



# international UPDATE 10/93

## THE ENDING OF AN ERA: REDEFINING SOUTH AFRICA'S RELATIONSHIP WITH THE INTERNATIONAL LABOUR ORGANIZATION

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### INTRODUCTION

The International Labour Organization (ILO), a member of the United Nations (UN) family of Specialized Agencies, is linked to the UN under the terms of an agreement that recognises its independent responsibility within its own field of competence. Its objectives include attempts to improve international labour conditions, raise living standards, and promote economic and social stability.

South Africa was among the founding members of the ILO in 1919, but following the Second World War (as the Organization became increasingly pre-occupied with human rights within the work-place) a confrontation between South Africa and the ILO seemed increasingly likely. In 1964, under mounting pressure within the Organization, South Africa withdrew from the ILO, and the Organization has since become one of apartheid's most active critics within the UN system. Today, however, the ILO is attempting to adapt its anti-apartheid policy in order to take into consideration the changes occurring within South Africa. This update will examine recent developments in the relationship between South Africa and the ILO, including the emergence of a South African Employers Federation; an ILO Fact-Finding and Conciliation Commission which visited South Africa; and the results of the June 1993 International Labour Conference, which revised its policy of action towards South Africa. These developments may have a lasting impact not only on South Africa's relations with the ILO, but on the future of labour relations within the country.

### FEDERATION OF SOUTH AFRICAN EMPLOYERS

The hallmark of the ILO is its tripartite structure. Employers, workers and governments are involved in both the decision-making process and the work of the Organization. Historically, the vast majority of ILO activities regarding South Africa have revolved around the international co-ordination of anti-apartheid actions and the support of labour and liberation movements within the country. Today, however, as South Africa's re-entry into the ILO becomes increasingly likely, the Organization is attempting to re-establish contact and co-operation with various business groups in South Africa.

In early 1992, a meeting took place in Harare, attended by the South African Co-ordinating Committee on Labour Affairs (SACCOLA), the National African Federated Chamber of Commerce (NAFCOC) (representing mainly formal black business), and the Foundation for African Business and Consumer Services (FABCOS) (representing the informal sector). The objective of the meeting was to establish an umbrella organization which would act as a non-racial employers' federation. The new group, tentatively named the Federation of South African Employers, is designed to provide capital with a unified voice during the transition period, counteract trade union power, and facilitate the entry of an employers' delegation into the ILO. In fact, the ILO has been an active component in its formation since the prospective groups began open discussions.

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## **ILO FACT-FINDING AND CONCILIATION COMMISSION**

In 1992, a Fact-Finding and Conciliation Commission on Freedom of Association (FFCC) visited South Africa. It had been appointed by the ILO Governing Body in response to a complaint of trade union rights infringements in South Africa, presented to the ILO by the Congress of South African Trade Unions (COSATU).

The Commission conducted a full review of South African labour laws within the context of international labour standards on freedom of association. All interested parties (including SACCOLA) were encouraged to make representations, which they did. When published, midway through 1992, the FFCC report made recommendations concerning those aspects of South African labour law that it felt did not comply with international standards (including collective bargaining, the right to strike and those workers currently excluded from the Labour Relations Act).

While the status of the FFCC recommendations is currently a topic of debate, both COSATU and the Manpower Department have noted that international standards should be implemented in future legislation.

## **1993 INTERNATIONAL LABOUR CONFERENCE**

The International Labour Conference, the ILO's supreme decision-making body, has recently completed its annual June meeting. In order to allow the Conference the opportunity to deal with the wide variety of functions undertaken by the ILO, the Conference has several committees which deliberate on specific issues and present conclusions to the larger body. One such committee is the ILO Committee on Action against Apartheid which is a smaller tripartite committee designed to draft ILO policy towards South Africa for consideration within the Conference.

Within the Apartheid Committee, COSATU, the National Council of Trade Unions (NACTU), the African National Congress (ANC), and the Pan-Africanist Congress of Azania (PAC), have consultative status, giving them the opportunity to voice their opinion on ILO activities regarding South Africa. The Legal Committee of the ILO, after some controversy relating to the desire of SACCOLA, NAFCOC and FABCOS to be heard, has informed the Apartheid Committee that they should have similar rights as their labour counterparts in the future. The government of

South Africa does not enjoy speaking privileges and observes on a diplomatic pass in the gallery.

This year the Apartheid Committee was the focus of some disagreement within the Organization. The problem was essentially that the delegates from various countries, representing the Employers' and Workers', respectively, were divided on the most effective way of encouraging the transition process within South Africa. Both groups noted, with satisfaction, recent developments within South Africa (such as the tentative setting of an April 27, 1994 non-racial election date); expressed concern over violence within South Africa; and noted the work of the Group of Independent Experts charged with monitoring the application of sanctions by member states. The Workers' and Employers' groups were also in agreement on the need to implement the recommendations of the FFCC report (discussed above), as well as the need for the ILO to establish an "effective and meaningful" presence in South Africa. They differed slightly, however, on how to accomplish this presence. While both noted the need to continue to provide technical assistance to democratic trade unions in South Africa, the Employers' group expanded on this by also calling for assistance to a non-racial Employers' group (discussed above), and especially to the youth in South Africa that have not received adequate training or education. The Employers' group argued that this should manifest itself within a plan of action, formulated by the Director-General of the ILO, which would facilitate "employment creation; labour relations and collective bargaining; productivity; and manpower training and human resource management".

Conversely, the Workers' group welcomed the deployment of international observers from the UN, the OAU, the Commonwealth and the European Community in order to further the objectives of the National Peace Accord. They also drew attention to the initiatives of NACTU and COSATU in establishing a Trade Union Violence Monitoring Group to monitor violence and to protect trade union rights.

Furthermore, the Workers' group stressed the need to facilitate "voter education, democratic practice and political tolerance by means of seminars, workshops, mass media campaigns and similar projects in both urban and rural areas". They also urged the immediate repeal of the Bantu Homeland Citizenship Act, the Electoral Act of 1979, and they encouraged national governments to contribute specialist investigative personnel to help forward the work of the Goldstone Commission. Finally, while the Workers' group noted the need

to pursue the United Nations General Assembly Resolution 46/79A of 13 December 1991, which appealed "to the international community to increase its material, financial and other contributions to the victims and opponents of apartheid", they simultaneously called on the Committee to include in its final recommendations the need for governments to observe the UN arms and oil embargoes until they had been officially lifted by the General Assembly.

The Committee eventually included the proposals of both the Workers' and Employers' groups in some form or another within its conclusions to the general Conference. The main point of contention, however, revolved around the status of the updated Declaration on Action against Apartheid in South Africa (the 1964 document which provides the guiding principles upon which ILO anti-apartheid action is based and which prohibits significant and visible ILO presence within South Africa). The Workers' Vice Chairman argued that it was premature to repeal the Declaration. In their opinion the possibility of suspension of the Declaration was dependent upon the agreement on an election date for a constituent assembly; the establishment of a Transitional Executive Council; an independent Electoral Commission; and an Independent Media Commission. The Employers' however, argued that the Declaration was in need of revision or suspension, and that the Director-General should have the power to suspend the Declaration as soon as a transitional executive council was in place.

A debate then followed which heard from several representatives from organizations within South Africa. The observer from the PAC urged that the Declaration should not be suspended. The General Secretary of NACTU suggested that there was a need to review and amend the document so that it could be consistent with the changing nature of the ILO activities within South Africa. The Assistant General Secretary of COSATU argued that, while there was still much progress to be made in South Africa, it was important not to take on a position that ignored the realities of what had been accomplished. He stated that COSATU would support the provision of assistance to all parties participating in tripartite forums (such as the National Economic Forum, the National Training Board, and the National Manpower Commission). The ILO's technical co-operation programme will, for the most part, have to wait until after the entry into force of the Transitional Executive Council and the suspension of the Declaration. A review of the Declaration could be undertaken at the next meeting of the Governing Body (the Organizations executive council) in November 1993, the conclusions of

which could subsequently be considered at the Conference in June 1994.

A Working Party was established to draft the conclusions already discussed. In respect to all but one of the final sub-paragraphs of the conclusion, adoption of the texts took place by consensus. The final paragraph, dealing with the Declaration against Apartheid, was narrowly voted in as follows: "While welcoming the recent political developments in South Africa, the Conference requests the Director-General to report to the Governing Body in November 1993 on progress made towards the elimination of apartheid, including the establishment of a transitional executive council, an electoral commission, an independent media commission and measures taken to hold the general election. The Conference requests the Governing Body, if it is satisfied that conditions exist then that would warrant a reconsideration of the ILO action against apartheid, to put an item on the agenda of the 1994 International Labour Conference concerning the review of the Declaration."

The Employers' group subsequently put on record that, in its opinion, the word "review" could allow for the suspension or amendment of the Declaration of Action against Apartheid at the 1994 Conference.

Therefore, the Workers' and Employers' groups had each put forward separate recommendations regarding ILO policy towards South Africa, which were to be included in the Committee's final conclusions, and they were able to agree in principle on all but the fate of the Declaration. It was finally decided that, depending on certain conditions (as indicated above), the Governing Body of the ILO could place the suspension of the Declaration on the agenda of the 1994 International Labour Conference.

## CONCLUSION

The report of the Apartheid Committee was accepted without amendments by the International Labour Conference on Thursday 17 June, 1993.

The ILO is therefore poised to launch a broad technical assistance programme to begin to address some of the immediate needs of South Africa. The programme's guiding principle will be the training and alleviation of deprivation among the youth of South Africa, for it is in their education and well being that the future of the country lies. Although the Declaration prohibits the ILO from establishing an office and initiating

widespread programmes within South Africa, the Organization is conducting training workshops for non-racial civil organizations. In mid-August of this year, the ILO will be sending an inter-disciplinary team to make an assessment of the needs of South African organizations participating in non-racial tripartite forums. On the basis of this assessment, the ILO will construct a programme of action designed to help these organizations address the socio-economic legacies of apartheid following the implementation of a Transitional Executive Council.

The ILO is also looking forward to the day when it can suspend the Declaration on Action against Apartheid and welcome a South African non-racial tripartite delegation into the International Labour Conference.

#### THE SPECIALISED AGENCIES OF THE UNITED NATIONS

Apart from this Update, the Institute is currently preparing a series of information reference papers on the Specialised Agencies, which will be periodically updated. The first one, concerning the ILO, is complete, and papers on UNESCO, WHO and IAEA are nearing completion. These papers will be available to Institute members, on request, at a nominal charge of R5,00 each.

#### STATEMENT OF PURPOSE

*The South African Institute of International Affairs is an independent organisation which aims to promote a wider and more informed understanding of international issues among South Africans.*

*It seeks also to educate, inform and facilitate contact between people concerned with South Africa's place in an interdependent world, and to contribute to the public debate on foreign policy.*