

**United Nations**  
**CONFERENCE**  
**ON**  
**TRADE AND EMPLOYMENT**

**Nations Unies**  
**CONFERENCE**  
**DU**  
**COMMERCE ET DE L'EMPLOI**

RESTRICTED  
E/CONF.2/C.1/A/W.1  
13 December 1947  
ORIGINAL: ENGLISH

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

*Ceylon new para*

(i) What should be the division of function between the ILO and the ITO?  
The present text would require Members of the ITO who are also Members of the ILO to co-operate with the ILO in carrying out the provisions of this Article.

Ceylon, South Africa and Colombia have made other recommendations concerning the division of functions.

(j) Should provision be made in this Article or separately to allow a Member to counter any action taken by another Member if such counter action is necessary to prevent a decline of that Member's conditions of labour or level of employment?  
The delegation of Mexico would include provisions to this effect (see the new paragraph proposed by the delegation of Mexico). This point may be regarded as related to point (f) above.

These points might be discussed separately in the order indicated above, or, secondly, the amendments 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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*Ceylon point last  
Ceylon need for provision to  
require annual report  
Colombian point on the subject  
- through or in collaboration  
with ILO*

SUB-COMMITTEE "A" OF COMMITTEE "

MEETING HELD AT CAPITOLIO, HAVANA, COMMITTEE

ROOM "K", AT 4:00 P.M. ON 9 DECEMBER, 1947

1. It was agreed that records of meetings of the sub-committee 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 Secretariat as the basis for discussion.
3. After some discussion of points (a) and (i) final decision was deferred, particularly as it was felt that the representative of Ceylon should be present at the discussion of point (i), 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 amendment (11/add.31), it was agreed to delete the reference to "production for export" from the Article.
5. On point (c) it was agreed to include the notion 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.....".

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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 (i) jointly and reverted briefly to point (e) of the informal agenda.
2. Concerning the amendment proposed by Ceylon under (i) 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, Mexican and South African amendments 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 relating to labour standards brought under Article 90".
4. The related Uruguayan amendment mentioned under (f) was held over for discussion at the following meeting.
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.

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FIRST COMMITTEE: EMPLOYMENT AND ECONOMIC ACTIVITY

SUB-COMMITTEE A

THIRD MEETING HELD IN CONFERENCE ROOM K

Capital, Havana, at 4 p.m., 12 December 1947.

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

Point (e).

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

Points (f) and (g).

The representative of Colombia suggested that the clause to be added at the end of the sentence beginning "Members which are also..." should be amended 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 connection with the amendment 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 met 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 "recognition" clause of the Article some reference to the fact that the intent of the amendment was directed against "social dumping". Some representatives felt that a reference to "production for export" as suggested above, would cover the point.

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

/ "Each Member

"Each Member recognizes that, in the avoidance of injury to Member countries by the existence in other Members' territories of unfair conditions of labor, all countries have a common interest in the raising of wages and equivalent forms of remuneration and in the improvement of working conditions generally. Accordingly, each Member shall take whatever action may be feasible..."

After considerable discussion it was agreed that the preparation of a text for consideration by the sub-committee should be undertaken by a smaller drafting group, and, 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) ~~That~~ The procedure for dealing with any representations should be expeditious.

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 indicated that in considering these matters the drafting group should take account of the difference of opinion existing in the sub-committee and if unable to prepare a single draft, might 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-committee of Mexico, the Union of South Africa and the United States of America and that they would meet at 4 p.m., December 13.

SUB-COMMITTEE A OF FIRST COMMITTEE

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 COMMITTEE

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FIRST COMMITTEE: EMPLOYMENT AND ECONOMIC ACTIVITY  
REPORT OF SUB-COMMITTEE A - "FAIR LABOUR STANDARDS"

1. 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/CONF.2/C.1/8 with Add.1).
2. Representatives of the following delegations were appointed members of the Sub-committee: Argentina, Ceylon, China, Colombia, Cuba, Czechoslovakia, Denmark, Mexico, Netherlands, New Zealand, Turkey, Union of South Africa, United States of America and Uruguay.
3. Mr. D. K. LIU (China) served as Chairman of the Sub-committee.
4. 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:

E/CONF.2/11/Add.3 (Argentina)

E/CONF.2/11/Add.4 (Peru)

E/CONF.2/11/Add.23 (Burma)

E/CONF.2/11/Add.28 (Mexico)

E/CONF.2/11/Add.31 (Mexico)

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

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

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

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

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

E/CONF.2/C.1/3/Add.5 (Colombia)

7. In addition, in accordance with the procedure established in E/CONF.2/C.1/3/Add.1, and in agreement with the delegation of Mexico, the Chairman 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



that it has also embodied the substance of the amendment proposed by the delegation of Burma.

12. In the third sentence the Sub-committee has endeavoured to take account of various proposals which were made concerning the use previously of the words "production for export". The present language indicates that the ~~article~~ <sup>sentence</sup> is concerned with any unfair labour conditions which create difficulties in international trade.

13. The Sub-committee has not retained the words "throughout its territory" which appeared in the text submitted by the Preparatory Committee. The Sub-committee is of the opinion that those words are unnecessary since the sense is clear without them, but that the central Drafting 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 <sup>"within its territory" be inserted</sup> these words ~~be inserted~~.

Paragraph 2

14. The present text of paragraph 2 is identical with the corresponding ~~paragraph~~ <sup>sentence</sup> in the text submitted by the Preparatory Committee.

Paragraph 3

15. The text of the new paragraph 3 was prepared on the basis of various suggestions which were made in the original amendments concerning the division of functions between the ILO and the ITO (e.g., the amendments proposed by the delegations of Ceylon, Colombia and the Union of South Africa). In view of the special competence of the ILO in the field of labour standards it was considered desirable to provide in the article itself for consultation between the ILO and the ITO. This paragraph was also designed to meet the requirements of those countries which had proposed various procedures for dealing with situations in which a Member felt it necessary to protect its industries from the competition of products produced under ~~unfair~~ <sup>unfair</sup> conditions of labour (e.g., the amendments proposed by the delegations of Colombia, Mexico and Uruguay). The present language of this paragraph is intended to bring <sup>explicitly</sup> out the relationship between this Article and the procedure established in Article 90 for the reference of matters to the Organization.

Non-discrimination and Equality of Treatment  
16. The Sub-committee recognizes that in the proposed text ~~explicit~~ <sup>specific</sup> provision has not been made for non-discrimination in the treatment of labour as proposed by the delegations of Mexico 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 ILO and by such other bodies as the Commission on Human 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 balance-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 —  
~~ARTICLE~~ -

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, particularly 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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