

FIRST COMMITTEE: EMPLOYMENT AND ECONOMIC ACTIVITY

SUMMARY RECORD OF THE SIXTH MEETING

Held at the Capitol, Havana, Cuba,  
Monday, 8 December 1947, at 10.30 a.m.

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

CONTINUATION OF DISCUSSION OF ARTICLE 4 AND SUBSEQUENT ARTICLE IN CHARTER II  
ON THE BASIS OF THE AMENDMENTS CONTAINED IN DOCUMENT E/CONF.2/C.1/3 WITH  
ADDENDA.

Article 4 - Fair Labour Standards (continuation of discussion).

Mr. HOLLOWAY (Union of South Africa), referring to the amendment submitted by his delegation (document E/CONF.2/C.1/3/Add.3), said that the reference in the Geneva text to "sub-standard" conditions of labour, implying that certain standard conditions of labour had been, or could be, laid down, was misleading. Many matters such as average rates of wages, hours of labour, holiday pay, health conditions in factories, mines etc., the minimum age for the employment of child labour, employment of women in mines, employment of women before and after child-birth etc. might be involved in the term "conditions of labour". No international standard covering all these aspects had ever been established although the International Labour Organization had been attempting to for over a quarter of a century with some success. It would be rash for the ITO to venture into this field without experience comparable to that of the ILO and attempt to deal with such complex and ill-defined concepts. Most countries represented at the Conference were also members of the ILO. The delegation of the Union of South Africa therefore suggested that all complaints received by the International Trade Organization under Article 4 should be transferred to the International Labour Organization.

Mr. LIEVANO (Colombia) referring to the amendment to Article 4 submitted by his delegation (document E/CONF.2/C.1/3/Add.5), said that it was urgent and necessary to establish a procedure by which any country which was suffering from the unfair competition of another country through sub-standard conditions of labour should be able to ask the ITO to investigate the matter

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either directly or through the ILO. Such a matter should not, however, be submitted directly to the ILO.

Mr. OTANEZ (Venezuela) supported the amendment submitted by the representative of Colombia.

Mr. MARTINS (Brazil) agreed with the purpose of the amendments proposed by the delegations of Colombia and of Uruguay but could not support the amendment submitted by the representative of the Union of South Africa. Articles 89 and 90 of the Charter laid down the same procedure as that outlined in the amendment submitted by the delegation of Colombia. The delegation of Brazil would accordingly be prepared to have the text of Article 4 stand as at present drafted with possibly some minor drafting amendments.

Mr. BURGUETE (Mexico) supported the amendment proposed by the representative of Colombia, and said that his delegation had raised a similar point in the proposed new Article. He also supported the proposal of the Uruguayan delegation. Referring to the remarks of the representative of Brazil, he said that if the procedure outlined in Articles 89 and 90 of the ITO Charter were followed, countries suffering from unfair competition might find themselves in a very difficult situation before any decision was taken in their case.

Mr. BENDA (Czechoslovakia) said that although his delegation sympathized with the various suggestions put forward he felt that the term "employment" in this Chapter had been intended to refer to the volume of employment and to the resultant effective demand and not particularly to the social aspects of employment. He questioned the wisdom of including a prohibition against "involuntary" labour since in many countries the direction of labour had been found necessary to meet essential needs.

The delegation of Czechoslovakia considered that it would not be wise to deviate from that course and therefore supported Article 4 as at present drafted, although it felt that the words "in production for export" might be omitted.

Mr. HUMBERT (Switzerland) supported the proposals made to give primary responsibility in this field to the ILO inasmuch as he felt that the ITO should not infringe on the work of other international agencies. He mentioned the possibility of many interpretations of the present wording of the Article.

Mr. SHACKLE (United Kingdom) agreed with the Czechoslovak delegation's statement and with observations of other Delegates concerning the difficulty of attaching precise meanings to the terms in Article 4. A refinement of

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these terms was not feasible at this stage beyond relating them to "productivity". He felt that the ILO would be capable of giving meaning to these terms and that it should assume the responsibility of so doing under this Article. Articles 89 and 90 provided a procedure for dealing with these matters so far as they relate to international trade. He hoped, with the representative of the Union of South Africa, that the countries listed by him would join the ILO as well as the ITO and thus simplify an appropriate division of functions between the two Organizations. He also agreed with the Czechoslovak representative's remarks regarding the danger of prohibiting the direction of labour by a general proscription since the United Kingdom was, at least for the time being, also forced to adopt that measure and other countries might find themselves under the same necessity.

Mr. FER (Turkey) felt that fair labour standards should not be defined or dealt with in the Charter but should be left to international conventions under the IEO. Overlapping and duplication should be avoided. Articles 89 and 90, together with consultation with the ILO were sufficient to provide for all contingencies.

Mr. ROYER (France) felt that the Colombian suggestion would not add much to the legal aspect of the text. He felt that it might weaken the Charter, even for the purposes desired by the representative of Colombia, by rendering inapplicable the sanctions provided for in Article 90 in a case of "social dumping". It was better to unify procedures throughout than establish different ones for different Articles.

Mr. MORISSEAU-LEROY (Haiti) felt that insufficient emphasis had been given to non-discrimination against foreign workers.

He wished to make it clear, however, that his earlier remarks had in no way been directed against Article 73 of the constitutional provisions of Cuba, nor against similar provisions in other Constitutions. He urged that his delegation's amendment to Article 4 regarding non-discrimination be adopted.

Mr. LIEVANO (Colombia) was of the opinion that while the general raising of the standards of living and labour conditions in the world was within the competence of the ILO, those related to the low cost production by exploited labour of articles to be sold in international markets could be handled only by the ITO. In the event of such unfair competition a rapidly working and simple procedure should be available for redress. The proposal advanced by Uruguay was an improvement on the present text, but his delegation preferred to have the procedure itself embodied in the Charter.

Mr. HAKIM (Lebanon) suggested that the representative of the ILO

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be asked whether it was competent to undertake investigations of unfair labour conditions. Even if ILO was competent to do that, however, the Organization might wish to retain the right to pass judgment on standards of labour. He agreed with the statements made by other representatives that the Charter could not attempt to regulate labour conditions throughout the world, and declared his support for the original draft.

Mr. HOLLOWAY (South Africa) stated that no attempt had been made in the discussion to define the word "sub-standard" and that it would be very impractical to have two international organizations working on the same issue.

The CHAIRMAN announced that a sub-committee would be created to examine Article 4 in greater detail, together with the Mexican new Article and all other consequential amendments.

He also announced the formation of a second sub-committee to study the other Articles of Chapter II (except Article 4). (See E/CONF.2/C.1/8 and addendum 1).

Mr. ROYER (France) regretted that in view of the far-reaching implications of colonial labour problems no major metropolitan power was included in the membership of the first sub-committee, and proposed the inclusion of the Netherlands delegation.

The CHAIRMAN answered by calling attention to the limitation of membership imposed by the general rules, but promised to look into the matter.

Article 5 - Removal of maladjustments within the Balance of Payments.

Mr. BERTRAM (Denmark) felt, with reference to paragraph 1, that the obligations of the Organization to take the initiative in cases of maladjustment within the balance of payments were too narrowly drawn in the Charter. Since in the event of such an occurrence there would be more than one country involved, it would be difficult for the aggrieved country to raise the question of sanctions embodied in Articles 89 and 90, and it would have to rely on the Organization taking such action.

Mr. MONGE (Peru), in explaining the amendment offered by his delegation as paragraph 2 (E/CONF.2/C.1/3, page 5), emphasized the need for the Organization to have the powers to judge conditions whenever the balance of payments was maladjusted and assist in such cases in the disposal of surpluses at satisfactory prices. Those powers would be specifically authorized in his new paragraph. While the Mexican amendment to create a permanent economic committee was a step in the right direction, the Peruvian proposal would be a guide of conduct for the whole

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Organization in this sort of situation.

Mr. SHACKLE (United Kingdom) observed that Article 6, paragraph 2, and Article 5, paragraph 2 of the Charter already provided for this contingency, as did also Article 21, paragraph 5. It was in his view, unnecessary to add to those provisions.

Mr. ROYER (FRANCE) asked for a further explanation of the Peruvian amendment.

Mr. MONGE (Peru) referred to the destruction of oranges, the burning of coffee and wheat in his explanation of what he had in mind. Unsaleable surpluses should be put on the world market through some machinery to be evolved by this Organization. This was an extremely important problem, closely related to the lack of balance of payments, yet was not covered anywhere in the Charter. While Article 5 and Article 6, paragraph 2, recognized the lack of balance of payments, the affected countries themselves would be unable to seek redress unless the Organization itself had the power to re-establish the equilibrium of the balance of payments.

Mr. ROYER (France) felt that the suggestion by the representative of Peru should more properly be included in the discussion of inter-governmental agreements (Chapter VI) rather than in Article 5.

The Meeting rose at 1.00 p.m.

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