

INTERNATIONAL LABOUR OFFICE
BUREAU INTERNATIONAL DU TRAVAIL
OFICINA INTERNACIONAL DEL TRABAJO

GOVERNING BODY
CONSEIL D'ADMINISTRATION
CONSEJO DE ADMINISTRACION

GB.219/PV (Rev.)
219th Session

Geneva,
2-5 March 1982

MINUTES OF THE 219th SESSION

TABLE OF CONTENTS BY ORDER OF ITEM ON THE AGENEA

<u>Item No.</u>	<u>Title of agenda</u>	<u>Page</u>
1	Approval of the minutes of the 218th Session.....	I/I
2	Report of the Meeting of Experts on Social Security Financing (Geneva, 30 November-3 December 1981)	I/I
3	Report of the Meeting of Experts on Occupational Safety and Health in the Iron and Steel Industry (Geneva, 30 November- 9 December 1981)	I/I
4	Report of the Tripartite Advisory Meeting on PIACT Evaluation (Geneva, 10-15 February 1982)	1/2
5	Activities of the International Occupational Safety and Health Information Centre (CIS) in 1981	1/8
6	Reports of the Committee on Freedom of Association	V/1
	Two hundred and fourteenth report	V/2
		VI/1
	Two hundred and fifteenth report	VI/9
	Two hundred and sixteenth report	VI/9
7	Reports of the Programme, Financial and Administrative Committee:	
	First report	VII/1
	Second report: Personnel questions	VII/4
	Third report: Review of the ILO Medium-Term Plan, 1982-87	II/6
8	Report of the Allocations Committee	IV/8
9	Report of the Committee on Standing Orders and the Application. of Conventions and Recommendations	VIII/5
	Application of Conventions and Recommendations	VIII/5
	Standing Orders	VIII/5
10	Report of the International Organisations Committee	VIII/5
11	Report of the Committee on Operational Programmes	VIII/1
12	Report of the Committee on Discrimination	1/9
		II/1
13	Report of the Committee on Multinational Enterprises	II/3
14	Composition and agenda of standing bodies and meetings:	
	Agenda of the Eighteenth Session of the Asian Advisory Committee	II/4
	Agenda of the Sixth Session of the Inter-American Advisory Committee	II/4
	Third paper	IV/1
	Fourth paper	VIII/8
	Fifth paper	VIII/8

GOVERNING BODY
CONSEIL D'ADMINISTRATION
CONSEJO DE ADMINISTRACION

Geneva,
2-5 March 1982

MINUTES OF THE 219TH SESSION

The 219th Session of the Governing Body of the International Labour Office was held in Geneva from Tuesday, 2 March, to Friday, 5 March 1982.

The Governing Body was composed as follows:

Chairman: Mr. VENTEJOL (France)

<u>Australia</u> :	Mr. WATCHORN
<u>Bahrain</u> :	Mr. AL-MADANI
<u>Bangladesh</u> :	Mr. SULTAN
<u>Barbados</u> :	Mr. ROGRES
<u>Brazil</u> :	Mr. TARGINO BOTTO
<u>Bulgaria</u> :	Mr. PETROV
<u>Canada</u> :	Mr. ARMSTRONG
<u>Colombia</u> :	Mr. CHARRY SAMPER
<u>Ecuador</u> :	Mr. ALEMAN SALVADOR
<u>Egypt</u> :	Mr. EL BEEDY
<u>France</u> :	Mr. DELARBRE
<u>German Democratic Republic</u> :	Mr. NOACK
<u>German, Federal Republic of</u> :	Mr. HAASE
<u>India</u> :	Mr. DESHMUKH
<u>Italy</u> :	Mr. FALCHI
<u>Japan</u> :	Mr. SUZUKI
<u>Kenya</u> :	Mr. MUSIKO
<u>Mali</u> :	Mr. DIARRA
<u>Mexico</u> :	Miss GONZALEZ MARTINEZ
<u>Netherlands</u> :	Mr. ALBEDA
<u>Nigeria</u> :	Mr. OLOWU
<u>Philippines</u> :	Mr. BRILLANTES
<u>Senegal</u> :	Mr. SENE
<u>USSR</u> :	Mr. KOSTINE
<u>United Kingdom</u> :	Mr. ROBINSON
<u>United States</u> :	Mr. SEARBY
<u>Venezuela</u> :	Mr. RODRIGUEZ NAVARRO

Employers' group:

Mr. BANNERMAN-MENSON
Mr. ESCOBAR PADRON
Mr. FLUNDER
Mr. GEORGET
Mr. GROVE
Mr. LINDNER
Mr. MOUKOKO KINGUE
Mr. NASR
Mr. OECHSLIN
Mr. POLITES
Mr. TATA
Mr. VERSCHUEREN
Mr. YLLANES RAMOS
Mr. YOSHINO

Workers' group:

Mr. BROWN
Mrs. CARR
Mr. DOLAN
Mr. GONZALEZ NAVARRO
Mr. ISSIFU
Mr. LLOYD
Mr. MASHASI
Mr. MEHTA
Mr. MUHR
Mr. PROKHOROV
Mr. SOW
Mr. SVENNINGSSEN
Mr. TANAKA
Mr. WALCOTT

The following regular members were absent:

Government group:

China
Mozambique

Employers' group:

Mr. EURNEKIAN
Mr. GHARBOUI
Mr. VILLALOBOS

Workers' group:

Mr. SANCHEZ MADARIGA

The following deputy members, or substitute deputy members, were present at all or some of the sittings:

Government group:

<u>Algeria:</u>	Mr. BRIKI
<u>Angola:</u>	Mr. M'POLO
<u>Argentina:</u>	Mr. PEDREROL
<u>Belgium:</u>	Mr. WALLIN
<u>Burma:</u>	Mr. GYI
<u>Cuba:</u>	Mr. SOLA VILA
<u>Denmark:</u>	Mr. ANDERSEN
<u>Ethiopia:</u>	Mr. MAASHO
<u>Ghana:</u>	Mr. WILSON
<u>Hungary:</u>	Mr. MARTON
<u>Indonesia:</u>	Mr. SUTRESNA
<u>Madagascar:</u>	Mr. ZAFERA
<u>Mongolia:</u>	Mr. BATBAYAR
<u>Panama:</u>	Mrs. AIZPURUA de CONSTANTINO
<u>Portugal:</u>	Mr. NASCIMENTO RODRIGUES
<u>Ukrainian SSR:</u>	Mr. OUDOVENKO
<u>Uruguay:</u>	Mr. FALCHETTI MIGNONE

Employers' group;

Mr. APPADURAI
Mr. ARBESSER-RASTBURG
Mr. CHAMBERS
Mr. DESCHAMPS

Miss HAK
Mr. von HOLTEN
Mr. MONTT BALMACEDA
Mr. NAMATA
Mr. OWUOR
Mr. PERIQUET
Mr. SAID
Mr. SANTOS NEVES FILHO
Mrs. SASSO MAZZUFFERI
Mr. SUMBWE

Workers' group:

Mr. ABONDO
Mr. AHMED¹
Mr. BARNABO
Mr. BEN-ISRAEL
Mr. BLONDEL
Mr. BRIKI
Mr. DAVID
Mr. MAIER
Mr. MENDOZA
Mr. SUDONO
Mr. TIMMER
Mr. VANNI
Mr. ZIMBA

The following deputy members were absent:

Government group:

Zimbabwe

Employers' group:

Mr. AL-JASSEM
Mr. CASTELLANO SABATER
Mr. MUNGA-wa-NYASA

Workers' group:

Mr. CUEVAS

The following representative of a State Member of the Organisation invited under Article 24 of the Constitution was present:

Nicaragua:

Mr. SELVA GUTIERREZ

The following representative of a State Member of the Organisation invited under Article 26 of the Constitution was present:

Dominican Republic:

Mr. HERNANDEZ SANCHEZ

The following representatives of States Members of the Organisation were present:

Austria:

Mr. KOEFFLER

Bolivia:

Mr. SAAVEDRA WEISE

Chile:

Mr. BUSTOS

Czechoslovakia:

Mrs. SLAMOVA

Democratic Yemen:

Mr. AL-QUTAISH

Finland:

Ms. RAIVIO

The Governing Body adopted the recommendations in paragraphs 574, 584, 603, 617, 628 and 642 of the report.

Mr. Issifu (Worker, Ghana) expressed the Workers' grave concern about Case No. 1054 relating to Morocco.

According to paragraph 665, the Government felt that no mission to Morocco was needed, in view of the detailed observations it had sent. That was, however, contradicted by the requests in paragraph 678 for further information regarding the death, arrest and conviction of trade unionists. In the circumstances, the Office should make a special effort to persuade the Government to accept an on-the-spot mission to ascertain the facts in the interests of the trade unionists concerned.

Mr. Verschueren (Employer, Belgium) supported Mr. Issifu's request, since there did indeed appear to be a discrepancy between the allegations and the Government's explanations. The Employers also favoured a direct contacts mission to ascertain the facts.

The Governing Body adopted the recommendations in paragraphs 678 and 695 of the report.

POINT OF ORDER

Mr. Noack (Government, German Democratic republic) on a question of procedure related to Case No. 1097 (Poland), said that the representative of the Government of Poland, who was present in the room, had made a request in writing to the Chairman to be granted the right to speak. He hoped that the Chairman would accede to this request, to help the Governing Body to form a clear idea about the situation in Poland. Article 26, paragraph 5, of the ILO Constitution was relevant in that context.

The Chairman said that, having anticipated the question, he had prepared the following statement:

In the first place, there is no provision in the Standing Orders of the ILO Governing Body dealing with participation in its sessions by representatives of governments of member States which are not members of the Governing Body. However, given the public nature of most Governing Body meetings, a practice has developed whereby such governments are increasingly represented by observers. More recently, it has even become the practice for these observers, if they inform the Director-General in advance of their intention to follow the proceedings of a particular session, to have seats reserved in the name of their country. Furthermore, the list of persons attending a session of the Governing Body includes a list of "representatives of other States Members of the Organisation present at the session". These representatives of States which are not members of the Governing Body are not permitted to take part in the proceedings and consequently are not entitled to speak.

As has often been pointed out, this situation stems not only from the absence of any relevant rules but also basically from the fact that if the entire ILO membership were permitted to speak, the size of Governing Body sessions would approach that of the General Conference. Moreover, there would be hardly any distinction between Government deputy members and the representatives of States which are not members of the Governing Body.

However, the Constitution provides for two exceptions whereby a State which is not a member of the Governing Body may take part in its proceedings. In the first place, under Article 26 any government which has ratified a Convention has the right to file a complaint, as defined in that article and subject to the other cases mentioned therein, against another government which has also ratified the Convention. If the latter State is not a member of the Governing Body, it is entitled to send a representative to take part in the proceedings of the Governing Body while the matter is under consideration. The same facility is available to a government against which a representation alleging non-observance of a Convention which it has ratified has been presented by an industrial association of employers or of workers, in

accordance with Article 24 of the Constitution. This rule is confirmed by the Standing Orders concerning the procedure for the examination of such representations made under the ILO Constitution.

It should be emphasised that these are at present the only two cases in which the representative of an ILO member State which is not a member of the Governing Body may take part in its proceedings. This principle has been respected without exception. The question of extending to other cases the right of a representative of a member State which is not a member of the Governing Body to take part in its deliberations has been discussed on a number of occasions. It is at present on the agenda of the Governing Body's Committee on Standing Orders and the Application of Conventions and Recommendations.

When that Committee met recently, its agenda did in fact include the question of the representation of States which are not members of the Governing Body. A number of solutions have been considered. One formula, which was brought up recently and on which the Committee seems to be making progress, concerns possible participation in the proceedings of the Governing Body by a representative of a State which is not a member of the Governing Body when the Governing Body is examining a report of the Committee on Freedom of Association relating to that government.

The Committee on Standing Orders has not yet produced definitive proposals but will continue the discussion at its next meeting in November. It is, of course, understood that what is involved here is the specific complaints procedure established by the Governing Body in November 1951 for the examination of complaints relating to freedom of association presented by governments or industrial organisations, as distinct from the constitutional procedures connected with the non-observance of Conventions provided for in Articles 24 and 26 of the Constitution.

Since, apart from the procedures laid down in these two articles of the Constitution, no other provisions have so far been adopted to extend the right to speak to the representatives of States which are not members of the Governing Body, such representatives are not, under the legal provisions existing at present and apart from the procedures referred to, entitled to speak.

In view of the foregoing, it was not possible at present to accede to the request.

To these arguments of a legal character could be added a practical point. The Governing Body was only at the beginning of the procedure. The report of the Committee on Freedom of Association on the complaint relating to Poland was an interim one, and the Committee would have an opportunity - when further information had become available - to invite the representative of the Government of Poland to appear before it.

Mr. Noack (Government, German Democratic Republic) thanked the Chairman for his statement, which he assumed had been prepared by the legal adviser of the Office.

In the Committee on Standing Orders and the Application of Conventions and Recommendations, where the question of representation of States which were not members of the Governing Body was indeed under discussion it had been pointed out that there were no rules on the matter. In that case, it would appear that it was for the Chairman to decide on a request to speak.

From the statement which had been made, it was clear that any member of the Governing Body might speak on a complaint concerning his country, whereas a member State which did not belong to the Governing Body might not. Such a distinction between Members of the Organisation was undemocratic, and hence unacceptable,

Mr. Cairo Soler (Government, Cuba) fully agreeing with Mr. Noack, recalled that at the November 1981 session of the Governing Body a representative of a non-member government had been allowed to speak on a case concerning his country.

Mr. Marton (Government, Hungary) was surprised that in an organisation like the ILO, which prided itself on its democratic procedures, a representative of a

sovereign member State had to remain silent when its own actions were being discussed. There was clearly much room for improvement in the Organisation's and the Governing Body's working methods.

He appealed to the Chairman, who under Article 2, paragraph 1, of the Standing Orders was empowered to accord or withdraw the right to address the Governing Body to allow the representative of the Government of Poland to speak.

Mr. Petrov (Government, Bulgaria) supported the request.

Mr. Oudovenko (Government, Ukrainian SSB) said that, if the Chairman did not make use of Article 2, paragraph 1, of the Standing orders, then it was open to the Governing Body itself, under Article 1, paragraph 8, of the Constitution, which empowered it to regulate its own procedure, to authorise the representative of the Government of Poland to speak.

Mr. Muhr (Worker, Federal Republic of Germany; Worker Vice-chairman) agreed that the existing arrangements needed to be reviewed, as was in fact being done by the Committee on Standing Orders. Oddly enough, although the procedure had been in force for over 30 years, governments only seemed to react when their own interests were involved.

Definite rules would of course be useful - although it might be objectively argued that, rather than to extend to any government, whether a member or not, the right to plead its case before the Governing Body, the correct course of action would be the reverse, i.e. excluding even Governing Body members from that privilege. The Workers, who had always favoured strengthening the freedom of association procedures and, in that context, often deplored the failure of governments to co-operate, felt that extending to non-members the right to speak in the Governing Body on cases concerning them would further weaken the Committee's authority. The Governing Body would thus be doing itself a disservice, and no change should therefore be made in the existing procedure until all the consequences had been carefully weighed. The practice that had been in force until now should be followed in the present instance, on the understanding that it would subsequently be re-examined with a view to reaching a generally acceptable solution.

Mr. Oechslin (Employer, France; Employer Vice-Chairman) observed that the question of amending the Standing Orders was not before the Governing Body but was pending in the Committee on Standing Orders and Application of Conventions and Recommendations. That being so, the only proper course of action was to apply the existing rules, however imperfect. The Governing Body would merely be discrediting itself if it were to take opportunistic, case-by-case decisions applying a different yardstick to different countries.

On a previous occasion, in a similar situation, the then Chairman of the Governing Body had refused the right to speak to the representative of an ILO member State not represented on the Governing Body. At that time no one had spoken in the government's defence and it, like all members of the Governing Body, had deferred to the rules. The governments which were particularly concerned with the present case should do likewise, and the Governing Body should proceed to examine the substance of the case.

Mr. Wallin (Government, Belgium) fully accepted the Chairman's ruling, which was legally unexceptionable.

There was, however, another justification for the procedure being followed, going beyond mere legal propriety. The Committee on Freedom of Association, in fact, was still awaiting a written reply from the Polish Government, pending which it could not reach final conclusions. Should its representative now be allowed to address the Governing Body, there would probably be statements by other governments, which would mean that in effect the discussion was being shifted from the Committee into the Governing Body. The authority and credibility of the Committee on Freedom of Association were arguments in favour of maintaining the established practice. The best way for the Government to vindicate itself was to reply to the allegations and, if it saw fit, to avail itself of the procedure of direct contacts, which was a valuable addition to the traditional purely written procedures.

Mr. Batbayar (Government, Mongolia) associated himself with Mr. Noack's proposal, which was in accordance with Article 26, paragraph 5, of the Constitution. Only the representative of the country concerned was in a position to provide the facts. Any other decision would not be objective.

Mr. Charry Samper (Government, Colombia), after stating his agreement with the Chairman's interpretation of the Standing Orders, as supported by the Employers and workers. said that he was in favour of the Spanish Government's proposal to give States not represented on the Governing Body the right to speak on matters affecting them. As to whether or not a particular matter did in fact impinge on the national interests and sovereignty of a particular State, only that State itself was qualified to judge.

The Standing Orders were out of date in a number of respects. For instance, paragraph 2 of Article 3 read as follows: "Deputy members have the right to be present at the sittings of the Governing Body and to speak with the permission of the Chairman". Taken literally, this could be interpreted to mean that a deputy member could be refused the right to speak.

Again, paragraph 1 of Article 4 stated that "Each government represented on the Governing Body may furthermore appoint for its regular delegate a substitute of the same nationality, who will replace him should he be absent or unable to attend", while paragraph 2 of the same article stated that "The substitute may accompany the regular delegate during the meetings of the Governing Body. He has not the right to speak". Thus, if Article 4 were strictly interpreted, not even the substitute of a regular delegate had the right to speak.

The present discussion was useful in that it had underlined the need for a reform such as had been proposed by the Government of Spain; but, for the time being, the existing rules had to be applied.

Mr. Cairo Soler had referred to a precedent. However, the precedent known to the speaker - on the basis of his personal experience as Chairman of the Governing Body - was quite the opposite, in that the representative of a Latin American country which was not a member of the Governing Body was neither allowed to speak nor even to have read out a letter concerning a case of violation of trade union rights relating to his country.

As Chairman of the Governing Body, the speaker had naturally respected its point of view. However, it would be quite unacceptable for the Governing Body, having refused a Latin American country the right to speak in a previous case, now to discriminate in favour of a country with a different type of system.

Mr. Delarbre (Government, France) said that, if the Governing Body were to take an ad hoc decision before the Committee on Standing Orders had concluded its examination of the proposals before it, it would be discarding the rule of law in favour of expediency.

As the Chairman had pointed out, the Committee on Freedom of Association was in the early stages of its consideration of the case. It had attempted to single out the points which called for an urgent reply from the Government, but it was well aware that the Government should be allowed, in fairness, to supplement its written reply by oral explanations later if it so wished, in accordance with a procedure repeatedly applied in the past - notably some two years previously, with success, in another case concerning Poland.

The Governing Body might rest assured that, if the Government wished to avail itself of that opportunity, the Committee would at the proper stage be happy to receive its representatives, and all written and oral indications provided by it would be faithfully reported to the Governing Body. The rights of the defence were thus fully safeguarded.

The very purpose of having a Committee on Freedom of Association was to provide for consideration of cases on their merits by a small tripartite body and thus enable the Governing Body itself to reach conclusions without lengthy debate. The present discussion therefore served no useful purpose and, as Mr. Oechslein had suggested, should be closed.

Mr. Haase (Government, Federal Republic of Germany) concluded from the debate that the procedures on freedom of association were not explicit enough. Those giving effect to Articles 24 and 26 of the Constitution were set out in writing and readily accessible, and even though the freedom of association procedure appeared to have functioned satisfactorily for some 30 years, it would be useful if the Governing Body could see it also in writing.

What did seem clear was that, unlike the procedure applicable under Articles 24 and 26, that relating to freedom of association enabled the countries concerned to be heard in the Committee on Freedom of Association only, and not in the Governing Body itself. This matter seemed to require closer scrutiny.

The Chairman considered that he had no option but to apply the existing rules. He accordingly invited discussion on the substance of the case.

SIXTH ITEM ON THE AGENDA

Reports of the Committee on Freedom of Association (cont.)

Mr. Rodriguez Navarro (Government, Venezuela) observed that the basic constitutional principle of the ILO whereby universal and lasting peace could be established only if based on social justice could not be separated from two other important aspects of social reality, namely freedom of the individual, which was a basic human need and freedom of association, which was essential to ensure respect for the rights of labour. The much talked-about new international order could only be built on a foundation of justice and equity.

The Venezuelan Government, having regard to those principles, fully supported the Committee's reports, and especially the recommendations concerning Case No. 1097 relating to Poland. The direct contacts procedure had proved most valuable in enhancing the Committee's effectiveness, and it was to be hoped that, in accordance with paragraph 751 (g) of the Committee's recommendations, the Polish Government would agree to receiving an ILO fact-finding mission so that, once the facts had been fully established, the trade union situation in Poland might be restored to normal.

POINT OF ORDER

Mr. Kostine (Government, USSR) considered it inappropriate for the ILO to consider the case, since it was not a question of trade union problems but of an organisation known as "Solidarity" which aimed at overthrowing the constitutionally established Government of Poland, as was plain from the facts which the Government had convincingly cited.

During the Gdansk congress of Solidarity, its leaders had openly declared ...

Mr. Muhr (Worker, Federal Republic of Germany: Worker Vice-chairman) considered that Br. Kostine was not speaking on a point of order but on the substance of the question. There appeared, therefore, to be no reason to give him the floor before the other speakers on the list.

The Chairman agreed. He would call on Mr. Kostine to speak again in the order in which his name appeared in the list of speakers.

SIXTH ITEM ON THE AGENDA

Reports of the Committee on Freedom of Association (cont.)

Mr. Maier (Worker, Austria) said that the majority of the Workers supported the Committee's recommendations. The case under discussion was not an internal matter for the Government of Poland but derived from its having ratified Conventions Nos. 87 and 98. The Committee on Freedom of Association was therefore perfectly competent to deal with it,

Paragraph 732 of the report quoted the Government as stating that it had passed an "Abolition Act", under which no one could be sentenced for political

activities carried out before 13 December 1981. That statement made strange reading when taken in conjunction with the reference in paragraph 751 (c) to persons interned with the sole object of preventing them from carrying on activities pursued prior to 13 December 1981. Those persons should be released immediately, in accordance with the recommendation in paragraph 751 (c).

As Mr. Rodriguez Navarro had urged, the Governing Body should endorse the appeal in paragraph 751 (g), so that the Government would agree to receive at the earliest an ILO mission to examine not only the legal situation but also the facts.

Mr. Petrov (Government, Bulgaria) observed that, under established practice, a State which was neither a regular nor a deputy member of the Governing Body could request a member of the Governing Body to speak on its behalf. He accordingly wished to make a statement on behalf of Poland.

The Chairman said that he had given Mr. Petrov the floor as the representative of Bulgaria.

Mr. Petrov (Government, Bulgaria) did not consider that the Governing Body was competent to examine the case since the organisation in question was a political one and not a trade union. To do so would therefore constitute a flagrant violation of the ILO Constitution and an interference in the internal affairs of an ILO member State. His Government fully supported the position of the Government of Poland, which had requested permission to make a statement in the Governing Body. There were a number of points in that statement with which he was in complete agreement ...

The Chairman reminded the speaker that he was making a statement on behalf of Bulgaria.

POINT OF ORDER

Mr. Noack (Government, German Democratic Republic) had understood that there was nothing in the Standing Orders to forbid Mr. Petrov from expressing the views of the Polish Government.

Mr. Muhr (Worker, Federal Republic of Germany; Worker Vice-chairman) reminded the Governing Body of the precedent referred to earlier by Hr. Charry Samper, when, in a similar case, a government had not been permitted to have a statement made on its behalf by another government.

The Chairman maintained his position. Some explanations might be admissible, but only on condition that they were expressed on behalf of the speaker's organisation or government. The Governing Body would now examine the Committee's report.

Mr. Petrov might, if he so wished, make a statement on behalf of his Government.

SIXTH ITEM ON THE AGENDA

Reports of the Committee on Freedom of Association (cont.)

Mr. Petrov (Government, Bulgaria) considered that the present case could not be dealt with either under Article 24 of the Constitution or under the freedom of association procedure.

The information in paragraphs 727, 728 and 729 showed plainly that the activities of Solidarity had gone beyond those of a trade union, since it had fallen under the control of extremist anti-governmental leaders whose objective was to overturn the constitutionally established Government. Those leaders had used the trade union to achieve political objectives at variance both with its own rules and the agreements concluded in 1980 and 1981. Shortly before the proclamation of a

state of war in Poland, Solidarity was clearly seeking to take over political power. That had been confirmed by the decisions taken at Radom and Gdansk in 1981, which had included the creation of terrorist brigades intended to provoke anarchy and economic chaos.

All those actions were in flagrant contradiction with the trade union activities covered by Conventions Nos. 87 and 98. Faced with the threat of economic disaster and bloody civil war, the Government of Poland, after repeated attempts to find a peaceful solution with Solidarity, had had to proclaim a state of war. The issue clearly did not concern freedom of association, but the actions of a political organisation masquerading as a trade union.

Given the seriousness of the situation, the Bulgarian Government was categorically opposed to a procedure that was in conformity neither with Article 24 of the Constitution nor with Article 2 of the Standing Orders. There was no justification for including this question in the Governing Body's agenda, and it should be withdrawn from further consideration.

Mr. Kostine (Government, USSR), speaking not on the substance but on what he considered to be an illegal procedure, associated himself with Mr. Petrov's remarks.

The ILO had a constitutional obligation to promote the protection of workers' and trade union rights. It was not required to support political organisations openly committed to the overthrow of a member government. Solidarity had made its intentions clear ever since August 1980. At the Gdansk congress its leaders had described it as a political opposition movement. At Radom and Gdansk they had rejected the principle of an agreement with the Government and had taken the path of confrontation with the legally constituted authorities, thus exposing the country to the risk of civil war and violating the union's own rules, notably the obligation to conduct its activities within the framework of the national Constitution and to respect the international alliances to which Poland was a party.

As Prime Minister Jaruzelski had stated, Solidarity had shown its true colours at Radom and Gdansk. The Programme adopted at Gdansk called for supervision over the Government's economic policies and over information and communications, education and, more generally, all aspects of national life. Appeals were made for Poland to withdraw from the CMEA and the Warsaw Pact and for the revision of agreements concluded by the Government.

Paragraph 1 of Article 8 of Convention No. 87 stated that "In exercising the rights provided for in this Convention workers ... and their respective organisations ... shall respect the law of the land". But in Poland the law of the land had been grossly and irresponsibly violated by the leaders of Solidarity, which had radically deviated from its trade union objectives.

In such circumstances, for the ILO to examine the complaint would not only be in contradiction with its Constitution but would also constitute blatant interference in the internal affairs of a member State.

Mr. Tanaka (Worker, Japan) associated himself fully with the Worker spokesman and expressed particular support for the recommendations in paragraph 751.

Only the existence and development of free and democratic trade union organisations and a dialogue between them and the government could guarantee an approach to economic and social problems consonant with the best interests of the workers and the nation. The detention of trade unionists for defending the workers' interests constituted a serious violation of trade union rights. It was to be hoped that the Polish trade union, which had been legally recognised by the Government, might resume its activities as quickly as possible on the basis of Conventions Nos. 87 and 98, which Poland had ratified.

Last spring, a delegation of Solidarity led by Brother Walesa had visited Japan, and the speaker had been deeply impressed and moved by the determination of the Polish workers to seek social peace and the improvement of their conditions through a free and strong labour movement. The measures taken in December 1981 had come as a severe blow and the Government should move quickly to release the imprisoned trade unionists.

The recommendation in paragraph 751 (g) that an ILO mission should be sent to Poland to examine all aspects of the situation was especially important and urgent. Such a step would help to restore hope to the Polish workers

Miss Gonzalez Martinez (Government, Mexico) observed that the Committee's report furnished clear and detailed information based both on the complainants' allegation and on the indications provided by the delegation of the Polish Ministry of Labour which had recently visited the ILO, in response to the Director-General's message expressing concern about the situation.

The report told of the detention of trade union leaders and the occupation of trade union premises, in clear contravention of the standards laid down in Conventions Nos. 87 and 98. Thus there was no doubt about the competence of the ILO to deal with the case through the Committee on Freedom of Association and the Governing Body.

The Mexican Government supported the recommendations in paragraph 751 of the report and hoped that the Polish Government would agree to receive the proposed ILO mission. That did not seem likely to raise any insuperable difficulties for the Government, since it had itself described the suspension of trade union activities as a temporary measure. The Mexican Government was confident that, thanks to the Director-General's continuing efforts, the Polish Government would agree to receive the mission.

Mr. Verschueren (Employer, Belgium) expressed surprise at the claim that the complaint did not concern freedom of association. The Committee had had the Polish situation under review for some time, in full agreement with the Polish Government, which had even sent a delegation to appear before it. Throughout that process the same trade union organisation whose activities were new at issue on the ground that they raised political difficulties had been at the heart of the debate.

It was, of course, quite common for governments of all persuasions to brand trade union organisations with which they might be experiencing difficulties as political movements, but that argument had never prevented the Committee from examining the cases, weighing all the evidence and drawing its conclusions.

For some months it had been following events in Poland and had observed that the trade union movement, which aspired not only to more trade union freedom but to more freedom in general, was a widespread and spontaneous one, representing a reaction against certain methods used by the regime towards the workers. It had certainly not been started up, as was now being claimed, by a few dubious individuals for reprehensible motives.

Perhaps the movement had indeed gone a bit far during the last weeks, but, as the Committee was well aware, there were few trade union organisations that did not do so from time to time. Even so, the Polish authorities had seen the need for certain changes and had admitted as much in the Committee. Then suddenly, in December, discussions were abruptly cut off, freedom to voice the workers' demands was stifled and their hard-won gains were suspended, in particular freedom of association and the right to bargain collectively.

As stated in the report, the Government had naturally tried to justify those measures, pointing out that they were purely temporary. However, it was maintaining in detention, in conditions which were unclear, over 4,000 "extremists" whose only offence, by the Government's own admission, was to have been trade union leaders or activists. Then there were the clashes at the Piast mine, which had resulted in a number of deaths, and the dismissals and the pressures brought to bear on the workers to sign the pledge referred to in paragraph 712: all those events required elucidation. The Employers, therefore, were particularly anxious that the imprisoned workers should be released and detailed information provided.

The Committee had suggested that an ILO mission should be sent to Poland to examine all aspects of the situation, both legal - including the draft legislation currently under consideration - and factual - including the situation of the imprisoned workers. There was nothing unusual about such a procedure, which had often been utilised, and the Employers urged the Polish Government to agree to it, with the aim of facilitating return to a situation more in keeping with its expressly acknowledged obligations under Conventions Nos. 87 and 98.

Mr. Searby (Government, United States) asked whether, when a trade union was democratically elected, was representative of a large percentage of a national population and was on the verge of becoming an effective worker organisation, that necessarily made it politically dangerous and therefore illegal. If that were so, then virtually all the large, effective and democratic trade union confederations in the world would have to be deemed politically dangerous and in need of suppression by those with a monopoly of coercive force not consented to by the people.

The case under discussion concerned the basic human right of free civil association, irrespective of ideology. Perhaps Lenin's definition 'of any worker opposition or disagreement in a socialist State as an anarchist view threatening the Party's leading role' might explain the remarks of some of the previous speakers.

As noted in the report. Solidarity was a legitimate trade union organisation. The case thus concerned a fundamental question of freedom of association, universally recognised as an essential means by which nations could determine the forms of social and economic organisation most appropriate to their needs and sovereign national character.

In an overwhelming movement to gain freedom of association and dignity for the nation's workers, the Polish people had joined and supported Solidarity. The recent suppression of that movement posed a challenge to the international principle embodied in the Declaration of Philadelphia that freedom of expression and association was essential to sustained progress.

The imposition of martial law in Poland was also in flagrant disregard of the international treaties to which Poland was a signatory, not least among them ILO Conventions Nos. 87 and 98, which were intended precisely to prevent the kind of situation existing in Poland, where the State was suppressing by force a 10-million strong free trade union movement.

A little over a year ago, the Governing Body had considered a case against Poland. It was ironic that the case had been closed on a note of satisfaction and hope that trade union freedoms would be extended to the Polish workers. It was also ironic that the leader of that national federation should have made such an inspiring speech at the last session of the Conference.

The Government of the United States fully supported the Committee's report and urged the Government of Poland to avail itself of the benefit of due process by sending a full reply and accepting a direct contacts mission.

Mr. Delarbre (Government, France), in reply to those who argued that the ILO was not competent to deal with what allegedly was no longer a trade union issue but a political one, said that the Committee on Freedom of Association was used to dealing with cases where trade union and political activities overlapped or merged, as many of its reports showed. The present debate added nothing to the contents of the 214th Report: well aware of the views of the Polish Government concerning the political nature of the Solidarity movement, the Committee considered itself competent to deal with the present case, and it formally requested the Governing Body to recognise that competence.

Obviously, the mere fact of being a trade unionist was no excuse for irresponsible action. The line had to be drawn somewhere, and in order to do so the Committee had invariably made it a rule to ascertain the full facts of each case before reaching conclusions: that was precisely the purpose of the requests in paragraphs 751 (b) to (f) of the report. In paragraph 751 (g), the Committee was confirming the steps initiated by the Director-General under the authority conferred upon him by the Governing Body to act in particularly serious or urgent cases without waiting for the Committee to meet. In drafting that paragraph the Committee, fully aware of the Polish Government's difficulties in working out a typically Polish solution to the problem, with the full co-operation of the entire nation and in accordance with the Conventions it had ratified, had merely wanted to help the Government in a fraternal spirit and without any desire whatsoever to interfere in Poland's domestic affairs, bearing in mind that freedom, a basic human need, might be momentarily stifled but could never be suppressed.

Mr. Timmer (Worker, Hungary) agreed that Poland should work out its own solution: the Hungarian trade unions had never felt otherwise.

As a trade union representative, he naturally favoured the lifting of martial law and the restoration of trade union rights. However, the Government had had to take certain steps, in accordance with its Constitution, to avoid economic chaos and civil war.

The Polish workers had learned from the mistakes of the past and had drawn up a programme of reforms, for which they had tried to mobilise mass support. However, certain extremist leaders of the trade union movement, ignoring their own trade union rules, had turned their attention to political questions and tried to

overthrow the existing system. They had used strikes to bring the country to the verge of economic chaos and civil war and to prevent the implementation of the policy of reform. In the circumstances, the proclamation of a state of emergency had been inevitable.

The Polish authorities had stated that as soon as the situation no longer warranted the state of emergency it would be lifted. There were already signs of a return to normal, and the ILO could best speed up that process and help the Polish workers by preventing any interference in Poland's internal affairs.

Mr. Batbayar (Government, Mongolia) said that the case of Poland was quite different from the other cases concerning freedom of association dealt with by the ILO, in that it was not the Government that was violating trade union rights but the trade unions that were violating the law of the land by exceeding their proper functions as defined in international labour Conventions and engaging in activities that directly threatened the legitimate Government*

Yet the ILO was defending these trade unions, which had gone far beyond generally accepted principles of trade union action. It would be more logical if the Governing Body were to call for strict observance by trade unionists of the law and of their own rules and to require them to refrain from political activities directed against the Government.

The Governing Body should not be dealing with a question which was not within the ILO's competence. The leaders of Solidarity were not true trade union leaders but persons who, under the cloak of trade union activities, were trying to seize the reins of power.

Mr. Noack (Government, German Democratic Republic) said that the German Democratic Republic, a friendly socialist neighbour of the Peopled Republic of Poland for over three decades, could not remain indifferent to the fate of its people. Poland was its close partner within the Warsaw Pact, and it was important to stability and peace in Europe. The people of the German Democratic Republic had contributed substantial material aid to show their solidarity with the Polish people.

The measures taken by the highest authority of Poland against anti-government forces whose activities were provoking an imminent danger of civil war, and thereby also threatening stability in Europe, had been designed to safeguard national security, which was an internal affair of Poland, and were in accordance with its Constitution. They served the true interests of the Polish people and the cause of peace, and deserved full support. It was slander to say that human rights were being violated in Poland, when in fact outside forces seeking to exert pressure on the country and to interfere in its domestic affairs were the ones violating the letter and spirit of the United Nations Charter, the Helsinki agreements and the fundamental standards of international law.

The complaint was therefore not receivable. It had no objective basis and was part and parcel of efforts in certain circles to internationalise the Polish crisis at the expense of the Polish people, to maintain confrontation and change the international balance of power.

Solidarity was not a trade union but a political opposition movement which, in violation of the national Constitution, had set out to undermine systematically the constitutional foundations of the country, to overthrow the legitimate government and to overturn the socialist regime. The culmination of this anti-revolutionary movement was the programme of action drawn up by the leaders of Solidarity, which called for the replacement of members of the representative organs of the Polish people and the constitution of a so-called national government.

Having set up paramilitary organisations and arms depots, the leaders of Solidarity had incited political confrontation and the disregard of law and order. By pressure, threats and force, including the occupation of state undertakings, they had paralysed the economic and social life of the country.

The dramatic increase in purely political strikes had led the country to the brink of economic chaos and jeopardised its international alliances - all this clearly in violation of the August 1980 agreement with the Polish Government and the union's own rules. Solidarity's leaders had rejected all government overtures aimed at finding a solution through dialogue.

Those who maintained that Solidarity was a bona fide trade union and were requesting the release of the interned persons were really asking the Governing Body to intercede on behalf of individuals whose purely political aim of overthrowing the State was beyond doubt.

The United States Government representative had referred to the state of emergency as violating international treaties. In fact, the International Covenant on Civil and Political Rights permitted such a measure in certain situations. Such a statement was all the more surprising from the representative of a government which, according to its own sources, had taken such measures in a number of recent cases, in particular that concerning the strike of air traffic controllers. Nor was the status of the United States as a defender of human rights enhanced by its support of regimes, such as that in El Salvador, where human rights were trampled underfoot.

In the present circumstances there were clearly no grounds for invoking Conventions Nos. 87 and 98, and any attempt to discuss the case in the ILO would constitute flagrant interference in the internal affairs of an ILO member State and a disregard of its sovereignty.

Mr. Blondel (Worker, France) observed that the authority of the Committee on Freedom of Association and the Governing Body resided in their objectivity and impartiality.

The Governing Body had just examined Cases Nos. 997, 999 and 1029 relating to Turkey, in which the Government had stated that the trade unionists on trial had participated in terrorist and illegal activities aimed at overthrowing the regime and installing another, and Case No. 1054 relating to Morocco, in which the Government considered that the real motives of the general strike had much more to do with politics than with trade union matters. Such arguments had not prevented the Governing Body from acting on those cases, and it should do likewise at present.

The statement made at the Conference by Brother Walesa, as the official representative of Solidarity, had been remarkable for its moderation, in no way suggesting that the organisation was engaging in political activities. In fact, Brother Walesa had expressed the hope that a solution to the problems at issue could be found within Poland.

In seeking to justify the state of war, a number of speakers had referred to the risk of chaos and civil strife. But were not those who were now passing judgement on the events in Poland themselves interfering in the country's internal affairs?

From the degree of understanding and good will shown by the Government in response to the Committee's recommendations, especially as regards the release of the imprisoned trade unionists, it would be possible to judge whether further action was called for.

Mr. Oudovenko (Government, Ukrainian SSR) stated that the present complaints, allegedly concerning freedom of association, not only gave an exaggerated and tendentious picture of the situation but were part of a campaign being waged by certain Western countries against Poland and the other socialist countries as a result of the failure of the attempts to overthrow the present regime.

In proclaiming a state of war in Poland, the Council of State had acted, in complete conformity with the national Constitution, to preserve the legitimate Government and prevent civil war. At the time, the extremist elements in Solidarity had destroyed the economy, were seeking to bring about anarchy and were blatantly violating the laws in force, including their own agreements with the Government. Those activities had reached their peak with the declarations made at Radom and Gdansk calling for the overthrow of the established order and the seizure of power. Why, then, had the authors of the complaints not urged the leaders of Solidarity to exercise greater moderation and respect for the law of the land, as called for in paragraph 1 of Article 8 of Convention No. 87? No doubt because the situation served their own ends, by provoking economic chaos, the disruption of social life and the threat of civil war.

Unfortunately, the steps the Director-General had taken so promptly following the proclamation of the state of war in Poland had not been in the right direction. The measures taken by the Government on 13 December 1981, and which had temporarily

brought to a halt the activities of Solidarity, had included the internment of a group of persons who represented a threat to the security of the State. As the Government of Poland had clearly stated, no trade union leaders engaged in genuine trade union activities had been subjected to internment, and the authors of the complaints knew full well what the true situation was.

An earlier decision of the Committee on Freedom of Association was relevant to the events in Poland. That decision, which was to be found in the 120th and 131st Reports of the committee, read as follows: "Measures taken in a state of emergency may constitute serious interference by the authorities in trade union affairs, contrary to Article 3 of Convention No. 87, except where such measures are necessary because the organisations concerned have diverged from their trade union objectives and have defied the law ...". It was clear that, viewed in that light, the measures taken by the Polish authorities were perfectly legal and that the complaints were unfounded.

If the ILO and its Governing Body really wished to act constructively, and in accordance with the ILO Constitution, to stabilise the situation in Poland and promote legitimate trade union interests there, they should first and foremost speak out against all interference in Poland's domestic affairs so that the Polish people might, in the full exercise of their sovereign rights, work out their own solutions to their internal problems.

The ILO could also make a useful contribution by mobilising international support for the immediate lifting of the discriminatory measures taken against the Polish people by certain Western countries with the sole objective of aggravating and prolonging the present situation.

The Government of the Ukrainian SSR therefore rejected the conclusions and recommendations of the Committee on Freedom of Association, which amounted to an interference in the domestic affairs of an ILO member State and an attempt to exert political pressure on it.

Finally, as regards the statement in paragraph 705 that Polish prisoners had been deported to Czechoslovakia, the speaker could inform the Governing Body, on the basis of information which he had obtained from the representative of the Government of Czechoslovakia, that the statement was completely without foundation.

Mr. Brown (Worker, United States) had some personal views to express about events in Poland in the 16 months prior to 13 December 1981.

He had considered the Polish experience as holding out great hopes not only for freedom of association but also for peace - a word frequently mentioned by those who defended the actions of the Polish Government.

When Lech Walesa had addressed the Conference as the spokesman for Solidarity, which had been designated by the Polish Government as a legitimate trade union, he had seemed to be speaking for the whole Polish nation, what, then, had gone wrong? Did the fault lie with the Polish Government or with Solidarity? Solidarity had dealt loyally and legally with the representatives of the Polish authorities, whoever they were at any given time. The succession of changes in the Government during that period could in no way be attributed to political action on the part of Solidarity.

Agreements had been concluded between Prime Minister Jaruzelski, Lech Walesa and the representatives of the Church - agreements which had been widely hailed as foreshadowing a form of social pact - and there was no evidence that Solidarity had violated those agreements. Even if there had been individual violations, why could they not have been dealt with by due process of law? Why had it been necessary to proclaim martial law to deal with possible violations? Why had such a step not been necessary in February when Prime Minister Jaruzelski had come to power, and why did it become necessary on 13 December? Solidarity was not responsible. It had not threatened civil war; there was no proof of paramilitary operations; economic disorder and acute indebtedness were problems in Poland well before August 1980. Indeed the alarming economic situation and the Misery of the workers were the very reason why Solidarity had come into being.

Those who had defended the action of the Polish Government had accused Solidarity of wanting to have a voice in economic decisions. What was wrong with that? Did not the representatives of those same countries make stirring speeches in

the ILO advocating workers' participation in such decisions? And when the congress of Solidarity had called for a reduction in armaments, was that not a clear sign of devotion not only to freedom but also to peace?

Had the Polish Government respected its agreements with Solidarity, the Polish experience might have constituted a basis for reconciling the different economic and social systems existing in the world. The events since 13 December 1981 were therefore a tragedy, not only for the ILO and for Poland but for the whole world. It was also a tragedy that the Governing Body was now engaged in a war of words over a very straightforward proposal, the purpose of which was simply that a fact-finding mission should be sent to Poland.

If, in line with the earlier procedural discussion, any changes were to be made in the Standing Orders to enable a government to speak in its defence in a case relating to the violation of freedom of association, then it would be only right for the representative of the trade union movement concerned to be afforded the same opportunity.

The discussion was adjourned to a latter sitting.¹

The sitting closed at 6.45 p.m.

¹ See sixth sitting.

SIXTH SITTING

(Thursday, 4 March 1982, morning)

The sitting opened at 10.10 a.m. with Mr. Ventejol in the Chair.

SIXTH ITEM ON THE AGENDA

Reports of the Committee on Freedom of Association (concl.)¹

THO HUNDRED AND FOURTEENTH REPORT (concl.)¹

Mr. Cairo Soler (Government, Cuba) said that the Government of Poland had had to declare a state of emergency because of the anti-Government attitude adopted by certain extremist members of Solidarity in breach of Convention No. 87. Solidarity had in fact been deviating from its purely trade union objectives and developing into a political movement seeking to overthrow the constitutionally established socialist régime.

Throughout the process its leaders had been assured of the support of governments and trade union organisations hostile to socialism which, on seeing that their plans had been foiled, had whipped up a tremendous propaganda campaign based on preposterous arguments. It was ironical that the Governing Body should be listening today to representatives of countries that curtailed freedom of association at home and, abroad, supported such causes as apartheid, Zionism and genocide in El Salvador and Guatemala, while springing to the defence of freedom of association in Poland.

The best way for the ILO to help Poland would be to confirm the principle, which the Polish Government was quoted in paragraph 717 of the report as having stressed, that trade union action should be kept within legal bounds. It was in the interests of the Polish Government and people that the situation should be restored to normal and it should be left to the Government to enforce the law as it saw fit.

Mr. Wallin (Government, Belgium) could not agree that the Polish crisis fell outside the scope of the ILO procedure concerning freedom of association. Quite apart from the question of what and who was responsible for the present crisis in Poland, whenever there was a crisis the Organisation was concerned about its possible effects on freedom of association, and the Committee had consistently taken the view that regulations introduced to meet a war situation should be limited in duration and replaced as soon as possible by legislation guaranteeing freedom of action for trade unions.

Moreover, the Polish Government had accepted the procedure now being challenged right from the time when it was first approached by the Director-General and, while acknowledging that trade union activities had been temporarily suspended, had stated that they would be "re-established as soon as the grounds for their suspension have disappeared". Not once had the Government claimed that the organisations in question were not genuine trade union organisations but political parties in disguise.

There was every indication that the Polish Government accepted the competence of the Committee on Freedom of Association and was ready to comply with its rules. Preference should therefore be given to the procedure freely accepted by the Polish Government rather than to the argument that the matter was outside the ILO's competence, which indeed might well be considered as interference with the Government's policy towards the ILO.

The mission recommended by the Committee should help the Government to establish the facts and pursue the discussions it had agreed to enter into with the Organisation. Had not the Minister of labour said at the Conference in June 1981 that "there was no problem that could not be resolved by discussion"?

¹ See fifth sitting.

Mr. Lloyd (Worker, United Kingdom) could not agree that the complaint and the Committee's findings were not receivable: it was the job of the ILO and the Committee to deal with precisely such problems.

He was perturbed that, two or three months previously, various European trade union leaders had been refused permission to go to Poland to look at the situation; the Committee on Freedom of Association was quite right to say that the ILO should now send a fact-finding mission.

Because it believed in freedom of association the British Trades Union Congress, like other national and international trade union bodies, had helped the Solidarity movement, and it was prepared to continue its efforts in that direction*

The Governing Body must accept the Committee's conclusions, as that was the only way of finding out the truth.

Mr. Falchi (Government, Italy) was struck by the deep sense of bitterness which overclouded the debate, first because trade union freedoms had been completely crushed in Poland, second because of the treatment meted out to thousands of trade unionists who had only been doing their duty, and last because of the excessively uncompromising remarks made by some speakers, which spelt death to the spirit of understanding and co-operation fostered by the new trade union experiment.

If Solidarity were really an engine of subversion and its members merely a gang of criminals, it was curious that, at the Conference last June, the representatives of the Eastern countries had not mentioned the fact, that no objection had been lodged against the Polish Worker delegate's credentials and that so many delegates of all political leanings and from all continents should have gone over to congratulate him on making a speech that was so orthodox from a trade union standpoint.

It had been claimed that certain trade unionists engaged in political opposition, but what trade unionist was not called upon from time to time to discuss politics, and particularly economic policy, especially in the kind of difficult economic situation Poland was going through? The arguments used by the trade unionists now under arrest were, in fact, the very ones which had led to the ousting of successive leaders of the Party.

As for the claim that certain trade unionists were trying to make Poland withdraw from the Warsaw Pact, that was pure conjecture: and even if such an idea had come into the mind of one person or another, a freely organised referendum could easily have disposed of it.

It came as quite a shock to hear the representatives of certain governments express the hope that Polish trade unionists would remain under arrest: in the normal course of events, when trade unionists were imprisoned the first thing the ILO did was to press for their immediate release.

As to the charge that the ILO was interfering in the internal affairs of Poland, in reality it was the coup d'Etat and the proclamation of martial law that constituted such interference, by disrupting the system of international obligations contracted by countries in ratifying ILO standards, and notably by Poland in ratifying Conventions Nos. 67 and 98, which it was the ILO's duty to uphold.

The Polish Government had, as Mr. Wallin had observed, opened discussions on the complaint. It had done so after much hesitation, but paragraphs 714 to 718 and 720 to 738 of the report left no doubt as to its readiness to engage in dialogue, despite meddling and pressure from those quarters which argued that the complaint was not receivable. It had, moreover, according to paragraph 715 of the report, stated that there was room in Poland's social and economic system for self-managed and truly independent trade unions, and that trade union activities would resume as soon as the situation was stabilised - which, it was to be hoped, would be very soon since martial law, if prolonged, could only bring bankruptcy or dictatorship. The Government had also announced its intention of releasing all these who had engaged in political - as distinct from trade union - activities before 13 December 1981; whatever the true situation in that regard, the mere intention was in striking contrast with the desire expressed by some that the prisoners should be kept under arrest.

Finally, the Government had expressed the hope (paragraph 738) that the Office would announce that economic sanctions taken against Poland were unjustified and

were ultimately aimed at the Polish workers and Polish society as a whole. Such an approach might indeed be endorsed, to the extent that the recommendations in paragraph 751 were implemented and a start made towards reconciliation in Poland between the government on the one hand and the workers and society on the other.

Three of the suggestions in paragraph 751 were of the utmost urgency: first, the enactment of legislation guaranteeing respect for the ILO Conventions; second, the immediate release of all the imprisoned trade unionists; and, third, acceptance of a high-level ILO mission with extensive facilities for contacts and fact-finding.

If these three requirements were met before the Governing Body's Bay session constructive co-operation with one of the ILO's founder Members might be resumed. If not, the Governing Body should refer Case No. 1097 to the Conference for final consideration.

Mr. Armstrong (Government, Canada) expressed deep concern at the increasing number of complaints coming before the Committee on Freedom of Association.

The extreme gravity of the allegations made against Poland was a matter for deep concern. The excellent reports before the Governing Body, and in particular the recommendations it contained, could be accepted unreservedly. It was to be hoped that the Polish Government would agree to receive an early ILO mission and provide it with the information asked for.

The Government had stated that the steps it had taken were only temporary, and that was indeed worth noting. What mainly mattered, however, was that trade union activities might again be carried out normally and that the new trade union legislation was in conformity with Poland's obligations under the ILO Conventions it had ratified.

Mr. Sadleir (Government, Australia) reminded those who queried the Governing Body's competence that Poland had ratified the two Conventions on freedom of association and that, like every other member State, it was subject to the supervisory machinery of the ILO.

The Government had indeed provided some information, but not on the main issue the suppression of the trade union movement by military force. That was why the Committee's report was no more than an interim one.

The leaders of Solidarity, it was being argued, had engaged in criminal activities. Yet several of them had been held since 13 December in the absence of any charges - and indeed, under the Abolition Act there could be no charges for acts committed before 13 December. Accordingly, the Committee on Freedom of Association was calling for their immediate release.

Facts were needed, not unsubstantiated polemical assertions, and the Polish Government should, in accordance with the Committee's recommendation, be urged to accept the help of the Office in drafting its new trade union legislation in such a manner as to comply with the ILO Conventions it had voluntarily ratified and to bring about the rapid restoration of trade union rights and liberties.

Mr. Marton (Government, Hungary) considered it improper to examine the complaint, which should be withdrawn from the agenda.

The severe social and economic crisis in Poland was being aggravated by certain elements bent on stirring up anarchy for self-serving ends and sabotaging the political process. In declaring a state of emergency the Government, which had a right and a duty to protect the country, had prevented deterioration and foiled the plans of the Solidarity leadership.

The state of emergency was provisional but necessary, and the steps taken would in fact permit the vital social and economic reforms initiated in August 1980 to continue. This was understood abroad by some governments and trade unions, but others had embarked upon an international campaign of subversion against the Polish Government. They professed sympathy for the Polish people, but in reality they wanted things to get worse.

It was the countries which had not ratified the freedom of association Conventions that were clamouring the loudest for other countries to apply them. Their sole purpose was to aggravate relations between East and West, and the ILO should not get involved in such manoeuvres.

Under Article 2 and Article 8, paragraph 1, of Convention No. 87, workers had the right to establish and, subject only to the rules of the organisation concerned, to join organisations of their own choosing. But they were also required to respect the law of the land. The leaders of Solidarity had manifestly paid no heed to that provision, so they had no claim to the protection under Conventions Nos. 87 and 98.

Some speakers doubted that Solidarity was turning into a political opposition party, and others considered it normal that it should engage in political opposition. Perhaps it should be pointed out that at the first congress of Solidarity the discussions had been devoted almost exclusively to matters which had nothing to do with normal trade union activities, and after the congress some leading Western figures had tried to warn the Solidarity leaders, but in vain.

Other speakers had suggested that the proclamation of the state of emergency had interrupted the negotiations between the Government and Solidarity. In reality it was the leaders of that movement who had called a general strike for 17 December 1981 and tried to hold demonstrations all over the country, which might have spelled national disaster.

The Polish Government was being urged to co-operate with the ILO, but quite a few contacts had been established recently: what had been their outcome?

In short, Poland needed time, and it needed peace and quiet, as well as international aid. A hostile ILO campaign would serve neither Poland's interests nor those of the ILO. Nor should the Governing Body take decisions that might harm East-West relations and weaken the Organisation's traditionally friendly ties with Poland.

Mr. Suzuki (Government, Japan) expressed his Government's concern at developments since the previous December and hoped that the restrictions on trade union activities in Poland would soon end.

The Government of Japan commended the Director-General and the Committee on Freedom of Association for their action. It supported the recommendations in the report and, recognising the need for more precise and detailed information, hoped that the proposed ILO Mission might visit Poland very shortly.

Mr. Albeda (Government, Netherlands) endorsed the Committee's report and conclusions, while expressing concern at the increase in the number of cases before it.

Mr. Noack's strictures against Solidarity for calling "political" strikes were somewhat surprising. At what point precisely did a strike become political? As Mr. Verschueren had rightly pointed out, it was commonplace for governments to level the accusation of dabbling in politics at any trade unions that did not restrict their demands to wages or working conditions - or even at those that did, for instance if they contested wage rates that the government considered reasonable; for a political strike, by some definitions, was any strike directed against the government.

What seemed mainly to trouble Mr. Noack about "political" strikes was that their aim was to change society. But change was a major fact of life in the last quarter of this century, and freedom of association was what enabled workers to participate in the process. Societies, whether Eastern or Western, had to change to meet the challenges of modern technology, and the alternative to gradual change brought on by free collective bargaining was likely to be prison, civil war and military repression. Every society nowadays had to choose between those alternatives, and it was to be feared that Poland was making the wrong choice. What the representative of Hungary viewed as just a feature in the East-West debate was therefore, in reality, a matter affecting the whole strategy of social change.

By taking the right decision, and opting deliberately for freedom of association, the Polish Government would be promoting better understanding between nations. That would entail ending the suspension of Solidarity, resuming discussions with it at the earliest possible date and, of course, immediately releasing the people under arrest for political reasons, in accordance with the Committee's recommendations.

Mr. Searby (Government, United States), not wishing to answer the misstatements regarding his own country, confined himself to pointing out that

whenever the United States Government had been the subject of a complaint under the freedom of association procedure it had always replied promptly to the Committee and cooperated fully with it.

Mr. Robinson (Government, United Kingdom) said that the very serious complaints under discussion were matters of grave concern to the Organisation. The argument that the Governing Body was interfering in Polish internal affairs in examining the complaints was mistaken, as the adoption of international labour standards and the supervision of their application in member States was fundamental to the Organisation's central purpose.

The report respected the procedure generally followed in such cases; it set out the steps already taken to investigate the complaints and it recommended further steps aimed at bringing Poland back into conformity with the requirements of Conventions Nos. 87 and 98, which it had ratified. The United Kingdom Government attached the greatest importance to the work of the Freedom of Association Committee in defending basic trade union rights and had been deeply concerned ever the suspension of independent trade union activity in Poland in the last few months.

Mr. Oechslin (Employer, France; Employer Vice-chairman) shared Mr. Albeda's surprise and concern at certain statements, particularly that by Mr. Noack suggesting that it was quite in order to prevent trade unions from stating their views on political matters such as the choice of their country's leaders, protesting at a given state of affairs, going on strike to change society, or occupying factories and public places, since all were deemed to be criminal activities. By that standard there were few countries, France included, whose trade unions might be considered as behaving lawfully. By definition, industrial relations implied conflict, and even if matters sometimes seemed to go a bit far the underlying social aspirations could be ignored only at the cost of abetting social upheaval.

The friends of the present Polish Government had not made the slightest gesture but had blankly refused dialogue with the ILO, just as the Polish Government had refused it with those who dared to express views at variance with its own. The Committee on Freedom of Association had already examined more than a thousand cases and had often been accused of interference in the domestic affairs of ILO Members but very few governments had actually refused to discuss matters.

Should the countries describing themselves as socialist enjoy special immunity, and was it a crime of *lèse-majesté* to express views on how States having freely joined the ILO and accepted certain rules were applying them? Any State joining the Organisation voluntarily relinquished part of its national sovereignty, and the rules it undertook to respect included those concerning freedom of association. If any such State might then declare at will that its affairs were of no concern to the Organisation that would be the end of the ILO.

There was nothing extraordinary about the recommendations in paragraph 751 of the Committee's report; they were couched in very moderate terms that had already been used in other cases. Why not seize the opportunity afforded by clause (g) to ascertain the facts through the time-tested device of on-the-spot investigation by impartial observers? What was there to hide?

The Employers' group unanimously accepted the Committee's proposals, endorsed its handling of the case and congratulated the Director-General on the initial steps he had taken. There could be no question of simply dropping a case in which not only freedom of association in Poland but the Organisation's fundamental principles were in jeopardy.

Mr. Haase (Government, Federal Republic of Germany) , declared that his Government was deeply concerned at the developments in Poland and condemned all violations of human rights, including violations of trade union rights which fell squarely within the jurisdiction of the ILO and the Committee on Freedom of Association.

During the discussion the Committee's competence had been questioned on the ground that Solidarity was not a trade union. But Poland had ratified Conventions Nos. 87 and 98, and the Polish Supreme Court had recognised Solidarity to be a trade union. That status could be taken away from it only by a court decision, and not simply by declaring martial law.

Others had proffered the well-known argument of interference in a State's internal affairs. As Mr. Oechslin had reminded the Governing Body, no State was obliged to belong to the Organisation, but joining it did imply acceptance of its rules and procedures.

The present complaint should be dealt with in the same way as any other, and the Governing Body should approve the Committee's conclusions and recommendations.

Mr. Kostine (Government, USSR) said that the Polish Government, faced with a very difficult situation, had in accordance with article 33(2) of the Polish Constitution - i.e. in a perfectly legal way - proclaimed a state of war which, in particular, entailed suspension of all trade union activities - and not only to those of Solidarity, with which the authors of the complaint appeared to be exclusively concerned.

Despite the attempts by some speakers to justify the actions of Solidarity, it had been proved that its leaders, making use of the so-called "public committees" they had set up, had sought purely and simply to seize power and set up a new government subservient to their interests.

The report made it appear that there had been a breach in Poland of the fundamental trade union freedoms, whereas in reality the only persons detained were those who had infringed the Constitution and engaged in subversive activities against the lawful Government of Poland.

In supporting the political line of Solidarity, the Committee on Freedom of Association seemed to be departing from its usual practice. So far, it had been recognised that trade unions could lawfully protect themselves from interference in their activities as long as these were not obviously political: but could that be said of an organisation whose leaders described themselves as heading a mass political movement aimed at seizing power, even at the risk of provoking civil war? By its attitude the Committee on Freedom of Association was simply encouraging a violent change in the political structure of Poland.

At its last session the Governing Body had been called upon to examine the Committee's 211th Report, and more particularly Case No. 1074, concerning air traffic controllers in the United States. In paragraph 365 the Committee had denied the controllers' right to strike on the ground that a work stoppage might widely endanger the safety of passengers, and in paragraph 372 it held that resort to military air traffic controllers would not be a breach of freedom of association.

How, then, could it in the case of Poland, where terrorism in the form of strikes was rife, economic disaster was threatening, and the safety of all the citizens as well as the independence and sovereignty of the nation itself were in peril, query the Government's right to protect the security of the State by declaring martial law for a limited period and preventing the lawbreakers seeking to overthrow the constitutional political system from doing further harm?

According to paragraph 701 of the report, the ICFTU condemned the martial law established in Poland: that amounted to questioning the sovereign right of a State to apply its own Constitution. The United States internal security legislation, in force since 1950, and the constitutions of many other countries contained provisions applicable in exceptional circumstances where the security of the country was threatened: why, in the case of Socialist Poland, should such provisions constitute a breach of international law?

In paragraph 745 it was suggested that the Polish Government should submit to the ILO the trade union legislation it intended to adopt; but it was one thing for a State to seek the help of the Office on its own initiative, and quite another for it to be obliged to do so.

The ILO supervisory machinery, consisting of small bodies like the Committee on Freedom of Association, was given, it seemed, to adopting conclusions wholly to the advantage of the Western countries. It was pointless for these bodies to meet if their findings were foregone conclusions. In this case, the Committee's report and conclusions were nothing more than an expression of bias and interference in the affairs of a sovereign State - a practice which had been explicitly condemned by the United Nations General Assembly at its 36th Session.

Certain Western countries had imposed economic and other sanctions on Poland which were contrary to the spirit of the ILO Constitution and the Declaration of Philadelphia. The Governing Body too seemed to have been drawn into an anti-Polish campaign - an improper attitude for an international organisation, and extremely harmful to detente. The real friends of Poland believed that the Poles should be allowed to solve their own problems and that the conclusions of the Committee on Freedom of Association should be rejected as being in flagrant contradiction with the principles on which the Organisation was based.

Mr. Martins da Cruz (Government, Portugal) joined earlier speakers in expressing deep concern at the growing number and seriousness of complaints alleging violations of trade union freedoms.

The Committee on Freedom of Association, accepted by all Members of the Organisation as part of its supervisory machinery, had amply demonstrated that it was the appropriate body to consider such complaints. Those against the Government of Poland concerned extremely serious violations of freedom of association; they were therefore perfectly receivable and the Government of Portugal supported all the recommendations in paragraph 751 of the report.

Mr. Andersen (Government, Denmark), sharing the Committee's deep concern at the gravity of the complaints, wholeheartedly supported the Committee's recommendations, and in particular the one concerning an ILO mission to Poland, which he earnestly hoped the Polish Government would accept so that it might visit Poland very shortly.

Mr. Muhr (Worker, Federal republic of Germany; worker Vice-chairman) could agree that trade unions in an ILO member country should indeed obey the law -provided that the law ensured trade union freedom in conformity with the principles the country had freely subscribed to in joining the ILO. In the case of Solidarity, its rules must have been found to be in conformity with the law, since otherwise it would be most difficult to understand why it had been granted registration after a review of its rules by an independent judicial authority. As to whether or not certain members of Solidarity had behaved in a manner inconsistent with those rules and with the laws of the country, that claim could not be rejected out of hand, but required very careful investigation, and it was for that very purpose that a fact-finding mission to Poland was being proposed. However, even if some members or leaders of Solidarity had disobeyed the legal provisions in force, that was no reason (or suspending the whole union.

Some speakers had claimed that Solidarity was no longer a trade union but a political opposition movement, and the same must be true of the other Polish trade union organisations since, according to Mr. Kostine, they too had been suspended. In other words, not only the ten million-odd members which Solidarity had succeeded in recruiting in such a short time but the members of the other unions had suddenly gone over to the opposition in violation of the Constitution and the law. If so, this represented quite a mass movement - and quite an indictment of the regime, leading one to wonder how far it was still in touch with the people.

Solidarity had been accused of attempting to influence public opinion and the Parliament. But how could anyone claiming to represent the workers not try to exert such an influence? In a country where the State was the sole employer, how could the workers' representatives do otherwise than proclaim their objectives loudly and clearly vis-a-vis the authorities, with whom they had to negotiate and sometimes disagree?

Those who pressed the familiar argument of interference in the internal affairs of a State should be very careful: if it was improper for the ILO to concern itself with the internal affairs of Poland, was it proper that it should concern itself with those of Chile? The ILO had been created to protect the right of workers everywhere, and it would be the end of the Organisation if it were allowed to examine the situation in some countries and forbidden to do so in others.

It was not the actions of Solidarity that had led to economic chaos in Poland, but the reverse.

Mr. Yllanes Ramos (Employer, Mexico), as a member of the Committee on Freedom of Association, indignantly rejected the USSR Government's suggestion that the Committee's findings were foregone conclusions. Such a serious accusation should at least be supported by facts.

The Committee on Freedom of Association was a completely independent body, and in the case of Poland it had noted that Solidarity had initially been recognised as a perfectly legitimate trade union by the Supreme Court in Warsaw, but that it had later been accused of organising illegal strikes to obtain wage increases, improved social security benefits, shorter working hours, etc. Such an accusation was rather surprising, since in all free countries it was considered quite normal, and in no way subversive, for workers to go on strike for such purposes.

The report stated in clear and objective terms that the Polish Government had suspended trade union rights at the very moment when the era of Solidarity offered the prospect of a little more freedom, better human relations and greater equality.

Not even the Government had denied the facts, and all the report did was to point out that, even when there was a state of siege or individual guarantees were suspended, everyone was entitled to due process of law and treatment consistent with the law and human dignity,

The Eastern countries had adopted delaying tactics when it would have been so much simpler and more honest to encourage the Warsaw authorities to agree to the ILO mission, whose objectivity could be absolutely guaranteed.

Martyred Poland needed support in its struggle to emerge from dictatorship and oppression, so that Solidarity might regain its representative status, its freedom of action and the powers it needed. Only then would the situation in Poland be in harmony with the international Conventions it had ratified of its own free will.

Mr. Sene (Government, Senegal) paid tribute to the ILO for the key part it played in the protection of trade union freedoms and to the Committee for its remarkable report, which bore the imprint of its members' wisdom, sense of responsibility and devotion to the cause of trade union rights everywhere.

Few representatives of Third World countries had spoken in the debate, presumably because it did not involve any vital issue of North-South co-operation, but that did not mean that they felt unconcerned. Senegal, for one, which had very strong ties with Poland, could not remain indifferent to the plight of the Polish people.

This should not be regarded as an occasion for East-West confrontation, nor should the report be taken as a ground for levelling accusations against Poland, or Solidarity, or the socialist countries. Certainly there should be no question of imposing sanctions on Poland. At the same time, the ILO could clearly not remain idle.

The Government of Senegal approved the action taken by the Director-General. The Office's role was to help the Polish Government to deal with the serious problems it faced in applying Conventions it had ratified. It was true that trade unions were required to respect the law of the land, but at the same time Convention No. 87 stipulated that the law of the land and the authorities enforcing it must not impair their freedom and independence. It was gratifying to note the Polish Government's statement in paragraph 715 of the report that there was room in Poland for self-managed and truly independent trade unions.

It was to be hoped that Poland would find it possible to revert to normal, unhampered by interference from any quarter, that it would succeed in working out a genuinely Polish solution to its problem, with any necessary help from the Office, and that it would, to that end, accept the recommendations of the Committee on Freedom of Association.

Mrs. Aizpurua de Constantino (Government, Panama) commented that it was the Organisation's duty to help its Members in good faith and with good will. The Polish Government could hardly turn down the opportunity being offered to it to submit the matter to an impartial inquiry, since it was not a question of interfering in its internal affairs, but simply of helping it.

Subject to the opposition of the governments of Bulgaria, Cuba, the German Democratic Republic, Hungary, Mongolia, the Ukrainian SSR and the USSR, the Governing Body adopted the recommendations in paragraph 751 of the report.

Mr. Aleman Salvador (Government, Ecuador), referring to Case No. 1032 concerning Ecuador, which had been discussed the previous day in his absence, said that the steps taken by his Government had been dictated by exceptional circumstances.

In the second place, his Government categorically rejected the complainant's allegation that the authorities had threatened to "make him disappear". Nobody had ever disappeared in Ecuador, which had always set great store by human rights, and no such threat had ever been made to anybody.