

International Labour Office Conciliation and
Fact Finding Commission on Freedom of
Association- Checklist of Action

Conciliation and Fact-Finding Commission on Freedom of
Association

Panel to Examine Allegations of Infringements of
Trade Union Rights made by the Congress of South
African Trade Unions Against the Republic of
South Africa

Checklist of Action

Letters re complaint

1. The letters as settled at the First Session are to be sent to COSATU; the international employers' and workers' organisations; the South African Employers' Consultative Committee on Labour Affairs; and the other bodies approved by the Commission. The copy to the Government of South Africa has been delivered to the South African Permanent Representative in Geneva.

Visas

2. In order to ensure the avoidance of difficulties upon arrival in the Republic of South Africa, a letter by or on behalf of the Director General of the ILO should be provided to the Panel members (and staff) to facilitate the provision of visas. The Permanent Representative in Geneva indicated that he would alert the embassies in London and Canberra for Sir William and me. I do not believe that it is appropriate to rely upon the provision of visas at the point of entry.
3. It should be made clear to the South African

authorities, although informally, that if Panel members are met on their arrival in South Africa by Government officials, the meeting should be brief and the members should not be accompanied, having regard to the fact that the complaint is made against the Government of the Republic of South Africa.

4. It will be necessary to check the need for visas to enter and stay in Zimbabwe.

Travel in South Africa and Zimbabwe

5. The Panel is to consider its report at the Victoria Falls Hotel in Zimbabwe. Early booking of a block of rooms at that hotel is essential.

6. Mr Rubin is to suggest hotels in the venues in South Africa with appropriate regard to security, ease of access for potential participants and availability of conference/hearing facilities.

7. It will be necessary to arrange ground transport to meet planes and to assign a staff member to each Panel member of the Commission when the separate journeys are undertaken.

Calls

8. Arrangements will need to be made, either in Capetown or in Johannesburg for the following calls, at least, if they can be arranged:

- (a) The State President;
- (b) The Most Rev'd the Archbishop of Capetown;
- (c) The Head of the World Council of Churches in South Africa;
- (d) Mr Nelson Mandela (ANC); and
- (e) Chief Gatsha Buthelezi (Inkatha).

I think it was suggested during the First Session that the members of the Panel might call on the Minister for Manpower

and the Permanent Head of his Department (the Director General of Manpower). On reflection, and subject to the decision of the Chairman, I question whether this would be desirable. If we see the Minister for Manpower, I believe we should make a call on COSATU. These are the principal protagonists, in a sense. It would be undesirable for formal courtesies to be misunderstood as partiality on the part of the Commission.

Meeting and other facilities

9. It will be necessary to arrange in each of the centres at which the Second Session of the Commission in South Africa for a meeting room of adequate size, facilities for transcript and word processing facilities for the development of the draft report.

Press statement

10. It would be undesirable for the members of the Panel to make statements to the media before, during or after the visit to South Africa, at least until the Governing Body has considered the report. However, there could be advantage for a media statement to be made by the ILO, Geneva, concerning the arrival, purpose and mission of the Panel, its time-table and purposes. This would ensure against any suggestion that the Panel's visit to South Africa was in some way secret or clandestine.

Meeting with Permanent Representative

11. The meeting with the Permanent Representative of South Africa was held to facilitate entry and other formalities. As agreed, COSATU should be informally told of the meeting

and its purpose so that it cannot later be suggested that the Panel had acted unfairly in seeing a representative of the Government of South Africa in the absence of COSATU.

12. There was some lack of certainty on the part of the Permanent Representative concerning the opportunity that would be given to the Government of South Africa to respond to the report of the Commission when it is delivered to the Director General for transmission to the Governing Body of the ILO. It was agreed that a letter would be sent to the Permanent Representative setting out the requirements of the Constitution and Standing Orders of the ILO so that this uncertainty would be removed. Copy of that letter should be provided to the Panel members.

13. Copy of the letters to COSATU and other Organisations pursuant to the decisions taken at the First Session should be provided to the Panel members for inclusion in their papers. Copy of the replies of the Government and COSATU at least should be provided to the Panel members as they are received. Relevant newspaper clippings are to be extracted and sent to members of the Panel in order that, on their arrival, they will be up to date with relevant South African developments. News reports today describe major industrial unrest in South Africa.

Secretariat note on norms

14. Subject to the approval of the Chairman, a note should be prepared by the Secretariat calling to the attention of the members of the Panel any relevant principles, decisions or other jurisprudence which concern the subject matter of the complaint of COSATU and the response of the Government of

South Africa, as that complaint was originally expressed and as it is subsequently clarified in the light of later developments.

Further assistance

15. It would be desirable for Mr Rubin and/or Mrs Kellerson on visits to or contacts with South Africa to alert academics with an interest in labour law and human rights to the visit of the Commission in February 1992. It is my expectation that a great deal of assistance will be given to the Commission by academics, independent of the parties to the complaint.

Air bookings

16. As the visit of the Commission to South Africa and Zimbabwe coincides with the summer season in the Southern Hemisphere, it is desirable that air bookings be made early. In the light of recent developments at the Commonwealth Conference in Harare, it is possible that QANTAS Airways will resume flights to South Africa. This may necessitate some modification of my own arrival and departure arrangements but not so as to alter the timetable now approved by the Commission.

Separate consultations

17. Some consideration should be given by the Secretariat to the methodology of consultation to be adopted when the members of the Commission separate. A Secretariat note on the procedure adopted in earlier Commissions would be useful, particularly if combined with suggestions for procedures to be adopted on this occasion. Such procedures must conform to

the requirements of the ILO and the obligations of procedural fairness.

Immunity

18. Because South Africa is not a member of the ILO, the immunities provided by article 40(2) of the Constitution of the ILO do not apply to the members of the Commission or the staff of the ILO when in South Africa. This matter was raised with the Permanent Representative. It should be followed up to ensure that, to the greatest extent possible in accordance with law, the members of the Commission and the staff of the ILO, are provided with the privileges and immunities necessary for the independent exercise of their functions in connection with the Organisation.

Third session

19. It would be desirable at an early time to fix the dates of the Third Session of the Commission so that these can be set aside in the diaries of the Panel members. Having regard to the comparatively long time in Zimbabwe at the close of the visit to South Africa, it may be hoped that the report will be well advanced by the time the Commission departs from Africa. However, a terminal date for the final report is fixed by reference to the meeting of the Governing Body in April or May 1992 and the International Labour Conference in June 1992. Could a week in May 1992 be nominated as quickly as possible? Is 20-22 April agreeable?

Staff in South Africa

20. By arrangement with the Director General, it is confirmed that the Commission's staff in South Africa will be supplemented by the inclusion of Ms Jane Hodges.