

FIRST COMMITTEE: EMPLOYMENT AND ECONOMIC ACTIVITY

SUMMARY RECORD OF THE FIFTH MEETING

Held at the Capitol, Havana, Cuba  
Friday, 5 December 1947, at 10.30 a.m.

Chairman: Mr. J. J. DEDMAN (Australia)

1. CONTINUATION OF DISCUSSION OF ARTICLE 3 AND SUBSEQUENT ARTICLES IN CHAPTER II ON THE BASIS OF THE AMENDMENTS CONTAINED IN DOCUMENT E/CONF.2/C.1/3 WITH ADDENDA 1 AND 2

Article 3 - Maintenance of Domestic Employment - proposed new paragraph 3 (continuation of discussion)

Mr. LEROY (Haiti) felt that there was a close connection between the problems of employment and international trade, and therefore not all questions regarding employment should be referred to the ILO.

Article 4 - Fair Labour Standards

Mr. Perez MARTINEZ (Argentina) said his delegation's amendment was based on the view that there should be equitable conditions of work in all sectors of production. The principles of the Charter should be applied to all workers, whether or not they were engaged in production for export.

Mr. MAHADEVA (Ceylon) and Mr. NONGE (Peru) pointed out that their delegations had also submitted amendments to Article 4 which supported the views expressed by the representative of Argentina.

Mr. ROYER (France) considered there was no discrepancy of substance between the Argentine proposal and the present wording of Article 4. He pointed out that the first Argentine amendment did not apply to the French text since the French text of the Geneva draft already referred to wages or remuneration.

Referring to the second Argentine amendment, and to the similar amendment proposed by Ceylon, he said that after discussion in the Preparatory Committee it had been decided to maintain the words in the present draft. Emphasis had been laid on export industries because they were the ones related to international trade.

/Mr. SHACKLE (United Kingdom)

Mr. SHACKLE (United Kingdom) agreed with the representative of France and preferred the amendment submitted by the Argentine delegation to that submitted by the representative of Ceylon.

The CHAIRMAN considered that the matter should be referred to the drafting Committee which would be set up later.

Mr. BURGUETE (Mexico) agreed in principle with the remarks made by the representatives of Argentina, Ceylon and Peru.

Mr. LIEU (China) agreed with the remarks of the French representative. Labour conditions were not the concern of the International Trade Organization except insofar as they had to do with international trade.

Mr. van VELDEN (Union of South Africa) said his delegation was troubled by the vague and loose phraseology of Article 4 which would be made more difficult of interpretation by the addition of the words "wages and" proposed in the Argentine amendment. When "sub-standard" conditions of labour or wages were referred to there must be some definite standard. Conditions differed widely in various countries, and it was difficult to see how any standard could be adopted on which there might be a modicum of agreement.

The International Labour Organization had endeavoured over a long period of time to lay down standards but so far no uniform standard had emerged, and the International Trade Organization would experience the same difficulties.

Mr. van Velden said his delegation considered that complaints under Article 4 should be referred to the International Labour Organization, which would remain in close contact with the International Trade Organization. The delegation of the Union of South Africa would introduce an amendment to that effect at a later stage.

Mr. BURGUETE (Mexico), referring to the remarks of the representatives of France and of the United Kingdom, quoted from Section D of Chapter I on page 5 of the Report of the first session of the Preparatory Committee. His delegation felt that if it were possible to fix the standard of fair labour in the way suggested during discussions in the Preparatory Committee, it should be done.

Mr. ROYER (France), referring to the remarks of the representative of the Union of South Africa, pointed out that the question of sub-standard conditions of labour was dealt with comprehensively in the Report of the Sub-Committee on Chapter II, which at that time was known as Chapter III. From that Report it would be seen that the problem of conditions of labour in their relation to the productivity of labour was closely linked with

/the work carried

the work carried out in that field by the ILO. He considered that the Report of the Sub-Committee should be placed at the disposal of representatives.\*

U KYIN (Burma) said that instead of undertaking merely to eliminate sub-standard conditions of labour, the Conference should aim at securing for labour higher levels of wages and better conditions of work.

The CHAIRMAN said that amendments numbers 1 and 3 submitted by the delegation of Ceylon would be submitted to the proposed Drafting Committee.

Mr. ROYER (France) said his delegation agreed in principle with the amendment submitted by the representative of Ceylon. He wished to know, however, whether the ILO was receiving the information provided for under the second amendment proposed by the delegation of Ceylon. If so, then the agreement to be made between the ITO and the ILO should include a provision making it possible for information to be passed on from the ILO to the ITO.

Mr. TAIT (International Labour Organization) stated that the ILO received full information concerning action taken in the various countries with regard to fair labour standards and labour standards generally. He suggested that the proposal made by the representative of France that the matter should later be made the subject of an agreement between the ITO and the ILO might be given careful consideration.

Mr. BURGUETE (Mexico) pointed out that in the amendment to the final sentence in Article 4 proposed by his delegation the last sentence of the original draft beginning "Members which are also..." had been inadvertently omitted.

Mr. ROYER (France) said there was a discrepancy between the French and English texts of the amendment. In the French text reference was made to "another" member country, and in the English text the word used was "a" member country. He wished to know the exact scope and meaning of the Mexican proposal.

Mr. BURGUETE (Mexico) said that according to the original text in Spanish the French translation; i.e., "another" member country was correct.

The CHAIRMAN, referring to the amendment to Article 4, proposed by the delegation of Peru, said that as that had already been discussed, the Committee would pass to the consideration of a proposed new paragraph.

Proposed new paragraph to Article 4

Mr. BURGUETE (Mexico) wished to make it clear that it was not the purpose of his delegation to introduce any element of political discussion. The Mexican Government had always endeavoured to include in agreements and treaties stipulations intended to impede discriminatory practices. In the League of Nations Mexico had always protested against any discriminatory

\* See document E/CONF.2/C.1/5

laws regarding labour. In presenting its amendment, the delegation of Mexico wished to make it clear that there should be equality of treatment and opportunity for all who by their labour contributed to the development of a country.

Mr. FRESQUET (Cuba), referring to the proposal submitted by the delegation of Mexico, said that the Constitution of Cuba had already fulfilled most of the obligations which would be entailed by the amendment.

The delegation of Cuba could not accept the amendment proposed by the representative of Mexico in its entirety because it might involve an amendment to the Constitution. He felt that the matter should be dealt with by the ILO.

Mr. OTANEZ (Venezuela) viewed with pleasure the amendment proposed by the delegation of Mexico. In the Constitution of Venezuela provision was made for equal wages for equal work without any distinction as to race, sex or religion.

In supporting the Mexican amendment, the delegation of Venezuela did not wish to prejudge the question as to whether the matter should be the object of a provision in the Charter of the ITO or whether it should be referred to the ILO for study.

Mr. MAHADEVA (Ceylon) felt that his delegation might not be in a position to give unreserved support to the amendment proposed by the delegation of Mexico since in his country legislation might be introduced requiring non-national firms to employ a certain proportion of nationals. That might be contrary to the suggestions embodied in the proposed amendment.

Mr. LIEU (China) referred to a previous amendment submitted by the Mexican delegation, and considered that it showed a certain amount of discrimination. He felt that the new paragraph 3 to Articles 3 and 4 proposed by the delegation of Mexico, should be referred to a sub-committee for clarification.

The CHAIRMAN said the proposal of the representative of China would be considered later when the question of sub-committees was dealt with.

Mr. ROYER (France) fully supported the principle of equal conditions of work for all, and his country had gone far in its legislation towards implementing this principle. If, however, the proposed amendment were adopted, then many States might have to adapt and adjust their legislation in this regard before ratifying the Charter. This would entail a great deal of delay. The representative for Mexico had said that although these principles were embodied in the Constitution of the ILO they were not universally respected. The ITO could not hope to accomplish in a few  
/months that

months that which the ILO had not accomplished in a quarter of a century. He hoped that the Mexican delegation would agree to some compromise formula, and tentatively put forward the following "The maintenance of fair labour standards for all workers in relation to their productivity".

Mr. OTANEZ (Venezuela) while supporting the Mexican proposal, did not consider that the absence of discrimination in fixing salaries etc. should prevent countries from making reservations with regard to percentages of national workers.

Mr. FER (Turkey) thought that practical difficulties might be encountered in applying the Mexican amendment. The formulation of such an important legal principle required to be accompanied by a study of conditions in the different countries made by the competent specialized agency, i.e., the ILO.

Mr. SKAUG (Norway) was in favour of the principle embodied in the Mexican amendment. The economic and social history of Norway had shown that his country had tried to follow up this principle and put it into practice. However, he viewed with some alarm the tendency to write into the Charter what almost amounted to an international labour code more appropriate to the ILO. The employment provisions of Charter should relate primarily to the volume of employment and its effect on international demand and trade.

Mr. BURGUETE (Mexico) maintained that Chapter II should either include all the specific points with regard to employment or should be entirely abandoned and referred to the ILO and other agencies of the United Nations.

The CHAIRMAN invited the representative of Haiti to speak to his amendment.

Mr. LEROY (Haiti) considered that the considerations listed in the Haitian amendment met most of the objections that had been raised in the discussion of the Mexican amendment. The principle of non-discrimination as regards employment seemed to be supported by many of the representatives present. This principle permeated the whole Charter, and appeared in the Charter of the United Nations itself.

Mr. CHOUHY TERRA (Uruguay) referring to the amendment proposed by his delegation regarded Article 4 as opposed to social dumping, and to a country exporting its own poverty. The advanced social code of his country increased the cost of production, and countries which had adopted such a code should be protected against the competition of production obtained under lower labour standards.

/Mr. SHACKLE

Mr. SHACKLE (United Kingdom) considered that the Uruguayan amendment tended to introduce an exception of undefined scope.

Mr. ROYER (France) said that this question of "social dumping" had been discussed at length at the New York meeting, but it had finally been considered that it would be very dangerous to embody such a vague recommendation in the Charter. He drew the attention of the representative for Uruguay to Articles 89 and 90 of the Geneva Draft, which provided for procedure to which recourse could be had by injured countries, and also for sanctions in cases where social dumping was proven.

Mr. BURGUEME (Mexico) supported the Uruguayan amendment, which was complementary to the Mexican amendment.

Mr. CHOUHY TERRA (Uruguay) considered that the procedure established under Articles 89 and 90 was long and complicated and difficult to apply.

Mr. LIEU (China) thought that in the first place, the amendment proposed by the representative for Uruguay was too indefinite and constituted an escape clause which was very wide. In the second place, the price of a product was not solely determined by wages. Finally, he agreed with the representative of the United Kingdom that this amendment would be a fertile source of disputes.

Mr. FRESQUET (Cuba) supported the observations made by the representative for China.

Mr. PIERSON (United States of America) thought that the Uruguayan amendment seemed to introduce a sweeping escape clause, which his delegation had been unwilling to concede in a different matter, i.e., in the case of a country being injured by external deflationary pressure. He thought Articles 89 and 90 covered the contingencies which were envisaged in this regard.

With regard to the other amendments which had been discussed, his delegation had not proposed to submit any amendment, and would have been prepared to accept the Article as it stood. However, the discussion of the amendments which had been submitted had brought to light some very interesting ideas. He would now for instance be prepared to delete the specific reference to "production for export". He thought that the various amendments should be studied, and that a further provision might be added dealing with the principle of free and voluntary labour. He read a preliminary draft intended to cover the various points and indicated that he would shortly submit a more formal draft to the Secretariat for circulation.

The meeting rose at 1.15 p.m.

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