), SZEF (Cooperative Forum of Trade Unions). ^b The composition of the employers' side is as follows: AMSZ (Union of Agrarian Employers), ÁFEOSZ (National Federation of General Consumer Cooperatives), IPOSZ (National Association of Industrial Corporations), KISOSZ (National Federation of Traders and Caterers), MGYOSZ (National Association of Employers and Industrialists), Magyar Iparszövetség – OKISZ (Hungarian Industrial Association), MOSZ (National Federation of Agricultural Cooperators and Producers), STRATOSZ (National Association of Strategic and Public Utility Companies), VOSZ (National Association of Entrepreneurs).

The agenda of the Council has covered, among other matters, the overview of the Community-financed programmes, including the pre-accession support schemes, as well as the report of the Government on the state of the negotiation process, with special regard to outstanding chapters (i.e., agriculture, free movement of workers and social policy). The Government has regularly briefed the parties to this Council on ongoing developments within the EU with special regard to the accession process and to the achievements of European Council meetings.

As regards labour issues, two forums have been set up: the National Labour Council

(NLC) and the Council for ILO Affairs (see Table 2).

The National Labour Council can be considered as the direct successor of the IRC. It is a classic tripartite body for consultation and negotiation on labour issues. The composition of the NLC is similar to that of the IRC with one significant difference: the criteria of representativity has been applied. According to the Provisional Standing Order of the NLC, signed by all parties, social partners can participate in NLC if they that have been certified as national organizations on the occasion of delegation to the Self-Governments of Health and Pension Insurance Funds in 1997. As a result, one more

employer organization (STRATOSZ) has qualified to join the NLC, while all other social partners have been able to maintain their presence. As regards powers and competencies, the NLC has inherited the right to set the national minimum wage; to agree on the recommended wage increases; and to be consulted on labour legislation as well as on labour and employment matters. As in the case of the IRC, the NLC has technical subcommittees focusing on specific issues.

Altogether, the NLC has had 45 sittings since its establishment, including the meeting of its subcommittees, and has addressed a wide range of issues. Faithful to its mandate, it has set the minimum wage for 2000 in a tripartite way, according to the provisions of the Labour Code. Discussions concerning average wage increases in the competitive sector have also taken place within the institutional framework of the NLC but have only resulted in a bipartite (employers' organizations-trade unions) recommendation. Wage developments have also been discussed in relation to the accession process. Special emphasis has been placed on the low wage level compared to member States and a special catch-up strategy has been urged by trade unions. As regards employment issues, the NLC has put on its agenda for consultation: (i) the employment policy objectives of the Government for 2000; (ii) the draft Joint Assessment of the Employment Policy of Hungary;¹¹ (iii) the experience so far with the so-called occasional employment and the related regulation; iv) the proposed amendment of the Employment Act and the Act on Labour Inspection. The NLC has discussed and accepted the annual report of the Labour Mediation and Arbitration Service, and has also been active in renewing its roster of mediators and arbitrators. The situation of the disabled and the support provided for them have also been on the agenda for consultation. The National Labour Safety Programme has been discussed as well. The NLC has been briefed about the trends in collective bargaining based on the registration data of agreements in 1998. It has been especially active and efficient in consultations regarding the modification of the Labour Code with a view to transposing nine labour law and equality Community directives (see more details in the Appendix).

Subcommittees of the NLC show a significant diversity in their activity. While the subcommittees on Wages and Collective Agreements; on Labour Market; on Safety at Work; and especially the subcommittee on Labour

Law have all been active, having had five to ten meetings since their establishment, the subcommittees on Information and Statistics; on Social Protection; and on Vocational Training have virtually existed on paper only.

The Council for ILO Affairs also has its origin in the IRC, in two respects. The International subcommittee of the IRC used to deal, among others matters, with ILO-related issues. The decision to attach more importance to ILO affairs within the IRC had already been made some years ago. In late 1998, the IRC almost succeeded in setting up a special ILO subcommittee, but eventually the Council for ILO Affairs was established as an independent structure. The Council holds a mandate specified in ILO Convention No. 144 on Tripartite Consultation, promoting the national measures related to the work of the ILO, including provision of information, promoting international cooperation, and fostering the endeavours of the social partners at international level. The Council has a balanced structure: all sides include six nominated, permanent representatives (and three nominated deputies); and social partners' representatives are nominated by the organizations which participate in the NLC. The Council has a permanent tripartite presidency, headed by the high-level Government official responsible for ILO matters.

The Council for ILO Affairs has started consultations on the implementation of certain ratified ILO Conventions and Recommendations and on the draft report of the Government prepared for the 88th session of the International Labour Conference. It has also been briefed about the 87th and 88th sessions of the International Labour Conference, on the ILO Conference on Employment, Labour Affairs and Social Policy, on the ILO Conference on South-East European Stability and, among others, the 276th session of the Governing Body of the ILO.

The new situation

The replacement of the IRC with the aforementioned various forums and, in general, the reform of the social dialogue structure has obviously influenced the former role and powers of social partners. As regards labour matters and the powers of the social partners, no profound changes have actually been introduced in the social dialogue system. However, the distinction made between consultation on economic issues on the one hand, and the issues connected with the labour forums, as well as the involvement of more actors in economic consultation

on the other, have had an impact on the consultation and negotiation carried out in the NLC. Economic consultation in the framework of the EC operates differently from the former mode of consultation within the IRC, due partly to the increased number of participants, as compared to the former classic tripartite structure of the IRC. The EC operates exclusively in plenary sittings, which is again a clear difference compared to the IRC which had been characterized by a rather complex institutional structure with a number of specific subcommittees. This fact, together with the meagre two plenary sittings a year envisaged, seems to restrict the opportunity for broad economic consultation.

Beyond doubt, in 1999 a new era started in Hungary: Civil dialogue was placed at the core, displacing, if not providing an alternative, to social dialogue. As the central tripartite structure has been complemented and/or replaced by multipartite ones, the powers and responsibilities assigned earlier to social partners are now shared with other actors. As a result, the specific role that social partners possessed earlier in economic and social policy-making has been curtailed. It is too early to judge the extent to which the newcomers on the scene are ready to discharge their roles in social/civil dialogue.

It is also reasonable to state that social dialogue so far has primarily meant consultation and providing information, while negotiation has been limited to areas where the parties involved can bear a clear responsibility for their commitments. This highly marked tendency, however, does not represent an actual shift in the interpretation of central social dialogue, since the previous Government after 1996 (after the failure of the Economic and Social Pact and the Wage-Price Agreement) had followed the same course (Ladó and Tóth, 2000/c).

Since the restructuring of the social dialogue structures started, social partners have repeatedly expressed their grave concerns. First, their critical remarks focused mainly on the structures themselves. They could not at all agree with the abolishment of the IRC and its implications. Social partners looked upon the restructuring as a step backwards. They were very much afraid that their powers and competencies would be significantly limited in the new institutional setting. These concerns have been somewhat abated as the reform proceeded.

Now the social partners direct their criticisms to the actual functioning of the various forums. They argue that: (i) economic consultation within the EC has now practically narrowed down to a one-way communication, and

to the opportunity it affords to meet the Prime Minister; (ii) therefore, economic consultation is not meaningful enough and does not cover all areas of vital importance for social partners (i.e., multi-annual economic development planning, taxation, etc.); (iii) it is rather difficult to negotiate on labour issues (e.g., on wages) within the NLC if general economic conditions (i.e., taxes, prices, etc.) are dealt with in the framework of another forum, and timing of consultations is not always synchronized; (iv) during the consultations the Government does not aim at accepting possible compromises with a view to reaching an agreement but strives more to defend its own stance; and (v) there is no synergy in the operation of the various forums for social and civil dialogue. The social partners have also complained about the extremely low pace of development of the pre-legislative consultation procedures at ministerial level. In the autumn of 2000, more than one-and-a-half years after the adoption of the relevant decree, there are only a few areas where the list of the social partners and other interest groups concerned have been compiled and where consultation, either in writing or within an institutional framework, has properly functioned.

The concerns and complaints of the social partners have attracted attention outside the country as well. The European Parliament in its report, for example, emphasized that "the existence of a representative and autonomous social dialogue constitutes an indispensable element of the accession preparations" and urged "the Hungarian Government to involve closely the social partners as well as NGOs in economic and social policy-making processes" (European Parliament, 2000). The Economic and Social Committee of the European Commission has voiced its concern "at the breakdown of a constructive social dialogue between Hungary's Government and social partners" and has urged "all sides to re-establish this dialogue" (CES, 2000). The European Commission also repeatedly asked for detailed information on the state of affairs. The Accession Council and its subcommittee has also placed social dialogue on its agenda. The ILO Committee on the Application of Standards,¹² in the 88th Session of the International Labour Conference, asked the Hungarian Government to ensure "that social dialogue was not compromised" (ILO, 2000). The worker representative of the ILO Committee referred to stated that "social dialogue remained a major problem in Hungary", and mentioned the "total lack of social dia-

logue" (ILO, 2000). It was also argued that, "A joint coordinated socio-economic employment plan within the Government and at all levels of public administration need to be defined with the full inclusion and participation of employers' and workers' organizations in the search for adequate solutions. Such social dialogue, however, was not implemented, even though a National Labour Council and other bodies existed on paper. Empty institutions need to be clearly restructured ..."(ILO, 2000).

Although, the statements referred to above are somewhat exaggerated, it remains indis-

puted that social dialogue over recent years has been beset by problems and difficulties. They have derived partly from the restructuring itself, but recently much more from the operation of the new structures. The current institutional setting seems to offer more opportunities for genuine dialogue than the parties take advantage of. Therefore the future of social dialogue will depend much more on the political will and commitment of the Government as well as on the aspirations and strength of the social partners than on any institutional fine-tuning.

Appendix

Consultation on the transposition of the Community labour law *acquis* – the ongoing modification of the Labour Code

Background

Hungary has been in a favourable starting position as regards the transposition of the Community labour law *acquis*. The Labour Code (Act XXII of 1992), adopted some years after the political changes ushered in 1989, laid down the basic principles already in conformity with similar legal regulations of continental Europe. It is mainly constituted of provisional clauses empowering the social partners to agree on more favourable provisions in collective agreements. Cogent rules concern only the fundamental, guaranteed institutions.

Since 1992, the Labour Code has been repeatedly modified in order to respond to the changing economic and social conditions. In 1997, some major amendments were made (Act LI of 1997) aiming at, even then, transposing some Community Directives. As a result of these efforts, when the screening process started, the Hungarian labour law was, in its general approach and basic provisions, already in line with Community norms. However, since there was need for some refinements, a few complementary items have been identified in order to achieve a full alignment.

Based on the comparison of the Community labour law *acquis* with the domestic legislation, the Government committed itself to a timetable for transposition (see Table 3).¹³

As the timetable indicates, the Government has planned a comprehensive revision and a "package-like" modification of the Labour Code for mid-2000, aiming at transposing altogether seven labour law Directives.¹⁴ The remaining directives are to be transposed at a slower pace.

The transposition of the labour law Directives was the mandate of the Ministry of Social and Family Affairs, whose legal department developed the first draft of the modification of the Labour Code by late spring 2000. The delay compared to the original schedule can be primarily traced back to: (i) the underestimation of the complexity of legislative tasks; and (ii) the limited number of professional staff who are equally familiar with the Community *acquis* and the national regulations and, additionally, have rich legislative experience. The duty of the modification of the Labour Code was then (by 1 July 2000) handed over to the Ministry of Economic Affairs, as part of the reorganization of the Government administration. This reallocation, however, has not implied changes in the persons responsible for the labour law harmonization.

It has been obvious that the transposition of the labour law Directives should be a subject of genuine consultation with social partners. First of all, because the social partners are the ones who can assure the implementation of labour

Table 3. Timetable for transposition

Directives	Date of transposition	Date of implementation
Directive 98/59/EC on the approximation of the laws of the Member States relating to collective redundancies	1 July 2000	1 July 2000
Directive 98/50/EC amending Directive 77/187/EEC on the approximation of the laws of the Member States relating to the safeguarding of employees' rights in the event of transfers of undertakings, businesses or parts of businesses	by the time of accession	by the time of accession
Directive 80/987/EEC on the approximation of the laws of the Member States relating to the protection of employees in the event of the insolvency of their employer	31 December 2000	31 December 2000
Directive 91/533/EEC on an employer's obligation to inform employees of the conditions applicable to the contract or employment relationship	1 July 2000	1 July 2000
Directive 97/81/EC concerning the Framework Agreement on part-time work concluded by the Union of Industrial and Employers' Confederations of Europe (UNICE), the European Centre of Enterprises with Public Participation and of Enterprises of General Economic Interest (CEEP), and the European Trade Union Confederation (ETUC).	31 December 2001	31 December 2001
Directive 91/383/EEC supplementing the measures to encourage improvements in safety and health for workers with a fixed duration employment relationship or a temporary employment relationship	1 July 2000	1 July 2000
Directive 93/104/EC concerning certain aspects of the organization of working time	1 July 2000	by the time of accession
Directive 94/33/EC on the protection of young people at work	1 July 2000	1 July 2000
Directive 94/45/EC on the establishment of a European Works Council or a procedure in Community-scale groups of undertakings for the purpose of informing and consulting employees	1 July 2000	by the time of accession
Directive 96/71/EC concerning the posting of workers in the framework of the provision of services	1 July 2000	by the time of accession

legislation on the ground, at the workplaces. Therefore they are vital actors in the process of transposition. The Community *acquis* in this field simply cannot be adopted without their deep involvement. Secondly, the adoption of the Community labour law *acquis* calls for the modification of the Labour Code which, according to the relevant rules, can only be carried out after due consultation within the National Labour Council and its Labour Law Subcommittee.¹⁶ Thirdly, the intention to consult on the modifications and, more importantly, to consult with a view to reach a consensus, has also derived from the traditions of tripartite cooperation in Hungary. As the

Labour Code represents the fundamental legislative body in the labour field, the lack of the social partners' support not only creates tensions but also undermines the future observance of the Labour Code.

Difficult start in social dialogue

Despite the indispensable role of social dialogue in the transposition of the Community labour law *acquis*, consultation on the proposed modifications of the Labour Code have started with difficulties. The first two meetings of the Labour Law Subcommittee of the National Labour Council, scheduled for 1 June

and 15 June 2000, respectively, did not lead to any progress as the workers' representatives did not show up. Certainly, there were some shortcomings in the preparation of the meetings, but trade unions could have overcome them if they had wished to.

The first substantive meeting of the Labour Law Subcommittee was held on 28 June 2000. On that occasion, the social partners were able to study the draft carefully. Their first reactions, especially those of the trade unions, were stormy. Nor did their views converge during the Subcommittee meeting. The only issue all parties could agree to was the continuation of consultation, still at expert level, and mainly through correspondence.

Trade unions at the same time launched an aggressive press campaign to protest against the proposed modifications. Accusations referred, among others, to the following:

- (i) the amendments went far beyond the objective of bringing domestic legislation in line with the Directives;
- (ii) the majority of amendments, especially those reaching beyond the transposition of the *acquis*, were unfavourable for workers; and thus
- (iii) the Government used the opportunity of legal approximation for undermining workers' protection; moreover
- (iv) the Government did not consult social partners genuinely as it did not seem ready to accept any proposals coming from them.

No doubt, the very first proposal of the modification of the Labour Code did embrace various areas beyond the mere transposition of the *acquis*, as the Government intended to introduce some additional amendments long requested, mainly by employers and the enforcing authorities. In this respect the outcry of trade unions was justified. To influence public opinion and to exert pressure on legislators, trade unions painted a somewhat distorted picture of the proposal, referring only to the unfavourable provisions and taking them out of the general context.

The scope of modifications in domestic legislation strictly necessary for achieving full alignment with the Community *acquis*, however, cannot be easily determined. The experience of the member States indicates that sometimes it is rather difficult to identify whether amendments introduced are really indispensable. Directives, by definition, provide a certain margin.¹⁷ They obviously cannot be adopted

just word for word, especially if domestic regulation adopts a different approach, as proved to be the situation, for example, in the case of Directive 93/104/EC on the organization of working time. In other cases, some elements might simply be missing from the domestic legislation, which are preconditions for the adoption of the Directive. This turned out to be the main source of conflict in the case of Directive 96/71/EC concerning the posting of workers. The Directive regulates three transnational measures; one refers to the situation whereby a temporary employment undertaking or a placement agency hires out a worker to a user undertaking, established or operating in the territory of a Member State. None of the related provisions can be transposed if domestic legislation has no single provision about either hiring out or the operation of temporary employment undertakings. Therefore, the inclusion of the referred issues in the Labour Code cannot be questioned; only the way legislation is actually implemented can be a subject of discussion with the social partners.

While trade unions intended to limit the modification of the Labour Code strictly to the transposition of Directives, employers wanted to use the legislative changes for achieving more flexibility. They argued that the Labour Code was too rigid, primarily the provisions on working time and forms of employment to cope with competitive pressure, especially within the EU.

Constructive continuation

Although trade unions and employers had different views on the proposed modifications, and their interests were just opposite in many areas, the subsequent Labour Law Subcommittee meetings (25 July, 1 August and 4 August 2000) gave rise to effective discussions.

The success can be traced back to various factors. Most importantly, all parties devoted enough time and attention to understand the other's position fully. At this stage of consultation, although the social partners were already much better prepared, misunderstandings and misinterpretations were still frequent. They were due:

- (i) partly to the complexity of the proposal, as new concepts (i.e., hiring out, transnational posting, European-scale undertakings, seasonal work, etc.) were introduced; or redefined (i.e., posting of workers instead of replacement of workers, temporary employment and fixed duration employment, etc.) in the domestic legislation; and

- (ii) partly to the fact that, even for well-educated lawyers, it is quite a challenge to understand the Community legislation.

Detailed explanations and careful listening by all sides contributed to exploring the real meaning of both the proposed modifications and the critical remarks as well as the original intention of the Directives. Disagreements could often be solved by a more careful wording of the provisions.

Another vital factor of effective social dialogue was the readiness of the government representatives to make reasonable compromises. During the course of consultation, they steadily followed a consensual approach; they proposed additional amendments, withdrew some provisions and reformulated others. All these changes left the underlying concept of the original proposal unchanged, while certain "burning issues" not indispensable for the transposition of the Directives, were either set aside or at least made more acceptable for the social partners. Discussions were mainly of professional nature, according to the mission of the Subcommittees of the National Labour Council. Political debates were left to plenary sessions along with the difficult task of striking a balance between flexibility, required by employers, and security, urged by trade unions. Discussions were carried out in a spirit of mutual respect and shared responsibility. The social partners were active and constructive. In exchange, the government delegation accepted them as "co-legislators".

Social dialogue at expert level was not, obviously, able to solve all disagreements and to reach a consensus. As a result of the repeated meetings, however, the revised draft:

- (i) was professionally of a higher quality than the original proposal;
- (ii) ensured a more accurate as well as a more "implementation-friendly" adoption of the *acquis*;
- (iii) provided slightly more protection to workers and families; while
- (iv) the employers' request for flexibility was met to a lesser degree than before.

Beyond the actual changes in the text, the greatest achievements of Subcommittee meetings were to filter almost all conflicts deriving from misunderstandings and to build a climate of partnership and trust among the three sides. Government representatives were able to convince the social partners that they were consulting with a view to reaching agreements on

as many areas as possible and thus to submit a joint, or at least strongly supported, draft modified Labour Code to Parliament.

At the plenary sessions of the National Labour Council (8 August and 11 August 2000) the views of employers and trade unions further converged. Government representatives made further compromises in areas where it was possible to do so without risking the adequate transposition of the Directives. So the terrain for consensus was laid, since in the adoption of a Directive, due to its very nature, there is always more or less some room for manoeuvre.

With respect to issues where the social partners expressed sharply contradicting views, the government representatives suggested they continue the bipartite dialogue and reconcile their interests through direct negotiation. The Government also promised that if agreement were achieved, should the agreement not be contradictory to the Directive, it would be accepted by the Government as well. This exceptional course of social dialogue could be followed by the Government as conflicts between employers and trade unions were mainly:

- (i) in areas where compliance with the *acquis* could be achieved between the lowest and the highest levels of requirements set by Directives (for example, in the case of organization of working time); or
- (ii) conflicts that concerned the few, unresolved "additional" provisions related only indirectly to legal harmonization (for example, shortening the weekly rest period from the current 42 hours to 35 or 40 hours or, on the contrary, increasing it up to 48 hours; shortening the advance notice period concerning work schedule from the current seven days to 72 hours, etc.).

Although some social partners at first did not welcome the "withdrawal of the Government from negotiations", as they termed it, bipartite negotiations eventually led to agreements concerning, among others, the issues still being debated: informing workers on matters such as collective agreement redundancies; regulation regarding the place of work; etc.

Without going into further technical details and listing issues where compromises were achieved in the plenary sessions of the National Labour Council, the outcome of social dialogue so far can be summarized as follows:

- (i) Consensus has been achieved concerning the transposition of the Directives 98/59/EC on collective redundancies; 91/533/EEC on

the employers' obligation to inform workers; 91/383/EEC on safety and health at work of workers with a fixed-duration employment relationship or a temporary employment relationship; 93/104/EC on the protection of young people at work; and thus the modified Labour Code when adopted will bring domestic legislation in full alignment with these Directives.

- (ii) A partial harmonization will be achieved concerning Directive 94/45/EC on European Works Council with the obligation to develop the detailed regulations in a separate decree.
- (iii) Social partners have not supported, and for various reasons, the way in which the Government intended to transpose Directives 93/104/EC on the organization of working time and 96/71/EC on posting of workers in the framework of the provision of services, nor have they been able to reach a bipartite agreement to replace the proposed provisions.

An ongoing process

In mid-August 2000, the Government faced a dilemma: Either it would submit the latest version of the modifications of the Labour Code to the Parliament in order to avoid any further delays in the transposition of the labour law *acquis* and keep at least the already-postponed date (1 January 2001) of coming into force, or it would provide an extended opportunity to the social partners with a hope that they would eventually reach a consensus on the provisions still being debated. After several informal talks with representatives of social partners, the following scenario was accepted:

- (i) The legislators would once again carefully overview the draft in order to ensure coherence and precise wording, taking into account also the remarks of social partners formulated in the meantime.
- (ii) This "edited" version would be considered as the final proposal on the condition that, if the social partners were to propose agreed provisions, in line with the Directives, on issues still being debated, the Government would accept them and represent them vis-a-vis the Parliament.
- (iii) This possibility of changing the text on the basis of bipartite agreements remains open for social partners until the final stage of the parliamentary debate.

This unique solution derives primarily from the strong pressure of the social partners who understandably attach special importance to the modification of the Labour Code. The Government, however, is also fully aware that it cannot proceed meaningfully in labour law harmonization without the active contribution of those who will implement the law in the future, the social partners. There is also a tacit, shared undercurrent of belief that, although flexibility and security in employment seem to be contradictory, there is still scope for achieving "win-win" compromises.

The current "edited" version of the modification of the Labour Code¹⁸ fully meets the requirements deriving from the transposition of the aforementioned Directives. The Government believes that this final proposal, in its current form, already strikes a fair balance between the contradicting interests of employers and workers, and sufficiently reconciles the provisions leading to increased flexibility on the one hand, as requested by employers, and the guarantees to protect workers, on the other, for which trade unions have fought bitterly. In some provisions, the proposal is more favourable to workers and their families; in others, more beneficial to employers. The final outcome, however, is thought to be balanced by legislators. Thus, the twin objective of providing decent minimum standards and avoid laying unreasonable burdens on businesses, has been met as far as possible.

This "middle stand" of the Government can also be accounted for in the light of the recent attacks launched by both sides. Although the social partners unanimously acknowledge the achievements of social dialogue so far and appreciate the consensual approach of the Government, they complain that the Government has been biased to the opposite party when regulating the issues on which no agreement was achieved. The employers argue that employment and working time regulations are still far too rigid, out-of-date and counterproductive in the current competition in the globalized economy, while trade unions accuse the Government of curtailing the protection of workers and thus undermining their already weak positions at workplaces.

The debate is still going on. Now it is primarily the responsibility of the social partners to determine how they will meet the challenge: Would they be able to negotiate further agreements or will the Government's "middle-way" solutions come into force? The social partners' contribution to social dialogue so far has been

instrumental in the transposition of the labour law *acquis*. Based on their competence and commitment, it seems likely that they will reach some further mutual concessions and bilateral compromises in the coming months.

The transposition of the Community *acquis* also represents a challenge for the Government, and not only in professional terms. As the Director General of the Employment and Social Affairs, Odile Quintin, has stated: "The Governments of candidate countries should also understand how valuable the contribution of the social partners can be for the successful adoption of the *acquis communautaire*. In other words: the Governments of applicant countries should learn to rely on the social partners in preparing their countries to take their place in the enlarged European Union." (Quintin, 1999) The Government, in addressing the modification of the Labour Code, has met this challenge successfully, and this success, in turn, may well have a positive impact on the whole social dialogue system in Hungary.

Notes

¹ Latest publications for an historical account of tripartite in Hungary.

² *A hazai érdekegyeztetési rendszer fejlesztésének (megújításának) szakmai koncepciója* (Concept for the development (renewal) of the system of interest reconciliation), November, 1998.

³ For its summary see: Herczog, 1999.

⁴ 2301/1998 (XII/30) *Korm. határozat a társadalmi párbeszéd rendszerének szakmai koncepciójáról* (Government Decree 2301/199, on the concept of social dialogue system). As regards status, the referred Decree is an internal, albeit not confidential, Governmental document. As an annex it includes the Government's concept of social dialogue.

⁵ According to Art. 20 of Act XI of 1987 on the legislative procedures: "The implementing authorities, the civil organization and the organizations representing interests shall be involved in the preparation of the draft legislation which concern the interests of those represented or protected by the organizations mentioned, or concern social relations in general."

⁶ See for instance: *Emlékeztető a társadalmi párbeszéd rendszerének szakmai koncepciójáról lefolytatott megbeszélésekről* (Note on the talks on the concept of social dialogue system). This note of the informal meetings of the Interest Reconciliation Council was officially and widely circulated, contrary to the usual practice.

⁷ *Előterjesztés az Érdekegyeztető Tanács részére az Érdekegyeztető Tanács átalakításáról*. (Proposal submitted to the Interest Reconciliation Council on the restructuring of the Interest Reconciliation Council), February 1999.

⁸ The modification of the Labour Code was a rather hot issue. This is the case the ICFTU report refers to, stating that: "The Government submitted a Bill to parliament in early 1999 which made significant reforms to the 1992 Labour Code. The Government had not sought genuine dialogue with the

unions, and subsequently ignored their proposal. The reforms undermined trade union and workers' rights." (ICFTU, 2000) Similarly, the real wage moderation was a rather sensitive issue after several years of considerable losses in real wages, and amidst dynamic economic growth. For a detailed assessment of the "package-deal" initiated by the Government, see: Ladó and Tóth (2000/b).

⁹ For a detailed overview of the new structures, see: Ladó and Tóth (2000/a and 2000/b).

¹⁰ The Social Council is not discussed, although the authors of some publications consider it an element of social dialogue. The authors hold a different view, according to which the Council is actually an advisory forum focusing on the social problems of disadvantaged groups. It is a typical example for dialogue between the Government and the representatives of civil groups (i.e., the disabled, the elderly, women, etc.) but not the social partners. Therefore it is rather a part of the civil than the social dialogue structure. For a detailed description of this institution, see Ladó and Tóth (2000/b).

¹¹ This is a common document of the European Commission and the Hungarian authorities required in the Accession Partnership. It aims at identifying the employment and labour market challenges of the years until the date of accession and agreeing on priorities.

¹² The ILO Committee on the Application of Standards, in the June 2000 session of the International Labour Conference, discussed the representation raised by a Hungarian trade union confederation against the Hungarian Government alleging non-observance of Convention Nos. 111 and 112. Although the case concerned a Government measure implemented in 1995, the occasion made it possible to deal with the employment-related consultation not only for the given period but also referring to a more recent situation.

¹³ Directives already transposed are not listed. Source: Negotiating position of the Government of the Republic of Hungary on Chapter 13: Social policy and employment, and the relevant Supplementary information. The commitment was reiterated in the Government's programme for legal harmonization, Government Decree Nos. 2280/1999 (XI/5) and 2140/2000 (VI/23).

¹⁴ The "package" also includes two equal opportunity Directives (Directive 75/117/EEC on the principle of equal pay for men and women, and Directive 97/80/EC on the burden of proof in cases of discrimination based on sex) whose transposition is not discussed by this case study.

¹⁵ *Előterjesztés a Kormány részére a Munka Törvénykönyvéről szóló 1992. évi XXII. törvény jogharmonizációs célú módosításáról*. (Proposal to the Government on modification of Act XXII of 1992 on the Labour Code, with a view to legal harmonization.) Budapest, June 2000, p. 41, Appendix with the general explanation, p. 35.

¹⁶ The Preliminary Standing Order of the National Labour Council indicates that any amendment of the Labour Code should be the subject of a consultation process that lasts, if full consensus is not achieved earlier, at least for 60 days.

¹⁷ According to the Treaty Establishing the European Community, "A directive shall be binding, as to the results to be achieved, upon each Member State to which it is addressed, but shall leave to the national authorities the choice of form and methods" (Article 249 of the consolidated EC Treaty).

¹⁸ *Előterjesztés a Kormány részére a Munka Törvénykönyvéről szóló 1992. évi XXII. törvény jogharmonizációs célú módosításáról* (Proposal to the Government on modification of Act XXII of 1992 on the Labour Code, with a view to legal harmonization) Budapest, September 2000, p. 41, and Appendix with the general explanation, p. 43.

References

- CES. 2000. *Opinion of the Economic and Social Committee on Hungary on the Road to Accession*, Brussels, 1 March, CES 239/2000, pp. 19.
- European Parliament. 2000. *Report on Hungary's application for membership of the European Union and the state of negotiations*, Session document, Final, A5-0248/2000, pp. 10.
- Gyarmatiné, Rácz Ágnes and Geiger, Tiborné. 2000. "A munkaadói érdekképviseltek fejlődése, részvétele a hazai érdekegyeztetésben és bekapcsolódásuk az európai szociális párbeszédbe – Development of employer organizations, their participation in national social dialogue and their joining the European social dialogue" in Borbély, Szilvia (ed.). *Munkaiügyi kapcsolatok a rendszerváltás után*, Budapest, pp. 43-59.
- Hanti, Erzsébet. 2000. "Az érdekegyeztetés szerepei – a munkavállalók szervezetei és a részvétellel kapcsolatos viták – Parties to social dialogue. Workers' organizations and the debates concerning their participation in social dialogue", in Borbély Szilvia (ed.). *Munkaiügyi kapcsolatok a rendszerváltás után*, Budapest, pp. 25-42.
- Herczog, László and Ory, Csaba. 1999. *The new system of social dialogue in Hungary*, Manuscript, Budapest, 29 June, p.7.
- . 1999. "Kormánykonceptió az érdekegyeztetés átalakításáról – The government position on restructuring the reconciliation of interests", *Munkaiügyi Szemle*, 1999/2, pp. 9-13.
- Héthy, Lajos. 2000. *Az érdekegyeztetés és a táguló világ – Reconciliation of interests and the enlarging world*, Friedrich Ebert Stiftung, Közösen a Jövő Munkahelyeiért Alapítvány, Budapest, pp. 209.
- ICFTU. 2000. *Annual Survey of violation of trade union rights*, ICFTU, Brussels, pp. 189.
- ILO. 2000. Committee on the Application of Standards: 12th sitting, Discussion of individual cases, Convention No. 122, Hungary, International Labour Conference, 88th Session, Geneva, 8 June, p. 16.
- Ladó, Mária and Tóth, Ferenc. 2000/a. "A makroszintű érdekegyeztetés tíz éve – Ten years' history of central consultation and negotiations" in Borbély, Szilvia (ed.). *Munkaiügyi kapcsolatok a rendszerváltás után*, Budapest, pp. 60-86.
- . and Tóth, Ferenc. 2000/b. "Érdekegyeztetés helyett társadalmi párbeszéd – Tripartite social dialogue dismantled, multipartite dialogue introduced" in Kurtán, Sándor; Sándor, Péter; Vass, László (eds.). *Magyarország politikai évkönyve, Demokrácia Kutatások Magyar Központja Alapítóany*, Budapest, pp. 401-412.
- . and Tóth, Ferenc. 2000/c. *The Fate of Tripartism in Hungary*, forthcoming.
- Quintin, Odile. 1999. "A New Anchor for the Enlargement Process" in *Social Dialogue for Success. The Role of the Social Partners in EU Enlargement*, The Warsaw Conference, 18-19 March, European Commission, pp. 43.
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Social dialogue: The South African experience

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South Africa occupies two positions in the world's collective imagination: the first as a country that was the site of one of the world's most systematic and violent systems of racial oppression; the second as a country whose transition to democracy was characterized by intense negotiation among political parties and key economic stakeholders. In this article we examine an element of that latter position. We¹ shall describe, explore and draw lessons from the engagement between the key socio-economic actors in South Africa with a view to providing insights into the South African experience of social dialogue.

Social dialogue in South Africa is not located solely in any single institution or confined to institutional settings. Instead, it is manifested through a variety of institutions, conferences, informal consultations, as well as the proverbial corridor chats between social partners attempting to shape patterns of governance. However, this article is restricted to an analysis of the National Economic Development and Labour Council (Nedlac), South Africa's peak social dialogue institution.² This choice is made both because of the institutional and historical significance of the institution as well as the familiarity of the authors with this particular site of social dialogue.

This article begins with a brief review of the conceptual debate on social dialogue. Section two sets the context for social dialogue in South Africa by reviewing the socio-economic context. Section three deals with the history of social dialogue in South Africa, section four covers the structure and functioning of Nedlac, and section five the current situation of social dialogue in

South Africa. On the basis of these analyses, the concluding section attempts to draw some lessons for the practice of social dialogue.

Social dialogue: The conceptual debate

Among social scientists and development practitioners, the concept of social dialogue has been a subject of debate. This debate stems from varying concepts of social dialogue. Terms such as "corporatism" or "neo-corporatism", "social pacts", "social partnership" and "social *concertation*" have been used to describe social dialogue. The scope of this debate was again evidenced at an informal meeting of experts at the ILO in December 1999. This section briefly reviews and builds on some of the understandings of social dialogue advanced in that meeting in order to provide a conceptual framework for the remainder of the article.

Social dialogue was traditionally defined by the ILO as tripartite institutions between government, trade unions and business that regularly act in a consultative manner on labour, social or economic policy, and primarily aimed at ensuring industrial peace. Social dialogue was therefore defined in terms of institutional structure rather than rules and processes. The right of both workers and employers to organize was one of the major principles that informed this initial conception of social dialogue. According to Hyman (2000), social dialogue was conceived in terms of industrial relations, involving collective bargaining and other means, between employers and representatives of workers. This is a much narrower definition

as “collective bargaining merely addresses the effects of decisions” by management. In other words, social dialogue was merely reactive and not the basis for initiation of policy formulation. The second concept of social dialogue by Hyman is a process of exchanging information and viewpoints to facilitate negotiations, but by itself is not negotiation. Here negotiation is differentiated from social dialogue. The third concept of social dialogue is an institutional configuration designed to facilitate consensual and positive-sum interaction. Lastly, Hyman defines it in terms of its normative nature to connote a move towards “social partnership” and avoidance of conflict. Thus to Hyman social dialogue is both a process of and an institutional framework for interaction between participating partners.

Like the ILO, Héthy (2000) defines social dialogue as “a system of institutions for the reconciliation of interests... on labour and economic issues” by representatives of government, business and trade unions (tripartism) or between representatives of organized business and labour (bipartism). This could occur at national, sectoral and municipal levels as well as enterprise level depending on the socio-economic context. But in contrast to the ILO, Héthy observes that social dialogue could either be institutionalized or non-institutionalized (informal) especially in negotiation and consensus-building, where the latter complements the former and speeds up conflict resolution. In contrast, Choi (2000) defines social dialogue as “direct negotiations” between social partners. Consultations that do not result in negotiation but that are merely intended to share information, do not constitute social dialogue. From this perspective, social dialogue has one end in view: agreement between social partners. Where it is institutionalized, social dialogue thus becomes a machinery for policy coordination between the partners involved in the exercise.

The globalization of socio-economic activities, however, reduces the representational power of traditional parties in corporatist institutions. It has, consequently, weakened it as a basis for state-society dialogue and has brought to the fore issues that were not addressed in traditional corporatist institutions. Social dialogue thus encompasses representations from other social interest groups in society. Issues addressed through social dialogue institutions are more broad-based than those covered by corporatist institutions.

Therefore, for the purposes of this article, social dialogue is defined as “*processes and insti-*

tutions which facilitate the participation of social partners in socio-economic policy processes”. Social dialogue arrangements range from bipartitism to tripartitism, and might also take the form of quadripartitism. They could be either institutionalized or non-institutionalized. Also, social dialogue includes both regular and formal consultation processes and might entail formal negotiations. We therefore argue that social dialogue goes beyond the preserve of the golden triangle of state-business-labour (corporatism) to include other actors of civil society such as organizations of women, youth, disabled, unemployed, in some cases it includes representatives of political parties, environmental groups and community associations. These actors can aggregate in various formats to engage in social dialogue. For example, labour and other organs of civil society, or labour and business could come together to find shared solutions to common problems.³ As Gostner (2000) points out, social dialogue is an engagement between social partners aimed at influencing governance. By its very nature, social dialogue entrenches and strengthens cooperative and participatory democratic governance.

Social dialogue occurs at different sites: global, regional, national, sectoral, community, enterprise-level, etc. Issues covered through social dialogue are not limited to the focus of classical corporatist institutions such as labour markets and macroeconomics but address issues ranging from women workers, environment, human rights to political reform. Because the globalization process has been marked by inequalities and social exclusion, these have become dominant themes of social dialogue, which are championed by the “third sector” (civil society, including consumers’ associations and non-governmental organizations (NGOs), among others). Social dialogue in South Africa will be examined against this conceptual framework.

The socio-economic context

The primary challenge that faces South Africa is to overcome large-scale poverty and unemployment, which are both legacies of apartheid. Key to meeting these challenges is to ensure increased investment, economic growth, create jobs and an equitable distribution of social and economic resources.

The years immediately after the first democratic elections in 1994 saw the country reaping a ‘democracy dividend’ as economic growth rose from less than 0 per cent in the early 1990s to 3.5 per cent in 1995 and dropped to 3 per cent in

1996. But the 'democracy dividend' was adversely affected by the South-East Asian financial crisis in 1997 which spilled over to the South African economy as the growth rate fell to less than 1 per cent in 1998 (Nedlac, 2000). The economy has not fully recovered as it was marked by sluggish growth rate in 1999 and the first six months of 2000 at 1 per cent and 1.6 per cent, respectively (South African Reserve Bank, 2000).

Underpinning low gross domestic product (GDP) growth in addition to the effects of the global financial crisis are the relatively low levels of savings and fixed capital formation. Savings as a percentage of GDP was below 20 per cent during 1998, reflecting low levels of personal savings and government dissaving over a 20-year period (South African Department of Finance, 2000). Similarly, fixed capital investment, both by public authorities and private investors, is too low to fuel growth.

As noted above, unemployment is one of the major problems facing democratic South Africa. Since the democratic elections, the formal sector has shed more than 500,000 jobs. This is coupled with its inability to absorb the tens of thousands of new entrants into the labour market annually. Using the ILO's expanded definition of unemployment, South Africa's unemployment is 36.2 per cent of the economically active population. With these high levels of unemployment, it is therefore not surprising that poverty is a key developmental challenge. About 19 million of the South African population live in abject poverty living on a household expenditure of rand 353/adult per month. Both unemployment and poverty are highly racialized and gendered. Sixty-five per cent of those who live below the poverty line are Africans, mostly African women who live in the rural areas. Similarly, 48.8 per cent of Africans and 54 per cent of African women are unemployed, figures which reflect apartheid legacies. Such are the major challenges confronting the Nedlac social partners.

The history of social dialogue in South Africa

The late 1980s were characterized by the emergence of tentative and informal dialogue between key economic actors and political parties (Gostner, 2000). By the early 1990s, such dialogue, coupled with labour struggles against repressive labour legislation, as well as a series of high-profile mass 'stayaways', were directed against the apartheid state's attempts to unilaterally impose economic policies on

South Africans. These resulted in the institutionalization of tripartism in South Africa (Baskin, 1996).

Institutionalization of social dialogue manifested itself in two bodies: the National Manpower Commission (NMC), which focused on labour market policy and was restructured to include representation from the progressive labour movement; and the National Economic Forum (NEF) which emerged as an attempt to prevent the apartheid state from unilaterally restructuring the economy during the transition period. Neither of these bodies undertook substantial policy or legislative work – although the NEF did finalize South Africa's offer to join the GATT – (Adler and Webster, 1995). Indeed, the nature of these bodies was to act as a catch-all to limit the ability of the apartheid state to manoeuvre during its dying days. Thus the goal of social dialogue was not to enhance but to constrain the capacity of the 'undemocratic state' to impose its will on society. As Christian Sellars, then of the Chemical Workers Industrial Union, argued: "The National Economic Forum did not accomplish much, but then its purpose was to block unilateral reform by the National Party rather than to develop new policy" (cited in Gostner and Joffe, 2000).

This history of tripartism in the context of an illegitimate government had a fundamental impact on the structure of social dialogue that emerged in the post-1994 democratic era (Dexter, 2000). This history has resulted in many issues and processes being placed in the arena of social dialogue. Indeed, the scope of social dialogue defined by the Nedlac Act (see below) is unusual for a developing country and is significant even by the standards of developed countries (op. cit.). This historical legacy had further implications for the challenges faced in institutionalizing social dialogue under conditions of democratic governance.

Structure and functioning of Nedlac

The South African Parliament passed the Nedlac Act in September 1994, thereby establishing the National Economic Development and Labour Council (Nedlac). The Act requires Nedlac to:

- promote goals of economic growth, participation in economic decision-making and social equity;
- seek to reach consensus and conclude agreements pertaining to social and economic policy;

- consider all labour legislation relating to labour market policy before it is introduced in Parliament;
- consider all significant changes to social and economic policy before they are implemented or introduced in Parliament; and
- encourage and promote the formulation of coordinated policy on social and economic matters.

Nedlac is currently structured into an Executive Council, a Management Committee and four chambers. The Executive Council is the highest decision-making body and is constituted by Cabinet Ministers, Director-Generals⁴ of Government departments, the Presidents and General Secretaries of South Africa's largest federation and senior representatives from business and the organized community. The Executive Council and Management Committee provide strategic direction to the organization, as well as sanction the work of constituency representatives in the chambers. The four chambers are:

- the Labour Market Chamber;
- the Trade and Industry Chamber;
- the Development Chamber; and
- the Public Finance and Monetary Chamber.

Most of Nedlac's work programme is processed in the chambers or in subcommittees that are established to deal with specific areas of work.

These structures are supported by a secretariat whose primary role is to facilitate social dialogue processes including coordination and research back-up for the work of the organization. This role is being expanded to include organizing round-table discussions where parties have informal discussions on major national issues. The importance of the round-tables is that they not only enable participants to express their views freely, unlike other Nedlac discussions when they are under mandate, but also ensure the participation of experts who would not naturally participate in Nedlac programmes.

Representatives of Government, organized labour and organized business are represented in all of Nedlac's structures. The community constituency is represented in the Development Chamber, the Management Committee and the Executive Council. It should, however, be noted that the Community Constituency participates on an ad hoc basis in the activities of the other

chambers on issues it considers relevant to its constituencies. Although the community participation is presently confined to certain structures and, compared to the other social partners, it has 'less social power' and has a much narrower base, it is able to utilize its participation to promote and protect the interests of its constituencies. In the process, issues that would have been ignored if representation at Nedlac were limited to labour, business and Government are brought to the fore of Nedlac's programme. In addition, through participation in Nedlac, civil society organizations other than labour and business have their representatives nominated to statutory bodies that deal with industrial relations and minimum employment standards and to governing councils of universities.

The social partners are constituted in the following fashion:

- Organized business is represented by Business South Africa (BSA) and the National African Federated Chamber of Commerce (NAFCOC). BSA represents the interests of 20 employers' federations with predominantly white membership such as the South African Foundation, the Afrikaner Handelsinstituut (AHI), the South African Chamber of Business (SACOB), the Foundation for African Business and Consumer Services, the Chamber of Mines, among others. NAFCOC, on the other hand, represents 156,000 businesses and 18 provincial and sectoral membership with predominately black membership.
- The Community Constituency is composed of the Women's National Coalition (WNC), the South African Youth Council (SAYC), the South African National Civic Organization (SANCO), Disabled People of South Africa (DPSA), and the National Rural Development Forum (NRDF).⁵
- Organized labour is represented by three trade unions federations: the Congress of South Africa Trade Unions (COSATU), the Federation of Unions of South Africa (FEDUSA), and the National Council of Trade Unions (NACTU).
- The Government delegation to Nedlac is drawn from the four core economic ministries, namely the Departments of Labour, Trade and Industry, and Finance and Public Works. Representatives of other Government ministries and departments participate in Nedlac structures on an ad hoc basis. These have included the Departments of Welfare,

Constitutional Development, Housing, Environmental Affairs and Tourism, Water Affairs and Forestry, Minerals and Energy and the Office of the President.

These four social partners are the most organized groups and command broader representation than any other groups in the country.⁶ In addition, they also have the capacity to mobilize their members to abide by agreements reached at Nedlac.

The work of Nedlac

Since the launch of Nedlac in 1995, the social partners have addressed a wide range of policy issues which fall within its ambit as defined by the Nedlac Act. In this section, we provide a brief analysis of Nedlac's work with a focus on legislative, policy and monitoring processes/areas which have constituted the work of the institution since its launch in 1995. Much of the dynamics that underpin this analysis will be addressed in the following section.

In broad terms, Nedlac has:

- considered approximately 20 pieces of legislation;
- recommended to Parliament the ratification of 14 ILO Conventions;
- concluded three Codes of Good Practice to guide the social partners in the implementation of labour market legislation;
- undertaken over 25 studies on topics as wide-ranging as socio-economic trends, trends in collective bargaining, sector competitiveness and infrastructure delivery;
- concluded the Presidential Jobs Summit, which in itself incorporates over 20 subsidiary agreements on issues ranging from the creation of youth brigades to a review of the social security system.

In short, in the past five years the social partners have created an institution with an impressive agreement-making capacity. While we cannot deal with all those agreements in this brief article, it is worthwhile to consider some of those areas in a little more detail.

After its launch, Nedlac's first area of work was to negotiate a new labour regime⁷ to replace the repressive ones under apartheid. From the mid to late 1980s, South Africa was marked by sustained campaigns by COSATU and its affiliates against the Labour Relations Act (LRA) and conservative amendments to the Act by the National Party government in 1988

(Baskin, 1999). As part of this process, COSATU unions were actively involved in formulating an alternative labour market policy to address the failure of the existing regime to address an underdevelopment of skills and high unemployment. This vision was substantially the one which informed the policies and legislation of the African National Congress (ANC) Government after it came to power in 1994. Simultaneously, the high levels of labour market conflict had created an imperative for employers to seek a solution to the labour market impasse that had developed from the late 1980s. Seeking a solution to the labour market challenge became the primary concern of the social partners going into Nedlac. As Adrian du Plessis, then a senior negotiator for the Chamber of Mines and business, points out: "We may not have been aware of it at the time, but there was a vision that drove our approach to labour market reform." Within weeks of the launch of Nedlac, the Department of Labour presented the Labour Relations Bill for negotiation in the Nedlac Labour Market Chamber. This was the start of a whirlwind of activity that did not really abate until May 1998 when the negotiations of the Skills Development Bill and the Basic Conditions of Employment Bill were concluded.

The new labour market legislative regime is constituted by four pieces of legislation: the Labour Relations Act; the Basic Conditions of Employment Act; the Skills Development Act; and the Employment Equity Act. These Acts seek to overcome the legacies of apartheid's labour market by creating an environment for labour market stability, skills development, a guarantee of fundamental labour rights and greater equity in employment for people who were previously disadvantaged (in particular blacks, women and disabled people).

The negotiations of these legislative proposals were often highly conflictual. At key moments and when there were deadlocks in the negotiation process,⁸ the trade unions, especially COSATU, used mass mobilization of its constituency marked by protest actions to pressurize the other social partners to concede to its demands. Similarly, COSATU urged the Minister of Labour to present the Bill to Parliament where it hoped that, given the presence of former trade unionists and its alliance with the ANC, it would be able to get support for its demands. Business was also engaged in lobbying Government and members of Parliament. What this tends to show is that constituencies at Nedlac used other mechanisms to pursue

their goals. Government has also exercised its right to govern by introducing major policy changes such as its macroeconomic policy, the Growth, Employment and Redistribution policy (GEAR) without recourse to Nedlac. The trade unions have been particularly opposed to GEAR, which they believed would undermine some sections of the LRA, a product of previous struggles and negotiations. Independent actions by the partners have therefore tended to exacerbate tensions between them and hampered the work of the institution.

In the midst of these deadlocks between the social partners, and the consequent protest actions, as well as independent actions, criticisms of Nedlac came to the public realm. A leading business daily captured the criticism of that time when it argued:

Nedlac ... is a creature of the pre-1994 interregnum. Then, in the absence of legitimate government, society took responsibility for keeping the ship afloat and for charting its course. But now, with a constitutionally legitimate and widely supported government, we do not need these transitional arrangements. Moreover, now that we have a trusted captain and are set on the right course, speed is of the essence. At best social partnership is retarding progress – at worst, it may even be steering us off course. (*Business Day*, 12 September 1997.)

A recognition by South African's social partners that such actions would undermine social dialogue and trigger a no-win situation for all concerned both in the short and long terms forced them to be recommitted to social dialogue and Nedlac as an institution. In other words, each of the major social partners, labour, business and government, all have internal capacity to cause a stalemate that would not be beneficial to the individual constituencies, in particular, and the country, in general, has driven home the point that social dialogue is a positive sum game, hence their recommitment. Seeking common solutions on issues has since become a dominant feature of Nedlac's work. Criticism of the institution has become more muted with this realization and recommitment.

At this juncture, it is important to point out that discussions in Nedlac do not only assume formal formats. As Webster et al. (2000) note, agreement-making in Nedlac also takes a variety of formats outside the constitutional structures of the organization, including informal dialogues, often not minuted which in some instances have contributed to unlocking deadlocks as well as facilitated smooth interactions and consultations between the social partners.

The Committee of Principals was formed in 1995 in an attempt to reach consensus around the Labour Relations Bill. It was made up of the Minister of Labour, the leaders of organized business and labour delegations or their nominees. Other extra-constitutional structures include the meetings of the Overall Convenor and Convenors⁹ of Chambers. At these meetings, not only are agendas for management committee and chambers' meetings negotiated but they also facilitate their smooth conduct. These informal structures have facilitated informal consultations between the social partners and they complement the structures by minimizing areas of disagreements during formal negotiations.

Nedlac negotiations have also yielded, amongst others, agreements that affect the:

- structure of business, in the form of the Competition Act;
- human rights agenda pursued by the South African Government's trade negotiations, in the form of the social clause agreement,¹⁰
- structures and functioning of local government, in the form of Municipal Systems Bill; and
- management of large-scale retrenchment processes, in the form of the Social Plan.

Nedlac, perhaps uniquely among institutions of social dialogue, has also moved into an arena that is best described as social dialogue in practice. This is best evidenced in two areas of Nedlac's work:

- the Workplace Challenge Programme; and
- the role played with respect to Section 77 of the Labour Relations Act.

The Workplace Challenge Programme is funded by the Department of Trade and Industry. It aimed to encourage the building of co-determination and the improvement of productivity in workplaces throughout South Africa.¹¹ In effect, the Workplace Challenge creates tripartite structures, at sector level, and bipartite structures, at plant level, that design and implement processes to improve productivity among the group of participating companies. These structures facilitate a cascading of social dialogue from Nedlac to shopfloors throughout the country. It is currently being implemented in more than 30 companies in the manufacturing sector with considerable success. The Workplace Challenge Programme facilitated by a national social dialogue institution, Nedlac, has resulted in the emergence of

social dialogue institutions at other levels. These constitute a break with what some commentators called the “apartheid workplace regime”¹² that was characterized by high levels of managerial racist authoritarianism and consequently an absence of dialogue of any sort. But this has not been without some problems. For example, the quality of dialogue has been compromised by weak union presence on the shop-floor and/or a lack of management commitment to the process.

Corporatist or social dialogue institutions around the world have been criticized as trying to impose a false consensus in denial of the different interests that emerge as a consequence of class position (or perhaps in more contemporary language, as a consequence of the different interests of economic actors). Conversely, Nedlac’s structure takes cognizance of differing social interests and the legitimacy of mobilization in defence or advancement of those interests. Section 77 of the Labour Relations Act grants workers the right to engage in protest action to promote or defend their socio-economic rights. The Act requires the union wishing to engage in protest action to consult with Nedlac before engaging in such action. In many instances, labour has been able to use this mechanism to pursue protected protest action when it perceives its rights or interests to have been compromised by decisions taken by the other social partners.

Most recently, in early 2000, under the protection of Section 77, COSATU launched a series of protest actions, culminated in a stay-away by 4 million workers on 10 May 2000. These protests were against ongoing job losses in the South African economy, and they followed months of meetings between the social partners that attempted to address differences in economic and industrial policy. Following these actions, all the social partners, especially Government and business, recognized the need to seriously and urgently address at Nedlac the question of job losses in the economy. But the truce did not last for long as the trade unions questioned Government’s commitment to negotiations when its delegation to a subsequent meeting on 1 June was composed of those the trade union leaders termed ‘junior officials’.¹³ The contention of the trade unionists is that they need Government officials with decision-making powers and not those who could not make decisions without reverting to their principals.¹⁴ Consequently, the trade union leaders, including COSATU’s President Willy Madisha and General Secretary, Zwelinzima

Vavi, had a sit-in/sleep-in at the Nedlac offices. They ended this act of protest the following day after extracting a commitment from Government that in subsequent negotiations, the Government delegation would be composed of ministers and other senior officials such as Director-Generals. Although not solely attributed to the trade unions’ demands, there has since been an increase in participation of senior Government officials, including ministers, at Nedlac meetings. Relatedly, discussions at Nedlac meetings have improved remarkably, especially in the contents of issues being addressed. One major product of these quality discussions is the identification by the four social partners of four national priorities (discussed in a later section). Therefore it is important to point out that there is a positive correlation between leadership commitment and the success of social dialogue.

It should, however, be pointed out that the role of Nedlac is not confined to formal negotiations and agreement-making: its role extends to consultations and information-sharing between the social partners. Two recent cases are illustrative. In the third quarter of 2000, the Minister of Trade and Industry, Alec Erwin, and the Finance Minister, Trevor Manuel, had separate ‘briefing sessions’ at Nedlac. The former was to inform and consult with the three other constituencies, the trade unions, business and community, on the policy and institutional changes that are being effected in the department. The latter was to consult with the social partners on the Medium-term Expenditure Framework (MTEF). On the one hand, these briefing sessions provided avenues for business, trade unions and the community to make inputs and on the other hand provided an opportunity for Government to solicit the support of its social partners on these policy changes. Although the Government is not under obligation to accept the inputs of these constituencies, it is likely to take them into consideration because of their social basis. Information-sharing by Government with its socio-economic partners as part of social dialogue has the potential to improve the quality of governmental policy, as well as enable them to own such policy. This enhances the legitimacy of such policy.

Nedlac has also served as a national base for the formulation and articulation of South African positions in international institutions. This has been most clearly evidenced in the engagement of the social partners in the ministerial meetings of the World Trade Organiza-

tion (WTO). In both the Geneva and Seattle ministerial meetings of the WTO, representatives of business, trade unions and the community were active participants of the South African governmental delegation, enabling South Africa to speak with one voice in international forums and to strategically engage with global processes. In this context, social dialogue offers opportunities for developing countries like South Africa not only to respond to globalization but also to shape its forms and outcomes.

We noted in the introduction that South Africa's tradition of social dialogue has its roots in the efforts of the progressive forces to constrain the ability of the apartheid state to unilaterally implement changes during the transition period. In practice, this meant that social dialogue dealt with a wide variety of disparate issues. To some degree, the above review demonstrates that this historical tendency has spilled over into the current operations of Nedlac, with the institution addressing a host of issues, often on an ad hoc basis with little adherence to an overall organizational objective.

While in many respects, a clear, if unarticulated vision drove the social partners' engagement in the creation of a new labour market regime, a similar consensus or vision was never detailed for the rest of the organization's activities. Creating this strategic and common vision has been identified by both the Business Overall Convenor, Raymond Parsons (2000), and Labour Overall Convenor, Ebrahim Patel (2000), as the major challenge facing the Nedlac social partners. But it is difficult, other than with hindsight, to argue whether this was a 'failing' or indeed at all possible, given the existing confluence of forces and pressures on the social dialogue process at Nedlac's birth. Nevertheless, by early 1999, the lack of clarity as to 'what next', resulted in yet another flurry of public debate as to whether or not the institution ought to be closed. While senior leaders of constituencies continued to affirm their commitment to social dialogue and to Nedlac, speculation about the future of the institution was compounded by the failure to quickly appoint a new Executive Director after the resignation of Jayendra Naidoo, its first Executive Director. Speculation was heightened when, after the second democratic elections in June 1999, the new President, Thabo Mbeki, launched a series of working groups for consultation with key economic actors, including many of the organizations that constituted Nedlac. Then at Nedlac's fourth Annual Summit held on 2 October

1999, the Deputy President, Jacob Zuma, challenged the constituencies to conclude a 'tough employment accord' (Zuma, 1999). This challenge was given further impetus by COSATU's protest action, described above, against job losses during the first half of 2000.

In many respects, this provided the basis for seeking to establish a new vision to drive social dialogue after the resources of a narrower vision around labour market reform had been exhausted. In the following section we reflect on the processes that are currently under way as the constituencies grapple with the implications of this challenge.

South African social dialogue in the current moment

The socio-economic context sketched in section 2 above has formed the locus of discussion between the Nedlac parties. After COSATU's successful stayaway in May 2000, Nedlac's Executive Council held a total of three meetings in a four-month period.¹⁵ This schedule of meetings was dedicated to discussing issues of national priorities for the social partners. The intensity of this process was both emblematic of the constituencies' commitment to social dialogue and essential to create the depth of dialogue necessary to move towards a new agenda for social dialogue in South Africa. In this process, the constituencies identified four national priorities, namely:

- promoting and mobilizing investment and creating decent work for all;
- ensuring economic empowerment for all, especially for black people, workers, people with disabilities, women and youth;
- eradicating poverty and addressing the legacy of under-development; and
- strategically engaging globalization to the best advantage of the country.

This process of dialogue led to the adoption of a far-reaching declaration at Nedlac's fifth Annual Summit on 9 September 2000. The declaration aims to set the parameters and foundation for the development of a vision for the social partners' involvement in social dialogue. Among other things, the declaration sets out five objectives to be pursued in contributing towards meeting national priorities:

- the leading emerging market and destination of first choice for investors while retaining and expanding social equity and fair labour standards;

- a productive economy with high levels of service, a highly skilled workforce and modern systems of work organization and management;
- a society in which there are economic opportunities for all, where poverty is eradicated, income equalities are reduced, and basic services available to all;
- a society in which our people, our most precious resource, are given the opportunity and support to develop to their fullest potential; and
- a society that can promote the values of social equity, fairness and human dignity in the global economy (Nedlac, 2000).

This vision seeks to establish a focus for the organization's energies, which will ensure that the efforts of social dialogue are optimized. With the recommitment of the social partners to Nedlac and identification of national priorities, which will become the focus of work in the coming months, the institution has regained public confidence. In addition, the role of social dialogue for successful socio-economic transformation is being re-emphasized. This will require that the social partners will have to make specific contributions and short-term trade-offs if the national priorities are to be achieved.

Against this brief analysis, it is necessary to distil some lessons from the South African experience of social dialogue, the subject of the concluding section.

Conclusions: Lessons learnt

First, as the South African case shows, social dialogue is characterized by trade-offs and compromises by the partners involved. Parties would not make compromises if they feared that agreements would not be honoured or would be revised in the near future by other parties. The proposed amendment to the labour laws and the trade unions' opposition give credence to this fact. Thus the success of social dialogue in South Africa as elsewhere is dependent on trust and on the social partners' willingness and commitment to make some short-term sacrifices for longer-term benefits. The credibility of social dialogue is therefore considerably dependent on trust. Negotiating a set of programmes and policies to achieve the identified national priorities would be considerably dependent on this.

Second, the success of social dialogue in South Africa has been considerably dependent on the capacity of the social partners to make

their constituencies abide by agreements that have been reached with other parties. Also, the level of representativeness of the Nedlac social partners and the degree to which negotiators act under mandates considerably influenced the success of social dialogue.

Third, social dialogue in South Africa has achieved its level of success because of the internal capacity of the three major social partners, business, labour and government. To a certain degree, they all have relatively strong research capacity and skilled negotiators to engage independently on the complex issues they are confronted with at Nedlac. As the empirical evidence above shows, they have all, in one form or another, exerted their independence by taking independent actions; but in the process, they have realized that such independent actions might undermine social dialogue. There is therefore a willingness to give and take, and to pull their resources together towards a common good as exemplified by the identification of national priorities.

Fourth, the South African case has also shown that leadership commitment to social dialogue is a necessary condition for its success.

Fifth, the South African experience has demonstrated that social dialogue does not eliminate disagreements but rather it provides room for lawful and channelled expression of anger or dissent.

Lastly, as shown in the foregoing analysis, social dialogue takes a variety of formats, including institutional and non-institutional interactions, negotiations and informal consultations in an attempt to shape socio-economic policies.

Notes

¹ This article is written in the individual capacity of its authors and does not necessarily reflect the views of the institution.

² Note that Nedlac is undertaking a large-scale research project on the system of social dialogue in South Africa. It is anticipated that this work will be ready in April 2001.

³ Quan has shown the mushrooming of labour-community partnership in the United States as evidence of social dialogue to address a range of issues with considerable success, none of which either of the partners could have effectively addressed alone.

⁴ The Ministers and Director-Generals who are members of the Executive Council are those from the key economic ministries which are: Department of Trade and Industry, Department of Finance, Department of Labour and Department of Public Works.

⁵ NRDF has stopped participating in Nedlac's activities primarily because of internal problems which have resulted in its not being able to function as an organization.

⁶ But there are other groups in the country including the Black Business Council which would like to be represented in Nedlac.

⁷ There are a number of amendments to labour market legislation currently before Nedlac to address what the Minister of Labour has referred to as 'unintended consequences' of the legislation. The trade unions are opposed to most of the proposed amendments which they argued would revised some of the hard-won gains of workers, which in themselves were the products of previous compromises. Tension is running high on these amendments and COSATU's General Secretary has threatened that "blood will flow in the streets" if the Government were to go ahead with the proposed amendments.

⁸ See Gostner and Joffe (2000) for a more detailed analysis of labour's role in Nedlac.

⁹ The convenors are the senior contact persons for each of the constituencies.

¹⁰ See Gostner (1997) for a more detailed analysis of the social clause negotiation process.

¹¹ See Dickinson (1999) and (2000) as well as Gostner (1999) for more detail on this initiative.

¹² See Von Holdt (2000) for a more comprehensive discussion of this topic.

¹³ The Government delegation was led by a Deputy Director-General at the Department of Labour. The trade unionists interpreted this as lack of Governmental commitment and insisted that Ministers and Director-Generals represent Government, as these were important meetings.

¹⁴ Such obstacles could cause delay in reaching binding agreements by social partners. This addresses one of the major criticisms of Nedlac, that because the negotiations were attended by officials without decision-making power, there had been delay in arriving at a decision.

¹⁵ This is a high number of meetings given that Executive meetings are supposed to be held quarterly.

References

Adler, G. and Webster, E. 1995. "Challenging Transition Theory: The Labour Movement, Radical Reform and Transition in South Africa", in *Politics and Society*, Vol.23, No 1, Sage Publications Inc, Thousand Oaks, California.

Baskin, J. 1999. *Striking Back: A History of Cosatu*, Johannesburg, Ravan Press.

Business Day, 12 September 1997, Johannesburg.

Choi, Young-Ki. 2000. "Social Concertation in Korea: Tradition and prospects", *Social Dialogue Papers*, No. 3, Geneva, ILO.

Dexter, P. 2000. "Labour Market policy by consensus? The Nedlac experience", *Innes Labour Brief*, Johannesburg.

Dickinson, D. 1999. *A Research Report on the Workplace Challenge Plastics Sector Project*, Johannesburg.

—. 2000. *The Workplace Challenge Plastics Sector Project*, Second Research Report, Johannesburg.

Gostner, K. 2000. *Social Dialogue in South Africa*, paper prepared for the ILO InFocus Programme on Social Dialogue, Geneva.

—. and Joffe, A. 2000. "Negotiating the future: Labour's role in Nedlac", in Adler, G.(ed): *Engaging the State and Business: The Labour Movement and Co-Determination in Contemporary South Africa*, Johannesburg, Witwatersrand University Press.

Hyman, Richard. 2000. "Social Dialogue in Western Europe: The State of the Art", *Social Dialogue Papers*, No. 1, Geneva, ILO.

Héthy, L. 2000. "Hungary: Social Dialogue within and outside of the framework of tripartism", *Social Dialogue Papers*, No. 4, Geneva, ILO, page 1.

Nedlac. 2000. Declaration of the 5th Annual Summit, Sandton Convention Center, Sandton, 9 September.

Parsons, Raymond. 2000. "Message From the Overall Business Conventor", in *Nedlac Annual Report*, Johannesburg.

Patel, Ebrahim. 2000. "Message From the Overall Labour Conventor", in *Nedlac Annual Report*, Johannesburg.

South African Reserve Bank. 2000. *Annual Economic Report*, Pretoria.

Von Holdt, Karl. 2000. *From resistance to reconstruction: A case study of trade unionism in the workplace and the community (1980-1996)*, unpublished Ph.D. dissertation, Department of Sociology, University of Witwatersrand.

Webster, Edward et al. 2000. *Nedlac: Labour Unions, Social Pacts and Democratization*, University of the Witwatersrand, UNSRI.

Zuma, J. 1999. *Speech to the Fourth Annual Summit*, Gallagher Estate, Midrand, 2 October.

Trade union dialogue with civil society in Nepal

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In the developing countries, the role of civil societies (CSOs) and non-governmental organizations (NGOs) is becoming increasingly more important as agents of change and development. In Nepal, these organizations have proliferated, particularly following the restoration of democracy in 1990. This growth is due principally to three major factors. The first one is the general failure of the State machinery to reach the large proportion of the poor and deprived sections of the population, despite the provisions in the Constitution for the promotion of a democratic, just and equitable society. Second, the society witnesses a worsening trend in the already poor state of governance making a mockery of the basic features of 'good governance' such as transparency, accountability and the rule of law. Third, and in view of the first two factors, funding agencies have been placing growing confidence in civil society and NGOs as alternative vehicles to channel essential services to the needy people.

Currently, there are over 10,000 registered NGOs of which one-tenth are actively involved in social and economic upliftment of the people (NESAC, 1998). Their work domain mainly encompasses thematic and target-group oriented areas such as poverty reduction, environmental conservation and gender equity. Their actions are targeted mostly to the poor and deprived sections, the *dalits* (so-called untouchables) and children. Operating mainly through groups, NGOs strive to make a positive impact on the adverse situation faced by the target population.

The civil society organizations on the other hand generally pursue longer-term objectives aimed at correcting the structural gaps and behavioural anomalies. They are more concerned with the process of delivery of goods and services, and less with delivery itself. These

organizations aspire to reform the process to ensure that the normal channels of delivery work. In that sense, CSOs focus more on macro-level issues and meso-level realities rather than on direct delivery to the target population at the micro-level. Unlike NGOs, CSOs are people-based and politically motivated. They also prefer to work through groups and emphasize group solidarity. Compared to NGOs, CSOs are a more powerful means of forming opinions and influencing the wider structural and behavioural issues.

Trade unions (TUs) resemble NGOs in terms of pursuing short-term objectives linked to the welfare of their constituents, the workers. They are active in the day-to-day issues relating to such issues as wage rates and working conditions, but they are closer to the CSOs in that they seek to reform the environment in which the workers eke out their livelihood. They are concerned with issues which not only influence and impinge upon the environment but also shape the work relationships. TUs in Nepal work in both the spheres of immediate concern such as terms and conditions of work, and longer-term concerns such as the meso- and macroeconomic environment affecting the welfare of the workers.

Because of their shared concerns and objectives, TUs are closer to civil organizations than NGOs in their working style and solidarity. TUs are also likely to derive ideas and leadership support from CSOs, thus indicating the need for closer collaboration between the two. This paper empirically examines whether this is indeed the case. In the first place, the case of the General Federation of Nepalese Trade Unions (GEFONT) is examined. Then, the GEFONT working relationship with the NGOs is documented. In the third place, the past and current connections of its office bearers are traced.

Finally, implications are derived reinforcing the need to enhance support for CSOs and NGOs and to strengthen the trade unions.

GEFONT and its working relationship with CSOs and NGOs

GEFONT came into existence in 1995 as the first confederation of trade unions. Thereafter, two more confederations have been registered in Nepal. GEFONT is the largest confederation with 15 national federations affiliated and with a share of 60 per cent of overall membership of over half a million members. Membership is distributed among industries, the services sector, agriculture and other informal sectors such as tea plantations, construction, garbage collection and rickshaw pulling (GEFONT, 2000).

“Socialism for a dignified working class with a prosperous life” is the vision of GEFONT. The mission statement (GEFONT, 2000) includes both short- and long-term concerns as well as structural considerations, as follows:

- (i) build awareness among the working class of their rights and responsibilities;
- (ii) strengthen unified pro-worker trade unionism;
- (iii) eliminate feudalistic production relationships;
- (iv) foster international solidarity of the working class against capitalist globalization;
- (v) strengthen the role of the working class within the social movement; and
- (vi) assist in the establishment of a people’s pluralistic democratic political system.

Box 1. GEFONT’s cooperation with international organizations

Organizations	Types of work
International Labour Organization (ILO)	Collective bargaining, occupational safety and health, labour laws, ILO standards, child labour, bonded labour, women workers
Danish International Development Agency (DANIDA)	Trade union education campaign
Friedrich Ebert Stiftung (FES)	Seminars on labour issues, strengthening of the resource centre, publication of trade union education kits
European Human Rights Forum	Publications
Committee for Asian Women	Women workers, training
Asia Pacific Workers Solidarity Link	Trade union conferences and visits
Asian Migrant Centre	Work on migrant workers’ issues
Asia Monitor Resource Centre	Publications, work on migrant workers’ issues
Participatory Research in Asia	Occupational safety and health

Box 2. GEFONT’s collaboration with national organizations

Organizations	Types of work
Informal Sector Service Centre (INSEC)	Bonded labour, minimum wage, child labour, human rights issues
Kamaiya Concern Group	Bonded labour
Industrial Relation Forum	Seminars on various labour issues
Child Workers in Nepal Concerned Center (CWIN)	Child labour issues
Public Health Concerned Trust (PHECT)	Health cooperative
National Labour Academy – Nepal (NLA)	Labour policy, policy research, social and gender discrimination, liberalization and globalization issues
All Nepal Women’s Association	Women workers, gender discrimination in the labour market
All Nepal Peasant’s Association	Agricultural workers, agricultural policies

In its mission to foster a dignified working class, GEFONT has been collaborating with CSOs and NGOs in areas relating to labour issues and labour rights and education. Partner international agencies working closely with the confederation by providing some form of technical assistance are listed in Box 1. In general, international cooperation targets global issues such as awareness, education and solidarity building.

Collaboration with national NGOs mainly revolves around specific issues such as child labour, bonded labour, minimum wages and macro policy issues. The major national NGOs collaborating with GEFONT on broad areas are listed in Box 2. The general policy of GEFONT has been to collaborate with NGOs in pro-worker activities and programmes. GEFONT has maintained that when NGOs adopt a project on labour issues, such an approach often dilutes the key issues. So, there is a need for all to understand the issues globally, not in a piecemeal fashion but in terms of their overall implications and address them comprehensively with a sense of purpose.

GEFONT's membership and connection with CSOs and NGOs

A brief survey was conducted involving 110 executive members from the federations affiliated to GEFONT to establish whether they were associated with a CSO or an NGO, and if so, in what capacity. Sixty per cent of the members returned the completed questionnaires. Eight per cent reported current association with CSOs and 28 per cent had links with NGOs. The members reporting such affiliation prior to joining the trade union were 26 per cent for CSOs and 23 per cent for NGOs.

The current affiliation is mostly expressed in the form of serving as an executive member, or in fulfilling a leadership role. Of the total affiliations reported, four in five are either in an

executive role or in a leadership position. The remaining one in five are either employees or hold a general membership status.

Five per cent of the members declared they were against GEFONT's collaboration with CSOs or NGOs. They held the opinion that such collaboration diluted the purpose and drive of the trade union. An overwhelming majority (95 per cent) favoured collaboration, forwarding a host of reasons in support of it. Nearly nine out of ten (87 per cent) mentioned similarity in objectives and work, while 56 per cent reported that there was scope for mutual learning. About one-third (32 per cent) saw the possibility of supplying leadership, and one-half (52 per cent) believed that such an association enhanced the base for trade union organizing.

Conclusion and implications

GEFONT has been closely collaborating with CSOs and NGOs on issues centred around labour welfare and environment in which labour relationships evolve and gain shape. Its dominant concern is regarding the medium- and long-term structural issues.

An examination of the connection of GEFONT membership revealed that a large proportion of the members are connected with CSOs and NGOs. Indeed, they have also been the source of supply of leadership in GEFONT, and vice versa. An overwhelming majority of GEFONT membership endorse working with CSOs and NGOs. GEFONT is poised to benefit from the gradual expansion and strengthening of civil society organizations.

References

- NESAC. 1998. *Nepal: Human Development Report 1998*, Nepal South Asia Centre, Kathmandu, Nepal.
- GEFONT. 2000. *Glorious the years of our struggle*, General Federation of Nepal Trade Unions, Kathmandu, Nepal.

Table 1. Affiliation and attitude towards CSOs and NGOs

Organization type	Respondents	Attachment before joining (%)	Current attachment (%)	Executive or leadership role (number)
CSOs		26	8	4
NGOs		23	28	14
Total	65	49	36	18

Source: Survey on GEFONT membership and connection with CSOs and NGOs, National Labour Academy, Kathmandu (unpublished).

Experiences of social dialogue and prospects for the future in the Republic of Korea

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Social dialogue in Korea has been practised continuously in many different forms since the late 1980s. In the 1980s there had been various attempts to establish social dialogue institutions, even though most of them were limited to short-lived experiences. However, at the beginning of 1990s when the Government decided to moderate unchecked wage hikes, social partners with strong Government support came to the consultation table and reached a bilateral agreement on wage guidelines. It was the first valuable experience of this kind in Korean industrial relations. As the fear of wage explosion subsided in the mid-1990s, labour reform issues featured high on the agenda. The Government had already made a couple of futile attempts to revise the labour legislation; but this time it tried to do so through social consensus. It set up a tripartite advisory commission for the period 1996-1998. The commission was asked to build up social consensus on the revision of the labour legislation and, if possible, to arrive at a compromise in the whole package of revision drafts.

In the late 1990s social dialogue was to progress steadily, culminating in the wake of the economic crisis. The International Monetary Fund (IMF) asked the Korean Government to implement a series of reform programmes including a more flexible lay-off system in exchange for economic bailout. The social partners and the Government reached a compromise on the IMF requirements and the trade unions' demand. Hence the first tripartite social pact in Korea came into being in February 1998. This social pact marked a turning point in the Korean economy. Then, in May 1999, a ten-year tradition of social dialogue was institutionalized on a permanent basis in the form of the Tripartite Commission.

Taking shape

The Labour and Management Consultation Act introduced in 1980 provided the legal basis for the Central Labour and Management Commission (CLMC, 1980-1997), a tripartite consultation body at the top level.¹ However, the CLMC had been discredited as an institution existing only in law, because it could not play any significant role in the dynamic changes occurring in the sphere of industrial relations. Within the 17-year period before the law was revised in 1997, the CLMC was convened just seven times. In the turmoil of strike outbursts from 1987 to 1990, it was difficult for the social partners even to sit together and talk.

The main reason for such disappointing activities on the part of the CLMC seems to lie in the deep-rooted mistrust of the Government's intention. Trade unions eyed sceptically the legally binding enforcement of an enterprise-level consultation committee, with the fear that the Government intended to replace the collective bargaining process with committee consultation. Even though the CLMC was completely independent from the enterprise-level committee, its image as a consultation body was tarnished. Also, the authoritarian Government neither seriously sought any cooperation from labour nor needed any genuine information sharing with social partners. Before democratization in 1987, the CLMC had been partly used as machinery to disseminate unilaterally government policy guidelines to the private sector.

It should be noted that, despite its narrow scope of consultation, the Minimum Wage Council (MWC, 1987) contributed more to building up the trust necessary for successful tripartite consultation. The MWC, which was

authorized to recommend an annual minimum wage rate, was composed of trade union and business leaders and experts. The Minister of Labour can veto its recommendation but has no right to amend the recommended salary rate. Such a tripartite wage-fixing structure, new to Korean industrial relations, helped social partners to get accustomed to tripartite coordination. Although the CLMC and the MWC did not directly lead to later social dialogue schemes, they undoubtedly carried some embryonic elements of social dialogue.

Phase one: Incomes policy and bilateral pacts

Wage guidelines and the National Economic and Social Council

Workers' demands for a fair share of economic growth had become more insistent ever since 1987. On the eve of the 1989 bargaining round, economic policy-makers were afraid of losing the country's basis of economic competitiveness and tried to slow down the progress of the wage question.² Following the model of the National Wage Council in Singapore, the Government intended to set up a tripartite body which could serve as a forum for social dialogue on the issue of wage moderation. However, such discussion within the policy community aroused the fierce resentment of trade unions. As an alternative, the Federation of Korea Trade Unions (FKTU) proposed to launch the National Economic and Social Council (NESC, 1990-1997). The Government had no other choice but to accept the FKTU's proposal with a modest expectation that the NESC would provide a forum for social dialogue. But the FKTU insisted that the Government should not join the NESC and that the wage issue should not be discussed at the NESC. Thus the first Government attempt for concerted wage moderation had failed.

In 1991, before the wage bargaining started, President Roh, then in office, had held a "national economic summit meeting" inviting all the social partners. The summit meetings of 1991 and 1992 had been designed to lay a common ground for the mutual understanding of cooperative industrial relations in serious economic situations. Although the summit meetings did not lead to any follow-up action, one visible outcome of the 1992 meeting was the launching of the Labour Laws Review Committee in April 1992. While the summit meetings did neither much good to relieve con-

frontation nor to slow down the wage movement, they did open up possibilities for social dialogue and laid a stepping-stone for its future evolution.

Bilateral wage guideline pacts

When the newly elected President Kim Young-Sam took office in 1993, the Government gave up the controversial guideline policy and took a new initiative to reach an agreement on wage moderation between the FKTU and the Korea Employers' Federation (KEF).

The Government strove to persuade the FKTU to accept the bilateral compromise in the spirit of pain-sharing for economic recovery. After a one-month-long negotiation under the close scrutiny of the Government, the FKTU and the KEF successfully reached the first bilateral wage guideline agreement in April 1993.³ In a similar fashion, they agreed on the guideline of a 5-8 per cent wage increase in 1994. These two bilateral wage guideline pacts clearly deviated from the previous pattern of somewhat hostile industrial relations, marking a turning point in the evolutionary process of social dialogue; and the pact scheme clearly contributed to moderating the wage movement.⁴ However, it was not without a price: it cost the FKTU substantial membership loss and political debasement. The rank and file workers felt that the FKTU gave away a big concession without receiving equivalent compensation. They treated the pact's guideline as a Government recommendation.

Another deficiency of this pact lies in the fact that the other faction of the labour movement (the Korea Confederation of Trade Unions, KCTU), smaller in size but more militant and with a stronger influence over enterprise-level wage bargaining, was excluded from this pact scheme. The KCTU endeavoured to undermine the pact scheme, criticizing the unfairness of the deal, thereby provoking the resentment of the rank and file in an attempt to widen its own organizational basis.

As a result, the FKTU has to bear solely the entire burden of the pact, all the more ironical in comparison with social pact practices in other countries where pact participants usually expand their political and organizational basis. Hence, just before the 1995 pact negotiation, the FKTU declared an end to the pact scheme. This sour experience was to leave a somewhat negative imprint of social dialogue in the minds of Korean workers.

Phase two: Labour law revision and social dialogue institutions

As industrial relations restored relative stability and wage issues subsided in the mid-1990s, social partners began to address the question of labour reform. Most people expected a more democratic amendment of the labour legislation in keeping with the strides achieved in political democratization in 1987. However, it was repeatedly delayed for almost ten years mainly due to serious conflicts of interest. The key question was how to manage such a politically volatile reform process.

The Labour Law Review Committee (LLRC, 1992-1996)

The presidential veto of the labour bills passed by the National Assembly put an end to the labour reform drive in 1989. There was to be no progress on this matter until Korea became a member State of the ILO at the end of 1991, an event which brought to the fore Korea's violation of ILO Convention (No. 87) on freedom of association with regard to basic labour rights, rekindling the debate over labour reform.

In this context, it was decided at the economic summit meeting in 1992 to launch a special committee, whose task would be to propose a revised draft of the labour legislation to the Minister of Labour. The committee was comprised of: ten experts (university professors and lawyers); three members from the FKTU, and three from the KEF. The historic meaning of the LLRC in terms of social dialogue is that the Government placed the issue on the public forum even though it was confined to a very limited inner circle. The mandate given to the committee was to prepare a draft paper after sufficient consultation among participants. To prepare such a draft posed no problem for the experts on the committee, but progress was halted when consultations and coordination of conflicting interests between employers and workers made no headway. The representatives from the FKTU refused to endorse the draft bill proposed to the Government and took a firm stand: Its contents could not even be disclosed to the public; nor did the Government show any determined willingness to process the draft.

The Industrial Relations Reform Commission (IRRC, 1996-1998)

In the evolutionary process of social dialogue in Korea, the IRRC stands as the second major landmark. At this stage, social dialogue took a more complete form and dealt with more balanced packages. It was more complete in the sense that the KCTU was invited to join, and more balanced in the sense that the objective of social dialogue was the full revision of the labour law.

Up to this point, the KCTU had not been invited to any of the previous social dialogue exercises, so that it was "forced" to criticize the social dialogue scheme itself. The KCTU's participation in the IRRC was an important move to invigorate social dialogue. It also meant that the Government and business leaders recognized the KCTU as a dialogue partner for the first time. This recognition of the KCTU as a social partner itself was a big step towards truthful social dialogue.

The task assigned to the IRRC was also very timely in two senses. First, the two major thrusts of the law revision, that is, the enhancement of labour market flexibility and the deregulation of basic labour rights, were suitable for a more reasonably balanced political exchange between employers and workers. If the package had kept the balance, a major compromise could have been reached. Second, labour reform had always been at the centre of policy debates since 1988. The only question was when it would be addressed and how. Social dialogue through the IRRC afforded a means to minimize social costs and therefore offered an appropriate opportunity.

From the outset, the IRRC enjoyed full support from all the concerned parties as well as the public. In addition, the IRRC was accredited with the legitimacy and the authority required to engineer social consensus-building. The mandate of the IRRC is a two-year-long presidential commission, the main function of which is to recommend a draft paper on labour law revision to the President. Its function is very similar to that of the previous institution, the LLRC, active between 1992 and 1996. However, contrary to the LLRC, the IRRC paid much attention to building up broader social consensus on the pending issues and did not hesitate to open nationwide public hearings. The IRRC actively sought to reach an agreement on the whole package of the draft. Such efforts were not totally futile. Most issues, except the few but most critical points, were agreed upon.

The recommendation of the IRRC to the Government with an incomplete compromise was severely distorted in the government draft that placed more emphasis on labour market flexibility. Then the National Assembly further revised the government draft to be more favourable to employers. The workers who had engaged in a massive struggle from the time of the debate on the Government's draft responded to the National Assembly's passing of the bill with a series of strike activities. The strike was so massive that the law had to be repealed within one month. It proved to all that neglecting the spirit of social dialogue and compromise, which had been built up for a year, only resulted in severe conflicts and huge social costs.

Economic crisis and the Social Pact

Background

The Asian financial crisis in 1997 and the economic restructuring programmes pursuant to the IMF policy recommendations caused massive dismissals and the explosion of unemployment. The unemployment rate had remained below 3 per cent during the first five years of the 1990s and 2 per cent during 1995-1996. However, immediately after the breakdown of the financial market, the fear of unemployment became pervasive throughout the nation. Worse than all, the Government had to deregulate the rigid legal provisions on employment. At this crossroads, the newly elected president chose to seek a tripartite social accord rather than fight against the expected workers' struggle for job stability.

Ironically, it was the KCTU that openly mentioned the necessity for a social accord in early December 1997, and all three candidates competing for the December Presidential elections proposed some sort of employment stability pact in their campaigns. Right after the election, the President-elect Kim Dae-Jung met union leaders to propose the establishment of a special consultation body for negotiating the terms and conditions of the social pact.

A great compromise

On 15 January 1998, a tripartite commission, peculiarly led by the political party that had just won the election, was set up as a negotiating body. After three weeks of concentrated review and negotiation of each partner's demands, it reached a dramatic compromise on all the pending 90 items. This first tripartite Social Pact

in Korea contained not only labour issues but also other items on the economic and political reform agenda, some of which had already been proposed by the newly elected Government and also by the IMF.

It covers all the national reform agenda and action programmes for crisis management. The pact participants include the Government, three political parties, two employers' associations, and two peak workers' organizations. Therefore it can be perceived as a form of national compact. Since the great compromise was made in the midst of the perilous economic crisis, the pact received almost unanimous political support and most people believed that it was a turning point for picking up new momentum for economic recovery.

When we analyse the contents of the pact from the viewpoint of industrial relations, the centrepiece of political exchange between Government and labour is the latter's acceptance of labour market flexibility in return for improved basic labour rights along with some social protection measures. More precisely, the gist of the pact lies in the fact that Korean labour accepted a new lay-off system (dismissal for managerial reasons). In a purely legal sense, whether or not the dismissal provisions of the Labour Standards Act are amended is irrelevant. What does matter is the political ramification of the fact that the amendment was made with workers' consent. A year before the pact was made, the Government, faced with nationwide strike activities, had had to repeal the newly revised labour laws and had narrowly patched up the dismissal issue with a two-year grace period before its implementation. Therefore, without the workers' consent, it was very difficult at this stage for the Government to amend it further.

The Tripartite Commission

The activities of the Tripartite Commission can be divided into three different periods. Its first phase (15 January to 9 February 1998) was to reach the so-called great compromise, the Social Pact. The Commission in this first period was led by political party leaders under the supervision of the President-elect Kim Dae-Jung. This first-round Commission had no legal basis.

The second-round Commission, newly organized in June 1998, was mainly involved in monitoring and executing the pact. The Commission had to elaborate the way in which some of the vaguely-termed contents of the pact could be translated into legislation. This period involved intense consultation and coordination

on many policy issues and law-making matters. It was also a very dynamic process. Union leaders often used the strategy of absenteeism and complete withdrawal from the Commission, protesting against Government inaction and delayed legislation. As a result, in January 1999 the National Assembly finally passed the bill of teachers' right to organize, but it was already too late to prevent the complete withdrawal of both labour federations from the Commission in February.

As a measure to reactivate it, the Government and the ruling party joined to pass the Tripartite Commission Act on May 1999. The Commission in the second period (June 1998 to May 1999) was based on the Presidential decree, the political meaning of which implied that the Commission might not survive the next Government. But the new law provided a permanent legal basis for the Commission, hence, the complete institutionalization of social dialogue.

In a legal sense, the Commission maintains the characteristics of a Presidential advisory committee as before; but its function is not limited to that: It is also entitled to issue policy recommendations to the Government and consult on economic and social policies which could affect the workers' living. In comparison with the previous commissions, the third-round Commission has the more clearly defined function of policy consultation, and the presence of Government representatives in the Commission is guaranteed.⁵ Furthermore, the political parties which were present up to the second period completely withdrew from the Commission. Right after this legislation, the FK TU took a few steps to return to the Commission and decided to rejoin in early September with an expectation that the Government and ruling party activity would work out a solution for the payment of full-time union officers. But when the FK TU found it difficult due to the KEF's determined nay, the FK TU again stepped out of the Commission in November 1999.

With the advent of the year 2000, the Commission began to play its proper role despite the KCTU's permanent absence and also despite the FCTU's temporary absence, as this organization came back to the Commission at the end of March. First, the Commission successfully brought strike leaders of the Financial Industry Union and the concerned government officials to the negotiation table and drew a compromise to put an end to the strike in July. Second, the special subcommittee on working hours' reduction was set up in May and started to coordinate the conflicting interests of the social partners.

Assessment

The institutional settings and the last two-and-a-half years' steady work of the Tripartite Commission show some possibilities for further improvements of social dialogue in the future. But the participants of the Commission, particularly on the labour side, have not been satisfied with its performance, with the result that trust among the social partners has been waning. There are many reasons for such dissatisfaction, as follows:

- Firstly, the heavy burden of economic restructuring itself made the smooth sailing of the Commission difficult. Since the scale of economic restructuring had been so massive and drastic, the partners in the Commission did not have enough time to coordinate the many-sided conflicts of interest. The fragile foundation of mutual trust could not endure such a harsh process.
- Secondly, the workers' expectations were too high. The Commission was too burdened to take care of all the aspects of the workers' demands. Furthermore, they expected that the Commission's decision should be honoured and backed up immediately by the consequent legislation and government policy. However, workers saw many decisions made by the Commission just shelved.
- Thirdly, the Government did not hide its fear of or uneasiness with the activities of the Commission. Top economic policy-makers thought that the empowered Commission might endanger or at least delay the imminent restructuring process. Particularly in restructuring the financial market and the public sector, the Government and trade unions confronted each other in a serious manner. Confrontation on the issue of public-sector reform provided a direct reason for the stumbling of the second-round Commission.
- Fourthly, the social foundation of the Commission was not strong enough to cope with all the difficulties in the hectic days of the restructuring. Government officials were not used to building up social consensus through painstaking persuasion, nor were union leaders and employers fully prepared for a reasonable compromise through sufficient talk. They were more dependent on collective actions, especially union leaders. To compound matters, there were no institutional arrangements in terms of multi-

tiered consultation mechanisms either at regional or industry level that could support the national-level social dialogue. Thus the Commission has been striving beyond its capacity.

Future prospects

Has the experience of social dialogue for the last two-and-a-half years been a method of temporary crisis management or a step forward for institution building? There is a strong current of opinion that it has merely served as a temporary institution for crisis management. The basis for this appraisal lies in the structural deficiencies inherent in the social dialogue scheme of Korea. The first defect that many critics point out is the absence of progressive political parties based on the support of working people. Most of the dominant political parties in Korea adopt a catch-all strategy, without differentiating one from another in terms of political ideology. The second drawback is the severely decentralized structure of trade unions and collective bargaining. Due to prevailing company unionism, the peak organizations of employers and trade unions do not hold leadership strong enough to negotiate on behalf of their members and to persuade them to accept negotiated outcomes. Thus the peak organizations have only weak legitimacy to argue as true representatives of social interests. Moreover, union density is hardly more than 12 per cent.

According to these critics, the Social Pact and the Tripartite Commission are nothing but a fragile scheme designed only for crisis management. Once the crisis is over, any institution set up for crisis management will be disposed of. The present instability of the Tripartite Commission and the mounting tension between the Government and trade unions seem to support such a pessimistic forecast.

There is some truth in these criticisms and no one can deny that structural deficiencies have enfeebled social dialogue in Korea. All the same, it cannot be disputed that, despite such deficiencies, Korean industrial relations have undergone an evolutionary process of social dialogue. It must also be noted that underneath the confrontation, even the KCTU kept demanding what they call direct "negotiation" (social dialogue) with the Government. When the labour organizations use the strategy of absenteeism or withdrawal, they expect the Government to play a more active role in mediating interest conflicts. In this sense their frequent absenteeism and withdrawal should not

be interpreted as the total disapproval of the Commission or the denial of social dialogue.

On the contrary, through such protest action they are anxious to consolidate the yet-fragile social dialogue structure. They have a number of pending issues to discuss with the Government. It is the labour partners that are in dire need of a stable institution for social dialogue to deal with the many pending issues: the reduction of legal working hours; the redundancy problem in the banking and public sectors; more protection measures for temporary workers; the strengthening of industrial unionism; and the issue of employers' payment for full-time union officers.

It is likely to be the Government that will determine the future fate and directions of the Tripartite Commission. As the panic of explosive unemployment subsided and macroeconomy recorded double-digit growth rates after the second quarter of 1999, the Government did not feel any pressing need for help from labour.⁶ Organized labour then began to place more emphasis on firm-level wage bargainings to share the fruits of rapid economic recovery.⁷

Before the Tripartite Commission gets on the right track once again, either one more great compromise or another social pact seems necessary. If not, the Commission might degenerate into another institution of social dialogue existing in name only, without any substance, as did many others in Korea.

As of September 2000, the Commission was supposed to come up with a compromised package of working hours' reduction before the closing of the 2000 National Assembly. Despite the general agreement on the principle and guideline of the working hours reduction in October 2000, the Commission could not reach a final deal and have it ready for legislation. Even though it is still technically possible for the Commission to try again for the temporary session of the National Assembly due in February 2001, its probability of success is not very high. The Government and the social partners seem to need more time to finalize the general agreement.

And the trade unions, particularly the FKTU, are anxious to revise the legal prohibition of employers' payment for union officers before it becomes effective from 2002. From the FKTU's viewpoint, there are packages to make a deal with employers and the Government. But the main obstacle to such a deal is not its contents but the structure of dialogue: the absence of the KCTU from the Commission. Since early 1999, the KCTU had stayed away from it and

had been demanding a separate channel of dialogue with the Government. The KCTU is not in a position to join the negotiation table within the Commission as easily as the other partners. This unstable structure narrows the room for the FKU to negotiate with employers and the Government, especially when the FKU remembers the sour experiences of the bilateral wage pacts in 1993 and 1994.

Despite the crippled operation of the Tripartite Commission at the national level, social dialogue at the local government level keeps expanding. In 26 local governments, including the Metropolitan City Government of Seoul, the regional tripartite commission was established at the end of August 2000. This trend is expected to continue in the future. In addition, trade unions strongly demand some form of tripartite consultation on an industrial basis, while employers' organizations are hesitant. It is evident that at the international level there are a lot more possibilities for cooperation among the institutions of social dialogue in terms of information sharing, technical assistance, exchange programmes, etc.

Another area for widening the scope of social dialogue is the involvement of the social partners in policy-making and the administration of labour market policy and welfare programmes. As partnerships and mutual trust develop, social partners will seek more active participation in policy-making and implementation (e.g. vocational training, job placement services and social welfare, etc.).

However, it will take more time to witness this development. Above all, social partners will have to work very closely in order to overcome the present lack of trust and the loss of their confidence in the yet-fragile social dialogue regime.

Notes

¹ The law says: "to review the main issues of the labour policy the Central Labour and Management Commission may be established under the Minister of Labour." It consists of ten representatives each from the labour and management sides and 15 experts representing public interests. The Minister of Labour holds the chair.

² In 1989 the GDP growth rate of the manufacturing sector registered 4.2 per cent only, while wages for manufacturing workers increased 18.3 per cent on a real-wage basis.

³ This was not a result of central-level wage bargaining. What they agreed on was a recommended guideline for a wage increase of between 4.7 to 8.3 per cent. Since the competing peak organization, the KCTU faction, demanded an 18 per cent increase in wages, this guideline was considered as quite modest.

⁴ The average wage increase rate for non-agricultural industries over this period was 15.2 per cent in 1992, 12.2 per cent in 1993, 12.7 per cent in 1994, and 11.2 per cent in 1995. The GDP growth rate in the corresponding years was 5.1 per cent, 5.8 per cent, 8.6 per cent, and 8.9 per cent, respectively.

⁵ The Ministers of Finance, Economy, Commerce, Industry and Energy, and representatives of the Economic Planning and Budget Commission and of the Financial Supervisory Commission are present in the plenary meeting of the Commission.

⁶ The unemployment rates declined from 7.8 per cent in February 1999 to 3.6 per cent in July 2000. The Government foresees that this year's average unemployment rate will stay around 3.9 per cent.

⁷ Such a trade union strategy turned out to be very effective, so that the bargained wage rates on average went up to 7.0 per cent in 1999 and 7.9 per cent as of August 2000, while it had been just 1 per cent in 1998.

Bibliography

- Choi, Young-Ki et al. 2000. *Revision of Labour Laws and Industrial Relations since 1987 in Korea*, Korea Labour Institute, Seoul (in Korean only).
- . 1999. *Labour Politics and Industrial Relations since 1987 in Korea*, Korea Labour Institute, Seoul (in Korean only).
- Tripartite Commission. 1999. *Annual Report* (in Korean only).
- Tripartite Commission. 1998. *Annual Report* (in Korean only).

Appendix I

Convention No. 144

Convention concerning Tripartite Consultations to Promote the Implementation of International Labour Standards

The General Conference of the International Labour Organisation,

Having been convened at Geneva by the Governing Body of the International Labour Office, and having met in its Sixty-first Session on 2 June 1976, and

Recalling the terms of existing international labour Conventions and Recommendations, in particular the Freedom of Association and Protection of the Right to Organise Convention, 1948, the Right to Organise and Collective Bargaining Convention, 1949, and the Consultation (Industrial and National Levels) Recommendation, 1960, which affirm the right of employers and workers to establish free and independent organisations and call for measures to promote effective consultation at the national level between public authorities and employers' and workers' organisations, as well as the provisions of numerous international labour Conventions and Recommendations which provide for the consultation of employers' and workers' organisations on measures to give effect thereto, and

Having considered the fourth item on the agenda of the session which is entitled "Establishment of tripartite machinery to promote the implementation of international labour standards", and having decided upon the adoption of certain proposals concerning tripartite consultation to promote the implementation of international labour standards, and

Having determined that these proposals shall take the form of an international Convention, adopts this twenty-first day of June of the year one thousand nine hundred and seventy-six, the following Convention, which may be cited as the Tripartite Consultation (International Labour Standards) Convention, 1976:

Article 1

In this Convention the term "representative organisations" means the most representative organisations of employers and workers enjoying the right of freedom of association.

Article 2

1. Each Member of the International Labour Organisation which ratifies this Convention undertakes to operate procedures which ensure effective consultations, with respect to the matters concerning the activities of the International Labour Organisation set out in Article 5, paragraph 1, below, between representatives of the government, of employers and of workers.
2. The nature and form of the procedures provided for in paragraph 1 of this Article shall be determined in each country in accordance with national practice, after consultation with the representative organisations, where such organisations exist and such procedures have not yet been established.

Article 3

1. The representatives of employers and workers for the purposes of the procedures provided for in this Convention shall be freely chosen by their representative organisations, where such organisations exist.
2. Employers and workers shall be represented on an equal footing on any bodies through which consultations are undertaken.

Article 4

1. The competent authority shall assume responsibility for the administrative support of the procedures provided for in this Convention.
2. Appropriate arrangements shall be made between the competent authority and the representative organisations, where such organisations exist, for the financing of any necessary training of participants in these procedures.

Article 5

1. The purpose of the procedures provided for in this Convention shall be consultations on:
 - (a) government replies to questionnaires concerning items on the agenda of the International Labour Conference and government comments on proposed texts to be discussed by the Conference;
 - (b) the proposals to be made to the competent authority or authorities in connection with the submission of Conventions and Recommendations pursuant to article 19 of the Constitution of the International Labour Organisation;
 - (c) the re-examination at appropriate intervals of unratified Conventions and of Recommendations to which effect has not yet been given, to consider what measures might be taken to promote their implementation and ratification as appropriate;
 - (d) questions arising out of reports to be made to the International Labour Office under article 22 of the Constitution of the International Labour Organisation;
 - (e) proposals for the denunciation of ratified Conventions.
2. In order to ensure adequate consideration of the matters referred to in paragraph 1 of this Article, consultation shall be undertaken at appropriate intervals fixed by agreement, but at least once a year.

Article 6

When this is considered appropriate after consultation with the representative organisations, where such organisations exist, the competent authority shall issue an annual report on the working of the procedures provided for in this Convention.

Article 7

The formal ratifications of this Convention shall be communicated to the Director-General of the International Labour Office for registration.

Article 8

1. This Convention shall be binding only upon those Members of the International Labour Organisation whose ratifications have been registered with the Director-General.
2. It shall come into force twelve months after the date on which the ratifications of two Members have been registered with the Director-General.
3. Thereafter, this Convention shall come into force for any Member twelve months after the date on which its ratification has been registered.

Article 9

1. A Member which has ratified this Convention may denounce it after the expiration of ten years from the date on which the Convention first comes into force, by an act communicated to the Director-General of the International Labour Office for registration. Such denunciation shall not take effect until one year after the date on which it is registered.
2. Each Member which has ratified this Convention and which does not, within the year following the expiration of the period of ten years mentioned in the preceding paragraph, exercise the right of denunciation provided for in this Article, will be bound for another period of ten years and, thereafter, may denounce this Convention at the expiration of each period of ten years under the terms provided for in this Article.

Article 10

1. The Director-General of the International Labour Office shall notify all Members of the International Labour Organisation of the registration of all ratifications and denunciations communicated to him by the Members of the Organisation.
2. When notifying the Members of the Organisation of the registration of the second ratification communicated to him, the Director-General shall draw the attention of the Members of the Organisation to the date upon which the Convention will come into force.

Article 11

The Director-General of the International Labour Office shall communicate to the Secretary-General of the United Nations for registration in accordance with Article 102 of the Charter of the United Nations full particulars of all ratifications and acts of denunciation registered by him in accordance with the provisions of the preceding Articles.

Article 12

At such times as it may consider necessary the Governing Body of the International Labour Office shall present to the General Conference a report on the working of this Convention and shall examine the desirability of placing on the agenda of the Conference the question of its revision in whole or in part.

Article 13

1. Should the Conference adopt a new Convention revising this Convention in whole or in part, then, unless the new Convention otherwise provides:
 - (a) the ratification by a Member of the new revising Convention shall ipso jure involve the immediate denunciation of this Convention, notwithstanding the provisions of Article 9 above, if and when the new revising Convention shall have come into force;
 - (b) as from the date when the new revising Convention comes into force this Convention shall cease to be open to ratification by the Members.
2. This Convention shall in any case remain in force in its actual form and content for those Members which have ratified it but have not ratified the revising Convention.

Article 14

The English and French versions of the text of this Convention are equally authoritative.

Appendix II

Recommendation No. 152

Recommendation concerning Tripartite Consultations to Promote the Implementation of International Labour Standards and National Action Relating to the Activities of the International Labour Organisation

The General Conference of the International Labour Organisation,

Having been convened at Geneva by the Governing Body of the International Labour Office, and having met in its Sixty-first Session on 2 June 1976, and

Recalling the terms of existing international labour Conventions and Recommendations, in particular the Freedom of Association and Protection of the Right to Organise Convention, 1948, the Right to Organise and Collective Bargaining Convention, 1949, and the Consultation (Industrial and National Levels) Recommendation, 1960, which affirm the right of employers and workers to establish free and independent organisations and call for measures to promote effective consultation at the national level between public authorities and employers' and workers' organisations, as well as the provisions of numerous international labour Conventions and Recommendations which provide for the consultation of employers' and workers' organisations on measures to give effect thereto, and

Having considered the fourth item on the agenda of the session which is entitled "Establishment of tripartite machinery to promote the implementation of international labour standards", and having decided upon the adoption of certain proposals concerning tripartite consultations to promote the implementation of international labour standards and national action relating to the activities of the International Labour Organisation, and

Having determined that these proposals shall take the form of a Recommendation, adopts this twenty-first day of June of the year one thousand nine hundred and seventy-six, the following Recommendation, which may be cited as the Tripartite Consultation (Activities of the International Labour Organisation) Recommendation, 1976:

1. In this Recommendation the term "representative organisations" means the most representative organisations of employers and workers enjoying the right of freedom of association.
2. (1) Each Member of the International Labour Organisation should operate procedures which ensure effective consultations with respect to matters concerning the activities of the International Labour Organisation, in accordance with Paragraphs 5 to 7 of this Recommendation, between representatives of the government, of employers and of workers.
(2) The nature and form of the procedures provided for in subparagraph (1) of this Paragraph should be determined in each country in accordance with national practice, after consultation with the representative organisations where such procedures have not yet been established.
(3) For instance, consultations may be undertaken:
 - (a) through a committee specifically constituted for questions concerning the activities of the International Labour Organisation;
 - (b) through a body with general competence in the economic, social or labour field;
 - (c) through a number of bodies with special responsibility for particular subject areas; or
 - (d) through written communications, where those involved in the consultative procedures are agreed that such communications are appropriate and sufficient.

3. (1) The representatives of employers and workers for the purposes of the procedures provided for in this Recommendation should be freely chosen by their representative organisations.
(2) Employers and workers should be represented on an equal footing on any bodies through which consultations are undertaken.
(3) Measures should be taken, in co-operation with the employers' and workers' organisations concerned, to make available appropriate training to enable participants in the procedures to perform their functions effectively.
4. The competent authority should assume responsibility for the administrative support and financing of the procedures provided for in this Recommendation, including the financing of training programmes where necessary.
5. The purpose of the procedures provided for in this Recommendation should be consultations:
 - (a) on government replies to questionnaires concerning items on the agenda of the International Labour Conference and government comments on proposed texts to be discussed by the Conference;
 - (b) on the proposals to be made to the competent authority or authorities in connection with the submission of Conventions and Recommendations pursuant to article 19 of the Constitution of the International Labour Organisation;
 - (c) subject to national practice, on the preparation and implementation of legislative or other measures to give effect to international labour Conventions and Recommendations, in particular to ratified Conventions (including measures for the implementation of provisions concerning the consultation or collaboration of employers' and workers' representatives);
 - (d) on the re-examination at appropriate intervals of unratified Conventions and of Recommendations to which effect has not yet been given, to consider what measures might be taken to promote their implementation and ratification as appropriate;
 - (e) on questions arising out of reports to be made to the International Labour Office under articles 19 and 22 of the Constitution of the International Labour Organisation;
 - (f) on proposals for the denunciation of ratified Conventions.
6. The competent authority, after consultation with the representative organisations, should determine the extent to which these procedures should be used for the purpose of consultations on other matters of mutual concern, such as:
 - (a) the preparation, implementation and evaluation of technical co-operation activities in which the International Labour Organisation participates;
 - (b) the action to be taken in respect of resolutions and other conclusions adopted by the International Labour Conference, regional conferences, industrial committees and other meetings convened by the International Labour Organisation;
 - (c) the promotion of a better knowledge of the activities of the International Labour Organisation as an element for use in economic and social policies and programmes.
7. In order to ensure adequate consideration of the matters referred to in the preceding Paragraphs, consultations should be undertaken at appropriate intervals fixed by agreement, but at least once a year.
8. Measures appropriate to national conditions and practice should be taken to ensure co-ordination between the procedures provided for in this Recommendation and the activities of national bodies dealing with analogous questions.
9. When this is considered appropriate after consultation with the representative organisations, the competent authority should issue an annual report on the working of the procedures provided for in this Recommendation.

Appendix III

Recommendation No. 113

Recommendation concerning Consultation and Co-operation between Public Authorities and Employers' and Workers' Organisations at the Industrial and National Levels

The General Conference of the International Labour Organisation,

Having been convened at Geneva by the Governing Body of the International Labour Office, and having met in its Forty-fourth Session on 1 June 1960, and

Having decided upon the adoption of certain proposals with regard to consultation and co-operation between public authorities and employers' and workers' organisations at the industrial and national levels, which is the fifth item on the agenda of the session, and

Having determined that these proposals shall take the form of a Recommendation, adopts this twentieth day of June of the year one thousand nine hundred and sixty, the following Recommendation, which may be cited as the Consultation (Industrial and National Levels) Recommendation, 1960:

1. (1) Measures appropriate to national conditions should be taken to promote effective consultation and co-operation at the industrial and national levels between public authorities and employers' and workers' organisations, as well as between these organisations, for the purposes indicated in Paragraphs 4 and 5 below, and on such other matters of mutual concern as the parties may determine.
(2) Such measures should be applied without discrimination of any kind against these organisations or amongst them on grounds such as the race, sex, religion, political opinion or national extraction of their members.
2. Such consultation and co-operation should not derogate from freedom of association or from the rights of employers' and workers' organisations, including their right of collective bargaining.
3. In accordance with national custom or practice, such consultation and co-operation should be provided for or facilitated:
 - (a) by voluntary action on the part of the employers' and workers' organisations; or
 - (b) by promotional action on the part of the public authorities; or
 - (c) by laws or regulations; or
 - (d) by a combination of any of these methods.
4. Such consultation and co-operation should have the general objective of promoting mutual understanding and good relations between public authorities and employers' and workers' organisations, as well as between these organisations, with a view to developing the economy as a whole or individual branches thereof, improving conditions of work and raising standards of living.
5. Such consultation and co-operation should aim, in particular:
 - (a) at joint consideration by employers' and workers' organisations of matters of mutual concern with a view to arriving, to the fullest possible extent, at agreed solutions; and
 - (b) at ensuring that the competent public authorities seek the views, advice and assistance of employers' and workers' organisations in an appropriate manner, in respect of such matters as:

- (i) the preparation and implementation of laws and regulations affecting their interests;
- (ii) the establishment and functioning of national bodies, such as those responsible for organisation of employment, vocational training and retraining, labour protection, industrial health and safety, productivity, social security and welfare; and
- (iii) the elaboration and implementation of plans of economic and social development.

Appendix IV

Resolution concerning tripartite consultation at the national level on economic and social policy¹

The General Conference of the International Labour Organization, at its 83rd Session (1996),

Considering that tripartite cooperation plays an essential role in the structure and activities of the International Labour Organization, as well as in the development and implementation of economic and social policy,

Considering that tripartite cooperation has recently experienced a number of developments in many countries,

Having examined these developments on the basis of Report VI entitled "Tripartite consultation at the national level on economic and social policy",

Bearing in mind the spirit and content of the Declaration and the Programme of Action adopted by the World Summit for Social Development organized by the United Nations in Copenhagen, from 6 to 12 March 1995;

Adopts the following conclusions and invites the Governing Body of the International Labour Office to request the Director-General:

- to bring these conclusions to the attention of the member States and the employers' and workers' organizations;
- to take account of these conclusions when preparing future activities of the International Labour Organization.

CONCLUSIONS CONCERNING TRIPARTITE CONSULTATION AT THE NATIONAL LEVEL ON ECONOMIC AND SOCIAL POLICY

1. In the present conclusions, the term "tripartite cooperation" is taken in a broad sense and refers to all dealings between the government and the employers' and workers' organizations concerning the formulation and implementation of economic and social policy.
2. Tripartite cooperation is not an end in itself. It is basically a means of cooperation among the parties with a view to:
 - (a) seeking to promote the pursuit of economic development and social justice in concert; and
 - (b) reconciling, where necessary, the requirements of economic development and those of social justice.
3. Meaningful and effective tripartite cooperation cannot exist without a market economy and democracy. It can help to sustain the effective functioning of both. Tripartite cooperation can help to sustain the effective functioning of the market economy by dealing with its social consequences. Tripartite cooperation can also help to strengthen democracy by allowing the social partners, who represent important segments of the population, to participate in various ways in the policy formulation and the decision-making processes regarding economic and social policy.
4. While in some cases tripartite cooperation has not been as effective as some or all parties would have liked, many different forms of tripartite cooperation in different regions of the world have been generally recognized to be effective. This is true for those forms of tripartite cooperation that occur at the national level and cover a wide range of economic and social issues, for those forms that occur at sectoral, regional and local levels, as well as for those forms that occur at the national level but deal with specific subjects such as occupational safety and health.

¹ Adopted on 19 June 1996.

Since tripartite cooperation involves the social partners in the policy formulation and decision-making processes, it has in effect often been a positive means of achieving acceptable compromises between economic and social imperatives. For this reason as well, such compromises have the greatest likelihood of being effectively implemented, thus promoting social peace and harmony.

5. Considerable differences may arise regarding, for example, the relative importance of formal and informal tripartite cooperation, the relative importance of bipartite and tripartite industrial relations or even regarding how sharp a distinction the parties wish to draw between the area of competence of the public authorities and that of the social partners. However, tripartite cooperation is an instrument that is flexible enough to be adapted to the most diverse situations, provided that all the parties have the firm will to do so.
6. At present, the major challenge of tripartite cooperation is to contribute effectively to resolving the problems resulting in many countries from the exacerbation of economic difficulties and the globalization of the economy, as well as from the structural adjustment programmes that both have necessitated. Given the seriousness of these problems, their solution requires a strengthening of tripartite cooperation at the national or other appropriate levels. One of the roles of tripartite cooperation should essentially be to seek to reconcile the imperatives of social justice with those of enterprise competitiveness and economic development. It should be borne in mind that tripartite cooperation should be used not only in adverse but also in favourable economic circumstances.
7. Since the globalization of the economy limits the parties' capacity to resolve economic and social problems at the national level, international cooperation contributes to the solution of these problems. The main objective of this cooperation should be to minimize the detrimental effects of the globalization of the economy. Despite the many difficulties involved in establishing such cooperation, there is a pressing need to explore the ways and find the means by which it can be achieved.
8. The need for tripartite cooperation to adapt to its environment does not alter the fact that its effective functioning is subject to certain fundamental conditions. Firstly, it is indispensable that there be three distinct parties, independent of one another and exercising different functions. This presupposes full respect for the right to organize as set out in the Freedom of Association and Protection of the Right to Organise Convention, 1948 (No. 87), and the Right to Organise and Collective Bargaining Convention, 1949 (No. 98). Secondly, it is essential that the parties be willing to examine problems together and to seek solutions that are mutually beneficial to them and to the national community as a whole. This presupposes that all parties are willing to engage in dialogue with a sense of responsibility that allows them to go further than the narrow defence of their own interests.
9. The smooth functioning of tripartite cooperation depends also on the parties being strong enough to carry out their functions effectively. In particular, this presupposes that the organizations of employers and workers are independent, sufficiently representative and accountable to their members; that they are structured so as to be able to make the necessary commitments and to ensure that they are carried out; and that they have the technical capacity to deal knowledgeably with the subjects under discussion. It is equally important that there be a reasonable equilibrium of strength among the three parties. It is recognized that the State has an important role to play in facilitating effective tripartite cooperation.
10. In a number of countries the existence of an enabling institutional and procedural framework is instrumental – and sometimes essential – to the effective functioning of tripartite cooperation and, in certain cases, to the emergence and identification of employers' and workers' organizations.
11. The International Labour Organization should use all appropriate means and take all appropriate measures including the following initiatives in order to promote tripartite cooperation:
 - (a) encourage the ratification and or the effective application of the Tripartite Consultation (International Labour Standards) Convention, 1976 (No. 144); the Tripartite Consultation (Activities of the International Labour Organisation) Recommendation, 1976 (No. 152); and the Consultation (Industrial and National Levels) Recommendation, 1960 (No. 113);

- (b) promote the will of governments, employers' and workers' organizations to use tripartite cooperation;
- (c) promote tripartite cooperation at the national or other appropriate levels. Its efforts in this domain should above all seek to ensure the fulfilment of the conditions necessary for the smooth functioning of tripartite cooperation. In this regard, special attention should be paid to gathering, evaluating and disseminating information, raising awareness, as well as offering assistance to strengthen the capacity of governments and employers' and workers' organizations to participate effectively in tripartite cooperation;
- (d) undertake, in line with the wish expressed by the Copenhagen Summit calling for international cooperation, the very special role that its "mandate, tripartite structure and expertise" bestows upon it. In this regard, it is urgent to explore the ways and find the means by which the International Labour Organization can accomplish this task. The International Labour Organization should in any case strengthen its contacts and develop cooperation with the World Bank, the International Monetary Fund, the World Trade Organization and other international agencies in order to better sensitize them to the social consequences of their action. It should also increase its efforts aimed at convincing the World Bank and the International Monetary Fund of the need to consult social partners nationally on proposed programmes of structural adjustment and to encourage the use of tripartite cooperation in policy formulation and decision-making processes. It should also assist the national social partners in the course of such consultations if so requested.