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REPORT ON THE 294th SESSION OF THE ILO GOVERNING BODY

This was the first full session following the Governing Body elections held during the International Labour Conference in June 2005. As a result, the Employers' Group welcomed some new faces amongst the employers' team and welcomed back others with a renewed mandate. (Please refer to http://www.ilo.org/public/english/standards/relm/gb/refs/pdf/gbmember.pdf for the complete list on Governing Body membership).

One of the major concerns for the employers over the recent years has been to build a dynamic and relevant Governing Body. The Employers' Group this session continued with its efforts to explore ways within the various technical committees to move the debates from those resembling university lectures, to ones which focus on governance issues. This effort is beginning to produce results faster in some committees than others, which is to be expected, but successes in both the Employment and Social Policy Committee and the MNE Subcommittee was promising for the future.

The issue of the ILO's mandate also remains a relevant debate in the face of efforts that look to take the ILO away from its true focus on the world of work (discussions in the Working Party on the Social Dimensions of Globalization, this session, being a case in point). This is an issue the Employers' Group has been raising over recent Governing Body sessions.

The ILO's core competency and mandate lies in the issues that surround the world of work and it is by focussing on these that the ILO is best able to contribute to identifying actions best suited to responding to the broader globalization debate. In many committees there were calls for the ILO to be more grounded in assisting constituents at the national level as it is only there that solutions can be identified that address employment and social protection challenges. Whilst debates at the macro level can play a part, they must not be allowed to remove the ILO from the service of its constituents.

Some decisions taken at this session of the Governing Body clearly support the employers' agenda. The Group was pleased to see the recommendations adopted by the Committee on Freedom of Association that recognized employers' concerns in Peru - following an IOE complaint - with regard to bargaining levels, Chile with regard to restructuring and Moldova concerning tax deductibility of membership fees. This was also reflected in the consensus reached in choosing a general discussion item for the 2007 Conference on the promotion of sustainable enterprises, a debate which will look to promote the needs of business in order to secure their key role in employment and wealth creation.

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Decent Work programmes are moving ahead on the agenda. Their relevance is one welcomed by the Employers' Group although more attention still needs to be given to building the capacity of national employers' organizations to ensure their ability to participate fully in working with their governments and workers in identifying relevant policy options.

As in recent time, resources continue to be tight within the ILO regular budget. More attention therefore is required to ensure that the resources available are focussed on constituents' needs and more remains to be done to secure extra budgetary income to address technical cooperation declines in key areas of employers' interest - namely the employment sector. This is not a new approach by the employers and the test for the Office will come from how it responds to these calls through until the next Governing Body session in March 2006.

GOVERNING BODY

AGENDA OF THE 2007 INTERNATIONAL LABOUR CONFERENCE

After lengthy discussion, a consensus was reached that the following three items be placed on the 2007 agenda:

1. **Work in the Fishing Sector** (standard-setting). Following the failure of the Convention on Work in the Fishing Sector being adopted at the 2005 ILC, the Conference resolved that it be put back onto the 2007 agenda, based on the report of the Committee in 2005, for further consideration.

2. **Strengthening the ILO's capacity to discharge its core missions and promote decent work for all at the outset of the 21st Century** (general discussion). This discussion would look to consider whether and, if so, in what way the core missions of the ILO could be updated and reaffirmed in the light of the concept of decent work with a view to enhancing their relevance and impact in the current context of globalization. This item will be elaborated by the Office in consultation with the social partners.

3. **Promotion of sustainable enterprises** (general discussion). This was an Employers' Group proposal and will allow the first substantive discussion in the Conference on the need to promote the right environment for enterprise development.

The agenda for the 2008 Conference will be discussed in March.

MYANMAR

Recent developments within Myanmar did not provide a promising background for the Governing Body debate. Death threats against the ILO Liaison Officer and the Government proposing withdrawal from the ILO both impacted on the work the ILO has been able to do. Just prior to the debate, the Government stepped back from its withdrawal from the ILO at least for the moment, giving some space for the ILO to again explore how best to take forward the elimination of forced labour. This will be again discussed in March when it is hoped that a more positive picture of cooperation will emerge before the issue is discussed by the ILO Conference in June.

FUNCTIONING OF THE ILO DECISION-MAKING BODIES

The process of reflection to improve the ILO decision-making bodies - the International Labour Conference and the Governing Body - continued during this session. Concerning possible improvements to the functioning to the International Labour Conference, it was decided that a Special Working Group would be set up during the March 2006 session of the Governing Body, with a view to making concrete proposals for improvement. The Working Group will be composed of eight representatives from each Group. The IOE will continue to push for the changes to improve the effectiveness, visibility and credibility of the ILC.

As to the reform of the functioning of the Governing Body, the process is slowing down. As expressed in the past, there are several areas where it is felt that the performance of the Governing Body could be improved. This is particularly true with regard to its role of control over the ILO Office and the use of time during the week the Technical Committees meet. It is hoped that the debate will begin once again after the ILC Working Group has concluded its work.

VENEZUELA

Further to the recommendation issued by the Committee on Freedom of Association during this session, concerning the possibility of sending a Direct Contact Mission to Venezuela with the view to assessing the need to send a Commission of Inquiry, the Governing Body took note of the request of the Employers' Group not to implement the recommendation for the time being.

This request was in response to new information made available by FEDECAMARAS to the Employers' Group, concerning the prospects of the initiation of a dialogue between the leadership of FEDECAMARAS and the President of the Bolivarian Republic of Venezuela. This demonstrates the goodwill of FEDECAMARAS to do its best to restore a climate of trust, respect and collaboration with the government authorities.

Even if the Employers' Group knew the difficulties for FEDECAMARAS to consolidate a real dialogue with its government, it is hoped that this new process of dialogue between FEDECAMARAS and their government will facilitate solving the serious outstanding problems raised by the IOE in case No. 2254, which is currently before the Committee on Freedom of Association, as well as the concerns raised by the employers through a complaint launched during the 2004 International Labour Conference.

ILO REGIONAL MEETINGS

Fourteenth Asian Regional Meeting: new dates. Following the postponement of this meeting earlier this year, the meeting will now be held in Busan, Korea, from 29 August to 1 September 2006.

The Sixteenth American Regional Meeting is expected to take place in Brasilia, Brazil, from 9 to 12 May 2006.

COMMITTEES OF THE GOVERNING BODY

WORKING PARTY ON THE SOCIAL DIMENSION OF GLOBALIZATION

One of the areas of consensus coming from recent discussions in the Working Party has been the recommendation that the ILO should strengthen its partnership with the other multilateral agencies (while respecting the mandates of each). The Working Party at its last session gave its support for a 'Policy Coherence Initiative (PCI)', which would be designed to bring the agencies together, particularly in terms of research work.

Consequently, one of the two papers that came before the Working Party concerned this PCI – a technical paper on the financial aspects of growth investment and employment. This paper dealt with trends of financial openness; effects on developing countries, enterprises and labour; proposals to make the financial system more conducive to decent work; and, finally, future directions for the Office's activities. Overall the paper's conclusions were quite unbalanced. It downplayed the role of domestic policies and institutions and seemed to contradict itself by pointing to the global level for solutions to what are national problems. There were also a number of inconsistencies regarding the impact of capital controls on growth and the labour market.

Worryingly, the Office is seeking to *"engage in the current debate on the reform of the international financial system"* and in fact it seems to be already doing so through the G24 Technical Group of Developing Country Finance Ministers. The employers, along with a number of governments, pointed out that the Office should stick to its core mandate within this debate (e.g. focus on the employment response to economic shocks). The employers suggested that, for a further meeting on this issue, key organizations with expertise in these areas should be invited to express their views, including in particular the regional development banks.

As for the question on the Globalization Policy Forum (GPF), the employers continued to have a number of concerns. First, as pointed out in the World Commission Report the GPF would not be a one off event; second, it could damage the tripartite nature of the ILO as it explicitly brings a range of other actors into the ILO "policy" process; third, it could become a parallel form of governance with the task of "making decent work a global goal" since its conclusions would then direct the work of the Office; finally it would absorb considerable financial and staff time resources.

Employers argued that now was the time for action on the ground not more meetings. The employers argued that the objective of 'Making Decent Work a Global Goal' has been in some ways achieved. The World Commission for instance, helped shape this message through 13 'Knowledge networks'; 33 national and regional Globalisation Dialogues; and individual meetings with Heads of WB, IMF and WTO.

The ILO has succeeded in generating international resonance for this agenda culminating in reference to the Decent Work Agenda in the 2005 UN General Assembly. Regionally, too, the message has been highly effective. The Summit of the Americas agreed on a Declaration and Plan of Action to create decent work; the Ouagadougou African Union Summit pledged to develop and implement strategies for decent and productive work; and the

European Commission, in its New Social Agenda for 2005-10, endorses the World Commission's call for decent work to become a global goal.

The employers argued that a key message coming from the WCSDG was policy coherence and suggested that, instead of the GPF proposal before the Working Party, the two concepts of GPF and PCI be connected.

The employers suggested that the Working Party be used as a reporting mechanism for the PCI to examine a variety of topics. This could form part of the preparatory process for a major High Level Panel meeting to be hosted by the ILO (perhaps a special meeting of the Working Party) in April 2007 with the Heads of UN Agencies and the Bretton Woods Institutions. The objective of such a meeting would be to engage the international development community further with the Decent Work Agenda and to provide them with an opportunity to present their strategies on making Decent Work a Global Goal, in line with the UNGA resolution on the World Commission Report.

This proposal received little support. It was clear that governments would agree to the original proposal but wanted its 'scope' to be tighter in focus, the objectives to be clearer and to have a precise idea of cost. Workers were in favour - despite the concerns raised by the employers in terms of governance, and tripartism in particular. Consultation will continue and the March session will see a further paper outlining these clarifications.

COMMITTEE ON FREEDOM OF ASSOCIATION

This session, 37 regular cases, two Article 26 complaints and one question of procedure were before the Committee.

At the last Committee meeting the outgoing employer members of the CFA raised a number of issues of principle with the Committee. These were again raised in this session. These include: disagreement on the definitions of the right to strike, essential services, reinstatement, the inflexibility of the Committee's application of principles and important lacunae vis-à-vis procedures. In order to ensure that the Committee completed its work, it was agreed that when it came to matters of fundamental concern to the Employers` Group, its concerns would be noted and a process of review would be considered at the March 2006 session. On this point, particularly strong reservations were made in the cases of: Argentina (Case No. 2373), Colombia (Case Nos. 2068 and 2363), India (Case No. 2364) and Iraq (Case No. 2348). The details of this process remain to be determined and the IOE Secretariat will work closely with the employer members of the Committee and its member federations in setting out the process.

There were positive cases from this session. Chile (Case No. 2392) acknowledged that restructurings by employers for legitimate economic reasons did not violate the principles of freedom of association. Moldova (Case No. 2350) addressed the need to ensure the tax deductibility of membership fees paid to employers' organizations. Finally, the IOE case concerning Peru (Case No. 2375) confirmed the right of employers to choose the level of bargaining.

The most challenging cases for employers were the cases of Australia (Case No. 2326) and the Venezuela Article 26 complaint. In the case of Australia, the employers took the position that the case should be deferred, as the Government had not been given an opportunity to respond to a number of additional allegations, in particular regarding the recently revised Bill. After a lengthy debate, the Committee declined to defer the case and the Australian Government has been requested to revise its legislation. In the case of Venezuela, the Employers' Group was successful in securing a direct contacts mission. This direct contacts mission will be held in abeyance pending the outcome of discussions currently ongoing between the Government and FEDECAMARAS.

The full list of pending cases before of the Committee is attached to this report. We urge members to take a look at it, particularly any cases involving their government and possibly enterprises operating within their country.

COMMITTEE ON LEGAL ISSUES AND INTERNATIONAL LABOUR STANDARDS

ILO and "Working Time". The Committee analyzed possible future ILO action in the field of "working time", including an assessment of relevance of ILO standards in the matter (Conventions nos 1 and 30). This discussion follows on from the General Survey presented by the Committee of Experts to the 2005 Conference Committee on the Application of Standards. Employers reiterated their position, indicating that "working time" is an elusive topic that raises questions as to its suitability for international regulation. Workforces are by their nature very diverse, as are workplaces, and therefore a one-size-fits-all approach to working hours - such as that provided for by ILO standards - is simply not desirable. Therefore, the ILO should consider innovative ways other than a normative approach to provide guidance on the matter to member States. The Committee has therefore suggested that the Governing Body convene a Meeting of Experts to review and advise on modern working time arrangements. Final decision on the dates, agenda and composition of the Meeting of Experts will be taken by the Governing Body during its March 2006 session.

Reform of the ILO standards related activities. Work continued on the development of a strategy to move the ILO standards reform forward. The Committee has proposed to base the strategy on the following interrelated components / objectives: (i) promotion and application of the existing up-to-date ILO standards; (ii) strengthening of the supervisory system; (iii) achieving greater visibility of ILO standards; (iv) technical assistance, technical cooperation and capacity building; and (v) a permanent process of revision of standards. The proposed strategy would seek to focus on achieving significant and more balanced progress in the application of ILO standards by 2019 when the ILO will celebrate its 100th anniversary. One of the elements of the strategy is the need to ensure a more balanced promotion of important ILO standards through improved knowledge of the real "economic and social" impact of standards in all member States.

Improving the governance role of the ILO Governing Body. The Committee has approved the publication of a consolidated Compendium of all the rules governing the functioning of the Governing Body. This will make the rules clearer and help ILO members understand the functioning of the Governing Body, and improve governance.

SUBCOMMITTEE ON MULTINATIONAL ENTERPRISES

The Employers' Group has worked to promote the Tripartite Declaration on Multinational Enterprises and Social Policy (the "MNE Declaration") as the point of reference for the ILO in the CSR debate and the MNE Subcommittee as the natural focal point for discussions related to the MNE Declaration, as well as any ILO CSR-related involvement.

The most important item on the Subcommittee Agenda was the oral presentation by the Office on its initial proposal for the In-Focus Initiative on CSR (the "IFI"). The Office had initially prepared a paper, which it made available to GB members prior to ensuring that the paper had gone through the proper internal clearing process and without any prior consultation with the social partners despite a commitment to do so. The paper showed a complete lack of understanding of CSR as a voluntary initiative by business. Instead, it sought to mix CSR with Decent Work and social dialogue. Upon the insistence of the employers, the Office withdrew the paper. One of the Subcommittee's points for decision calls upon the Office to draft a paper on the IFI for discussion and decision at the March 2006 session.

As the focal point for CSR, the Subcommittee has asked that the Office report all of its CSR engagements to the Subcommittee. This was intended to increase the accountability of the Office in the area of CSR. This includes updates relative to any engagement: within the MULTI Department (which has traditionally overseen the MNE Declaration); in other departments outside MULTI; and externally (for example with other international organizations). Due to lack of time, the update on the ILO's external engagement was not provided and a point for decision has been included in the Subcommittee's report stating that all such updates be provided in writing to the Subcommittee at its March and November sessions.

The year 2007 will be the 30th anniversary of the MNE Declaration and the Subcommittee has previously discussed the need to use this opportunity to promote the MNE Declaration. The Office has therefore been asked to prepare a proposal for an event to mark the occasion of the 30th anniversary with a view to promoting the MNE Declaration as the ILO's key reference in the CSR debate.

PROGRAMME, FINANCIAL AND ADMINISTRATIVE COMMITTEE

In 1999, the ILO adopted a Strategic Programme and Budget based on results-based management. It is composed of a four-year Strategic Policy Framework, a two-year Programme and Budget and Implementation Reports.

At this PFAC session, the ILO adopted an evaluation mechanism and, after several failed discussions in the past, also adopted a human resources strategy to complete the ILO strategy.

With regard to the discussion on the evaluation mechanism, the Employers' Group insisted on the principle of transparency and objectivity for any evaluations. Given the number of units and programmes, the Office proposal consisted of discussion by the Governing Body of a global evaluation report, which will be a consolidation of strategic, thematic, regional and project evaluations. The Joint Inspection Unit, a UN interagency body which presents recommendations to agencies on their functioning, made a report on the

results-based management approach by the ILO. This report includes several recommendations, the implementation of which will be discussed next March as the Employers' Group (and the majority of the Governing Body) was not satisfied with the Office response at this session. In March 2006, a clearer calendar and mechanism of evaluation will be presented.

With regard to the human resources strategy, governments asked for increased savings, including a more systematic downgrading of job positions. The Employers' Group expressed some concerns with this approach and insisted on the recruitment process based on the best person for the job whatever his/her sex or geographical origin, a shorter period of recruitment, better coordination between the manager of the unit and the personnel department (without external pressure) and the recruitment of young staff. The Employers' Group indicated its concerns as to the lack of ILO staff with a business background. The Office should consider international business experience as a relevant qualification (as it does experience at international level in UN agencies). The Employers' Group also stressed the need to reinforce the role of managers within their own units, who are often under external pressure (recruitment, termination, policy, etc). A tough debate also occurred on the question of staff mobility between Geneva and the regions, with concerns expressed by the ILO staff union about the implementation of such a policy. The Employers' Group is in favour of mobility if it is done within the framework of career planning and is not forced upon staff. An implementation report will be presented in March 2006.

Finally, decisions and more information on sensitive issues such as the IRIS computer system or the renovation of ILO buildings (mainly in Geneva) have been postponed until March 2006.

COMMITTEE ON TECHNICAL COOPERATION

The Committee had two main items on its agenda:

The ILO's technical cooperation programme 2004-05. The Employers' Group has in the past expressed its concerns as to the poor format of these reports submitted to the Committee. This time, the future direction of the ILO technical cooperation programme itself was of concern. With diminishing resources from UNDP and from the regular budget, the technical cooperation programme is more than ever before dependent on extra-budgetary resources. This is making it vulnerable to the changing priorities of donors, particularly in terms of regional or thematic preferences. Also the employment and social dialogue sectors - which are the Employers' Group's main priority areas - are not receiving as much funding as they used to, at a time when the international community is giving recognition to the ILO's role in promoting employment as a real contribution to poverty alleviation. As a number of meetings between the ILO and donors are scheduled for the coming months, it is important that the representatives of the social partners be invited to such meetings to sensitize donors to constituents' needs.

The Employers' and Workers' Groups have also consistently pushed for the needs of the social partners to be taken into account when designing and implementing technical cooperation programmes and projects. They are hoping that an Office-wide implementation of the 2002 Resolution on Tripartism and Social Dialogue would help achieve this objective.

A new innovation at this session of the Committee was the presentations by the ILO Regional Directors. This enabled the Committee to get first hand information on regional priorities and new trends in technical cooperation in the five regions (Africa, Americas, Asia and the Pacific, Arab States and Europe). The Employers' Group stated that the implementation of the Decent Work Country Programmes should give an opportunity for the regional offices to put emphasis on building the capacities of employers' organizations. The Committee also adopted a point for decision calling for increased efforts by the ILO to enhance coordination, efficiency and effectiveness of operational programmes by linking ILO Decent Work Country Programmes to the United Nations system and other multilateral development frameworks such as the PRSPs and the MDGs. This would also be an opportunity to ensure social partner participation in such multilateral development frameworks.

Follow-up to the ILO Declaration on Fundamental Principles and Rights at Work: Technical cooperation priorities and action plans regarding elimination of all forms of forced or compulsory labour. With regard to the follow-up to the ILO Declaration, the Committee adopted the action plan proposed by the Office, aimed at giving effect to the June 2005 discussion on the Global Report on forced labour. The Office reassured the Group that the implementation of the action plan would be carried out after consultations with workers and employers, who would be part of the ILO's Global Alliance against Forced Labour.

EMPLOYMENT AND SOCIAL POLICY COMMITTEE

The ESP Committee faced a heavy agenda: two core elements of the Global Employment Agenda (GEA); an update of the GEA; a policy paper on microfinance for adoption; and a paper on the Office's work on PRSPs.

The paper on GEA core element 8, ***Social Protection as a productive factor***, was one that sought approval for the Office to undertake a large programme of work - much of it research-focused. A key argument put forward in the paper was that social spending correlated with higher productivity - a notion not universally accepted outside the ILO.

While the majority of governments and the workers were supportive of the proposed work programme, the employers argued that the ILO already has an extensive work programme mandated by the 2001 International Labour Conference (ILC) General Discussion on Social Security. In the paper the Office failed to connect that mandate with the new proposed areas of work in a more explicit manner, and also failed to connect it to the GEA (the main purpose of the exercise). The employers noted that a request for further work without a proper evaluation of the work done so far (in line with the 2001 ILC recommendations) was a bad practice.

The ***sustainable development*** paper - core element 7 - was unclear and this resulted in some confusion in the committee. The paper mixed up a number of areas under "Sustainable Development". Additionally, the terms 'environment' and 'sustainable development' were used interchangeably (in the paper) adding to the confusion. The employers pointed out that the ILO's role in 'sustainable development' was in terms of "employment". Despite some reservations on the paper itself, it was adopted.

While imperfect, the ***Microfinance*** paper was adopted as an ILO policy statement. In terms of process the Office should be commended, as this was a well thought out way to develop ILO policy. A paper was introduced to the March session. A small tripartite Working Group was subsequently formed and met four times to work on the draft that was placed before the committee for adoption. While employers would have written it differently, it is not a bad document and more importantly in this the year of microfinance at last the ILO has a policy statement in a key area of employer interest.

The ***Poverty Reduction Strategy Papers (PRSP)*** document and accompanying Office presentation highlighted that the ILO is currently doing productive work with constituents. However, the employers warned that the Office should continue to work with constituents in helping them develop *their* agenda rather than the Office using them to implement *its* agenda. The Committee supported further Office work in this area (which it agreed should be an Office-wide exercise).

The Decent Work Country Programmes (DWCP) are becoming the main delivery vehicle for the Office's technical cooperation. As noted by the employers in the discussion on PRSPs the Office needs to ensure that all its technical assistance efforts are integrated.

The standing item on the *GEA update* as a poor paper in that it said little in any detail. The country presentation by the Philippines (the third such country level presentation to the committee so far) while useful, failed to 'connect' to the GEA and the specific ILO role. This is crucial in terms of helping the committee guide future work. The employers proposed future deeper evaluations of the GEA at country level (perhaps on a tripartite basis). In March there will be a paper on such 'modalities' for evaluation of the GEA. Such an evaluation process would also tie in with the DWCP.

The March session will also see the New Executive Director of the Employment Sector, Jose Manuel Salazar, present a 'vision paper' on the implementation of the GEA and how it connects to the work of the Employment Sector. These developments it is hoped should go some way to addressing the key employer concern that to date the Committee has been too theoretical and not grounded enough in 'realties'.

COMMITTEE ON SECTORAL AND TECHNICAL MEETINGS AND RELATED ISSUES

Purpose, duration and composition of sectoral meetings to be held in 2006-2007. Since there will be only one meeting in the first half of 2006 (meeting of experts on coal mine safety), the Committee agreed with the proposal to limit its decision to this one and to address the other meetings in March or November 2006 after further consultations have taken place.

The **Meeting of experts on coal mine safety** will be held from Monday 8 to Saturday13 May. Twenty-four experts (eight from each group) will be invited to revise the 1985 Code of Practice Safety and Health in Coal Mines.

The Employers' and Workers' Groups are, as usual, free to nominate the representatives of their choice; (for information, the Governments to be invited to send an expert are: Australia, China, Germany, India, Poland, Russian Federation, South Africa and

United States with, on the reserve list, Colombia, Romania, Ukraine, United Kingdom and Viet Nam).

Decisions concerning the size, duration and dates of the five **other meetings to be held in 2006-2007** (Commerce; Road transport; Chemicals; Electrical engineering; Food and Drink) will be taken in March or November 2006.

Oral report on the Tripartite Meeting on Promoting a Fair Globalization in Textiles and Clothing in a Post-MFA Environment (Geneva, 24-26 October 2005). The Employers' Group and the Committee as a whole recognized that this meeting had been extremely positive and had produced a very constructive set of guidelines and actions to be taken. The Employers' Group emphasized the importance, recognized by the meeting, of considering competitiveness in the strategies to be developed, but reiterated its reservations regarding the promotion of policy coherence between the ILO and WTO.

INTERNATIONAL INSTITUTE FOR LABOUR STUDIES

A possible Decent Work Prize. The principle of an ILO research prize to recognize scholarship of the highest level was accepted by the Board. This Prize would reward outstanding contributions to the advancement of knowledge on key ILO concerns, to be called "ILO Decent Work Research Prize".

The employers were of the view that this prize should be an "Institute" prize, not an "ILO" award.

Programme and budget for 2006-2007. The Employers' Group stressed the need for the work of the Institute to be relevant to the needs of constituents. This could best be achieved if the employers could identify themselves with the research work and asked for a focus to be given to research on the factors that generate labour demand and which pay attention to the distributive aspects of economic progress on the one hand and wealth-creation and production on the other.

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