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CONFERENCE
ON
TRADE AND EMPLOYMENT

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13 December 1947
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SUB-COMMITTEE A OF THE FIRST COMMITTEE

Report of the Drafting Group on Article 4

The representatives of Mexico, the Union of South Africa, and the United States of America, constituting the Drafting Group appointed at the third meeting, along with the Chairman of Sub-Committee A, met at 4.00 p.m., 13 December 1947 and agreed unanimously to recommend for the consideration of Sub-Committee A the following text for the article on "Fair Labour Standards":

- "1. The Members recognize that measures relating to employment must take fully into account the rights of workers under international declarations, conventions and agreements. They recognize that all countries have a common interest in the achievement and maintenance of fair labour standards related to productivity, and hence in the improvement of wages and working conditions as advances in productivity may permit. The Members recognize that unfair labour conditions in production for export create difficulties in international trade, and, accordingly, each Member shall take whatever action may be appropriate and feasible to eliminate such conditions.
 - "2. Members which are also members of the International Labour Organization shall co-operate with that organization in giving effect to this undertaking.
 - "3. The International Labour Organization shall be consulted in all matters relating to labour standards that may be referred to the Executive Board or to the Conference in accordance with the provisions of Article 90."

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1. Form of Records (see Rule 📥)

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2. Discussion of the subject matter of Article & (Los E/COST.2/C.1/7 and Addenduce I)

The various proposed examinents would uppear to reless the following main points of substance:

(a) Should wages and other conditions as well as conditions of labour be mentioned?

The French text of the Geneva fruit already refers to sub-standard wages as well as to sub-standard conditions.

The Argentine and U.S. exendments rould include in the English text references to reges as well as other conditions of labour. The U.S. exendment would also refer specifically to living and verking conditions.

- (b) Should the a be mention of production for entert specifically?

 The mentions proposed by Form, Argentina, Luran, Coylon, Hariso and the U.S. all propose deletion of the apacific reference to expert industries in one way or another.
- (c) Should there be a reference to the relating of labour standards and not merely to sub-standard conditions?

 The assendants proposed by Bures and by the U.S. would provide for the improvement or raising of labour conditions or standards.
- (d) What sort of action should be taken to eliminate sub-standard conditions?

 The present text says "shall take shuterer action say be appropriate and fessible to eliminate ..." The anadisent by Ceylon would say "shall take action to eliminate".
 - Should Members be required to encourage the adoption of social security measures to provide stability or security for Labour?

 The new paragraph 2 proposed by the delegation of the Philippines in relation to Article 2 releas this question. The Chrisman of the First Committee has assigned this latter to Sub-Committee A for its openideration.

Should provision be made for the taking of action to counter the occupatitive effects of sub-standard conditions?

The Mexican assumemt would appear to require a country to avoid sub-standard conditions in order to avoid action likely to injure the exports of another member.

The Colombian amendment would require the Organization, on request, to recommend what action should be taken.

The Uraguayan amendment would appear to allow the affected Member itself to take reasonable and equitable measures to counter the effects of unfair competition attributable to sub-standard labour conditions elsewhere.

(g) Should provision to made for equal treatment of labourers performing equal work without discrimination.

Provisions are suggested to this effect in the assendment to paragraph 1 by the U.S. and to paragraph 2 by Haiti and Kexico.

/(h) The U.S.

(h) Should there be provided against involuntary labour?
The U.S. assentment would include such a provision.

(1) What should be the division of function to the HO and the ITO:
The present text would require issuers of the ITO the are also
Mandars of the ILO to to co-operate with the ILO in carrying out the
provisions of this Article.

Caylon, South Africa and Colombia have Ends other recommendations concerning the division of functions.

(j) Should provision be made in this Article or separately to alles a Manhor to counter any action taken by another Manhor if such counter action is necessary to provent a facility of that Manhor's conditions of labour or lovel of such provisions to this effect (see the new paragraph proposed by the delegation of Maxico to this point may be regarded as related to point (4) above.

These points might be discussed separately in the order indicated above, or, secondly, the exendments themselves might be discussed in the order in which they appear in E/CONF.2/C.1/7, or, thirdly, they might be discussed on the basis of a single draft.

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SUB-COMMITTEE "A" OF COMMITTEE T

MEETING HELD AT CAPITOLIO, HAVAHA, COMMITTEE

ROOM "K", AT 4:00 P.M. OH 9 DEFENDER, 1947

- 1. It was agreed that records of meetings of the sub-comittee should be limited to the conclusions reached, dissents from decisions taken, and such of the reasons as were necessary to explain the basis of the decision.
- 2. It was agreed to use the Agenda prepared by the Sauretariat as the basis for discussion.
- 3. After some discussion of points (a) and (1) final decision was deferred, particularly as it was felt that the representative of Coylon should be present at the discussion of point (1), and the discussion proceeded on points (b) to (d) of the Agenda.
- 4. On point (b) the Delegate of Mexico having withdrawn the words "for export" included in the Mexican amondment (ll/add.31), it was agreed to delete the reference to "production for export" from the exticle.
 - 5. On point (c) it was agreed to include the notice of "the raising of labour standards" without, however, determining whether it should appear in the recognition clause or in the action clause.
 - 6. On point (d) it was agreed to maintain the present text: whatever action may be appropriate and feasible.....".

1186

SUB-COMMITTEE A OF FIRST COMMITTEE

Second Meeting, Held in Conference Room K, Capitolio, Havana at 10.30 a.m., 11 December 1947

- 1. The Sub-Committee discussed points (f) and (1) jointly and reverted briefly to point (e) of the informal agends.
- 2. Concerning the amendment proposed by Ceylon under (1) providing for annual reports to the Organization on action taken by Members against sub-standard conditions of labour, it was observed that:
 - (a) if the reports were to be comprehensive and general, they would duplicate the type of report which the great majority of Members are already required to supply to the ILO and which, through the ILO, are already available to all members of the ITO; (b) if the reports were to cover only action on specific complaints covering sub-standard labour conditions, such reports would in the ordinary course be available to Members of the Organization in the same way as reports would be made on action concerning complaints under other Articles.

Accordingly, the Sub-Committee agreed not to make the suggested amendment.

- 3. The Sub-Committee considered that, subject to final drafting, the points raised by the Colombian, Maxican and South African emendments mentioned under (f) and (i) should be covered by adding at the end of the sentence beginning "Members which are also ..." some such words as "... and that Organization (the ILO) shall be consulted on all cases
- 4. The related Uruguayan amendment mentioned under (f) was held over for discussion at the following meeting.

relating to labour standards brought under Article 90".

- 5. The Sub-Committee agreed that the deletion of the reference to "production for export" mentioned under point (e) assumed the retention of the words "related to productivity".
- 6. The Argentine representative indicated that as he experienced difficulty in understanding the discussion when confined to the two working languages, he must, without necessarily implying at this stage any dissent from conclusions reached by the Sub-Committee, reserve the right of his delegation to reopen any point when the Sub-Committee reports to the full Committee.

FIRST COMOUTE: ASPENDMENT AND ECONORIC ACTIVITY

SUB-COMMITTEE A

THIRD METING HELD IN CONFERENCE ROOM K

Capitol, Havena, at 4 p.m., 12 December 1947.

The sub-committee discussed the following points listed in the informal Secretariat notes:

Point (e).

Several Hembers expressed the view that the adoption of social security measures was one aspect of the problem of schieving large and steadily growing effective demand. Accordingly they felt that the suggestion by the delegation of the Fhilippines was already covered by the present text of the Chapter. It was agreed that the representative of the Fhilippines should be consulted before final disposition of this proposal.

Points (1) and (1).

The representative of Colombia suggested that the clause to be added at the end of the sentence beginning "Newbors which are also..." should be assented to read "...and that organization (I.L.O.) shall be consulted on all cases relating to labour standards in production for export brought under Article 90". The representative of Mexico supported the inclusion of a reference to "production for export".

In sommestion with the manufacut proposed by the delegation of Uruguay it was provisionally agreed that a change of the character suggested in that amendment should not be made. Several delegations suggested that the points raised by that amendment, so far as they could be most within the Charter, were already covered by the provisions of Article 4, as amended, and of Articles 40, 89 and 90. The representative of Uruguay reserved the position of his delegation.

There were several suggestions for including in the "resognition" clause of the Article sems reference to the fact that the intent of the assument was directed against "social dusping". Some representatives felt that a reference to "production for export" as suggested above, would cover the point.

The representative of New Zeeland suggested that the intention of the Article might be made clearer if it were revised to read:

/"Each Momber

1359

"Rach Hamber recognized that, in the evolutions of injury to Member countries by the existence in other Karberu' territories of unfair conditions of labor, all countries have a communitation in the raising of vagos and equivalent forms of remnaration and in the improvement of marking conditions generally. Accordingly, each heater shall take whatever action may be feasible...".

After considerable discussion it was agreed that the properation of a text for consideration by the sub-consistee should be undertaken by a smaller drafting group, end, in general, there was agreement that in its work the drafting group might assume that:

- (a) The I. T. O. should make use of the facilities and experience of the I.L.O. and should not itself intrude unnecessarily into the field of labour problems;
- (b) The Article should be confined to labour conditions affecting international trade;
- (c) That The taking of counter-action in respect of any labour condition coming within the Article and causing injury to a Member should be subject to the approval of the Organization;
- (d) "int The procedure for dealing with easy representations abould be expeditions.

Points (g) and (h).

The sub-committee reached no definite conclusion concerning the proposed insertion of references to "non-discrimination" and to "involuntary labour". It was additated that in considering these matters the drafting group should take account of the difference of opinion existing in the sub-committee and if mable to prepare a single draft, night submit alternative drafts for consideration by the sub-committee.

The CHAIRMAN indicated that the drafting group, which was requested to prepare a draft of the entire Article, would consist of the representatives on the sub-consistee of Mexico, the Union of South Africa and the United States of America and that they would meet at a pome, December 13.

SUB-COMMITTEE A OF FIRST CONSTITUTE

TO: Members of the Sub-Committee

FROM: The Secretariat

Attached is a draft prepared by the Secretariat of the report to be made by the Sub-committee to the First Committee. In this draft no attempt has been made to report the discussion in detail since the trend of the discussion is already apparent from the text proposed.

As agreed at yesterday's meeting of the Sub-committee, any members who have any corrections to make in this report should communicate them by 6.00 p.m. today (Tuesday, 16 December) to A. E. Ritchie, Room 2-7, telephone extension 252. If no substantial changes are suggested the text will be submitted immediately after 6.00 p.m. tonight for issuance tomorrow morning as a formal document for general distribution in order that it may be discussed on Thursday or Friday in the First Committee.

FIRST CONSTITUE

FIRST COMMITTEE: PLPLOYMENT AND LOCHONIC ACTIVITY REPORT OF SUB-CGRATTEE A - "TAIN LIBOUR STAFDARDS"

- At the sixth meeting of the First Committee, 8 December 1947, the Chairman appointed a Sub-committee which was instructed to examine the text of Article 4 with the new proposals relating to the subject matter thereof and to prepare a text for submission to the full Committee (see E/COFF.2/C.1/8 with Add.1).
- 2. Representatives of the following delegations were appointed members of the Sub-committee: Argentina, Caylon, China, Colombia, Cuba, Crechoslovakia, Demmark, Maxico, Metherlands, Max Zeeland, Turkey, Union of South Africa, United States of America and Uruguay.
 - 3. Hr. D. K. LIEU (China) served as Chairman of the Sub-committee.
- q, The representatives of the delegations of the Philippines and of Haiti attended the meetings of the Sub-committee when proposals originating with those delegations were under discussion. The Sub-committee also had the benefit of expert advice from the representative of the International Labour Organization.
- 5. After a discussion of the points of substance in the Sub-committee a Drafting Group was constituted, comprising representatives of the delegations of Mexico, the Union of South Africa and the United States of America. The text prepared by this Drafting Group was subsequently considered and modified by the full Sub-committee.
- 6. In the course of its deliberations the Sub-committee examined the proposals appearing in the following documents:

B/COMF.2/11/Add.3 (Argentina)

B/COMF.2/11/Add.4 (Peru)

E/COM . 2/11/Add . 23 (Burns)

3/COMP.2/11/Add.28 (Mexico)

E/COMF.2/11/Add.31 (Nextco)

E/COMP.2/11/Add.33 (Ceylon)

E/COMF.2/C.1/3/Add.1 (Haiti)

E/COMF.2/C.1/3/Add.2 (Uruguay)

E/COMP.2/C.1/3/Add.3 (Union of South Africa)

E/COMP.2/C.1/3/Add.4 (Philippines)

ECONF. 2/C.1/3/Add. 5 (Colombia)

[Cont. 2/C.1/3/Add. 5 (Colombia)

[In addition, in accordance with the procedure established in

E/CONF.2/C.1/8/Add.1, and in agreement with the delegation of Mexico, the Chairmon of Sub-committees A and B agreed that the proposal by the delegation of Mexico for a proviso to paragraph 1 (b) of Article 6 (E/CONF.2/11/Add.31) should be considered by Sub-committee A rather than

/Sub-committee B

Sub-committee B to which it had been referred originally. Accordingly, account has been taken of that proposal in redrafting Article 4.

- g. The Sub-committee held four meetings and reached agreement on the accompanying text. The representative of the delegation of Argontina indicated that while he was prepared provisionally to agree with the text produced by the Sub-committee, it might be necessary for his delegation, after it had had an opportunity to ommine a Spanish translation of the text, to express certain views concerning that text in the full Committee. The representative of the delegation of Mexico indicated that his delegation might wish to comment in the full Committee on the relation between the present proposed text and the amendment put forward by that delegation earlier for a provision relating to non-discriminatory treatment of labour. The discussions in the Sub-committee were characterized throughout by a sparit of conciliation and co-operation on the part of all delegations participating. The members of the Sub-committee desire to record their special appreciation of the menner in which the Chairman conducted the proceedings.
- In the view of the Sub-committee the text which it is recommending for consideration and approval by the full Committee is in most respects self-explanatory. Accordingly in this report the Sub-committee is confining its remarks largely to observations concerning the relation between the present text and the amendments which were under consideration.

 Paragraph 1

/o. In the drafting of the first sentence of paragraph 1 the Sub-committee was prompted by the amendment; proposed by the delegation of Mexico to the effect that a reference should be made in the Article to the safegnarding of the rights acquired by labour, particularly those embodied in the declaration of the Failadelphia Conformace of the HO. In the use of the words "international declarations" the Sub-committee had in mind particularly this Declaration. It was felt by the Sub-committee that this language (together with the references elsewhere in the Chapter to "large and steadily growing...effective demand") also covered the proposal of the delegation of the Fhilippines concerning the importance of social security since the declaration of Fhiladelphia stresses the significance of social security neasures. The language of this first sentence was, however, drafted sufficiently breadly to include not only the Philadelphia Declaration but any other international instruments whereby rights of workers were established.

// In the second sentence the Sub-committee has incorporated the proposal of the delegation of Argentina that "vages" should be specifically mentioned.

By its use of the word "improvement" in this sentence the Sub-committee feels

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that it has also embodica the substance of the amenament proposed by the delegation of Burma.

/2 In the third sentence the Sub-consittee has endersoured to take account of various proposals which were unde concerning the use previously of the words "production for export". The present language indicates that the fulfile is concerned with any unfair labour conditions which create difficulties in international trade.

/3. The Sub-committee has not retained the words "throughout its territory" which appeared in the text submitted by the Presentory Committee. The Sub-committee is of the opinion that these words are unnecessary since the sense is clear without them, but that the central Raffang Committee might consider from a drafting point of view whether or not they should be retained. The representative of the delegation of Turkey indicated that his delegation might find it necessary during the discussion of this matter in the First Committee to suggest that them words, be reserved.

Paragraph 2

14. The present text of paragraph 2 is identical with the corresponding

Paragraph 3

Mentions which were made in the original amendments concerning the division of functions between the ILO and the ITO (e.g., the mendments proposed by the delegations of Ceylon, Colombia and the Union of South Africa). In view of the special competence of the ILO in the fold of labour standards it was considered desirable to provide in the fold of labour standards it was considered desirable to provide in the fold of labour standards it was considered desirable to provide in the fold of labour standards it was considered desirable to provide in the folder labour also designed to meet the requirements of those countries which he proposed various procedures for dealing with situations in which a Member for it it mecessary to protect its industries from the competition of products produced under experienced conditions of labour (e.g., the amendments propose by the delegations of Colombia, Mexico and Urushay). The present language of this paragraph is intended to bring out the relationship between this Article and the procedure established in Article 30 for the reference of matters to to Organization.

Provision has not been made for non-discrimination in the treatment of labour as proposed by the delegations of Maxico and Haiti. During the discussion of this matter in the Sub-committee note was taken of the work being done on this subject by the IIO and by such other bodies as the Commission on Haman Rights and its Sub-commissions on the Prevention of Discrimination and the

/Protection

Protection of Minorities. The majority of members of the Sub-committee felt that the question of non-discrimination in respect of the employment of labour could not be dealt with appropriately or adequately in a charter of an international trade organization. To the extent, however, that provisions concerning non-discriminatory treatment of labour may have been, or may in the future be, incorporated in other "international declarations, conventions and agreements" to which Members may subscribe the present language of the Article recognizes that measures relating to employment must take fully into account any such provisions.

Location of the Article

17. The Sub-committee has learned that Sub-committee B of the First Committee proposes a re-arrangement of the Articles in the Chapter whereby the Article on "Fair Labour Standards" would be removed from its present position between two Articles on Palance-of-payments questions to a position at the end of the Chapter in order to secure continuity in the provisions relating to balances of payments. The Sub-committee agrees with the suggestion that for this reason the Article on fair labour standards should appear at the end of Chapter II.

Article -

Fair Labour Standards

- 1. The limbers recognize that measures relating to employment must take fully into account the rights of workers under international declarations, conventions and agreements. They recognize that all countries have a common interest in the achievement and maintenance of fair labour standards related to productivity, and hence in the improvement of wages and working conditions as advances in productivity may permit. The Eschera recognize that unfair labour conditions, particularly in production for export, create difficulties in international trade, and, accordingly, each Manber shall take whatever action may be appropriate and receible to eliminate such conditions.
- 2. Kembers which are also members of the International Labour Organization whall co-operate with that organization in giving effect to this undertaking.
- 3. The International Labour Organization shall be consulted in all matters relating to Labour standards that may be referred to the Executive Board or to the Conference in accordance with the provisions of Article 90.

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